

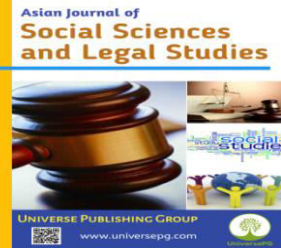


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Exposing Medical Negligence: Root Causes, Preventive Measures, and Effective Solutions

Asraf Uddin*

Department of Law, Leading University, Sylhet, Bangladesh.

*Correspondence: asrafuddin@lus.ac.bd (Asraf Uddin, Lecturer and UG Program Coordinator, Department of Law, Leading University, Sylhet, Bangladesh).

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ABSTRACT

Our right to health is obviously violated by medical carelessness, which is committed by professionals who are duty bound to protect our health when it is in a risk position. It is a common phenomenon in Bangladesh which significantly threatening patient safety and diminishing public confidence in the healthcare system. Many developed countries in the world improved their health system by introducing strong legislation and by establishing separate court system in this regard. The Constitution of the People's Republic of Bangladesh as the supreme law of the land recognizes the right to health and medical care as a fundamental necessity for all citizens and confirms that the principal responsibility of the state is to raise the nutrition level and improve the public health. Bangladesh does not have any particular legislation on the matter has been made to protect the people's right to health. Rather, several provisions in various legislations have been made which makes confusion among the remedy seekers when their rights violated by the medical personnel. In absence of sufficient number of case legislation pertaining to medical negligence, this article attempts to find out the common Bangladeshi medical malpractice addressing few case laws, recent reports published in various newspapers and in reference to some articles published on the matter. Thereafter, the article outlines the legal remedies against medical negligence as provided under the different statutes for the time being in force, and finally, discussed the overall shortcomings of medical negligence and providing probable suggestions thereon.

Keywords: Medical negligence, Medical personnel, Wrongful act, Existing laws, and Punishment.

INTRODUCTION:

Every medical practitioner has a legal, moral and professional duty to utmost care of his patient. If he fails to do so, his failure in this regard may be considered as medical negligence. It occurs when medical practitioners fail to fulfill and meet their professional obligations. Medical personnel include doctor, nurse and other workers involving with them causes any harm to the patient. Most of the times, doctors applied improper anesthesia to their patient

and causes errors during surgery. Moreover, the medical personnel have the obligation not to take care of their patient during a surgery but also after the completion of a successful operation, though the doctors are often reluctant in this matter. If any such negligence is caused by the medical personnel intentionally or the incident is occurs due to their negligent act, they must be liable for that.

Since no particular law exists on the matter, the doctors take the advantage of the gap. They are

mostly reluctant thinking that they are not subject to law for their negligent act. Negligence occurs by the doctors are mostly unreported and goes without any remedy. Most of the time, it is restricted to the formation of an internal investigation committee or reporting through a newspaper or TV channel when it is revealed widely but nothing happens later. Considering the perspective Firstly, this paper will review the common medical negligence in Bangladesh considering various case laws and newspaper reports. Secondly, focus the current medical negligence laws and finally, discuss the overall pitfalls of medical negligence in Bangladesh and providing possible solutions thereon.

METHODOLOGY:

This article is the nature of a qualitative legal research as there was no field work involved. The study, rules and regulations are mostly use of collection from primary and secondary sources combined. The primary source is the collection of literature from laws of Bangladesh. The secondary sources are: published news through electronic print media, Journals, Law Reports and data from various official and unofficial sources. The leading cases from Law Reports of Bangladesh are- (i) Dr. Mohiuddin Farooque vs. Bangladesh and others; and (ii) Syed Saifuddin Kamal & another vs. Bangladesh & others. All the collected information is analyzed and interpreted in a manner which reflects the article in terms of relevance.

