

# MEDICAL JURISPRUDENCE AND THE CULTURE OF FORGIVENESS: A SOCIO-LEGAL STUDY OF MIZORAM

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## ABSTRACT

Law and medicine are notably different domains of life. This paper intends to give an overview of the symbiotic relationship between law, medicine and society. The dynamic relationship between law and medicine is bound to grow even more due to the radical transformation which resulted in regulation and compliance laws that have ensured the right to healthcare of citizens is not breached or exploited thereof. In this broader medico-legal framework, Mizoram presents a unique socio-legal context shaped by compassion and reconciliation. This paper seeks to examine how medical jurisprudence operates in Mizo Society. The paper studies whether forgiveness functions as a mechanism of restorative justice.

**Keywords:** Medical Ethics, Informed Consent, Forgiveness, Restorative Justice, Mizo Culture

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## Introduction:

Medical Jurisprudence is that science which applies the principles and practice of the different branches of medicine to the elucidation of doubtful questions in courts of justice.<sup>1</sup> It is application of law and legal principles to medicine and encompasses the duties of Medical Professionals, rights of patients and doctors, professional conduct, medical ethics, medical etiquette and doctor-patient relationship. Medical jurisprudence is not confined only to negligence and criminal liability but also extends to professional ethics. Medical ethics regulates the conduct of doctors in relation to patients, society, and fellow professionals, emphasizing duties such as confidentiality, informed consent, professional competence, and respect for patient dignity. Professional misconduct may include acts such as practicing under the influence of alcohol, accepting unlawful commissions, engaging in unethical advertisement, breach of confidentiality, or maintaining improper relationships with

patients. In a close-knit communitarian society such as Mizoram, where social harmony and forgiveness are culturally valued, ethical violations may sometimes be informally resolved through apology, reconciliation, or community mediation rather than formal disciplinary mechanisms. This raises important questions regarding whether excessive reliance on forgiveness may occasionally weaken institutional accountability within healthcare systems.

## I. Historical Development of Medical Jurisprudence

Law and Medicine, though distinct professional disciplines, share a common mission of protecting human life, dignity, and justice. In India, both Law and Medicine had acquired professional status in India under regulatory institutions such as The Ethics and Medical Registration Board, which is an autonomous body under The National Medical Commission (NMC) and the Bar Council of India.

History of any discipline help us understand the evolution of the subject through different stages of existence. Many

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<sup>1</sup>Theodric Romeyn Beck, *Elements of Medical Jurisprudence* (Webster and Skinner, Albany, 1823)

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historians believed that Materia Medica Imhotep (around 3000 BC) was the first medico-legal specialist, as he was the personal physician and Chief Justice to the Pharaoh Zoser. He had dual qualifications in law and medicine and one of the early practitioners of forensic medicine.<sup>2</sup> While in India, the Charaka Samhita was among the earliest texts that set a code of ethics on physicians. Charaka Samhita<sup>3</sup> prescribes an elaborate code of conduct. During the Buddha era, King Ashoka established hospitals, roadside clinics, and the Ayurvedic medical school in the 4th and 5th centuries BC. Dr Edward Bullock conducted India's first medico-legal autopsy in 1693.<sup>4</sup>

In modern India, there is a growing dependence on medical science in the justice system and is reflected in landmark judgments such as *Indian Medical Association v. V.P. Shantha*<sup>5</sup> and *Consumer Education and Research Centre v. Union of India*<sup>6</sup>, where the Supreme Court held that medical services fall within the scope of consumer protection law and affirmed that the Right to Health is an integral part of Article 21 of the Constitution.

## II. Interface between Medical Profession and Law in India:

The interrelationship between law and medicine in India is deeply reflected in the development of medical jurisprudence through statutory provisions, Constitutional principles, and judicial

interpretation. Several provisions under the Indian Penal Code, 1860, the Bharatiya Nyaya Sanhita, 2023, the Code of Criminal Procedure, 1973, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Indian Evidence Act, 1872, and the Bharatiya Sakshya Adhiniyam, 2023 contain provisions relating to injury, death, consent, rape, poisoning, miscarriage, negligence, mental condition, and expert medical opinion. These legislations collectively regulate criminal liability, forensic investigation, and patient/consumer protection. After the Consumer Protection Act, 1986 was enacted and the increase in public awareness regarding patient rights, legal actions against medical professionals in India increased significantly. This led Indian courts to define the standards and principles governing medical negligence in both civil and criminal law.

