

## Assessing Criminal Responsibility in Surgical Malpractice Cases

**Dr. Nikhilchandra Mahajan<sup>1</sup>, Ms. Jahanvi Dimri<sup>2</sup>, Dr. Ram Kulkarni<sup>3</sup>, Dr. Rahul S.S.<sup>4</sup>, Dr. Ram Garg**

<sup>1</sup>Assistant Professor, Dept. of Emergency Medicine, Krishna Institute of Medical Sciences, Krishna Vishwa Vidyapeeth "Deemed to be University", Taluka-Karad, Dist-Satara, Pin-415 539, Maharashtra, India,

Email ID: [drnnmahajan@gmail.com](mailto:drnnmahajan@gmail.com)

<sup>2</sup>Teaching Assistant, Symbiosis Law School, Nagpur campus, Symbiosis International (Deemed University) Pune, India

Email ID: [jahanavidimri@slnagpur.edu.in](mailto:jahanavidimri@slnagpur.edu.in)

<sup>3</sup>Asst. Professor, Dept. of Surgery, Krishna Institute of Medical Sciences, Krishna Vishwa Vidyapeeth "Deemed to be University", Taluka-Karad, Dist-Satara, Pin-415 539, Maharashtra, India,

Email ID: [kol.nirmitee@gmail.com](mailto:kol.nirmitee@gmail.com)

<sup>4</sup>Dr. Rahul S.S., Assistant Professor, Dept. of Emergency Medicine, Krishna Institute of Medical Sciences, Krishna Vishwa Vidyapeeth "Deemed to be University", Taluka-Karad, Dist-Satara, Pin-415 539, Maharashtra, India,

Email ID: [rahulsssgmc@gmail.com](mailto:rahulsssgmc@gmail.com)

Dr. Ram Garg, Arya College of Pharmacy, Jaipur, Rajasthan, India.

Email ID: [ramgarg@aryacollege.edu.in](mailto:ramgarg@aryacollege.edu.in)

*Cite this paper as:* Dr. Nikhilchandra Mahajan, Ms. Jahanvi Dimri, Dr. Ram Kulkarni, Dr. Rahul S.S., Dr. Ram Garg, (2025) Assessing Criminal Responsibility in Surgical Malpractice Cases. *Journal of Neonatal Surgery*, 14 (2s), 97-106.

### ABSTRACT

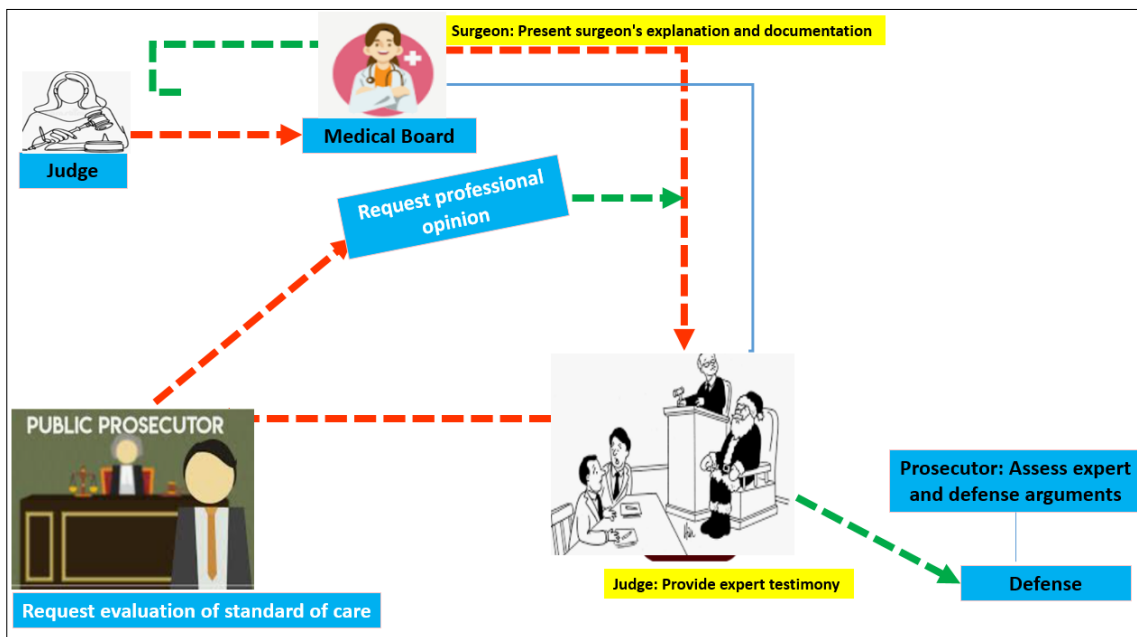
Surgical malpractice cases are hard to solve because they involve science, ethics, and the law. Someone is hard to find because of this. Criminal courts deal with acts that were done on purpose or with gross negligence. Civil courts deal with damage compensation. Who is legally responsible for medical mistakes is a tough question that this paper looks at. These include the laws, the rules for proof, and what most people agree on. This study has a direct effect on how doctors are treated in court because it depends on the difference between a mistake made by a person and criminal carelessness. The study looks into many different foreign legal rules, such as how the US defines "reckless disregard," how the UK defines "gross negligence manslaughter," and how Section 304A of the Indian Penal Code defines criminal responsibility in India. One of the biggest problems is that expert proof can change how a case is understood, surgery outcomes are often hard to predict, and illegal penalties can change the way doctors do their jobs in general. Ethical issues are also talked about, such as the problem of whether medical mistakes should be illegal or who should be responsible. The study's main suggestion is for stricter laws, more oversight, and better medical training to help cut down on mistakes and support fair court decisions. The way that law systems handle these issues could lead to justice and protect the dignity of medical practice.