Common Medical Negligence in Bangladesh

In Bangladesh, medical negligence occurs in various ways among which most of those are unreported. Medical Negligence commonly found are mentioned under the following headings:

Improper Administration of Anesthesia

Improper administration of anesthesia ranks among the most critical instances of medical negligence. Administering an incorrect dosage or type of anesthesia during surgery can lead to significant consequences. If a patient's pre-existing conditions or allergies to specific medications were not properly recognized by medical personnel, resulting in the administration of incorrect anesthesia, this would constitute medical negligence. Errors made by anesthesiologists can lead to irreversible brain damage

or fatalities. Typical instances of medical negligence by anesthesiologists involve neglecting a patient's medical background, using defective equipment, or administering excessive anesthesia (Cruz JBD., 2023).

A recent report in this regard published on the Daily Star Newspaper on 22 February, 2024 is, Ahnaf Tahmin Ayham, a 10-year-old boy died on 20.02.2024 after allegedly being given general anesthesia during a circumcision at a private hospital in Malibagh, Dhaka. Police have arrested two doctors from the hospital in connection with the passing of Motijheel Ideal School and College class four pupil Ahnaf Tahmin Ayham. The boy's family claimed that Reza was administered general anesthesia without the responsible doctor reviewing his test results. Fakhrul Alam, his father, said that they had asked the doctors to use local anesthesia for his son, but their request was ignored. On 20 February 2024, Dhaka Tribune Online Newspaper published another report in this regard which is as follows- Raahib Reza, an IT company employee from Dhaka, died of cardiac arrest during an endoscopy at Dhanmondi's Lab Aid Hospital. His family alleges that the hospital administered anesthesia without reviewing his test reports, proceeding with the endoscopy despite his existing health issues, which they believe caused his heart attack and subsequent death. Prof Mamun Al Mahtab, the doctor who conducted the procedure and a prominent figure in hepatology at Bangabandhu Sheikh Mujib Medical University (BSMMU), claimed ignorance of Raahib's pre-existing conditions. The doctor had recommended the Raahib had an endoscopy on February 15 at 11 p.m. the following day. About an hour and a half later, Raahib's condition worsened, leading to his transfer to the ICU. After three days of treatment, he was pronounced dead on Monday morning.

Misdiagnosis and Delayed Diagnosis

Numerous cases of medical negligence revolve around misdiagnosis, which can have profound repercussions for patients. Incorrectly diagnosing a patient can delay effective treatment, allowing their condition to worsen over time. Medical malpractice occurs when a doctor deviates from accepted medical standards in diagnosing a patient, resulting in harm to the patient. Timely diagnosis is essential for

effectively treating various medical conditions. If a physician is unable to a medical issue that a competent physician would have diagnosed promptly, the healthcare provider may be held responsible for any resulting losses due to the delayed diagnosis.

An example is- Architect Rajib Ahmed, 38, passed away on February 14, 2024 due to negligence and incorrect treatment at a city hospital, according to allegations made by his family. His wife, Sarawat Iqbal, claimed that her husband's death was a result of improper treatment at both Samorita and Square hospitals. Rajib's relative, Arif Uddin, a radiologist and former assistant professor at Dinajpur Medical College, stated that Rajib was prescribed two new medications on the advice of Prof Kabir, which led to his liver failure. Arif Uddin explained that the medications, Methotrexate and Acitretin, should not be administered together according to the US Food and Drug Administration's (FDA) clinical guidelines and the British National Formulary. He stated Rajib's liver was gradually damaged after receiving the two drugs together. Even when he was moved to Square Hospitals, where his liver issues were overlooked, and he was not seen by doctors promptly, resulting in a delayed diagnosis.

Surgical Errors

Instances of medical negligence can occur when surgeons make errors in the operating room, leading to significant bodily harm. Such errors may include keeping surgical devices within the body, unintentionally puncturing other organs, performing incorrect procedures, conducting unnecessary surgeries, causing damage to organs, nerves, or tissues during operations, and using unsterile surgical instruments.

