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## Medical Jurisprudence and its Relevance with Indian Criminal Law

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*The largest and most important field of forensic science also known as medical jurisprudence or forensic medicine is a crucial component of the criminal justice system. It integrates medical expertise with criminal and civil law. The implementation of medical science to solve legal issues is known as medical jurisprudence. Its history and how it evolved with time and shaped the different criminal laws to deal with different cases. The use of medicine to solve crimes using the various tools of criminal law. In medico-legal situations, therapy is given precedence. After that, procedural criminal legislation will take effect to prevent negligence-related death. The current issues are also addressed as to how they impact decision-making. Medical Jurisprudence has a huge impact on Indian Criminal Law.*

**Keywords:** *medical jurisprudence, criminal justice system, medico-legal situations, criminal law.*

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### INTRODUCTION

To uphold justice in both civil and criminal cases, the legal system uses medical experience or medical jurisprudence. The area of law that researches how medical information relates to legal questions. The Latin words ‘*juris*’ and ‘*prudentia*’ means ‘law’ and ‘knowledge’ respectively. It is also referred to as Forensic or Legal Medicine. Thus, it is the field that utilizes medically

pertinent information and then incorporates them into the legal system, aiding the criminal justice system. It outlines the fundamental legal requirements that a medical professional must adhere to. Medical professionals who are presenting legal testimony may testify before courts of law, administrative tribunals, inquests, licensing authorities, boards of inquiry or certification, or other investigative organizations.

The majority of nations have laws requiring doctors to certify patients for workers' compensation or other national insurance plans, to certify a birth or a death's cause, to alert authorities to any cases of specific infectious diseases, and to decide when mentally ill people need to be detained to protect themselves or others. The most common duties in medical jurisprudence are these repeating activities<sup>1</sup>. Since modern medicine is a legally sanctioned innovation that is overseen by the government and because of medico-legal disputes concerning demise, rape, blood relation, etc. need for a medical professional to present proof and serve as an expert witness, law and medicine have historically been intertwined.

So, it becomes clear that forensic medicine is the area of science that instructs the application of all medical knowledge to legal goals; as a result, its boundaries are, on the one hand, legal requirements and, on the other, the entire field of medicine. When necessary, the scientific disciplines of analysis, diagnosis, healing, operation, biochemistry, and botany assist; in certain situations, all of these scientific disciplines are necessary to allow a court of law to reach an appropriate decision on a matter.

## **HISTORY OF MEDICAL JURISPRUDENCE IN INDIA**

From the beginning, there has been a connection between medicine and law, and superstition, magic, and religion were the threads that bound them together. The complex code governing the education, obligations, privileges, and social standing of physicians is laid out in the Charaka Samhita. It provides a thorough explanation of several toxins and how to treat them. Manu established several laws in his treatise Manusmriti in the second to third century B.C.E.,

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<sup>1</sup> 'Medical Jurisprudence' (*Britannica*) <<https://www.britannica.com/science/medical-jurisprudence>> accessed 29 January 2023

including the punishment for numerous sexual and other offences as well as the recognition of mental incompetence brought on by intoxication, disease, and old age. Between the fourth and third centuries, B.C The Arthashastra of Kautilya set forth the rules for criminal law and the practice of medicine. Physicians were penalised for their carelessness. The law has used medical knowledge for its purposes. The inspection of dead bodies in cases of unnatural deaths is mentioned. euthanasia, sexual offences, kidnapping, etc., were punishable offences. This branch quickly expanded in all directions after being initially introduced in India. The nation's first medical school opened in Calcutta in 1822. In the states of Madras and Bombay, this development carried on. In the last ten years, scientific practices have advanced by a factor of ten.

### **RELEVANCY OF MEDICAL JURISPRUDENCE WITH CRIMINAL LAW**

Both the medical and legal fields have profited greatly from the development of medical jurisprudence. Both disciplines are now operating more smoothly as a consequence of improved communication and teamwork. The growth of medical jurisprudence has made it easier to resolve problems that were once intractable. Its scope includes the providing of evidence in a variety of situations. It may be used to establish a child's paternity and to identify human remains that have been irreparably damaged in incidents like bomb blasts and manufacturing explosions, among other things. It can be used to resolve instances involving murder, rape, and other crimes in the area of evidence laws. Medical jurisprudence techniques like autopsy can also be employed to discover important facts vital to the case after the person has died. Medical jurisprudential procedures are not now accepted as primary evidence, although they have greatly benefited the legal profession. Technical findings, such as the outcomes of DNA testing, are still treated as expert evidence under the current Indian Evidence Act. This state of affairs will persist until the Parliament draughts and passes a law. Section 45 of the Indian Evidence Act of 1872, it is, among other things, stipulated that the opinions of people who are especially skilled in science or art, or any question as to the identity of handwriting or finger impressions, are relevant facts when the court must form an opinion on a matter of science or art or as to the identity of handwriting or finger impressions. These people are referred to as experts. All

upcoming scientific developments that will allow an expert opinion on a topic can be applied to the opinions expressed on a scientific topic by people with specialised knowledge.