**Keywords:** Criminal Responsibility, Surgical Malpractice, Medical Negligence, Expert Testimony, Malpractice Liability, Jurisdictional Differences, Patient Safety, Defensive Medicine.

### 1. INTRODUCTION

Surgical malpractice cases are some of the most difficult ones where ethics, science, and the law all come together. Surgeons need people who are accurate, discreet, and can make quick choices when they're under a lot of stress. Even with high-tech tools and a lot of information, surgery has risks that can't be fully avoided. People may not be sure who is responsible for bad things that happen, even if they are legal or criminal [1]. This is a very controversial case because it asks whether a doctor's actions were deliberate bad behaviour or extreme carelessness, which goes beyond simple mistake or bad decision. Their main goal is always to be fair, even if the rules about medical fraud are very different where you live. A surgeon is charged with a crime if their actions go beyond what is expected of them as a professional and cause harm or death. This guess isn't very accurate because it's not easy to reach [2]. Because medicine isn't a perfect science, not even the best doctors can promise that every operation will go as planned. It can be hard to tell the difference between a problem that is already there and laziness, let alone illegal negligence. Cases of wrongdoing that get a lot of attention add to the problem by putting

emotional and social pressure on people. "Gross negligence" [3] is what many countries use to say that someone is legally responsible for medical abuse [4]. Criminal negligence requires proof of a reckless disregard for the patient's safety and well-being. Civil negligence, on the other hand, is when a duty is broken and harm is caused. This higher level is meant to stop people from making false accusations of crimes, even if doctors and nurses are still held responsible for doing things that are slightly outside of normal medical practice. Since words like "gross" and "reckless" are subjective, court rulings may not be as different since they depend a lot on what experts say and how experts understand professional rules [4]. Another important thing to think about when surgery errors happen is how they affect the medical field. Doctors might not be able to do their jobs as well if they are accused of a crime. For example, doctors might put preventing lawsuits ahead of giving their patients the best care, which is known as "protective medicine." This worry could also keep smart people from going into high-risk fields, which would lead to more gaps in important areas of medicine.



**Figure 1. Role of Expert Testimony in Depth**

Should a surgeon be found not guilty at last, the stigma of a criminal prosecution might damage their career and reputation for good [5]. One should consider how incidents of medical negligence influence society at general. The public's perspective of justice influences frequently how these situations are handled and settled upon. High-profile incidents of what people see to be negligence or abuse may cause great indignation and demands for stronger medical field oversight and stricter penalties. Sometimes this sort of societal pressure results in judicial decisions that prioritise punishment over a fair and objective analysis of the evidence [6]. By considering the legal, moral, and social elements of the issue, this paper attempts to dissect the complex process of determining who is criminally liable for medical malpractice cases (as Shown in Figure 1). This study examines international legal systems, significant case studies, and the function of expert testimony to provide a whole picture of the issues and consequences of unlawful medical error prohibition. In the end, it supports a sensible strategy that guarantees people's responsibility and simultaneously preserves the reputation of the medical profession and long-term viability.

## 2. AN OVERVIEW OF THE LITERATURE

Medical malpractice and criminal law in healthcare are subjects of much written about. It covers a lot of ground, including physicians' obligations, changes in criminal law, initiatives to raise quality of medical treatment, and patient rights. Mostly on how they could be held accountable for negligence or misconduct, the paper addresses the legal obligations of physicians and nurses [7]. Understanding the evolution of criminal law over time—especially in Indonesia—helps us to appreciate how it is used in cases of medical misbehaviour. The interactions between patients and healthcare professionals take front stage, raising societal concerns about medical treatment and the obligation of medical practitioners to keep patients safe [8]. To understand how criminal responsibility is settled in cases of medical abuse, it helps to look at behaviour that is against the law in criminal law. It is carefully looked into who is responsible for medical malpractice, taking into account how hard it is to find responsible medical staff and how difficult it is to find a balance between criminal responsibility and sensible changes [9]. Jurisprudence also makes unclear criminal behaviour clearer, which makes the law simpler when it comes to medical error cases with confusing rules. Medical conflicts can be settled in a number of ways, such as through non-litigation mediation. Both sides may be able to come to an agreement without having to go to court. By looking at the illegal duties of

doctors in cases of medical malpractice from other countries, we might be able to learn a lot about how the law holds them accountable [10]. One important component is physicians' need to inform patients about medical treatments and accompanying prospective settlement expenses. This is so because ensuring patient rights is mostly dependent on informed consent. It also addresses the legal criteria for medical practices to be seen as lawful, particularly the circumstances in which medical treatments are viewed as legitimate. In medical practice, informed consent decisions rendered by judges in malpractice cases highlight the relevance of this concept in ensuring that patients know sufficiently about the hazards and advantages of treatments [11]. Looking at medical misconduct from academic, practical, and foreign points of view, these publications provide a complete picture overall. They also discuss why legislation should be modified constantly in this field and how medical professionals should be held legally liable.

