

Book Reviews

Medicine and law, K. Kannan (Oxford University Press, New Delhi, India) 2014. 596 pages. Price: ₹ 1595.00
ISBN 978-0-198-0-8288-0

This is presumably the only book from India written on this important subject by a High Court judge. With that background, the book is, expectedly, written as per proper legal standards and is in the usual format of law books. However, the content and style is such that even doctors without a background in law can gain much from it.

The book is quite comprehensive, however, some crucial aspects have not found a coverage in the book. For instance, ‘PIL in health’ is a vast and important subject and ought to have been specifically included. Another important topic which should have been covered is ‘Health as a fundamental right’. Health is an implied fundamental right within the broadened scope of Article 21 as per many judgments, but unless it is made a specific fundamental right, as in the case of education, the health care scene in India may not improve.

The PCPNDT Act, 1994, has not been adequately covered. What is lacking is a critical analysis of the Act. There are serious reasons why this Act should either be scrapped or drastically amended, preferably the former. Furthermore, the Indian Medical Council Act, 1956, and the various State medical council acts have also not been focused on as regards the following issues: (i) The forced multiple State Medical Council registrations even though a person registered with one State council and thereby having his name on the Indian Medical Register is legally competent to practice anywhere in India; and (ii) The jurisdiction of the MCI, which is an appellate authority as per the

Code of Ethics Regulations, 2002, to initiate initial trials. This has been a contentious issue and has even been the subject of different High Court judgments. However, the picture is still not clear.

In Chapters 1 and 2, titled “Medical Education” and “Medical Ethics” respectively, the author has discussed the issue comprehensively, including various judgments related to capitation fee in the former and advance directives regarding “Not to Resuscitate” in the latter. The question of permanent vegetative state, including the Aruna Shanbaug judgment, has been discussed in sufficient detail.

Chapter 3, titled “Consent”, deals with this important topic at great length. Doctors need to read it carefully. Chapter 4, titled “Doctor in Courts” is quite comprehensive and mainly discusses the role of the doctor as an expert witness in civil as well as criminal cases. This chapter also contains notes on the Motor Accident Claims Tribunals (MACT) cases. Chapter 5, titled “Medical Negligence” is the one that is of utmost concern and importance for doctors. The subject has been discussed in great detail over 55 pages and covers wide case law.

Medical negligence is rightly discussed separately as tort and as a penal offence. The difference between deficiency in service and medical negligence has been clearly explained and a special reference has been made to the failure of sterilization in relation to alleged negligence. Chapter 6, titled “Assisted Reproduction” is timely and is appropriately detailed. More and more cases related to *in vitro* fertilization (IVF) are likely to come before the courts in future. The chapter 7 on sex selection and medical termination of pregnancy is brief and looks rather incomplete with just five pages devoted to the PCPNDT Act especially when there are serious concerns regarding the utility, desirability,

purpose and efficacy of having such an Act. A critical review of the Act from the perspective of the medical profession was needed. However, it is understandable that the author has no experiential perspective on this.

Chapter 8 and 9, titled “Medical Research and Patents” and “Organ Transplant” respectively have been written well while chapter 10, titled “Sexuality: The Other Side” contains detailed discussion of, in short, the “Third Sex”. Such issues are often missing from Law-Medicine books and its inclusion shows wide grasp and span of the author. Chapter 11, titled “Cosmetic Enhancement and Magic Remedies” looks misplaced in its grouping. A legitimate superspecialty like plastic / reconstructive surgery has been unseemly clubbed with an illegal act of magic remedies. Lastly the chapter 12 titled “Medical Insurance” is appropriate and covers the so called Mediclaim policies as well as the professional indemnity insurance policies.

ICMR has been written as MCIR at many places (pages 412, 459, 463). This certainly looks a bit odd. However, there are very few mistakes of language otherwise. On the whole, the book is exhaustive, well written, informative, up-to-date and lucid in its presentation and will be a welcome addition to law libraries. It would also provide useful reading to medical professionals.

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