### A. Constitutional Framework in India and the Right to Health

In India, Courts have recognized that emergency medical treatment is not merely an ethical obligation of doctors but also a constitutional responsibility of the State and healthcare institutions under Article 21 of the Constitution of India, which guarantees the right to life and human dignity. Right to Health is an indispensable part of Right to Life which is upheld in many landmark judgments such as *Pt. Parmanand Katara v. Union of India*<sup>7</sup> and *Paschim Banga Khet Mazdoor Samiti v. State of West Bengal*<sup>8</sup> established that denial or delay of emergency medical treatment violates Article 21 and that preservation of human life must take precedence over procedural formalities. Public Interest Litigations (PIL) further broadened medical jurisprudence by

<sup>2</sup>William J Deadman, B.A., M.B., Toronto Deadman, B.A., M.B., Toronto. Forensic Medicine: An Aid to Criminal Investigation .

<sup>3</sup>, Rajiv Kumar Verma . Professional Code of Ethics for Physician or Medical Practitioners in Ancient India.

<sup>4</sup>Mahanta Putul, *A Brief Historical Overview of the Past of Forensic Medicine*, 47(2) J. Indian Acad. Forensic Med. 190–194 (2025)

<sup>5</sup>*Indian Medical Association v. V.P. Shantha*, (1995) 6 SCC 651 : AIR 1996 SC 550

<sup>6</sup>*Consumer Education and Research Centre v. Union of India*(1995) 3 SCC 42

<sup>7</sup>*Pt. Parmanand Katara vs Union Of India & Ors* 1989 SCC (4) 286

<sup>8</sup> *Paschim Banga Khet Mazdoor Samity and Others v. State of West Bengal* and Anr 4 SCC 37, AIR 1996

recognizing the Right to Health, medical treatment, and dignified care as a Constitutional Right under Article 21. PIL also provides mechanism to address denial of treatment, medical negligence, discrimination against economically disadvantaged patients and inadequate custodial healthcare.

### **B. Medical Negligence under Indian Criminal Law**

Risk is an inherent concern for medical professionals who have a duty towards their patients. In this context, medical malpractice broadly refers to failures in the conduct of medical practitioners that adversely affect their professional duties, competence, and relationship with patients. It is generally divided into two categories: professional misconduct, where the personal or professional behaviour of a doctor falls below the standards expected of the medical profession, and medical negligence, where the standard of care provided to a patient is inadequate.

Medical negligence may arise either through an act of omission or an act of commission. Negligence may be either civil or criminal in nature. Under Section 106(1) of the Bharatiya Nyaya Sanhita, 2023<sup>9</sup>, provides punishment for causing death through rash or negligent acts. The Burden of Proof lies on the Complainant.

The Indian legal framework recognizes the liability of medical practitioners for negligent acts that affect public safety and health as such conduct may infringe Article 21 of the Constitution. Section 271 of the Bharatiya Nyaya Sanhita, 2023 (BNS) penalizes negligent acts likely to spread infection of diseases dangerous to life, while Section 272 BNS addresses malignant acts done with the knowledge that such conduct may spread life-

threatening infectious diseases, corresponding to the earlier Sections 269 and 270 of the Indian Penal Code, 1860. Similarly, Section 125 of the BNS penalizes rash or negligent acts that endanger human life or the personal safety of others, corresponding to the earlier Section 337 IPC relating to causing hurt by negligence. Further, Section 125(b) BNS specifically deals with cases where such rash or negligent acts result in grievous hurt, such as fractures, permanent disfigurement, or injuries endangering life, corresponding to the earlier Section 338 IPC.