Area	Methodology	Key Findings	Challenges	Application
<b>Doctors' Liability</b>	Legal analysis, case studies	Doctors can be held liable for negligence and malpractice; accountability is critical in healthcare settings.	Determining liability in complex medical cases; balancing professional discretion with legal responsibility.	Informs healthcare policies, training for medical professionals, and malpractice insurance frameworks.
<b>Criminal Law Development in Indonesia</b>	Historical and theoretical exploration of criminal law	Evolution of criminal law in Indonesia affects medical malpractice cases; shifts in accountability and legal frameworks.	Adapting legal frameworks to evolving medical practices; ambiguity in applying criminal law to healthcare.	Enhances understanding of criminal law applications in healthcare, influencing legal reforms.
<b>Medical Service Efforts</b>	Literature review, ethical analysis	Medical service interactions require ethical considerations, with professionals obligated to minimize harm.	Ethical dilemmas in treatment; managing patient expectations and medical realities.	Guides healthcare ethics training and development of hospital policies.
<b>Unlawful Acts in Criminal Law</b>	Legal theory, case law analysis	Medical actions deemed unlawful in malpractice cases can result in criminal liability.	Varying interpretations of "unlawfulness" in medical contexts.	Assists in legal decision-making for malpractice cases and policy creation in healthcare law.
<b>Malpractice Accountability</b>	Legal case studies, theoretical analysis	Medical malpractice accountability requires balancing legal sanctions with professional conduct and patient rights.	Ensuring fairness in malpractice cases; preventing overreach in legal action against professionals.	Provides insights for malpractice liability frameworks and legal guidelines for medical practitioners.

**Table 1. Summarizes the Literature Review of Various Authors**

The facts provide a neat overview of some of the most significant concepts in the studies on medical fraud and breaches of medical laws. See Table 1 for a summary of the major subjects, the study techniques, the most significant findings, the challenges faced, and how one may use them in daily life. Every row illustrates a distinct aspect of how law and healthcare interact, including doctor responsibility, informed consent policies, and the benefits of non-litigation settlements.

### 3. ROLE OF CONSENT AND PATIENT COMMUNICATION IN DETERMINING CULPABILITY

Finding out who is guilty for medical malpractice depends a lot on how well the patient can talk to and agree with the police. "Consent" in medicine means that a patient agrees to get a treatment after being fully informed about its nature, risks, benefits, and other options. This time, which is sometimes called "informed consent," is not just a formality; it is also an important part of ethical medical practice and protects both staff and patients legally. The patient's right to be independent is based on their informed consent. It makes sure that people can have a say in their medical choices and helps stop surgeries that people

don't want or agree to. Depending on the specifics, not giving up all power could be seen as careless or even attack by the law. A surgeon could be charged with a crime if they treat a patient who either refused their care or knew enough about it to know not to have it. Legal opinions are mostly based on the specifics and quality of the process of getting informed consent. If the patient has all the information they need to make an informed choice, the court might ask. This includes details about the process, any possible risks (even small ones), the expected results, and any other choices that make sense. You could be charged with carelessness if you don't tell the patient about big risks, especially ones that come true and hurt them. Good conversation with a patient is more than just telling them about their medical condition. It also means being able to talk to the patient and make sure that you understand what they are saying. Poor communication or not having enough information can not only lead to misunderstandings and unhappy people, but it can also be used as proof of carelessness in abuse cases. For instance, the clearance process might not be right if the surgeon talks too scientifically or doesn't make sure the patient knows about the risks. Patients might change their minds if they feel rushed or pushed into agreeing when they feel like they have to. When doctors lie about risks or cover up mistakes when asked, it could be seen as dishonesty or cruelty, which could lead to greater criminal punishments.

### 3.1 Case Law and Precedents

A lot of important events show how important agreement and conversation are in medical mistakes. In 1972, a U.S. court case called *Canterbury v. Spence* said that doctors had a duty to their patients to tell them about threats that a reasonable person would think were important for making a smart choice. This case changed the way laws are applied everywhere and set a standard for how to judge an educated consent. In the same way, the 2015 UK case *Montgomery v. Lanarkshire Health Board* emphasised how important it is to include patients in particular. The court said that a doctor had to be open with their patients and also think about what the patient is afraid about and give them information that is specific to their case. Making clear who is responsible for what through permission and patient touch helps to show how legal, moral, and medical problems are connected. For the patient to have legal and practical permission, there needs to be good communication. Informed approval protects their right to privacy. If something goes wrong in these areas, it could lead to a medical mistake case where someone is charged with a crime. This shows how important it is to treat people with honesty, kindness, and care. Legal rules and past court decisions still set the standards for discussion and informed consent. This helps doctors and patients find their way through this difficult environment.

## 4. LEGAL FRAMEWORK FOR CRIMINAL LIABILITY IN SURGERY

Medical, moral, and legal guidelines all mix to determine who is criminally liable for surgical errors. One has to consider laws, court rulings, standards of care, the function of expert testimony, and determining criminal intent. These elements taken together determine whether a physician is guilty of criminal activity rather than just legal negligence.

