From the desk of National President IMA

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Enough is Enough: Chalo Dilli on 6th June

Dear Colleague

IMA has declared "Dilli Chalo" movement on 6th June to bring to the attention of the nation that the medical profession is being strangulated from all directions.

Justice has been denied to doctors even within the frame work of the constitution of India.

1. **How come everybody is silently watching violence against doctors:** We become doctors to serve and not to harm the community. We are not against accountability but no one can be allowed to take law in their hands.

   Violence against healthcare professionals is occurring with growing frequency in India and there is often an attempt to soften the outcry by blaming the medical professionals being cause of provocation.

   Whereas every hospital and healthcare facility should identify high-risk violence prone areas in their establishment to be manned by adequate number doctors, CCTV cameras and adequate security but all **healthcare providers, who are victims of violence, must be adequately compensated.**

   Whereas well-structured and effective Grievances Redressal mechanism at each clinical establishment should be established (both for patients or their relatives and for the healthcare providers) and timely and transparent root cause analysis of every case of violence should be done and entered in a centralized IMA registry.

   It's our luck that Hon'ble the acting Chief Justice of Delhi Smt Geeta Mittal and Hon'ble Justice Anu Malhotra in an suo moto order dated 3.05.2017 has made IMA as a party in the case.

   Directly or through the court we want Ministry of Health and Family Welfare, Government of India to urgently and promptly implement MCI suggested amendments of making soft skill communications compulsory for UG and PG curriculum. Also based on the inter-ministerial committee recommendations the Central Government should enact central act against violence at the earliest on the lines of one enacted in 19 states and make the violence against doctors as non bailable offense punishable with up to 14 years
imprisonment on the lines of abatement of a murder because violence against doctor can end up with death of other unattended patients.

2. **How come suddenly we are being tried as criminals: of late** medical professionals are being tried under criminal law for medical negligence. In order to establish criminal liability, it is important to ascertain whether intent to harm (Mens Rea) was present or not. But in criminal negligence cases intent to harm has been replaced by gross negligence. Gross negligence itself is not defined in IPC. Moreover, criminal law punishes only affirmative harm but in medical negligence failure to act in a prudent manner also is a crime.

It should not be forgotten that medicine, especially emergency medicine is inherently risky. Bad outcomes or mistakes do not necessarily mean that care was negligent or that health care providers are criminally at fault. The sections of IPC, 304 A (death due to negligence), 336 (act endangering life or personal safety of others), 337 (causing hurt by act of endangering life), 338 (causing grievous hurt by act of endangering life) are being frequently applied against medical practitioners.

Moreover, sections of MTP act, PCPNDT act, POCSO act, HIV Aids Act, West Bengal Clinical Establishment Regulatory Commission Act etc. are also being applied against medical practitioners for technical reasons and medical professionals are prosecuted.

To treat a patient the medical professionals often have to take a calculated risk and take decisions. If they fail to do so it may further complicate the situation. So it becomes difficult to define gross negligence.

Besides one has-to consider section 88 of IPC which saves medical professionals from criminal liability when the act is done in good faith. Hence section 304 A and similar sections of IPC should only be considered along with section 88.

Every passing day yet another doctor is prosecuted under 304 A when there is no *men rhea* between the doctor and the patient.

Under the new acts including the PCPNDT act even clerical errors are being linked to penal provisions.

In West Bengal clinical establishment regulatory commission act the word used is 'shall' for imprisonment of up to three years for any violation of the act.

We want de-criminalisation of clinical practice.
3. **Why the limitations of the government are being faced by the doctors:** It's the constitutional duty of the governmental to provide free drugs and investigations for primary care and emergent care. The very fact 80% of the health care services are handled by private sector it means either the services of the government are not up to the mark or they do not have enough infrastructure.

The private sector is doing the job of the government. Than why so many exams for the medical students, so many registrations for opening a new medical establishment and so many windows for accountability. Why can't we have single window registration and single window accountability.

4. When the government has allowed the same company to manufacture generic-generic, trade generic and branded generic medicines at differential prices **why punish and defame the doctors?** Why take away the prescription rights of doctors and give it to un-qualified chemists. Why the government is allowing pharmacy to be run by outsourced non-professional chemists. It's not doctor's job to search for the cheapest brands. It's like government saying that we will allow drugs to be sold at variable prices but you should not right the costlier ones. In other words, we will give licenses to five star restaurants but no one is allowed to go there. The right to choose the brand or the company name is with the doctor who owns the legal responsibility of the case. If the brand is chosen by the chemist who will be responsible if the patient dies on treatment.

5. **Why do we need a government? Why not a Supreme Court Monitoring Committee or twenty nominated members to run the government? If not than why attempts for an autocratic, bureaucratic, undemocratic, non-representative, 20 members nominated body including 8 non-medical persons to oversee medical education, ethics and practice by abolishing a democratically elected federally represented 168 members Medical Council of India. If you feel the IMA act neds amendments go for that.

6. The country is short of doctors already than why an MBBS graduate who has gone through 36 examinations in 3 dimensions to get his degree is being asked to sit for **another 3 hour MCQ paper to obtain his license under NEXT.**

7. By **promoting AYUSH to practice modern medicine are we not** finishing the very existence of AYUSH in the country. Scheduled drugs should only be allowed to be written by MBBS of BDS doctors.
8. The floodgates of modern medicine practice are being thrown open to quacks and no action is taken. No unqualified person should be allowed to prefix doctor in front of their name.

9. When medical profession is considered noble and doctors provide subsidy in the consultation to all patients than why compensation in crores basing it on the patient's income. And why another act to compensate in West Bengal Clinical Establishment Regulatory commission.

10. Why professional decisions are taken without taking the medical profession into confidence. Why can't IMA be in every policy making committee of the government.

There is no end to the injustice heaped on the medical profession.

Every doctor in India should participate in the "pen down strike" on 06.06.2017 while "IMA Satyagraha is walk in protest".

All Medical Colleges in the country SHOULD remain shut as well on 06.06.2017.

Let us not compromise on our demands

- Central act against violence
- Stop NMC and Amend IMA Act
- No to NEXT
- Decriminalization of medical practice and clerical errors
- Modern medicines to be prescribed only by MBBS or BDS doctors
- Professional autonomy in prescriptions
- Immediate implementation of the inter-ministerial committee recommendations
- No unqualified person should be allowed to prefix doctor in front of their name.
- No chemist should be allowed to sell or run pharmacy store without pharmacy degree