

CHAPTER VI: FINDINGS, CONCLUSION AND SUGGESTIONS

MAJOR FINDINGS FROM RETROSPECTIVE STUDY

Judgements on Medical Malpractice with respect to COPRA

This section includes the analysis of the Judgements on Medical Malpractice with respect to the Consumer Protection Act. As discussed above in the methodology, this retrospective study of the cases helps understand the trends in terms of the number of judgements on Medical Malpractice, rate of conviction, Time duration for justice, types of negligence and malpractice and the basis of judgements.

For the context of selecting a sample from the judgements, Using Cluster sampling, central cluster of the Gujarat state had been chosen. Judgements related to Medical Sectors passed from the Consumer Dispute Redressal Forums of Ahmedabad and Vadodara from the 1st April, 2015 to 31st March, 2023 i.e. 8 years have been analyzed for the purpose of this research. Total **197** orders related to Medical Malpractice have been studied from the Consumer Dispute Redressal Forums of Ahmedabad, Ahmedabad Additional, Ahmedabad Rural, Vadodara and Vadodara Additional.

Following are the major findings from the judgements of Medical Malpractice with respect to Consumer Protection Law.

Total Number of Judgements passed from the Consumer Dispute Redressal Forums of Ahmedabad and Vadodara:

Total 197 cases for the complaints related to medical negligence/malpractice were disposed of from the Consumer Dispute Redressal Forums of Vadodara and Ahmedabad. Out of all the cases, 55 cases had been disposed of from three Forums: Consumer Dispute Redressal Forum of (1) Ahmedabad, (2) Ahmedabad Additional and (3) Ahmedabad Rural.

Total 142 cases were disposed of from the two forms: Consumer Dispute Redressal Forum of (1) Vadodara and (2) Vadodara Additional.

Distribution of the Cases analyzed from different Consumer Dispute Redressal Forums of Ahmedabad and Vadodara:

The majority of the cases disposed of were from Consumer Forum of Vadodara Additional (96 cases), followed by Vadodara (46 cases), Ahmedabad Rural (23 cases), Ahmedabad (19 cases), and Ahmedabad Additional (13 cases).

Judgements of the Medical Malpractice Cases:

From 197 cases that were disposed from the consumer dispute redressal forums of Vadodara and Ahmedabad, in 43 cases (21.83%) the medical negligence or malpractice by the medical practitioners were proven. In 48 cases, the negligence was not proven. Almost half of the cases were disposed of either due to absence of complainants, withdrawal of complaint, mediation between the parties, fulfilment of previous order and moved to higher court. In 5 cases, the complainant filed the complaint after the time-duration of filing the complaint i.e. 2 years. However, this delay was condoned by the consumer forums of Vadodara and Ahmedabad. In 2 cases, the delay was not condoned by the consumer forums.

Distribution of Judgements where the Medical Negligence was proven:

Out of the total 43 cases wherein the Medical Malpractice/Negligence by the medical service providers (Hospital, Medical professionals, staff members) were proven, most of the cases (25 cases) were from the Consumer Dispute Redressal Forum of Vadodara Additional. It was followed by Ahmedabad Rural (7 cases), Vadodara (5 cases), Ahmedabad City (4 cases) and Ahmedabad Additional (2 cases).

Medical Ailment in the cases where Medical Negligence or Malpractice was Proven:

Majority of the cases where the medical malpractice/negligence was proven were of the Eye related surgery (44.19%) (majorly cataract surgery). The cases were followed by negligence in treatment of orthopaedic ailment (18.60%), gynaecological problems (11.63%) and general medical ailment (6.98%). The other cases were related to Kidney and gallbladder (4.65%), Skin and Hair (4.65%), neurological issue (2.33%), Paediatric (2.33%), aesthetic surgery (2.33%) and cancer (2.33%).

Type of Medical Negligence/Malpractice:

Based on analysing all the 43 cases in which the medical negligence was proven, there emerged 15 types of negligence. In most of the cases (70.09%), there was negligence while performing surgery, followed by the treatment by untrained staff (44.19%), non-standard fixtures (41.86%) and using unsterilized equipment (39.53%). The other kinds of negligence were refusal to timely treatment by consulting doctors (11.63%), adopting wrong treatment/surgery (9.30%), unfair trade practices (6.98%), refusing to provide case papers (4.65%), delay in referral (2.33%), inadequate explanation by doctor (2.33%), not taking pre-operative care (2.33%), omission of important facts before treatment (2.33%), wrong reports (2.33%), omission of

important steps in treatment process (2.33%) and misbehaviour (2.33%) by the medical professional.

Basis of Justice in Proven Cases:

To prove Medical Negligence in the court of law, the **burden of proof** first lies with the complainant to prove his complaint and then with the opponent to disprove the same. Considering the cases in which medical negligence was proven, above were the basis for the justice such as taking expert opinion, providing strong arguments, inability of medical practitioner to disprove the allegation, discrepancy in reply from the opponents, documents and records, guarantees provided by doctor, lack of proper investigation, absence of doctor and presenting similar judgements passed by National or State Commission. In many cases, there was 'res ipsa loquitur' which means the thing speaks for itself and the gross negligence wherein it was evident that negligence had occurred.

Amount of Compensation in the Proven Cases:

In most of the cases (46.51%), the Consumer Dispute Redressal Forum has ordered the compensation between 1,00,001 to 2,00,000 to be paid by the Medical Practitioners for the malpractice and negligence by them. It was followed by the compensation of less than Rs. 100,000 and more than Rs. 500,001 in 18.60% cases each. In 6.98% cases, the compensation amount of Rs. 200,001-300,000 followed by Rs. 300,001-400,00 and 400,001-500,000 in 4.65% each. **The average compensation from all the cases was Rs. 2,43,068.**

Time Duration between Case Filing and Disposal in Proven cases:

In most of the cases, the time duration between case filing and Disposal was 4-6 years (30.23% cases) and 16-18 years (30.23% cases). It was followed by the less than 3 years in 13.95% cases, 7-9 years in 11.63% cases, 13-15 years in 9.30% cases. It was 10-12 years and more than 18 years in 2.33% cases each.

However, the **average time duration of justice was 7 years and 11 months** in the cases where the Medical Negligence was proven.