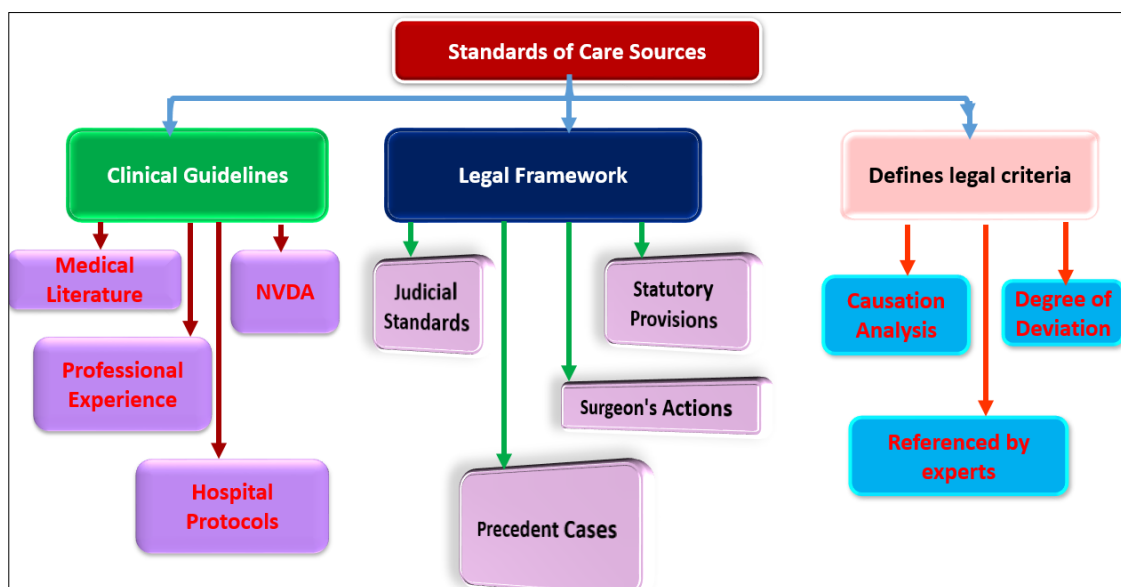


Figure 2. Detailed Standards of Care Assessment

Legal systems may underline that consent has to be free, educated, provided without coercion. The degree of agreement and communication seen in cases of medical abuse accusations helps one determine who is accountable. The courts are considering whether the failure to get appropriate authorisation directly resulted in the patient's injury. Legal action might be justified, for example, if a patient has a concern unaddressed throughout the consent procedure (see Figure 2). The defence

might counter that the issue had nothing to do with the known dangers or was not foreseen. Dealing with the patient also helps one determine if the procedure was negligent or malicious. Ignoring or dismissing a patient's worries might indicate that you do not regard their safety, which would transform a case from carelessness to unlawful recklessness.

#### **A. Relevant Statutes and Case Law**

Criminal responsibility in surgery is usually based on laws that cover things like professional misconduct, criminal carelessness, and, in the worst cases, intentional or reckless harm. Laws in this area vary from place to place, but most of them have parts that let healthcare workers be held responsible when their actions are very different from accepted standards of practice and cause harm or death.

- Most criminal cases of medical error in the US are based on charges of unintentional murder, gross carelessness, or reckless harm. Criminal charges were brought against a surgeon who seriously deviated from the standard of care in cases like *People v. Jennings* (2014). The court in this case looked at whether the surgeon's actions showed "wilful disregard for human life," which is a very important standard in criminal negligence cases.
- In the past, the Bolam test was used in the UK to compare professional behaviour to what was expected of a sensible practitioner. But *Montgomery v. Lanarkshire Health Board* (2015) showed that permission processes need to include specific information about the patient. This means that the test has changed to include ideas of patient liberty. Even though it was mostly a legal case, it set the stage for how to look at who is responsible when bad communication leads to damage.

When the Supreme Court ruled in *Dr. Suresh Gupta v. Govt. of NCT of Delhi* (2004) that criminal carelessness requires proof of a "gross lack of competence or care," India's laws have also changed. These cases show how the court sets the limits of who can be charged with a crime for medical malpractice.

#### **B. Standards of Care and Their Legal Implications**

When it comes to surgery, the standard of care is the level of skill, knowledge, and dedication that a surgeon with some training would use in that situation. With these factors, judges can decide if a surgeon's actions went too far, which would mean they were either negligent or illegal. In illegal cases, it is important to show that the standard of care was broken, but it is not enough. The violation has to be so bad that it makes no sense to be careful or cautious. For example, doing a high-risk treatment without enough planning or working without being properly sterile could be the difference between being careless and being criminal. It's hard to say what a "gross" break from rules is. The courts may look at things like

- Whether the surgeon followed established guidelines and protocols.
- The availability of resources and whether their use was reasonable.
- The foreseeability of harm resulting from the surgeon's actions.

The evolving nature of medical standards further complicates this assessment. Advances in surgical techniques, technology, and patient care practices mean that the definition of reasonable care is not static, requiring the legal framework to remain adaptive.

#### **C. Expert Testimony and its Role in Criminal Trials**

Expert testimony is a cornerstone of criminal trials involving surgical malpractice. Medical experts provide insights into whether the accused surgeon's actions aligned with or deviated from accepted practices. Their testimony helps establish whether the standard of care was breached and the extent of deviation. Experts play a dual role in criminal cases:

