



Health

Strict Liability, Torts, and Legal Quacks

At a Glance

Functions

The primary objective of the Department of Health and Family Welfare of the Delhi government and other civic agencies is to provide medical and health care through hospitals and public health centres and to protect citizens against food and drug adulteration.

Findings

- : Hospital bed density of 2.2 per thousand people. The WHO standard is 5 per thousand. Occupancy rate of three patients per bed. The doctor:patient ratio was 1:598 as of 2001.
- : Average annual expenditure is Rs 211.21 crore which amounts to 7.60% of the state budget
- : 29 drug inspectors to inspect over 5,000 drug retailers. Flourishing fake drug market worth more than Rs 4,000 crore.
- : 28 inspectors to inspect over 1.50 lac (registered) food establishments. According to the Director, Prevention of Food Adulteration Department (PFA), if one inspector was to visit one shop in a day, the shop would be visited again after 17 years. The number of inspectors has remained the same since 1960.
- : In a period of five years (from 1994-1999), the PFA Department collected 4,485 samples out of which 607 (13.5%) were found to be adulterated. The Department initiated prosecution in 557 cases and courts settled 467 cases. The rate of conviction was 44% and the rate of acquittal was 29%. The courts, acting on the reports of Central Food Laboratory, Kolkata, discharged 27% of the cases. During this five-year period, the average percentage of coverage (number of outlets inspected as a percentage of total number of outlets) was 0.6%.

Reforms

- : Increase the number of consumer courts where patients can seek legal remedy for malpractice of hospitals and medical practitioners. Along with manufacturers, hold wholesalers, and retailers liable.
- : Currently PFA and Drug Control Department (DCD) treat violations as criminal offenses where the degree of evidence required is 'beyond reasonable doubt.' These violations should be first tried as civil offense under the tort system, which needs a lower degree of evidence, 'the preponderance of evidence.' The threat of financial liability would be a better deterrent than the current low probability of criminal prosecution. Monetary fines would also provide restitution to the victims who get no compensation under criminal prosecution.
- : Increase the supply of doctors by devising a system where college graduates with two years of training can treat common diseases. More than 90% of the cases in India are of waterborne diseases and require a small pool of medicines in various combinations. A brief but rigorous training would be sufficient to deal with these diseases. Those operating illegally quacks can also be brought into this new training system. Against 26,000 legal practitioners, 40,000 quacks work in Delhi . Simply banning them will not solve the problem of people who cannot afford to pay fees of regular doctors.
- : Increase transparency in the process of procurement of drugs and all other equipment by putting up the tenders, all submitted bids, and the finally selected bid with details of the procurement on the website of the Department and hospitals.
- : The Delhi Medical Council should maintain a 24-hour helpline where customers' complaints about doctors and hospitals are recorded. These complaints, categorised by the name of the hospital and the doctor, should be immediately put up on its website, with a caveat that it is preliminary information and the investigation is pending.
- : A False Claims Act (or *Quit Tam* Act) would allow anyone to bring a lawsuit or provide information on any supplier of goods or services to the government who makes 'false claims' about quality or quantity of the supplies.