The courts are reluctant to adopt these procedures because of their frequent abuse and ignorance of scientific data. The following factors may be taken into account by the court to determine whether scientific evidence is admissible:

- Whether the principle or technique has been tested or can be reliably tested;
- Whether it has undergone peer review or publication;
- Its known or potential rate of error;
- Whether there are standards or organisations controlling the procedures of the technique;
- Whether it is generally accepted by the community;
- Whether the technique was created or conducted by the party who is presenting the evidence.

## **INDIAN CRIMINAL LAWS THAT ARE GOVERNED BY THE PRINCIPLES OF MEDICAL JURISPRUDENCE**

It is important to understand the organization of the Indian judicial system's classification of laws to comprehend the legal element of medical jurisprudence. The following ACTs can be seen as the pillars of justice:

**1. Indian Penal Code 1860** - Section 44<sup>2</sup>: Definition of Injury; Section 82<sup>3</sup> - Section 90<sup>4</sup>; Section 319<sup>5</sup>: Hurt; Section 320<sup>6</sup>: Grievous Injury; Section 321: Voluntarily Causing Hurt; Section 322<sup>7</sup>: Voluntarily Causing Grievous Hurt; Section 323<sup>8</sup> - Section 328<sup>9</sup>; Section 351<sup>10</sup>: Assault; Section

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<sup>2</sup> Indian Penal Code 1860, s 44

<sup>3</sup> Indian Penal Code 1860, s 82

<sup>4</sup> Indian Penal Code 1860, s 90

<sup>5</sup> Indian Penal Code 1860, s 319

<sup>6</sup> Indian Penal Code 1860, s 320

<sup>7</sup> Indian Penal Code 1860, s 322

<sup>8</sup> Indian Penal Code 1860, s 323

<sup>9</sup> Indian Penal Code 1860, s 328

<sup>10</sup> Indian Penal Code 1860, s 351

354<sup>11</sup>: The penalty for assaulting a woman with the intent to offend her modesty & Section 498A<sup>12</sup>: If a woman's spouse or a member of his family treats her cruelty.

**2. Code of Criminal Procedure 1973** - Section 53(i)<sup>13</sup>; Section 53(ii)<sup>14</sup> & Section 54<sup>15</sup>.

**3. Indian Evidence Act 1872** - Section 45<sup>16</sup>: Expert opinions are stated & Section 114A<sup>17</sup>: When a woman testifies that she did not agree to sexual activity during a rape case.

**Indian Medical Council Act 1956** - Section 20A<sup>18</sup>: Professional Conduct.

## **MEDICAL NEGLIGENCE IN CASES OF MEDICAL PROFESSIONALS AND CRIMINAL LAW**

Indian legal system recognises that breaching the law without knowing it is never an acceptable defence. Assuming that everyone is familiar with the law is another way to describe the norm. Every person owes it to themselves to comprehend the topics that most appeal to them. A doctor in particular is treated and assumed to know the law since, in general, they can and should. The medical field operates in regions where success is not always assured and where it is frequently reliant on factors beyond the control of a medical specialist, making it different from other careers in terms of professional responsibility. The greater awareness of the privileges of patients in today's culture has made a medical expert more likely to be sued in any form of case, whether civil or criminal. The majority of practising physicians in our country are still ignorant of the legal foundation for a claim of medical negligence.