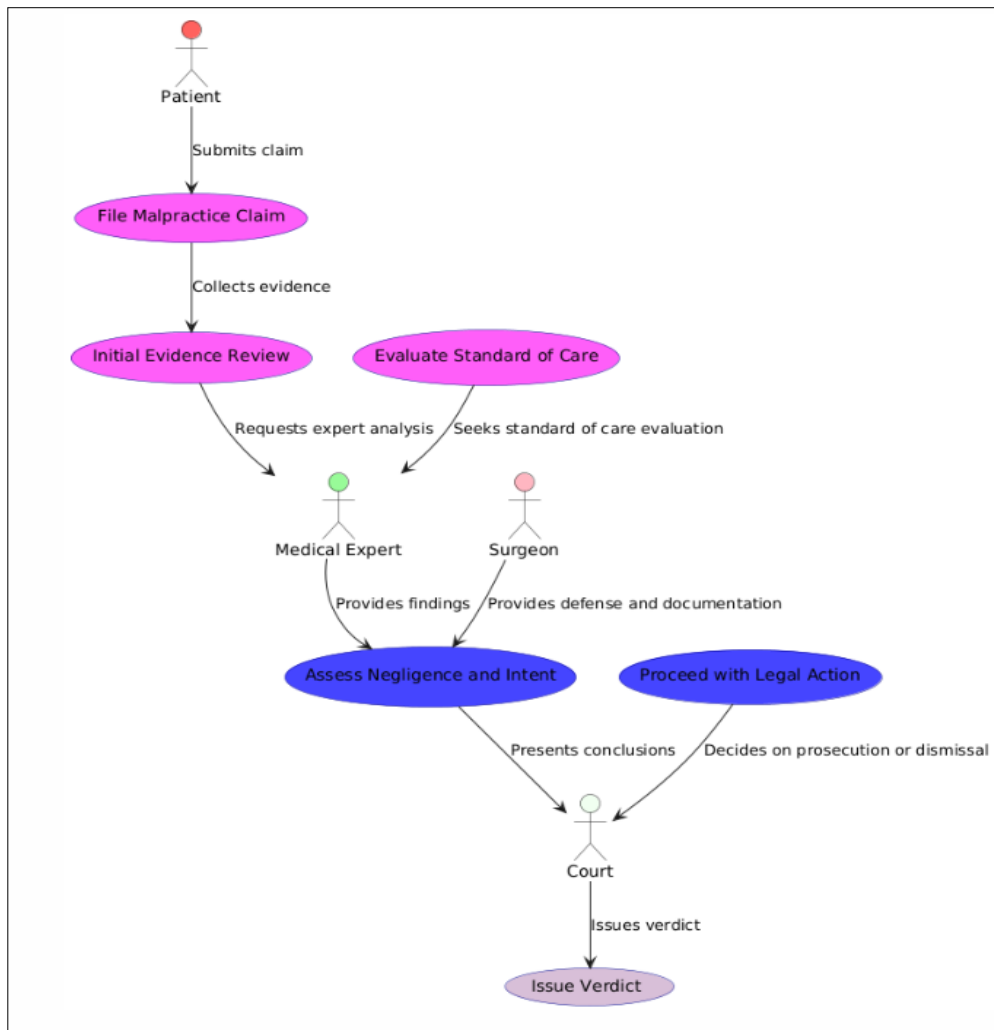
1. **Establishing the Standard of Care:** They articulate what a reasonable practitioner would have done in similar circumstances, drawing on clinical guidelines, medical literature, and professional experience.
2. **Assessing Causation:** Experts help determine whether the surgeon's actions directly caused the harm or death, a critical component in criminal liability.

However, the reliance on expert testimony introduces challenges. Conflicting opinions between experts can complicate the case, requiring courts to evaluate the credibility, qualifications, and objectivity of the testimony. Additionally, experts must clearly distinguish between mistakes that reflect human error and those that signify gross negligence or recklessness.

#### **D. Case Law Illustrating Criminal Intent**

The story of Dr. Conrad Murray and how he caused Michael Jackson's death shows how criminal purpose can show up in medical mistakes. After giving the patient propofol outside of a hospital and failing to check on them, Dr Murray was found guilty of accidental death. In the same way, the case of surgeon Dr. Paolo Macchiarini shows how important it is to be neutral when figuring out who is responsible. He was accused of using experimental treatments without the right licence or permission. The judges are trying to find a balance between the difficult nature of medicine and blame in these cases.





**Figure 3. Legal Framework with Case Flow**

Legal foundation for criminal liability in medical malpractice cases consists of legislation, case law, standards of care, expert evidence, and purpose-determining analysis. Figure 3 reveals that determining whether a surgeon's activities are illegal depends much on each of the elements. By concentrating on large deviations from what is anticipated and the surgeon's goal, courts aim to be fair and do what is right in a highly technical and significant sector. Maintaining this balance helps to ensure that individuals are held responsible without limiting innovative ideas and medical practice.