MAJOR FINDINGS FROM PROSPECTIVE STUDY

PART I: MEDICAL SERVICER USERS: PATIENTS AND CAREGIVERS

For the purpose of research, Medical Service Users consist of the patients either visiting Outpatient Department or Admitted in the ward and their immediate caregivers at Civil Hospital Ahmedabad and SSG Hospital, Vadodara.

This section is divided into major 6 parts which are as following:

- Personal Background of the Respondents,
- Details of the Patients, knowledge about Rights and Duties of patients,
- Awareness about Medical Negligence/Malpractice,
- Awareness on Legal Rights of Patients as Consumers,
- Views about evidence which can help as a Valid defense against Medical Negligence/Malpractice and
- Social Workers' Role in Medical Malpractice/Negligence.

Snapshot of the Type of Respondents and Research Setting at the time of Interview:

Data Collection was conducted from **total 183 Medical Service Users**. These were divided into two categories:

- 1) Patients- **46** respondents (25.14%) and
- 2) Caregivers- **137** respondents (74.86%)

Out of all the respondents, **94** respondents (51.37%) were contacted at Civil Hospital, **Ahmedabad** and **89** respondents (48.63%) were contacted at SSG Hospital, **Vadodara**.

The setting of treatment was Outpatient Department-OPD for 99 patients (54.1%), 84 patients (45.90%) were admitted in the Ward.

Following is the brief snapshot of the respondents interviewed at different Locations.

Setting of Treatment	Civil Hospital, Ahmedabad			SSG Hospital, Vadodara		
	Patient	Caregivers	Total	Patient	Caregivers	Total
OPD	17 (9.29%)	30 (16.39%)	47 (25.68%)	25 (13.66%)	27 (14.75%)	52 (28.42%)
Ward	3 (1.64%)	44 (24.04%)	47 (25.68%)	1 (0.55%)	36 (19.67%)	37 (20.22%)
Total	20 (10.93%)	74 (40.44%)	94 (51.37%)	26 (14.21%)	63 (34.43%)	89 (48.63%)

Out of total 183 respondents, majority i.e. respondents' patients visited Cardiology (13.11%). Equal number of patients were taking treatment at Oncology department. It was followed by 15 patients (8.20%) taking treatment at Gynecology and Pediatrics departments each.

[A] Personal Background of the Respondents:

Age-wise Distribution of Respondents:

For the purpose of the research, only the patient or caregiver who have completed 18 years of age were interviewed. Out of which, majority i.e., 94 respondents (51.37%) were falling into early adulthood in age group of 18-35 years; followed by 57 respondents following in middle adulthood in the age group of 36-50 years. 26 respondents (14.21%) were from the age group of 51-65 years followed by elderly respondents of more than 66 years of age to be 6 respondents (3.28%).

Gender-wise Distribution of Respondents:

Majority i.e., 142 respondents (77.60%) were male, however, only 22.40% were female. Through observations it could be seen that generally if a male is a patient himself, he generally visits hospital by himself or accompanies other family members as a caregiver. Men being caregivers is approximately 4 times, then being patients. However, it was observed that the ratio of women being patient and caregiver was approximately equal. It again aligns with a sociological scenario in Indian context where the men are usually relied for the work outside home.

Below is the table showing gender wise distribution of Respondents between Caregivers and Patients.

Particulars	Caregivers	Patients	Total
Male	115 (62.84%)	27 (14.75%)	142 (77.6%)
Female	22 (12.02%)	19 (10.38%)	41 (22.4%)
Total	137 (74.86%)	46 (25.14%)	183 (100%)

Place of Residence of Respondents:

As the two public healthcare setting were located at the central cluster of Gujarat, more than half i.e., 100 respondents (54.64%) were belonging from Central cluster of Gujarat. Around 18.03% respondents were from the other cluster within Gujarat. Rest 50 respondents visited the institutions from outside Gujarat. Out of which, majority i.e., 35 respondents (19.13%) were from Madhya Pradesh, followed by Uttar Pradesh (3.83%), Rajasthan (3.28%), Delhi (0.55%) and Bihar (0.55%).

Type of Family:

More than half i.e., 128 respondents (69.95%) were living in a joint family system, followed by 55 respondents (30.05%) living in nuclear family.

Marital Status of Respondents:

Majority i.e., 153 respondents (83.61%) were married, followed by 23 unmarried respondents (12.57%).

Number of members in Respondents' Family:

Total 85 respondents (46.45%) mentioned that they have 5-8 members in their family, followed by 75 respondents (40.98%) who informed that they have 1-4 members in their family.

Yearly Family income of Respondents:

Public healthcare facility having an academic medical institution attached and with the government funding, can cater to the large spectrum of healthcare needs of large population. In addition, the treatment is available at a subsidised and affordable rate due to which it becomes accessible for economically weaker section of the society. Similar trend was showcased where more than half i.e., 123 respondents' (67.21%) family income were less than

Rs. 50,000; followed by 36 respondents (19.67%) whose yearly family income were between Rs. 50,000-100,000.

Educational Status of Respondents:

Majority i.e., 57 respondents (31.15%) had completed Secondary education, followed by 50 respondents (27.32%) who completed Primary education and 30 respondents (16.39%) completing Higher Secondary Education.

Occupation of Respondents:

Majority of the respondents were skilled and self-employed i.e., 74 respondents (39.89%). This shows the inclination of rural communities towards adopting vocations for livelihood purposes. 37 respondents (20.22%) were employed and doing Job, followed by 29 respondents (15.85%) who were daily wage earners.

It is significant to note that 31 respondents (16.94%) were unemployed, 9 respondents (4.92%) and 3 respondents (1.64%) were students which means that at the time of interview, they did not have any source of income.

[B] Details of Patients:

Gender-wise Distribution of Patients:

The number of male and female patients is almost equal as there were 92 male (50.27%) and 91 female (49.73%) patients availing treatment at the public healthcare hospitals.

Age-wise Distribution of Patients:

Majority i.e., 113 patients (61.75%) were adults, followed by equal number of 35 patients (19.13%) were children and elderly each.

Mode of visiting Healthcare set-up:

The researcher asked whether the patients came/were brought to the current hospital set-up by self or were referred by any other doctor. Majority i.e., 104 patients (56.83%) visited by self, followed by 77 patients (42.08%) who visited the healthcare set-up due to referral by other doctors.

Place of Referral to current set-up:

Out of the 77 patients who were referred to the current healthcare set-up, majority i.e., 38 patients (20.77%) were referred from private hospitals and 36 patients (19.67%) were referred from other government hospitals of their domicile towns.