An online report in this regard was published by the Business Standard, an online newspaper on 13 January 2023 with a headline "Four physicians sued over 'wrong surgery' in Dhaka". The summary of the report is as follows:

Marufa Begum Meri had been admitted to the hospital under the care of Prof Md Mostafizur Rahman on December 3, 2023 for gallstone removal. The surgery was administered on December 18, 2023. According to the case statement, the doctors inadvertently created a hole in her gut during the procedure and

concealed the error. The doctors later claimed that they had also addressed a hernia during the surgery, but the patient's family asserted because the appropriate paperwork was missing or evidence of the hernia. Post-surgery, Marufa developed an infection in her intestine from the open wound, resulting in high fever and severe diarrhea. The accused doctors eventually admitted their mistake and performed a follow-up surgery on January 2, 2024 at their own expense, as stated by Marufa's son. However, after the second operation, Marufa's condition worsened rapidly, and she died on January 4. A physician from the SSMCH Surgery department, speaking anonymously, described the surgery as a medical accident rather than a faulty procedure, acknowledging that errors were made.

Post-Operative Care

Proving negligence in cases where inadequate post-operative care or negligence results in severe infections can be challenging, as various factors beyond medical oversight can contribute to such complications. Infections arise when bacteria infiltrate the surgical site, potentially causing severe complications for the patient. If not properly managed, infections can hinder the healing of the surgical site, resulting in an extended recovery period. Before leaving the hospital, the doctor should provide detailed instructions on medication management, care for the surgical site, and any necessary physical restrictions. Patients should also be informed about the signs of post-operative complications. Inadequate post-op instructions can result in severe complications and extend the healing process.

Not Getting Informed Consent

Before administering any treatment, healthcare providers must obtain informed consent from the patient. For a conscious person of sound mind who is not accompanied by a family member, personal consent is required before undergoing a surgical procedure. This involves ensuring that the patient agrees to go through a certain process after being fully informed about the procedure itself, its associated risks, and any available alternatives. Failure by a healthcare worker to adequately explain and obtain proper consent before proceeding with treatment can result in a claim of medical negligence.

Birth Injuries

Numerous complications can arise during childbirth, with potential lifelong impacts on both the mother and child. If a birth injury results from a healthcare provider's negligence, it can result in a claim of medical negligence. On 20 March, 2024, a report was published at Somoy News in this respect the summary of which is- Poly Saha, a woman who had given birth via C-section at Ibn Sina Hospital in Kallyanpur, Dhaka, passed away a day after the procedure. She died around 3 pm on March 19, 2024. Her family has accused the hospital of medical negligence. Poly was admitted to the hospital after going into labor on March 18. She delivered a baby boy through a caesarean section, and doctors initially reported that both mother and child were in good health. However, Poly began to bleed heavily following the operation. Doctors performed another surgery to remove her uterus, but she was declared dead shortly thereafter. Her husband, Munna, claimed that her death was caused by excessive bleeding and negligence from the standpoint of the medical staff. The hospital has not responded to these allegations.

Medication Prescription Errors

Incorrect prescription or administration of medications is frequently reported as a common form of medical negligence. Cases abound in the news of individuals suffering severe consequences, including death, due to receiving incorrect prescriptions or improper doses of medication. Such incidents occur when patients are given the wrong medication for their condition, receive medications intended for another patient, or are administered incorrect dosages of medication. Moreover, a misread prescription can lead to incorrect treatment or even death. Misinterpreting an illegible prescription can also result in unnecessary tests and procedures, administering medications at the wrong times, misdiagnoses, and various other errors. With over 27,000 drug brands on the market, many with similar spellings, the risk of misreading prescriptions could be reduced if generic names were used instead of brand names. In response to Human Rights and Peace for Bangladesh's (HRPB) writ petition, a High Court bench comprising Justices Naima Haider and Abu Taher Md Saifur Rahman directed the Directorate General of Health Services

and the Bangladesh Medical and Dental Council on January 9, 2017, to issue circulars instructing doctors should explicitly write prescriptions and in capital letters for easy readability of medication names. Subsequently, the Directorate General of Health Services and the Bangladesh Medical and Dental Council disseminated these circulars to inform all doctors in the country of the directive.