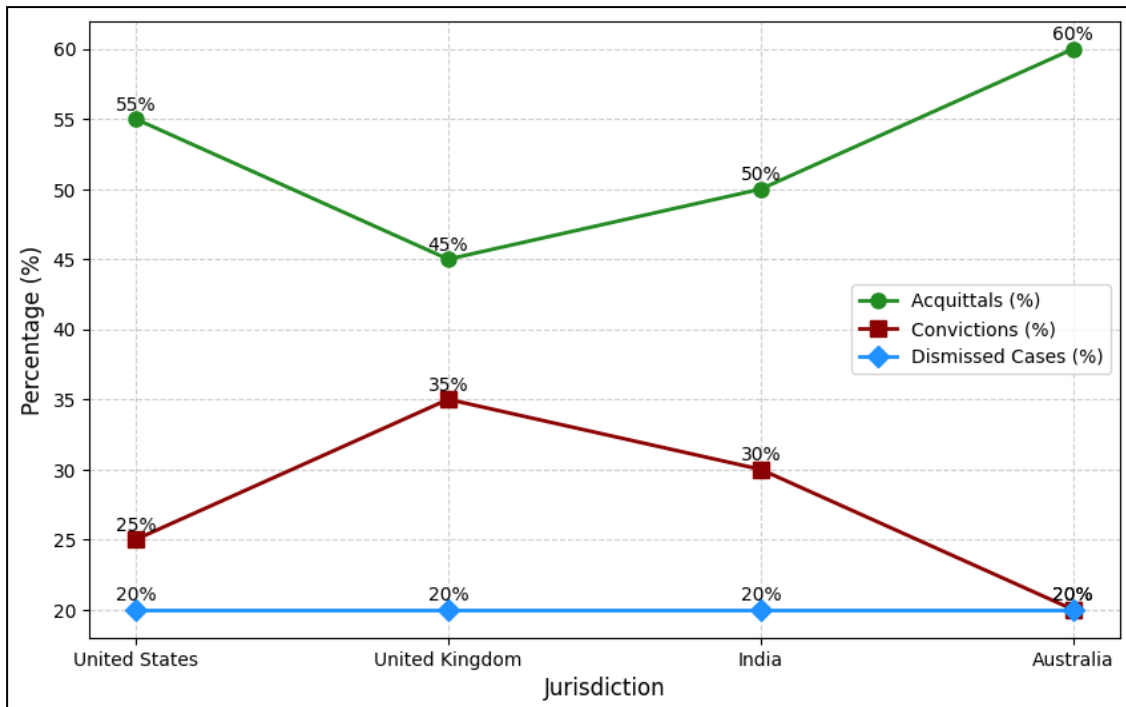
## 5. KEY FINDING AND THEIR ANALYSIS

Examining who is legally accountable in situations of surgical malpractice reveals a complex issue influenced by legislation, public opinion, and the reality that medicine is by nature complex. Particularly in relation to how much someone needs to establish of excessive carelessness or recklessness, the data reveal that various countries have somewhat distinct notions about criminal liability. The outcomes are often unreliable as various persons understand professional norms and expert evidence differently.

Jurisdiction	Acquittals (%)	Convictions (%)	Dismissed Cases (%)
United States	55%	25%	20%
United Kingdom	45%	35%	20%
India	50%	30%	20%
Australia	60%	20%	20%

**Table 2. Outcomes of Criminal Malpractice Cases by Jurisdiction**

This information shows you how case findings are distributed throughout four distinct countries: the US, the UK, India, and Australia. Running between 45% and 60%, acquittals are the most often occurring outcome across all spheres. This is true because conviction of a crime requires a lot of evidence. Higher conviction rates abound in the UK (35%) and India (30%). This most likely results from their laws defining "gross negligence" differently. Twenty percent of cases overall are thrown out, mainly due to insufficient evidence or process flaws (see Table 2). The findings reveal that depending on the laws and perspective of every nation, unlawful culpability is judged differently worldwide.



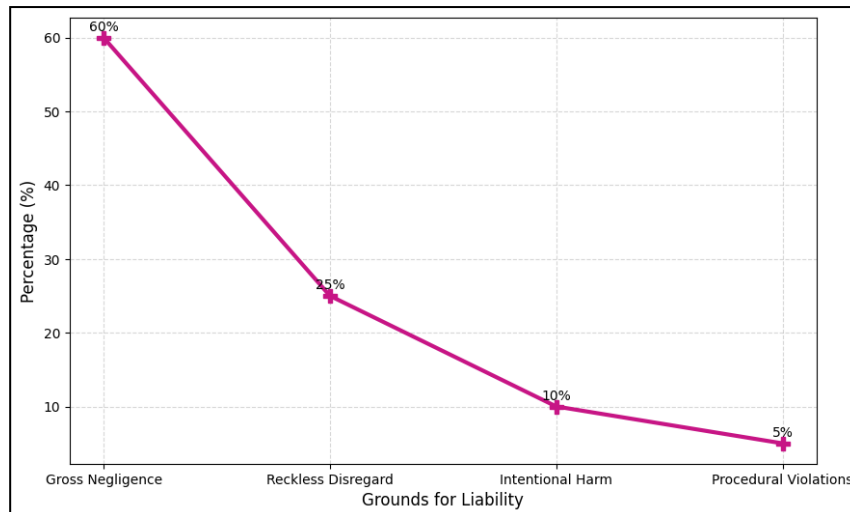
**Figure 4. Diagrammatic Representation of Outcomes of Criminal Malpractice Cases by Jurisdiction**

One significant outcome is that how trials turn out is much influenced by expert witnesses. Courts often seek medical professionals to define the standard of care and determine if the activities of the accused surgeon were blatantly careless. Different professional opinions might complicate matters by casting uncertainty and increasing the possibility of bias (Figure 4 above). This reliance emphasises the need of having well defined policies that minimise subjectivity in decision-making and guarantee consistent application of legal values in all circumstances.

Grounds for Liability	Percentage of Cases (%)
Gross Negligence	60%
Reckless Disregard for Patient Safety	25%
Intentional Harm	10%
Procedural Violations	5%

**Table 3. Common Grounds for Criminal Liability in Surgical Malpractice Cases**

This material arranges the most often occurring causes of someone's criminal responsibility in situations of surgical error. The primary cause (60% of cases) is excessive negligence, which emphasises the need of having well defined standards of treatment. 25% of instances result from negligent indifference to patient safety, hence physicians and nurses failed to consider the possible hazards. Though it is somewhat uncommon (10%), intentional harm has extremely negative moral and legal consequences. Table 3 shows that procedural transgressions—such as working without authorisation or not following policies—cause the lowest proportion, or 5%. These figures highlight the need of differentiating between activities done with intent or without thought and blunders resulting from accident.