Economic Role of patient in the Family:

Out of all the patients, 43 patients (23.50%) were the main breadwinner of their respective families and 23 patients (12.57%) were providing supplementary financial support. Rest all the patients were financially dependent, either because of unemployment (54 patients; 29.51%), Minority (32 patients; 17.49%), old age (29 patients, 15.85%) and disability (2 patients; 1.09%).

Expenditure incurred in availing Treatment:

More than half i.e. 54.10% respondents mentioned that they have taken the treatment free of cost, whereas, 55 respondents (30.05%) shared that they have incurred partial expenses towards patients' treatment. 28 respondents (15.30%) also shared that they have incurred other expenses such as travelling, radiological tests etc and only 1 respondent (0.55%) shared that they had to pay entire expense for availing the treatment.

Time-duration of Admission in the hospital:

The respondents were asked about the time duration of hospitalisation in which majority i.e. 58 patients (31.69%) were hospitalised for less than 1 week, followed by 13 patients (7.10%) who were admitted for 1-2 weeks, 6 patients (3.28%) were admitted for 2-3 weeks and 7 patients (3.83%) were admitted for more than 3 weeks. It was noted that 99 patients (54.10%) had visited the hospital at OPD and hence, were not admitted at the time of taking interview.

Social Security Measures taken by Respondents:

When asked about the benefits of social security measures availed by the respondents, Majority i.e. 85 respondents (46.45%) shared that they have not availed any social security measures till then. Out of those who had availed the benefits, 55 respondents (30.05%) shared that they did possess Ayushman Card, followed by 46 respondents (25.14%) who shared that they had Maa Card. It was followed by other benefits such as BPL Card, Adhar card etc. availed by 5 respondents (2.73%), 1 respondent (0.55%) availing Mediclaim and covered under Employee State Insurance each.

Experiences of Treatment in current Hospital Setting:

The respondents shared both the positive and negative experiences while taking treatment in the current hospital set-up. Listing the positive experiences, majority respondents (35.52%) shared that they are getting good treatment and services followed by good behavior of doctors and staff (15.30%), good care and response (13.66%), providing right information and guidance (11.48%), timely prescription and providing good medicines (4.37%), regular monitoring by staff (3.83%), regular visits by doctors (2.73%), better than private hospitals (2.73%), proper diagnosis (2.19%), cleanliness (1.09%) and other (1.09%).

Some respondents also mentioned about their negative experiences, where they shared about less attention and irregular check-ups by the doctors (4.92%), delay in treatment and discharge (2.73%), negligent doctors and improper care (1.64%) and other negative qualities (6.01%).

Experience of Extraordinary positive event in healthcare during lifetime:

Out of all the respondents, more than half i.e. 105 respondents (57.38%) agreed that they have experienced positive event in the healthcare setup. However, 77 respondents (42.08%) did not experience any such event and 1 respondent (0.55%) did not respond when asked.

Reasons based on the experiences of Extraordinary Positive Health experiences:

When asked in detail about the extraordinary positive health experiences, majority i.e. 52 respondents (28.42%) shared that they obtained good treatment in the current healthcare setup. It was followed by 20 respondents (10.93%) mentioning that the doctors gave new life to the patients and saved them from critical conditions. Free of cost or cheaper rate of treatment was another factor mentioned by 17 respondents (9.29%), followed by good treatment by family/known doctors at the domicile place as shared by 14 respondents (7.65%). In addition to this, few respondents also shared that the doctors and staff had provided financial/non-financial support over and above their duty (6 respondents; 3.28%) and staff helped in obtaining social security measures (2 respondents; 1.09%). 3 respondents (1.64%) shared other reasons for which they had agreed to have undergone positive experiences in the healthcare setup.

Attention had to be given that 5 respondents (2.73%) mentioned about their negative experiences. 2 respondents (1.09%) shared that, as they were visiting the hospital for the first time, they have not yet experienced such events.

[C] Knowledge of Respondents about Rights and Duties of Patients:

This section of the research includes the awareness of respondents about the rights and duties of the patients.

Inclusion of Health as a Right in Indian Constitution:

The study indicates that majority i.e. 89 respondents (48.63%) agreed that Health is considered as a Fundamental right. The respondents also shared under which Fundamental Right the Right to Health is included which were Right to Education (4.92%), Right to Life (27.32%), Right to Equality (3.83%) and all of these rights (1.64%). 20 respondents (10.93%) agreed that Health is a fundamental right but were not aware about the Right in which it was included.

36 respondents (19.67%) mentioned that right to Health is not included in the Indian Constitution and 58 respondents (31.69%) shared that they were not aware about the same.

Patients' Rights:

Majority of the respondents agreed to different rights of patients which were

- (1) Right to avail Medical Facility without discrimination based on age, caste, nationality, gender, religion etc. (152 respondents; 83.06%),
- (2) Right to Confidentiality (123 respondents; 68.85%),
- (3) Right to Informed Consent (170 respondents; 92.90%),
- (4) Right to determine whether to take or refuse treatment (169 respondents; 92.35%),
- (5) Right to seek details, indoor and outdoor case records, prescriptions, bills, receipt and other evidences of diagnosis, treatment and payment (170 respondents; 92.90%),
- (6) Right to Complaint (152 respondents; 83.06%), and
- (7) Right to Compensation (144 respondents; 78.69%).

Patients' Duties:

The percentage of respondents agreeing to different duties of the patients were slightly higher than those agreeing to the rights of the patients which can be observed from the following results.

- (1) Duty to provide complete information about your problem (178 respondents; 97.27%),

- (2) Duty to provide medical history, measures taken before medical consultation, illness, medicines, allergies etc. (178 respondents; 97.27%),
- (3) Duty to provide your knowledge of your problem and its solutions as collected from various sources like internet/friends/relatives/fellow patients etc. (173 respondents; 94.54%),
- (4) Duty to provide information about your fears of investigation/blood/surgery etc. (169 respondents; 92.35%),
- (5) Duty to seek complete clarification (176 respondents; 96.17%),
- (6) Duty of patient not to take discharge against medical advice (DAMA) (178 respondents; 97.27%), and
- (7) Duty to respect doctor or medical staff as expected from them (179 respondents; 97.81%).

[D] Awareness of Respondents about Medical Negligence/Malpractice:

This section of research shows the findings on the awareness of the respondents about Medical Negligence/Malpractice.