### **C. Judicial Decisions on Medical Negligence**

The essential elements required to establish medical negligence include duty of care, breach of duty, causation, and resulting damage suffered by the patient. Courts in cases such as *Stansbie v. Troman* (1948), *Ramesh Kumar Nayak v. Union of India* (1994), and *Joseph v. Dr. George Moonjely* (1994) have recognized these principles while determining liability for negligent conduct. The landmark judgment in *Jacob Mathew v. State of Punjab*<sup>10</sup> laid down important principles relating to medical negligence. The Supreme Court held that a doctor is not negligent if treatment is administered according to accepted medical standards and approved practice prevailing at the time of the incident. The Court clarified that mere absence of equipment does not by itself constitute negligence, and that negligence arises only when there is complete disregard of foreseeable risks without taking due precautions. The Court also approved the application of the Bolam Test in India, according to which a doctor is not negligent if their conduct is supported by a responsible body of medical opinion. Additionally, guidelines

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<sup>10</sup>Jacob Mathew v. State of Punjab & Another, AIR 2005 SC 3180; (2005) 6 SCC 1 (India)

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were issued to prevent unnecessary criminal prosecution of doctors under Section 304A IPC (now Section 106 BNS). Further, in *Dr. K. C. Vidyarthi v. State of Bihar*<sup>11</sup> held that Sections 80, 81, 88, 92, and 93 of the IPC provide immunity to medical professionals from malicious litigations of medical negligence. Thereby shielding doctors from criminal liability when they act honestly and for the benefit of patients. In *State of Haryana v. Santra* (2000)<sup>12</sup> the Supreme Court distinguished between civil and criminal negligence. A patient alleging medical malpractice may seek remedies through, a complaint before the State Medical Council; proceedings before the Consumer Court; Civil suit for damages; or a criminal complaint in cases of gross negligence. Compensation is generally awarded through civil courts or consumer forums.

### **D. Informed Consent and Patient Autonomy**

Valid Consent is an essential legal requirement in medical practice which must be obtained prior to conducting any medical procedure. A doctor has a mandatory duty to "seek and secure the consent of the patient before commencing a 'treatment'<sup>13</sup>. Indian courts have repeatedly emphasized that medical treatment without valid consent may violate personal liberty and bodily autonomy protected under Article 21 of the Constitution. Informed consent requires disclosure of the nature of treatment, risks, alternatives, and possible consequences, thereby enabling patients to make voluntary decisions regarding their

healthcare. In *Samira Kohli v Dr Prabha Manchanda* it is held that for a consent to be valid, the patient must have the capacity and competence to consent, the consent must be voluntary, and it must be based on "adequate information" regarding the nature, purpose, and substantial risks of the treatment. A critical principle established is that consent for a diagnostic procedure does not authorize therapeutic surgery, and any unauthorized additional procedure unless necessary to save a life or preserve health in an emergency constitutes an unauthorized invasion of the body amounting to assault and battery.

Indian medical jurisprudence also recognizes the doctrine of informed refusal, whereby a competent patient retains the right to refuse medical treatment after being informed of the risks associated with such refusal. This principle is rooted in Article 21 of the Constitution which deals with Right to Life and Personal Liberty. In such circumstances, medical practitioners are required to properly document the refusal in order to safeguard both patient autonomy and professional accountability. In the *Dr. TT Thomas versus Smt. Elisa and Ors* case, the surgeon was held liable for negligence for not operating on a patient on life-threatening condition, only because the patient was not in a condition to give consent and her relatives were not available.<sup>14</sup>

However, the requirement of consent is not absolute. Section 88 of the Indian Penal Code, protects the medical practitioner as it states that where a person performs certain acts in "good faith" for the benefit of another, it is not an offence. Section 92 of the Indian Penal Code, 1860, and the corresponding provisions under the *Bharatiya Nyaya Sanhita, 2023*, provide

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<sup>11</sup>*Dr. K. C. Vidyarthi v. State of Bihar*, Patna High Court, Decided On May 05, 2016

<sup>12</sup> *State of Haryana vs. Smt. Santra* (2000) 5 SCC 182:: AIR 2000 SC 3335

<sup>13</sup> *Samira Kohli vs. Dr. Prabha Manchanda and Anr* (2008) 2 SCC 1; AIR 2008 SC 1385

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<sup>14</sup> *Dr. TT Thomas versus Smt. Elisa and Ors* AIR 1987 Ker 52

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remedy for acts performed in good faith for the benefit of a person without consent in emergency situations. The Supreme Court of India reiterated in the *Parmanand Katara Vs Union of India* case that it is the doctors ethical and legal duty to treat the patient to the best of his/her ability and that the lack of a valid consent is not a constraint in life-threatening situations<sup>15</sup>.