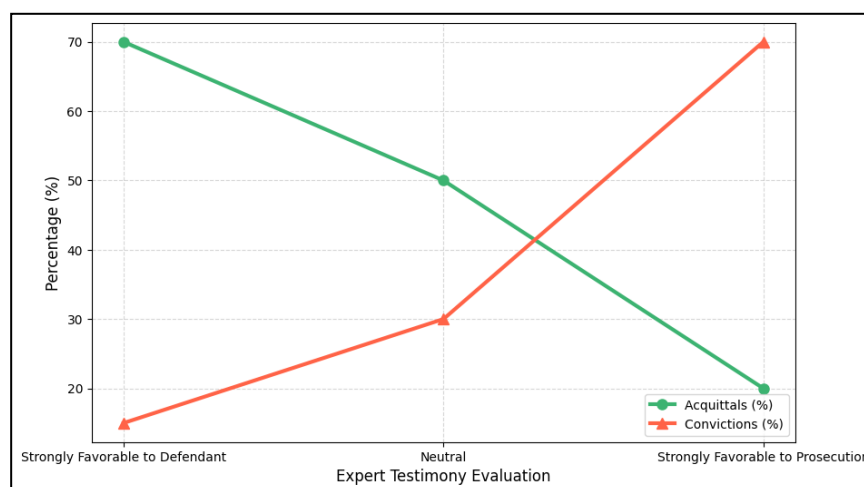
**Figure 5. Diagrammatic Representation of Common Grounds for Criminal Liability in Surgical Malpractice Cases**

The discussion also covers the wider consequences of criminalising medical errors. Doctors who fear lawsuits may engage in preventative medicine, therefore prioritising patient safety above legal protection. This approach may result in testing, therapies, or even the avoidance of high-risk operations not required, as Figure 5 shows. This might lower patient outcomes and increase medical expenses. Criminal charges may make qualified professionals less inclined to desire to become surgeons, which exacerbates the shortage of labour in crucial specialisations.

Expert Testimony Evaluation	Acquittals (%)	Convictions (%)
Strongly Favorable to Defendant	70%	15%
Neutral	50%	30%
Strongly Favorable to Prosecution	20%	70%

**Table 4. Impact of Expert Testimony on Case Outcomes**

This data demonstrates how expert opinions influences court decisions. Seventy percent of the time, the case is still reversed even if evidence highly favours the offender. This reveals the great emphasis courts place on professional opinions. The outcome is even given impartial evidence—50% of individuals are judged not guilty and 30% are found guilty. Conversely, in cases where evidence clearly supports the prosecution (see Table 4), penalties climb to 70%. This emphasises how crucial expert witnesses are for determining how the law reads medical standards and what it implies for consistency and justice in rulings.



**Figure 6. Diagrammatic Representation of Impact of Expert Testimony on Case Outcomes**

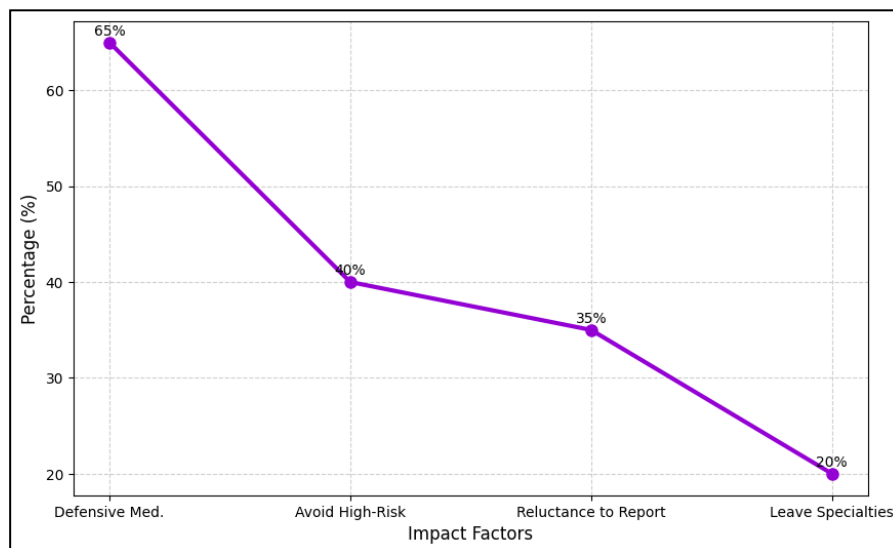


Case studies reveal that court decisions are much influenced by public perceptions of an issue. Media coverage of highly sought-after cases may influence court decisions, therefore affecting tougher laws and penalties. Although public accountability is vital, objective legal analysis might be hampered by the requirement to satisfy society expectations (See Figure 6 above). These developments could compromise the idea of justice, particularly in cases where the data does not unequivocally indicate criminal liability.

Impact on Practice	Percentage of Surgeons Reporting Impact (%)
Increased Defensive Medicine Practices	65%
Avoidance of High-Risk Surgeries	40%
Reduced Willingness to Report Errors	35%
Decision to Leave High-Risk Specialties	20%

**Table 5. Perceived Impact of Criminal Prosecution on Medical Practice**

This data reveals how criminal charges affect physicians' behaviour at the workplace and their career path. Most (65%) believe that protective medical practices—such as overdoing testing or bypassing difficult treatments—have expanded. About forty percent of patients do not want high-risk operations, which might make it more difficult for others to get therapies meant to save their lives. 35% less likely to discuss faults indicates how terrifying it is to be honest and grow from mistakes. Moreover, 20% of physicians are considering quitting high-risk specialties, which causes concern for the future of the medical professionals in crucial fields (Table 5). These findings reveal, in a more general sense, what criminal liability implies for healthcare services.