Treatment of Patient by another Doctor:

When asked whether the patient had taken treatment from other doctor prior to visiting the current healthcare setup to which majority i.e., 117 respondents (63.93%) agreed and 63 respondents (34.43%) disagreed. 2 respondents did not respond to it and 1 respondent was not aware about the same.

Doctor from whom the Patient had taken treatment:

Out of 117 patients who had taken treatment from other doctors before visiting current healthcare setup, majority i.e. 112 respondents (95.73%) shared that the patients had shown to other Allopathy doctors, followed by 2 patients (1.71%) visited village doctors.

Incidence of Medical Malpractice heard/known by Respondents:

The study reveals that majority i.e., 118 respondents (64.48%) had heard about the cases or incidences of medical malpractice. However, 64 respondents (34.97%) shared that they were unaware of any incidence of Medical Negligence or malpractice.

Incidences narrated by Respondents about Medical Negligence/Malpractice:

The respondents were asked to share if they could remember any incidences of medical malpractice/negligence as heard by them where they shared about the instances such as Medical Instrument left in patients body (49 respondents; 26.78%), operation conducted twice due to mistake of doctors (3 respondents; 1.64%), cutting vein or any other part by mistake (3 respondents; 1.64%), negligence/mistake in surgical procedure (2 respondents; 1.09%), not giving adequate attention, not admitting the patients and improper behaviour (2 respondents; 1.09%). 1 respondents (0.55%) each had also mentioned the incidences such as post-operative surgical process not resolved, higher dose of anaesthesia, no cleanliness, organ removal, insisting C-section delivery instead of normal delivery, prescribing many tests/investigations for obtaining commissions, admitting patients even when not necessary, conducting unnecessary surgery, overcharging patients, theft in hospital. It can be noted that 1 respondent (0.55%) shared that allegations by the patients are fake news.

16 respondents (8.74%) did not remember any specific case but heard from the news media, movies etc. 34 respondents (18.58%) did not respond to the question.

Medium of Information from where the Respondents had heard about the incidences of Medical Malpractice:

Majority i.e., 45 respondents (38.14%) shared that they heard about the incidences of Medical Malpractice from Newspaper, followed by Television (22.03%), heard from relatives (19.49%), social media (10.17%), Friends (7.63%), colleagues (4.24%) and other sources (12.71%).

Term used for such cases:

When the respondents were asked about what a term for such incidences is, majority i.e., 130 respondents (71.04%) shared that it could be called as 'Medical Negligence' and 5 respondents (2.73%) shared 'Medical Malpractice'. 30 respondents (16.39%) shared that such incidences are called 'Both' medical negligence and malpractice.

Incidence of Medical Malpractice experienced by Respondent or any other known Person:

Out of total 183 respondents, 42 respondents (22.95%) shared that either they or their known person had experienced incidence of Medical Malpractice and 139 respondents (75.96%)

shared that they had not experienced incidence of Medical Malpractice. 2 respondents did not respond to the same.

The incidences shared by the respondents were instrument left in patient's body (9 respondents; 4.92%), wrong/inadequate information (6 respondents; 3.28%), failed operation (5 respondents; 2.73%), negligence during surgical procedure (11 respondents; 6.01%), suffering due to negligence by doctor (3 respondents; 1.64%), recommending or doing a particular treatment to charge more from patient and family (3 respondents; 1.64%), refusing or delay in operation (2 respondents; 1.09%), stitches opened, taking consent before realizing the mistake by doctor, lack of care in absence of influence, negligence in pre-operative care, death of patient due to administrative failure, overcharging from patients, administrative hurdles were also shared by 1 respondent (0.55%) each.

Meaning of term Medical Malpractice:

6.56% respondents mentioned that 'mistake by doctor while providing treatment with or without intention' and 7.10% respondent shared that 'breach of duty by a doctor to his patients to exercise reasonable skill and care resulting in some physical, mental or financial disability' are the meaning of Medical Malpractice. However, approximately 3/4th respondents i.e., 75.96% shared that both the statements are true for the term Medical Malpractice.

13 respondents i.e., 7.10% shared that none of the statements were the meaning of medical malpractice. However, 6 respondents (3.28%) were not aware about the same.

Knowledge of Respondents about Medical Negligence/Medical Malpractice:

Below were the incidences that were agreed to be medical negligence/malpractice by majority of the respondents:

- **Related to Medical Negligence:**

- 1) Error of judgement in Diagnosis (80.78%)
- 2) Choosing wrong treatment after diagnosis (88.52%)
- 3) Mistake while performing surgery (86.89%)
- 4) Before surgery, error in providing or administering anaesthesia (83.06%)
- 5) Failure to attend the patient at the time of emergency (81.42%)
- 6) Injection and vein puncture hazards due to substandard care (83.06%)
- 7) Leaving surgical instrument in patient's body after operation. (89.07%)
- 8) Blood Transfusion errors/hazard/ reaction (86.34%)

- 9) Failure or inaccuracy in maintaining medical records such as clinical findings, diagnostic test results, preoperative care, operation and post operation notes etc. (87.43%)