Failure to Treat or Wrong Treatment

In some cases, a doctor correctly identifies a diagnosis but does not prescribe sufficient treatment, which can be considered negligence termed "failure to treat." These situations often arise when doctors are overloaded with patients, leading to concerns about prioritizing financial gain over patient safety. As a result, doctors may not consistently provide each patient the essential level of care. This can include prematurely discharging patients, omitting follow-up care, or failing to recommend patients to experts when necessary. Several incidents have highlighted instances of medical negligence. These include performing gallbladder surgery on a patient named Parvez using the test reports of another patient named Parvin, and operating on the right leg of a man instead of his fractured left leg at Mugda Hospital. The another report published by the same newspaper on 7 June 2023 which is as follows- Alefa Khatun, aged 60, was admitted to Mugda Hospital in the city with a fracture in her left leg. However, a report in a local newspaper revealed a grave error, instead of treating her injured left leg, doctors mistakenly performed surgery on her healthy right leg, exacerbating her already fragile health due to age-related issues.

Medical Device Liability

Medical professionals are not the sole parties accountable in certain negligence cases. Some patients suffer unnecessarily due to poorly designed medical devices used on them. When defective medical devices fail to function as intended, they can harm the patients who receive them. For instance, certain filters like IVC filters, meant to prevent blood clots, may break and migrate through the bloodstream, causing severe injury or even death. In different circumstances, a patient's health may deteriorate because the device does not produce the anticipated health benefits. Regretfully, before the

flaws in a medical gadget are discovered, many patients are harmed by it. If manufacturers knew or should have known about the flaws, they are responsible to the victims.

According to a report published by the Daily Star Newspaper on September 30, 2023, unauthorized companies are illegally importing various cardiac medical devices into the country and distributing them to several of Dhaka's prominent public and private hospitals without adequate inspection, prompting concerns about health regulations and patient safety.

According to documents, in the past eighteen months, these unauthorized devices have been utilized to treat children with congenital heart defects at government-run institutions like the National Institute of Cardiovascular Disease and Hospital (NICVD) and the National Heart Foundation Hospital, as well as at the private Labaid Hospital in the capital. Hospital sources and industry insiders indicate that a substantial quantity of pediatric cardiac medical devices is being illegally supplied to many hospitals throughout the country. The fact that some of these products are marketed without the Directorate General of Drug Administration's approval highlights regulatory gaps in the medical device industry. Experts warn that unregulated medical devices raise questions about the effectiveness and safety of cardiac treatments as well as put patient safety at risk.

Wrongful Death

If a physician's error leads to a patient's death, the patient's family can file a wrongful death claim to seek compensation for damages. These lawsuits are usually brought against healthcare providers when their negligence or misconduct directly results in a patient's death. In these kinds of situations, awards of damages may include non-economic losses like pain and suffering or loss of companionship in addition to monetary losses like medical costs and missed wages. A wrongful death claim's objective is to provide financial assistance to the surviving family members who have experienced loss due to the physician's mistake. The Daily Messenger, an online news portal published a report on 18 June, 2023 which is as follows- Mahbuba Rahman Akhi, who had been in critical condition due to incorrect treatment at Central

Hospital, passed away while receiving care at LabAid Hospital in Dhaka on June 18, 2023. After being on life support since June 9 at Lab Aid Hospital, she passed away at about 1:45 p.m. On June 9, at around 12:50 am, Akhi's husband, Yakub Ali Sumon, brought his wife to Central Hospital, where she was admitted under the supervision of Prof. Dr. Sangjukta Saha from the Gynecology Department. However, Dr. Saha was not present, and Dr. Mili attended to Akhi instead. Without conducting any examination, Dr. Mili began the caesarean operation. According to his statement, during the procedure, during the delivery, Dr. Mili and other medical professionals inadvertently cut Akhi's rectum and urinary tract. Akhi immediately began bleeding heavily and lost consciousness. The baby was delivered via the caesarean section, but its heartbeat had dropped, necessitating immediate transfer to the intensive care unit (ICU). Sumon repeatedly sought out Prof. Dr. Sangjukta Saha during this ordeal, but the hospital staff informed him that she was out of the country. Eventually, the newborn was pronounced deceased by medical authorities.

