

Traditional Medicine – Indigenous practices for human rights from the bottom-up



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**BERLIN
9TH DECEMBER 2016**

Distinction between traditional and indigenous medicine



- The term traditional is used interchangeably with indigenous, especially in the context of knowledge and medicinal uses for plants and other natural resources. However the two may be different
- In India – indigenous people, referred to as *Adivasis* (“first settlers” or native Indian) have a set of beliefs and practices that make up indigenous knowledge, including medicinal uses for plants and natural remedies for many ailments.
- Traditional medicine in India on the other hand has its origin with the arrival of Hinduism, Islam and cross-border influences over time.
- Traditional medicine and indigenous medicine are by and large based on knowledge of naturally occurring substances.

Traditional Medicine Systems in India



- **Ayurveda** – dates back as far as the Indus Valley Civilization, Hindu religious texts make references to Ayurveda. Practitioners believe that a balance ought to be struck between the mind, the body and one's personality and treatment is in the form of diet, exercise and meditation as also the use of medicinal herbs and naturally occurring substances to cure illness.
- **Siddha** – based on Dravidian culture and beliefs (indigenous people in the South India) and referred to in Hindu texts. The core belief is that there ought to be a balance of humours in the body and an imbalance causes maladies that must then be cured by adjusting the patient's diet and lifestyle.

Traditional Medicine Systems in India



- **Unani** – first practiced in India during the Mughal empire but having origins in Persia. Unani medicine is also based on humours and has parallels with ancient Greek medicine and beliefs. Plant and animal based oils commonly used in Unani treatment have entered mainstream traditional usage in Indian homes, especially Almond Oil.
- While not strictly pertaining to any particular religious practice, some aspects of traditional medicine therefore borrows from religious beliefs and faith.

Non Conventional Medicine and Alternative therapies



- The phrase Non-Conventional Medicine (NCM) and alternative medicine or therapies have been put forward to refer to anything besides allopathic medicine.
- These NCMs are as diverse as the traditional medicine systems in India, Traditional Chinese Medicine including Accupuncture, Homeopathy, Bach Flower Remedies, Reiki and Crystal therapy and many other similar forms of alternative medicine around the world.
- To many individuals, ***there is easy access to only these alternative medicines. Indeed, in many parts, there is no belief in or knowledge of allopathic remedies*** – be it medicine, surgery or standard treatment and care.

Right to Health considerations in NCMs



- There are mixed opinions on the reliability of NCMs, with **several types labeled as merely pseudoscience** and **sustained only due to the placebo effect** experienced by those who believe in and regularly turn to them.
- The most important question that NCMs throw up is that of **quality**.
- The Right to Health, as defined in Article 12 of the International Covenant on Economic, Social and Economic Rights – ***is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.***

Right to Health – Essential Medicine



- General Comment 14 to the Article 12 Right to Health discusses the Authoritative interpretation of the right to health under Article 12. G.C. 14 describes the entitlements that all human beings must have as a part of their Right to Health.
- This implies that an important aspect of the Right to Health is **the right to access medicine** that is not only easily **available** and accessible (physically accessible and economically affordable) but also that these medicines are **good quality and efficacious**.
- The main concern with NCMs is that their efficacy and quality is not always something which is easily verified.

Establishing the quality of NCMs



- With a large number of people turning to NCMs as their primary source of healthcare – there is a **need to ensure that these NCMs are of the highest quality**
- Many traditional remedies relying on **medicinal plants and herbs are scientifically proven** to be efficacious and there have been many **allopathic drugs that have medicinal plants based on the same** core ingredients or

Colonial influences in criminalizing drug-use



- The use of substances like marijuana to suppress nausea, and as a painkiller is traditionally understood and recorded in many cultures and has gradually come to be accepted in modern drug enforcement laws around the world with exceptions carved out for medicinal use.
- Similarly, narcotic substances like opiates (itself a derivate of naturally occurring opium) such as morphine and ketamine have found use in end of life pain management.
- The use of coca leaves as a stimulant is also well documented as accepted and without any of the stigma attached today to drug use.

Colonial influences in criminalizing drug-use



- The advent of colonialism brought in western or Christian morals and values impacting on traditional medicines, like marijuana and coca. This informed and influenced changed laws to reflect these sensibilities making local cultural mores immoral and illegal.
- Alcohol (a drug) became legal but coca and marijuana became illegal
- This thinking impacted the framing of the 3 Drug Conventions which mandate criminalizing of possession of narcotic and psychotropic substances illegal
- As a result in a number of countries not only are jails filled with persons with drug related offences but criminal war lords have taken over sections of diverse countries

Safeguarding the use of NCMs for indigenous people



- Drug patenting is seen as a common practice to secure ownership rights over new drug inventions and also to ensure that profits can be drawn from such inventions.
- While Indian Patent Law grants patents to only novel and innovative inventions, countries with more relaxed patentability criteria such as the USA has caused controversy by granting patents to uses of plants that are widely known and understood as a traditional medicines in other parts of the world.
- The patenting of the use of turmeric in the USA was seen as profiting from what was commonly known and used in many millions of homes in the Indian Sub-Continent.
- Critics have come to view this as profiting from indigenous peoples' traditional knowledge and as such unethical.

The impact of granting IP protection to traditional knowledge



- An IP maximalist approach excludes indigenous people from enjoying benefits of the commercial exploitation of traditional knowledge – such as the use of naturally occurring substances in allopathic medication.
- For example, Traditional Chinese Medicine was identified as offering the core ingredient of Tamiflu, used to treat the H1N1 Swine Flu outbreak. The drug was highly sought out in the epidemic in 2009 and was prohibitively priced despite containing a core of inexpensive star anise, which is traditionally known to cure the flu like symptoms of Swine Flu
- The recipient of the 2015 Nobel Prize for Medicine Dr. Youyou Tu is credited with inventing a cure for malaria based on Traditional Chinese Medicine and the properties of a naturally occurring compound – Artemisinin.

Benefit sharing



- The Convention on Biological Diversity has as one of its goals fair and equitable sharing of benefits arising out of living genetic resources.
- As a result, Access and Benefit Sharing Agreements (ABSAs) have been considered to ensure that indigenous people receive fair compensation and recognition when genetic resources known by them is commercially exploited.
- The Nagoya Protocol solidified the modalities of these ABSAs under Article 5 which highlights importance of recognising the efforts taken by first settlers and indigenous people through agreements containing mutually agreed terms for sharing and benefit.
- It also covers procedures for compliance and obligations of each party as also the many tools and mechanisms available in order to facilitate mutual benefit and sharing.
- However with the complete dominance of profit making corporations in the economic sphere these treaties have largely remained on paper

Sources



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