• **Related to Medical Malpractice:**

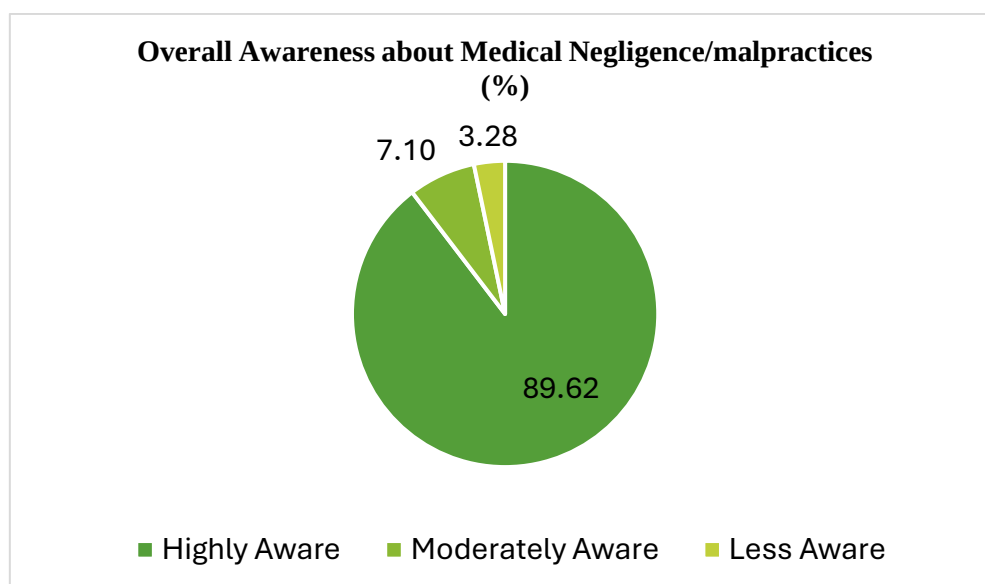
- 1) Conducting unnecessary surgery (86.89%)
- 2) Not taking informed consent from patient before surgery (87.98%)
- 3) Treating patient without required medical qualification (89.62%)
- 4) Not observing the provisions of Medical Legislations (89.62%)
- 5) Doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc. (71.58%)
- 6) Giving approval/recommendation/ endorsement/certificate/report with respect to any drug, medicine, surgical, therapeutic article, apparatus with respect to quality and its use (68.85%)
- 7) Withdrawing the case without giving proper notice to the patient and family (86.34%)
- 8) Making false or misleading representation concerning the need or usefulness of treatment. (86.34%)
- 9) Employing attendant neither registered nor enlisted under medical acts in force and permit such person to attend, treat or perform operation of patients wherever skills are required. (86.34%)
- 10) Refusing to provide case papers, bills (85.79%)
- 11) Physician running an open shop for sale of medicine for dispensing prescriptions prescribed by other doctors or for sale of surgical appliances. (81.42%)
- 12) Doctor/Nurse/hospital management staff, all can be legally liable in the cases of medical negligence/malpractice (83.06%)

It can be observed from the above table that, approximately more than 3/4th respondents agreed to different instances to be considered as Medical Negligence/Malpractice. Only in the incidence where it was mentioned that advertise done by medical practitioner to invite attention to him/his professional practice and recommendations/approval/endorsements by medical practitioner, slightly less than 3/4th respondents agreed to the same.

Approximately 5-15% of the respondents were disagreeing to the statements of incidence whether they could be considered as Medical Negligence/Malpractice. As above, in the incidence where it was mentioned that advertise done by medical practitioner to invite attention to him/his professional practice and recommendations/approval/endorsements by medical

practitioner to be considered as Medical Negligence/Malpractice, more than 1/5th respondents disagreed for the same.

Overall Awareness about Medical Negligence/Malpractice (%):



Most of the respondents (89.62%) were highly aware about the incidence of Medical Negligence/Malpractice. 7.10% were moderately aware and 3.28% were less aware about the same.

Reaction of Medical Service Users in case of Medical Malpractice/Negligence:

When asked about how the respondent would react if they got to know if incident of Medical Malpractice/Negligence occurred to themselves or any of their family members, they came up thinking diverse reactions. Majority i.e., 57 respondents (31.15%) mentioned that they would proceed for police complaint and resort to legal process. 52 respondents (28.42%) shared that they would inform, take advice and complaint to the treating doctor first, followed by 27 respondents (14.75%) mentioning that they would file complaint but not specified where.

Other reactions mentioned by the respondents were taking patient to other doctor/hospital (7.10%), complaint to higher authority (6.01%), approaching Consumer Protection Authority (5.46%), taking advice from elders, relatives and friends (3.28%), feeling angry (1.64%), resort to physical violence (1.09%), complaint to health ministry (1.09%), obtaining help from CM Helpline/government schemes (1.09%), difficulty in comprehending about the situation (1.09%), engaging media (0.55%), feeling bad about situation (0.55%), fear of complaint in anticipation of worsening treatment (0.55%) and taking action (0.55%).

14 respondents (7.65%) shared that they would not and cannot take action in such cases. 2.73% did not share reaction as they had not experienced incident of medical malpractice/negligence. 4 respondents (2.19%) mentioned that doctors do not make mistake and 1 respondent shared that they had positive experience in the hospital.

[E] Awareness of Respondents on Law/Legal Rights of Consumers:

This section of the findings includes the awareness of respondents on Law and legal rights of Consumer. It also assesses the awareness of respondents about the Consumer Protection Law.

Complaint in the cases of Medical Negligence/Malpractice:

More than 4/5th respondents i.e. 87.43% respondents agreed that the patient or immediate family member can formally complain in the cases of Medical Negligence/Malpractice. 22 respondents i.e., 12.02% mentioned that complaints cannot be filed in such cases.

Place of Complaint:

When the respondents were asked where a complaint of Medical Malpractice or Negligence can be filed, majority i.e., 67 respondents (36.61%) shared that the complaint can be filed at Criminal, Civil and Consumer Forum - all the places. It was followed by 47 respondents (25.68%) mentioning that it can be filed at Consumer Forum. 17 respondents (9.29%) shared that the complaint can be filed at civil court, followed by 6 respondents (3.28%) mentioning the place of complaint to be Criminal Court. 10 respondents mentioned that police complaint can be filed.

It was found out that 18 respondents (9.84%) mentioned that the complaint cannot be filed in such cases and 20 respondents were not aware about the same.

Knowledge of person filing complaint of Medical Malpractice/Negligence:

Out of all the respondents more than 3/4th respondents i.e., 154 respondent (84.15%) did not know anyone filing a complaint of medical malpractice. 28 respondents (15.30%) mentioned that they know the case where medical malpractice/negligence was filed by someone.

Incident where the respondent or any known person filed case of Medical Malpractice:

While 154 respondents (84.15%) did not know about any such case, 28 other respondents did mention the incidences where the case of medical negligence/malpractice was filed. 7 respondents (3.83%) shared that they knew about the case but did not specify about the incident. Negligence during or failure of surgical process (6 respondents;3.28%), overcharging or not returning deposit money (2 respondents; 1.09%), death due to negligence (2 respondents;

1.09%), paying compensation to patients (2 respondents; 1.09%) were the cases shared by the respondents. The other incidents shared by 1 respondent (0.55%) each are treatment by unqualified doctor, wrong advice by doctor, compelling patient/caregiver to purchase medicine from particular hospital for commission, death due to oxygen for other tests, death of critical patient due to power cut, negligence in pre-dialysis care, insisting C-section delivery, hospital keeping dead patient for overcharging, handing over the dead body during COVID without informing family of patient, doctor suspended, hospital sealed. 1 respondent (0.55%) also shared that doctor filed the case on patient. No response was received by one respondent.