Criminal law has always put medical experts above regular people on a pedestal. The courts have long recognised the dangers of practising medicine. Sections 88<sup>19</sup> - 92<sup>20</sup> of the Indian Penal

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<sup>11</sup> Indian Penal Code 1860, s 354

<sup>12</sup> Indian Penal Code 1860, s 498A

<sup>13</sup> Code of Criminal Procedure 1973, s 53(i)

<sup>14</sup> Code of Criminal Procedure 1973, s 53(ii)

<sup>15</sup> Code of Criminal Procedure 1973, s 54

<sup>16</sup> Indian Evidence Act 1872, s 45

<sup>17</sup> Indian Evidence Act 1872, s 114A

<sup>18</sup> Indian Medical Council Act 1956, s 20A

<sup>19</sup> Indian Penal Code 1860, s 88

<sup>20</sup> Indian Penal Code 1860, s 92

Code, 1860 exclude doctors from criminal responsibility since it is presumed by the law that they always act in the best interests of their patients. The concept of good faith, however, presents a more challenging situation in a medical negligence case. The aforementioned Code's Section 52<sup>21</sup> states that 'nothing is claimed to be done or believed in 'good faith' which is done or believed without due care and attention'. If the communications are made in good faith, Section 93<sup>22</sup> exempts them from prosecution. These rules were put in place because no man can act in a way that guarantees he won't be unfortunate enough to kill another human being.

In a case involving medical negligence, the Supreme Court of India reiterated its positions, holding that the medical practitioner must bring to his responsibility a fair degree of competence and knowledge and must exercise a reasonable degree of care. The highest or lowest degree of care and competency, as assessed by the specifics of each case, is not required by the law. The test is the common sense or reasonable skill that a guy who is practising and claiming to have that exceptional ability possesses when a situation comes that calls for the use of that particular skill or competence. It is believed that the "duty of care" is a complementary notion that applies to healthcare providers and medical professionals.

Courts have traditionally considered medical practice when considering cases of professional negligence. To his or her patients, a clinician has special obligations. If a physician does something that other clinicians of similar position, calibre, and competency would not do or if they neglect to do something that other clinicians would unquestionably do, they have engaged in negligence. A doctor is expected to practise with the utmost care, commitment, and adherence to accepted professional standards while respecting the patient's autonomy. When registering, a medical professional must also abide by the copy of the Indian Medical Council's Code of Medical Ethics statement.

The Supreme Court of India created the legal basis for the duty of care as a binding ethical and constitutional principle in a ruling establishing the Code of Medical Ethics as the predominant

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<sup>21</sup> Indian Penal Code 1860, s 52

<sup>22</sup> Indian Penal Code 1860, s 93

norm for the medical profession. In a way, this lends legal support to Section 33<sup>23</sup> of the Indian Medical Council Act, of 1956, which upholds medical ethics in India. This in a sense offers Indian medical ethics legal protection.

### **ISSUES IN THE CURRENT INDIAN SCENARIO**

This legislation, there exist several shortcomings. Despite its many benefits, medical jurisprudence evidence is still seen as supporting expert opinion as opposed to being the main evidence. Under the Indian Evidence Act of 1872, the analysis of a process for an autopsy is very seldom considered documented evidence. Due to the doctor-patient confidentiality rule, doctors are regularly forced to choose whether or not to give the legal system patient information. If the doctor discovers that one of his patients has committed a crime, they must call the police (other than suicide). If the doctor doesn't comply, there can be consequences. For the current system, the following reforms are suggested:

- The creation of laws will rely heavily on medical precedent.
- If further scientific test results are made following accepted testing procedures, they must also be taken into consideration as documented evidence.
- The doctor is required to alert the proper authorities if a patient tries suicide. This will help in addressing the factors that may have prompted the victim to take such dramatic action and will also help to ensure the patient's safety going forward.

### **CONCLUSION**

Medical Jurisprudence aids in the investigation of crimes by performing tasks including identifying suspects, locating missing individuals, and profiling offenders. Autopsies are carried out to ascertain the cause of death by forensic pathologists. In these procedures, DNA from a body is examined to determine the method and cause of death (such as homicide or natural causes). By examining evidence such as fibers, scalp, blood, and biometric details that were recovered at the crime site, forensic experts can identify suspects. These techniques are

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<sup>23</sup> Indian Medical Council Act 1956, s 33

also employed to clear the guilty. Through the use of picture manipulation, they can aid in the long-term search for missing individuals. This method involves aging a photo to show what a person would appear like years after their last sighting. This is a method that is also employed to track down criminals who have evaded capture. To reduce the number of potential suspects, they can identify a criminal's habits and characteristics by examining a crime scene. Therefore, it is evident that legal professionals must study medical jurisprudence, and medical professionals must possess legal expertise to uncover the truth and provide it to attorneys and judges.

Studying legal requirements also shields them against negligence. It is counterproductive and serves no benefit or value to society to prosecute all medical practitioners for criminal negligence. There must be a connection between the demands of justice, fault, and responsibility. It turns out that Medical Jurisprudence is the union of the legal system with the principles of natural science. In this union of two fields, forensic experts use their skills in science to assist law enforcement officials in solving crimes.