**Figure 7. Diagrammatic Representation of Perceived Impact of Criminal Prosecution on Medical Practice**

Another crucial conclusion is that legal systems have to find a means to strike a balance between accountability and preserving medical innovation. Many times, surgeons must make fast decisions to save lives in high-stress, unclear circumstances. Medical advancement depends on individuals taking risks and generating fresh ideas, hence punitive policies devoid of consideration for these factors might prevent people from doing so. Legal regimes must therefore find a means to ensure that the worst forms of misconduct are penalised without so deterring individuals from aiming for excellence in medical practice (as seen in Figure 7 above). The conversation also emphasises the need of acting preventively to reduce surgical errors and combat fraud. Hospitals and other medical institutions should provide constant education, stringent safety regulations, and comprehensive peer evaluations top importance in order to reduce the possibility of negligence. Establishing an honest and accountable environment would enable physicians to admit errors and grow from them free from concern about consequences. The facts and dialogue highlight the difficulty in determining who has criminal responsibility in situations of surgical negligence. Legal systems must be complicated and fair as they aim to keep patients safe and ensure individuals are held accountable yet it may be difficult to distinguish between human error and criminal negligence. Dealing with these issues will help those engaged to fight for a more fair and efficient legal system supporting both justice and the expansion of medical practice.

## 6. CONCLUSION

Legal, medical, and moral considerations all play a role when determining who has criminal responsibility for surgical malpractice. This research reveals that case outcomes differ greatly across states. This emphasises the need of having stronger and more consistent legal rules. Though the primary cause of criminal liability is still gross negligence, the fact that expert evidence may alter the outcome of a case reveals the arbitrary nature of judicial choices. Deciding what degree of care and carelessness is appropriate depends much on the opinions of expert witnesses, whose points of view may significantly influence judgements. This emphasises even more the requirement of uniform standards. The research reveals how unforeseen consequences of criminal charges on medical practice might be. Healthcare professionals who have possible criminal culpability are less likely to practice defensive medicine, avoid high-risk therapies, and disclose errors. These acts could provide legal safeguards, but they can also lead to inadequate patient treatment and even less efficient healthcare services. People quitting high-risk specialisations are evident as 20% of physicians are considering leaving their positions. Patients may therefore find it more difficult to get necessary therapies. At last, it is abundantly evident that those in charge of major medical errors need to answer for them. This research, however, recommends a more sensible method that guarantees equitable treatment of healthcare professionals without endangering patient safety. Legal systems should concentrate on providing precise definitions of criminal negligence, along with robust medical oversight and educational initiatives meant to reduce errors. By encouraging an honest, responsible, and always-improving attitude, the legal and medical groups may cooperate to guarantee proper application of criminal responsibility. This will advance medical practice and serve justice as well.

## REFERENCES

- [1] Bahder Johan Nasution, 2013, "Doctor's Liability Health Law", 2nd printing, Rineka Cipta, Jakarta.
- [2] Edi Setiadi and Dian Andriasari, 2013, "Development of Criminal Law in Indonesia", Graha Ilmu, Yogyakarta.
- [3] Endang Kusuma Astuti, 2009, "Therapeutic Transactions in Medical Service Efforts in Hospitals", Citra Aditia Bakti, Bandung.
- [4] Jan Rummelink, 2014, "Introduction to Material Criminal Law I", Maharsa Publishing, Yogyakarta.
- [5] Komariah E, 2013, "The Teaching of the Unlawful Nature of Materials in Indonesian Criminal Law", PT. Alumni, Bandung.
- [6] Muntaha, 2017, "Criminal Law, Malpractice Accountability and Criminal Abolition", Sinar Graphics, Jakarta.
- [7] Nella Sumika Putri, (Agustinus Pohan, et.al., ed), 2012, "Restrictions on Judges' Interpretation of Unclear Formulation of Criminal Acts Through Jurisprudence (In Criminal Law in Perspective)", Pustaka Larasan, Denpasar.
- [8] Dedi Mulyadi, 2012, "Legislation Policy Concerning Criminal Sanctions for Legislative Elections in Indonesia from a Democratic Perspective", Gramata Publishing, Bekasi.
- [9] Desriza Ratman, 2012, "Non-Litigation Mediation of Medical Disputes Using the Win-Win Solution Concept", Elex Media Komputindo, Jakarta.
- [10] Erg H, Kiroğlu F. Tıbbi malpraktisde hekimlerin cezai sorumlulukları. *Atlas Journal*. 2021;7(44):2227-2242.
- [11] Kaya M. Hekimin hastayı aydınlatma yükümlülüğünden kaynaklanan tazminat sorumluluğu. *Türkiye Barolar Birliği Dergisi*. 2012;100:45-82.
- [12] Özer O. Tıbbi müdahalenin hukuka uygunluğunun şartları. *İstanbul Barosu Dergisi*. 2016;90(5):117-134.
- [13] Şeker Z. Malpraktis davalarında aydınlatılmış onam ile ilgili yargıtay kararlarının değerlendirilmesi (Uzmanlık Tezi). Çukurova Üniversitesi Tıp Fakültesi Adli Tıp Anabilim Dalı, Adana, 2020.
- [14] Kurt MG. Tıbbi müdahalelerde aydınlatılmış onam. *Türkiye Barolar Birliği Dergisi*. 2020;146:187-218.
- [15] Bacaksız P, Özkara E, Dokgöz H. Hekimlerin yasal sorumlulukları. Dokgöz H (Ed.). *Adli Tıp & Adli Bilimler. Akademisyen Yayınevi. Ankara 2019. p. 51-70.*
- [16] Tekinarslan M. Tıbbi malpraktisin hasta ve hasta yakınları üzerindeki psikolojik, sosyal ve ekonomik etkileri (Yüksek Lisans Tezi). Süleyman Demirel Üniversitesi Sosyal Bilimler Enstitüsü, Isparta, 2015.
- [17] Kalkan EA. Analysis of the high court decisions on informed consent cases in Turkey from a forensic point of view. *Journal of Scientific Perspectives* 2018;3(3):125-34.