Knowledge about the case where Compensation was paid to patients:

More than half i.e., 126 respondents (68.85%) shared that they did not know about any case where the compensation was paid by the medical practitioner/hospital to the patient. However, 56 respondents (30.60%) shared that they were aware about the case where patients were compensated.

Medium of Information about the incident of compensation being paid to patients:

When the respondents were asked about the medium through which they received an information about the compensation being paid to the patients, majority i.e., 23 respondents (12.57%) shared that they received information from newspaper. Television was another medium of information for 16 respondents (8.74%). Friends and relatives were the medium for 13 respondents (7.10%) and 6 respondents (3.28%) personally experienced the incident.

Awareness about the Consumer Protection Law:

When asked about whether the respondent know about the consumer protection law, the study revealed the ratio of awareness and non-awareness to be 1:1. Half of the respondents i.e., 92 respondents (50.27%) shared that they knew about the Consumer Protection Law and 90 respondents (49.18%) mentioned they did not know about the same. 1 respondent did not respond.

Awareness of the Year of Enactment of the Consumer Protection Act (COPRA):

Out of all the respondents, 7 respondents (3.83%) knew the correct year of enactment of Consumer Protection Act. The rest of the respondents mentioned 1980 (4 respondents; 2.19%), 1995 (4 respondents; 2.19%) and 2001 (8 respondents; 4.37%). 160 respondents (87.44%) respondents shared that they were not aware/not responded for the same.

Awareness of the Year of recent Amendment in COPRA:

More than 90% of respondents i.e., 169 respondents did not know and responded about the year of amendment. However, 5 respondents (2.73%) shared the correct year of amendment in COPRA to be 2019. Other respondents provided incorrect answers to this question.

Respondents' awareness on Objectives of COPRA:

The objective of COPRA is to protect the rights of consumers was shared by 7 respondents (3.83%). 3 respondents (1.64%) mentioned the objective to safeguard consumer against different types of exploitation such as defective goods, deficient services and unfair trade practices; and to provide simple, speedy and inexpensive machinery for redressal of consumer's grievances each.

More than half i.e., 128 respondents (69.95%) correctly shared that all three of the above were the objectives of COPRA. 1/4th respondents i.e., 47 respondents (25.14%) were not aware and responded about the same.

Medical Facility to be considered as 'Service' under COPRA:

The majority i.e., 151 respondents (82.51%) agreed that obtaining medical facility is considered as availing 'service' under the Consumer Protection Act, 7 respondents (3.83%) disagreed to the same. 25 respondents (13.66%) did not respond for the same.

Patient to be considered as 'Consumer' of Medical Field:

When asked whether the patient can be considered as consumer to which, more than 3/4th i.e., 148 respondents (80.87%) agreed that the patient is considered as 'Consumer' of Medical Field and 16 respondents (8.74%) disagreed. 18 respondents shared that they were not sure whether patient can be considered as Consumer or not.

COPRA restoring Justice to victims of Medical Negligence:

When asked whether the Consumer Protection Act is a machinery where justice to the victims of medical negligence can be restored to which majority i.e., 141 respondents (77.05%) agreed and 9 respondents (4.92%) disagreed. 33 respondents (18.04%) did not respond to the same.

Complainant in the cases of Medical Negligence:

A multiple response question was asked to the respondent on who can file a complaint in the cases of medical negligence where the following responses were given by the respondents-

Patient (26 respondents;14.21%), family members of patient (56 respondents; 30.60%), more than one patient having same interest collectively (47 respondents; 25.68%), voluntary consumer association (47 respondents; 25.68%), central government or state government (27 respondents; 14.75%), Central Authority of COPRA (26 respondents; 14.21%) and all of the above (99 respondents; 54.10%). According to section 2 (5) of the Consumer Protection Act, 2019, all of the above-mentioned parties can complain.

Complainant in case of Minor Patient:

Out of all the respondents, when asked who can file complaint in the case of Minor patient to which 52 respondents (28.42%) mentioned ‘Parents’, 3 respondents (1.64%) shared ‘guardian’ and total 103 respondents (56.28%) told that either of these can file complaint.

5 respondents (2.73%) shared that in case if the patient is minor, complaint cannot be filed. 20 respondents were not aware about the same.

Complainant in case if the patient is Mentally Unsound:

Approximately 1/4th i.e., 49 respondents (26.78%) mentioned ‘Parents’, 4 respondents (2.19%) mentioned ‘Guardian’ and 103 respondents (56.28%) shared either of these can file complaint if the patient is mentally unsound. 6 respondents shared that the complaint cannot be filed, and 21 respondents (10.93%) shared that they were not aware about the same.

Legal Representative to complain in case of Death of Patient due to Medical Negligence:

Majority respondents i.e., 157 respondents (85.79%) agreed that the legal heir/legal representatives can file complaint in the cases of death of patient due to negligence and 4 respondents (2.19%) disagreed to the same. 22 respondents (12.02%) were not aware about the same.

Whom to approach if the patient doesn’t have enough means to file complaint:

A multi-response question was asked to the respondents that who can be approached if the patient does not have enough means (resources) to file the complaint to which majority i.e., 75 respondents (40.98%) mentioned ‘Legal Aid Services’, 61 respondents (33.33%) shared ‘concerned Voluntary Organization’, 21 respondents (11.48%) shared that any well wisher can be approached. 16 respondents (8.74%) shared that complainant can do legal process by himself/herself. All of the above resources can be approached were mentioned by 6 respondents (3.28%).

31 respondents (16.94%) shared that they were not aware about the same and 2 respondents mentioned that the complaint cannot be filed. 32 respondents (17.48%) shared that they were not aware about the same and 2 respondents mentioned that the complaint cannot be filed.

Form of Making a Complaint:

The majority of the respondents i.e., 123 respondents (67.21%) correctly shared that written complaint shall be filed and 15 respondents (8.20%) mentioned verbal complaint is sufficed. 17 respondents (9.29%) mentioned that both written and verbal complaints can be filed. 28 respondents (15.3%) were not aware of the same.