Existing Legal Remedies Concerning Medical Negligence

Despite the fact that our country lacks a particular Act that addresses medical negligence, some remedies can be found under various statutes including the Constitution. While Bangladesh does not have a comprehensive Law of Tort as a single Act, different laws have relevant provisions that are available and enforced, as will be discussed below:

The Constitution of the People's Republic of Bangladesh

Bangladesh's Constitution recognizes the right to health and medical care as a fundamental necessity for every one of its citizens. It further provides that the state's main responsibility is to enhance nutrition levels and improve public health. Although the right to health and medical care does not recognized as fundamental rights of the citizens, but the above constitutional provisions clearly indicate that the legislators intended for the progressive realization of these rights. The constitutional support for the right to health and medical care can also be deduced from the right to life is guaranteed under Article 32 of the Constitution as a basic right. Moreover, in numerous

Public Interest Litigation (PIL) cases, it has been noted that the right to a safe environment is included in the broad interpretation of the right to life and the right to livelihood.

The Code of Civil Procedure, 1908

In cases of medical negligence, individuals can typically file civil suits seeking compensation. Section 9 of the Code of Civil Procedure, 1908 gives civil courts the authority to hear all civil lawsuits, except those specifically prohibited by law. If a suit seeks compensation for wrong done to a person or movable property, and the wrong occurred within the jurisdiction of one court while the defendant resides, conducts business, or works for profit within the jurisdiction of another court, either of those courts is where the plaintiff may choose to file the suit.

The Consumer Rights Protection Act, 2009

Various sections of the Consumer Rights Protection Act, 2009 include measures aimed at safeguarding the rights of consumers through corrective actions. According to this Act, "service" encompasses various services, including health services provided to customers for a fee, but excludes services that are provided free of charge. Under this Act, medical personnel or institutions are regarded as service providers, and patients are classified as consumers. The Act addresses penalties for failing to provide the anticipated product or service. It states that, if anyone in consideration or price does not sell or provide the promised product or service will be subject to imprisonment for 1 (one) year, or with fine not exceeding tk. 50,000 (fifty thousand), or both. This section clearly imposes a restriction not to sell a substandard product or deliver the same service in return for a price.

Besides, if anyone violating the law or prescribed prohibitions under rules, does any act which can endanger the life or security of consumers, shall be subject to imprisonment for 3 (three) years, or with fine not exceeding tk. 2,00,000 (two lac), or both. If a service provider causes harm to the money, health, or life of the recipient due to negligence, irresponsibility, or carelessness, he shall be punished with imprisonment for 3 (three) years, or with fine not exceeding tk. 2,00,000 (two lac), or both.

The Penal Code, 1860

The Penal Code of 1860 addresses medical negligence in several sections. Specifically, section 304A states that anyone who causes the death of a person through a rash or negligent act which is not amounting to culpable homicide, shall be subject to imprisonment for up to 5 (five) years, or with fine, or with both. It provides that, whoever with the desire to cause miscarriage of a pregnant woman with child, does an act that result her death shall be subject to imprisonment for up to 10 (ten) years and fine. If the act is completed without the consent of the woman, the person shall be subject to either life imprisonment or the aforementioned punishment. The Code also provides the punishment for causing voluntary hurt which shall be imprisonment for up to 1 (one) year, or fine up to tk. 1,000 (one thousand), or both and for causing voluntary grievous hurt which shall be subject to imprisonment for up to 7 (seven) years and fine. Sections 324 and 326 of the said Code also provides the provisions of punishment for causing voluntary hurt and grievous hurt caused by dangerous weapons or means. Punishments which are mostly connected to medical negligence are also found in sections 336, 337 and 338 of the Penal Code. According to section 336, whoever does an act so carelessly or rashly that puts human life or other people's personal safety in peril shall be subject to imprisonment for up to 3 (three) months, or fine up to tk. 250 (two hundred and fifty), or both. Section 337 provides that, Anybody who hurts someone else by doing an act so carelessly or rashly that puts personal safety or human life in danger shall be liable to imprisonment for up to 6 (six) months, or fine up to tk. 500 (five hundred), or both. It is mentioned in section 338 that, whoever causes grievous hurt to another person by doing an act so rashly or negligently that endangers human life or personal safety shall be liable to imprisonment for up to 2 (two) years, or fine up to tk. 5,000 (five thousand), or both. Sections 415 and 416 of the Code in relates to cheating or cheating by personation can also be applied in the cases involving fraudulent activities in private practices, clinics, hospitals, laboratories, and diagnostic centers. Improper and excessive medical tests to the patients can be

considered an offense under section 425 of the Code which relates to mischief.