In communities like Mizo where medical decision-making is often influenced collectively by family members, church elders, or community expectations rather than by individual autonomy alone. This occasionally creates tension between legal principles centred upon individual autonomy and local cultural practices emphasizing collective responsibility, trust, and reconciliation. Thus, informed consent in India balances patient autonomy, Doctor's duty and social and cultural realities in healthcare decision-making.

### III Restorative Justice and Culture of Forgiveness in Mizoram

Restorative justice is an approach to justice that focuses on repairing the harm caused by a crime or wrongdoing rather than only punishing the offender. It emphasizes healing, accountability, reconciliation, and the involvement of victims, offenders, and the community in resolving the consequences of an offence. Unlike the traditional retributive justice system, which primarily views crime as an offence against the State and seeks punishment, restorative justice treats crime as harm done to individuals and relationships that must be repaired.

The main objectives of restorative justice are to provide victims with recognition and

healing, encourage offenders to take responsibility for their actions, and restore social harmony within the community. In India, restorative justice principles can be seen in traditional village panchayats, mediation systems, Lok Adalats, plea bargaining, juvenile justice mechanisms, and victim compensation schemes under the *Bharatiya Nagarik Suraksha Sanhita, 2023* and the *Juvenile Justice (Care and Protection of Children) Act, 2015*. In *State of Gujarat v. Raghavbhai Vashrambhai*, the Punjab and Haryana High Court observed compromise to be a **sine qua non** in modern societies to maintain harmony and order.

#### A. Traditional Mizo Justice System

Tribal Customary Laws are provided considerable autonomy in the Indian Constitution through Articles 244, 244-A, 371-A (Nagaland) and 371-G (Mizoram). Traditional Mizo justice systems can be closely connected to the theoretical foundations and practices of restorative justice. The Mizo Customary system reflected principles similar to the Social Contract Theory, where justice was viewed as necessary for maintaining social harmony and collective stability within the village community. The communitarian nature of Mizo society also strongly aligns with restorative justice, as decisions were taken collectively through chiefs (Lal) and village elders (Upa), with emphasis on reconciliation, community participation, and repairing relationships. Indigenous and Customary traditions among the Mizos, much like other indigenous systems in India, emphasized forgiveness, communitarianism and social harmony over harsh retributive punishment. Similarly in Nagaland, customary courts such as the Village Courts, Subordinate District Customary Courts, and District Customary Courts (Dobashi Courts) continue to function.

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<sup>15</sup>*Parmanand Katara v. Union of India* AIR 1989 SC 2039

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The practical mechanisms of restorative justice were also reflected in traditional Mizo dispute resolution practices. Communal discussions led by village chiefs and elders, where both parties were allowed to present their grievances and seek mutually acceptable resolutions. Community participation were central to decision-making. Remedies such as compensation in the form of livestock or produce, public apologies, community obligations, and reconciliation directly correspond to modern practices of reparations and community service. In this sense, the traditional Mizo justice system represents an indigenous form of restorative justice.

In present day, the practice of forgiveness and reconciliation in Mizoram is strongly influenced by Christian morality and Mizo traditional values. However, legally, forgiveness does not automatically erase criminal liability, especially in serious offences. In **Lalbiakliana v. State Of Mizoram And Ors**, (Cr.L.A./19/2020), during the proceedings, the complainant's family submitted a letter expressing that they had forgiven the Appellant, noting that the victim had since married and established her own family life. The Defence requested leniency and release on this basis. While the Court ultimately acquitted the Appellant because of insufficient evidence and contradictions in the prosecution's case, the presence of forgiveness reflected important restorative and communitarian elements within Mizo society.