Complaint against pharmaceutical dealer for selling unsafe drugs without prescription:

When the respondents were asked whether a complain can be filed against pharmaceutical dealer for selling unsafe drugs without prescription, to which 151 respondents (82.51%) shared correctly that complaint can be filed. However, 6 respondents (3.28%) disagreed. 25 respondents (13.66%) were not aware about the same.

Meaning of ‘Consumer Dispute’:

43 respondents i.e. 23.50% were aware about the true meaning of ‘Consumer Dispute’ in context of medical malpractice/negligence to be ‘when a patient/immediate caregiver files a complaint and medical service provider denies the allegation contained in the complaint’. However, 54 respondents (29.51%) shared ‘when a patient/immediate caregiver alleges medical service provider for indulging medical malpractice’ to be ‘Consumer Dispute’. Majority of the respondents (85 respondents; 46.45%) mentioned both are the meaning of the same.

Rights of Patients as Consumers:

The respondents were asked about the rights of patients as consumers where they mentioned following rights- Right to be protected against hazardous goods or services (6 respondents; 3.28%), Right to be informed about details of the treatment (8 respondents; 4.37%), Right to be assured and have access to treatment (9 respondents; 4.92%), Right to be heard (7 respondents; 3.83%), Right to seek redressal (7 respondents; 3.83%), Right to consumer awareness (7 respondents; 3.83%) and all of the above (147 respondents; 80.33%). 27 respondents (14.21%) were not aware and responded about the same. These rights are included in the COPRA, 2019 under section 2 (9) as the ‘consumer rights’. ‘

Deficiency' in Medical Services:

Any act of negligence by knowingly or unknowingly by any such person which causes loss or injury to the consumer' is considered as 'deficiency' in medical services was agreed by 4 respondents (2.19%). Same number of respondents agreed to 'deliberate withholding of relevant information by such person to be the consumer' was a deficiency. Majority i.e. 134 respondents (73.22%) agreed to the both the incidents.

'Harm' in relation to product liability:

According to Consumer Protection Act Section 2(22), and in context of medical malpractice, 3 respondents (1.64%) shared Personal injury, illness or death and 2 respondents (1.09%) shared mental agony, trauma, or emotional distress owing to personal injury and both (148 respondents; 80.87%) were considered as 'Harm' in relation to product liability. 30 respondents (16.4%) were not aware of the same.

Mental Harm to be considered along with Physical Harm as 'Injury' with respect to COPRA:

Most of the respondents i.e., 151 respondents (82.51%) knew that mental harm is considered along with physical harm as 'injury' with respect to COPRA. 3 respondents (1.64%) disagreed to it and 29 respondents (15.85%) were not aware whether mental harm is considered as injury or not.

'Unfair Trade Practices' with respect to Medical Services:

Most of the respondents i.e., 152 respondents (83.06%) agreed to following practices were 'unfair trade practices'- (1) Not issuing bill or cash memo or receipt for medical services rendered, (2) non-compliance with prescribed standards by pharmaceutical industry, (3) providing drug/medicine without prescription where it is necessary and (4) doctor selling sample medicine to patients. 28 respondents (15.30%) were not aware about the unfair trade practices.

Time-bar for filing Complaint in Consumer Forum:

Out of all the respondents, only 2 respondents (1.09%) were aware that the complaint of medical malpractice/negligence can be filed within 2 years of the incident. The majority i.e., 84 respondents (45.90%) and 52 respondents (28.42%) shared that complaints can be filed

within 1 years and immediately respectively. 45 respondents (24.04%) were not aware about the time-bar for filing complaint or not responded.

Complaint when Medical Services are availed free of cost:

8 respondents (4.37%) knew correctly that when the free of cost treatment is availed, complaint for medical malpractice can be filed at Civil Court. Majority i.e., 119 respondents (65.03%) shared that complaint can be made at COPRA and 20 respondents (10.93%) shared that complaint cannot be filed. 36 respondents (19.68%) mentioned that they were not aware about whether complaint can be filed when medical services are availed free of cost.

Punishment under COPRA if medical malpractice/negligence by the medical practitioner is proven:

Less than 1/5th i.e., 29 respondents (15.85%) correctly shared that if negligence/malpractice by the medical practitioner is proven, he/she can be punished by order of paying compensation for the loss or injury suffered or reimbursement of damage. Rest of the punishment as agreed by respondents were imprisonment (18 respondents; 9.84%), fine (25 respondents; 13.66%), discontinue providing medical services (49 respondents; 26.78%), all of the above (8 respondents; 4.37%), any of the above (36 respondents; 19.67%), and no response (39 respondents, 21.32%).

Time Duration for appeal from District to State Consumer Forum:

The study findings showed that only 10 respondents (5.46%) knew that the correct time duration for appeal to be 45 days. The majority i.e., 97 respondents (53.01%) shared this time duration to be 30 days, 8 respondents (4.37%) mentioned 60 days and 13 respondents (7.10%) shared it to be 90 days. 55 respondents (30.06%) were not aware about the same.

Time Duration for appeal from State to Central Forum:

In contrast to the above question, the majority i.e., 85 respondents (46.45%) mentioned the correct time duration for appeal from state to central forum to be 30 days. 45 days, 60 days and 90 days were the other time duration agreed by 16 respondents (8.74%), 10 respondents (5.46%) and 15 respondents (8.20%) respectively. 57 respondents (31.15%) were not aware or not responded about the same.

Measures taken under COPRA in case of Contempt of court by medical service provider:

‘Imprisonment’ as a measure in case of contempt of court was agreed by 31 respondents (16.94%), and ‘fine’ was agreed by 8 respondents (4.37%). 49 respondents (26.78%) shared that both measures can be taken.

1/4th i.e., 46 respondents (25.14%) correctly shared that either imprisonment or fine or both can be ordered in case of contempt of court. While 44 respondents (24.05%), were not aware about any measure, 5 respondents (2.73%) stated that none of the measures can be taken in case of contempt of court order.