The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982

The Ordinance of 1982, aims to oversee and control the operations of medical practice, private labs and clinics. It plays a crucial role in regulating private medical services by setting rules for private practice, clinics, and laboratories. It forbids government-employed registered physicians from operating in private practices during business hours. The Ordinance also provides that, all medical practitioners must maintain clean chambers and examination rooms for patients. Private clinics must meet specified conditions for licensing to ensure the provision of necessary facilities. The Health Director General, or any authorized officer designated by him, has supervisory powers to investigate chambers, private clinics, hospitals, or laboratories of registered medical practitioners to ascertain compliance with this Ordinance. If violations are found, the Director General can recommend to the government the disqualification of the physician from private practice, revocation of licenses for clinics or hospitals, and closure of pathological laboratories.

The Bangladesh Medical and Dental Council Act, 2010

This Act is the replacement of the previous Medical and Dental Council Act of 1980. Section 4 of the Act provides the formation of Bangladesh Medical and Dental Council. The major powers and responsibilities of the Council are- (i) accrediting medical and dental education provided by institutions within and outside Bangladesh; (ii) establishing admission policies for these institutions (iii) managing registration of recognized medical and dental professionals and assistants (iv) maintaining official registers; (v) conducting inspections of medical and dental institutions (vi) imposing penalties on individuals practicing medicine without proper registration under this Act; (vii) taking action against the use of fraudulent titles or misrepresentation of qualifications; (viii) establishing professional ethics and conduct guidelines for dentists and medical professions; and (ix) performs any other necessary or related functions. If a registered medical practitioner, dentist or medical

assistant is found to have engaged in professional misconduct, the Bangladesh Medical and Dental Council (BMDC) has the authority to cancel the registration for that individual. Additionally, it has the power to order the removal of any registered dentist or medical professional's name from the concern registry, either permanently or temporarily, due to professional misconduct. Section 22 of the Act prohibits practicing allopathic medicine or presenting oneself as a physician or dentist without being registered under this Act. Anyone violating this provision may face up to 3 (three) years imprisonment, or fine of up to taka 1, 00,000 (one) lac, or both. Besides, a registered physician or dentist is not permitted to give patients prescriptions for any medications that the government has banned. The contravention of this provision shall be an offence and the offender shall be liable to imprisonment for 3 (three) years or fine with tk. 1, 00,000 (one lakh) or with both.

The Code of Medical Ethics

The Medical Ethics Code incorporated by BMDC provides that gross negligence in in regards to professional duties towards a patient may be considered as misconduct that warrants suspending or striking off the name of a Medical/Dental Practitioner from the Register. Again it states that, engaging in the act of aiding an unregistered individual to practice medicine, dentistry, or related professions, or having a professional association with such an individual in performing medical, surgical, midwifery, or dental functions, will subject a registered practitioner to disciplinary action.

Shortfalls and Recommendations

Despite the various statutes prevailing in Bangladesh, the notion of medical negligence is always alarming for all of us for the lack of non-execution of those laws or enactment of a separate law. The major pitfalls and their probable suggestions to remove those drawbacks are the following:

The term 'medical negligence' is not defined in any existing law of Bangladesh. Consequently, the patients are confused and considers almost all measures of a doctor as negligence if goes against their interest or expectation. A clear and specific

definition in this regard should be incorporated in the existing law covering medical negligence. At present there are several tribunals like Land Survey Tribunals, Nari O Shishu Nirjatan Daman Tribunals, Taxes Appellate Tribunal, Labour Appellate Tribunal etc. functioning in Bangladesh to provide redress on specific matters. Besides, a Family Court has been established in every district for resolving the disputes related to certain family matters. But till now, there is no such tribunal or special court dealing medical negligence is established in Bangladesh. To resolve the issues concerning medical negligence within a shorter period, a separate required number of tribunals or courts in the name of 'Health Court' may be established by the government as early as possible.