### **B. Impact of Culture of Forgiveness**

Under Indian criminal law, offences are classified as compoundable and non-compoundable. In compoundable offences, it generally involves minor offences, the victim may legally settle the matter with the accused which results in withdrawal of the case, acquittal of the accused and

closure of the proceedings.<sup>16</sup> But in non-compoundable offences such as rape, serious domestic violence, grievous assault, or certain offences against children under the Protection of Children from Sexual Offences Act, 2012. The Culture of forgiveness by the victim or family generally cannot legally extinguish prosecution because the offence is considered a crime against society and the State, not merely against an individual. Courts may sometimes consider reconciliation, compromise, or forgiveness during sentencing or while granting probation, but they cannot ordinarily override statutory criminal responsibility.

Another important aspect of medical jurisprudence in Mizoram concerns professional secrecy and patient confidentiality. Medical ethics requires doctors to maintain confidentiality regarding the medical condition and personal information of patients except in limited circumstances recognized by law, such as public health emergencies, criminal investigation, or court orders. However, in the close-knit social structure of Mizo society, where community relationships and church networks are deeply interconnected, maintaining confidentiality can become particularly challenging. Matters relating to HIV/AIDS, mental illness, pregnancy outside marriage, domestic violence, and sexual offences often carry social stigma, thereby placing pressure upon medical professionals, families, and community leaders. In such situations, the culture of forgiveness and communal reconciliation may help reduce social isolation of victims, but it may also discourage victims from reporting abuse or negligence due to fear of society.

In recent years, cases of alleged medical negligence in Mizoram have highlighted

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<sup>16</sup>Section 359 Bharatiya Nagarik Suraksha Sanhita 2023

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the growing importance of medical jurisprudence in the state. In November 2025, the Mizoram State Consumer Disputes Redressal Commission directed the State Government to pay ₹52.20 Lakh compensation to the family of a woman who died after childbirth at Serchhip District Hospital in 2021(Assam Tribune)<sup>17</sup>. Similarly, in March 2024, New Life Hospital in Mizoram was reportedly fined ₹43 lakh for medical negligence (NE Live)<sup>18</sup>. Another tragic incident involved the death of a pregnant woman at Civil Hospital, Aizawl, where allegations were made against hospital staff for negligence during treatment(East Mojo)<sup>19</sup>. These incidents demonstrate how medical jurisprudence acts as a bridge between law and medicine by ensuring professional accountability, protecting patient rights, and providing legal remedies to victims and their families. In Mizoram, where community values and forgiveness often influence dispute resolution, such cases also show the increasing role of formal legal institutions in addressing medical negligence and strengthening public trust in healthcare.

### Conclusion:

Medical jurisprudence in Mizoram reflects the delicate balance between legal accountability and the traditional Mizo value of forgiveness, where community reconciliation often coexists with formal justice mechanisms. While the art of forgiveness promotes social harmony and compassion, medical negligence cases demonstrate that legal responsibility and

protection of patient rights remain essential to ensure justice, professional ethics, and public confidence in healthcare. Despite the availability of legal remedies through consumer courts, civil suits, criminal prosecution, and medical councils, many disputes relating to medical negligence in Mizoram are often resolved informally through apology, compensation, church intervention, or communal reconciliation. The strong influence of Christianity, Tlawmngaihna, and communitarian ethics encourages restoration of social harmony over adversarial litigation. While such restorative approaches may reduce hostility and promote healing between parties, critics argue that excessive dependence upon informal compromise may weaken deterrence, reduce reporting of medical negligence, and indirectly shield institutional failures from public scrutiny.

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<sup>17</sup>The Mizoram State Consumer Disputes Redressal Commission flagged serious medical lapses in the 2021 maternal death case in Serchhip By The Assam Tribune - 21 Nov 2025 6:14 PM

<sup>18</sup>Mizoram private hospital slapped with over Rs 43 Lakh fine for medical negligence By Northeast Live-16<sup>th</sup> March 2024:51 IST

<sup>19</sup>Mizoram: Probe initiated into alleged medical negligence case by **Jason Rochanhlu** August 24, 2022