Bangladesh does not have any particular law which covers all types of medical negligence issues and providing redress to the litigants. The victims are getting confused regarding actual forum in which they should go for the remedy of medical negligence. There are many provisions regarding medical negligence under various existing statutes of Bangladesh which provides victims' civil and criminal remedies. A single codified law in this regard should be enacted by the Parliament within a shorter period of time. The procedure for filing a case in regards to medical negligence is very much complex in Bangladesh. Firstly, no complaint of a person shall be accepted unless it is made to the Director General or an authorized department representative within 30 days following the date of cause of action. Secondly, the Magistrate shall not acknowledge the offence unless the charge sheet for filing the case is submitted by any of them within 90 days of the complaint being lodged. Thirdly, all offences made bailable under the Act of 2009. Under the Act of 2009, there is no scope to file a case directly to the Magistrate against the negligence caused by the medical personnel rather it is made obligatory to file a complaint to the concern authority. And the offences under the Act made bailable which provides the medical personnel not to suffer any confinement from the very beginning of the filing a case. These procedures should be relaxed, the provision for making a direct filing of complaints may be made in the aforementioned Act and the offences specially relating to medical negligence ought to be

exempt from bail requirements. The onus of proof concerning medical negligence lies upon the plaintiff or complainant. Generally, the medical institutes are unwilling to provide all necessary documents which may be produces before the court for proving the negligence. Even the other doctors are unwilling to share such negligence as a witness as they work in the same profession. Thus, it gets really challenging for the complainant to proof a medical negligence without such necessary documents. By amending the existing laws like the Bangladesh Medical and Dental Council Act, 2010, provision may be made requiring physicians to maintain and preserve medical records, and to make these records available upon request to patients or their families. Judges in Bangladesh receive training in handling traditional cases, while medical negligence cases require specialized expertise. Due to the technical complexities involved, judges may not always be deemed competent to determine what is reasonable in such cases. Assigning these instances to regulatory agencies and medical professionals, who are more qualified to handle them, is one possible remedy.

People are not much aware of medical ethics and negligence due to lack of circulation of enough information concerning these. They informed about some gross medical negligence when circulated through online or offline newspapers, TV Channels or Facebook. For making awareness among the mass people leaflet booklet or pamphlet may be circulated from the Health Ministry. Moreover, webinars, seminars or programs may be conducted by the concern Ministry throughout the country from time to time. It is evident from the various circumstances that, the patients suffer from using unauthorized medical equipment and consuming wrong medicine due to the illegible prescription. Despite the instructions from the honorable High Court Division of Bangladesh Supreme Court and the subsequent circulation of the Directorate General of Health Services and the Bangladesh Medical and Dental Council concerning clear writing in the prescription, the instructions are denied by the concern personnel most of the time. It may be necessary to implement a punitive provision or other legal procedure to guarantee the doctors' accountability in this respect. Additionally, strict

monitoring by the concern authority may be enhanced to ensure the closing of the use or sell of unauthorized medical device or equipment.

CONCLUSION:

The purpose of the legislation pertaining to medical negligence is to shield patients from any type of careless behavior by physicians or healthcare facilities. The laws ensure the punishment for causing such negligence towards the patient and also provide compensation thereon. Both penal provisions and compensations for the medical negligence confused the aggrieved person for taking a decision thereon. To remove such kind of confusion, suggestion is given to make a separate law regarding this. According to the constitution, the state must protect people's rights and meet their fundamental needs, which includes healthcare. Filing a medical case is complex procedure and the judges are not trained enough about the medical issues. Considering these facts, possible solutions have been provided for the deduction of gaps thereto.

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The author declares no conflicting interest in the paper.

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