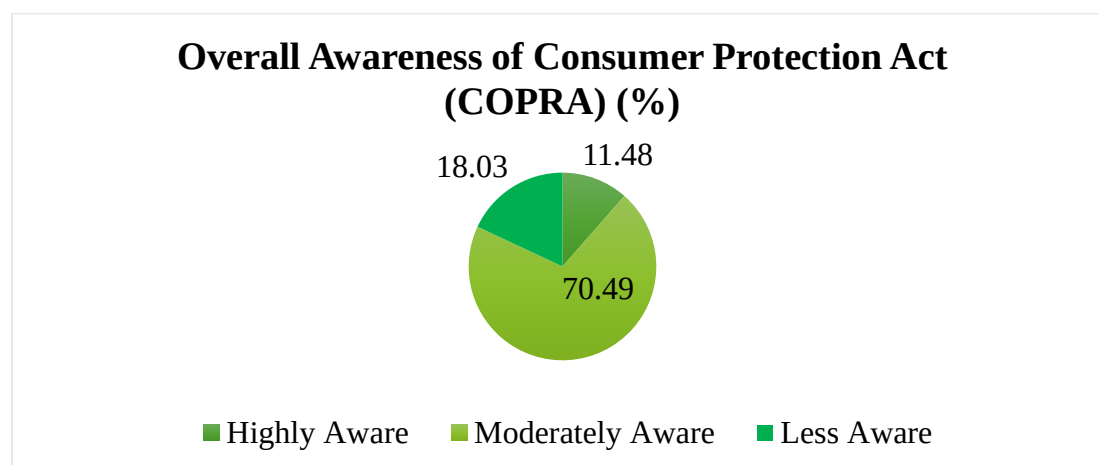
Responsibility of producing evidence in complaint of Medical Malpractice:

Majority i.e., 125 respondents (68.31%) rightly said that the burden of proof in the complaint of medical malpractice lies with the patients/caregivers, while only 15 respondents (8.20%) and 7 respondents (3.83%) mentioned that it lies with medical practitioner and both respectively. 19.68% were not aware of it.

Cell for the Mediation of the Case:

The respondents were asked about the cell that is attached with each district and state commission for the mediation of Consumer Grievances to which, less than 1/10th i.e., 16 respondents correctly stated it to be ‘Consumer Mediation Cell’. Other respondents shared it to be ‘Consumer Settlement Cell’ (23 respondents; 12.57%) and ‘Consumer Redressal Cell’ (40 respondents; 21.86%). More than half i.e., 104 respondents (56.83%) stated that they were not aware about the name of such cell for the mediation of Consumer Grievances.

Overall Awareness of Respondents on the Consumer Protection Act:



Based on the analysis of the correct responses by the respondents on the Awareness of the Consumer Protection Law, the study revealed that majority i.e., 129 respondents (70.49%) were ‘moderately aware’ about COPRA. It was followed by 33 respondents (18.03%) who were ‘less aware’ and 21 respondents (11.48%) were ‘highly aware’ about COPRA.

[F] Views of Respondents about Evidence which can help as a Valid Defense against Medical Negligence/Malpractice:

In this section, the respondents were informed about different evidence in context to Medical practice and they had to agree/disagree to whether the evidence can help the complainant to serve as a valid defense against Medical Negligence or Malpractice.

Qualified Expert’s Opinion:

Majority of the respondents (144 respondents; 78.69%) agreed that if the qualified expert’s opinion is sought for proving medical malpractice, it can help the complainant. 26 respondents (14.21%) mentioned that they were not sure about it and 12 respondents (6.56%) disagreed for qualified expert’s opinion to be helpful to complainant.

Written Records:

Majority of the respondents (154 respondents; 84.15%) agreed that written records of diagnosis, treatment, and payment can serve as a valid defense, whereas 22 respondents (12.02%) and 6 respondents (3.28%) were not sure and disagreed to the same respectively.

Adopting more than one method or multiple laboratory tests for Diagnosis of Medical Ailment:

Majority of the respondents (137 respondents; 74.86%) agreed, 32 respondents (17.49%) were not sure, and 13 respondents (7.10%) disagreed that adopting more than one method or multiple laboratory tests for the diagnosis of medical ailment can be useful evidence for the complainant. It is important to note here that, by adopting more than one method, the medical practitioner exercises more diligence in proper diagnosis of the medical ailment which may not serve as a valid defence for the complainant.

Medical Practitioner taking necessary precautions:

There was a mixed response received from the respondents wherein 77 respondents (42.08%) agreed, 26 respondents (14.21%) were not sure and 79 respondents (43.17%) disagreed that

when medical practitioner takes necessary precautions, it serves as a valid defence for the complainant. However, 'breach of duty of care' is one of the essential element to prove medical negligence. If medical practitioner takes necessary precautions while treating the patient, any adverse event cannot be considered as a medical negligence or malpractice.

Patient/Caregivers have given consent despite mentioning possible mishap:

It was revealed from the finding that majority of the respondents (107 respondents; 58.47%) mentioned that if the patient or family members have given consent despite mentioning the possible mishap, it cannot serve as evidence favouring the complainant. 47 respondents (25.68%) agreed to it and 28 respondents (15.30%) were not sure whether it is evidence or not.

Putting forth strong arguments or evidence to prove/disprove medical negligence/malpractice:

Majority i.e., 124 respondents (67.76%) agreed that putting forth strong arguments or evidence to prove or disprove medical negligence or malpractice serve as valid evidence. However, 30 respondents (16.39%) were not sure, and 28 respondents (15.30%) disagreed to the same.

Undue delay beyond prescribed time bar in filing the complaint with valid reasons can be condoned by the consumer Forum:

Majority i.e., 109 respondents (59.56%) agreed, 38 respondents (20.77%) disagreed, and 35 respondents (19.13%) were not sure that undue delay beyond prescribed time bar in filing the complaint with valid reasons can be condoned by the consumer forums.

[G] Opinion of Respondents about Social Workers' Role in Medical Malpractice/Negligence:

This was the last section of the interview schedule where the respondents were asked about their views about the role of social workers in Medical Malpractice/Negligence.

Role of Social Workers in the cases of Medical Negligence/Malpractice:

When the respondents were asked whether the social workers can play important role in the prevention of medical malpractice and negligence and the restoration of justice where most i.e., 158 respondents (86.34%) replied affirmatively. 12 respondents (6.56%) shared that social workers does not have any role to play in medical malpractice. 10 respondents (5.46%) shared that they were not aware about it and 3 respondents (1.64%) did not respond.

Expectations of respondents for Contribution of Social Workers in Medical Negligence/Malpractice:

When asked about the respondents' expectations about the contribution of social workers in Medical Negligence/Malpractice, majority i.e., 73 respondents (39.89%) told that the social workers can take action and help the victims. 31 respondents (16.94%) mentioned that they can provide information and guidance. 25 respondents (13.66%) shared that the social workers can help in the legal process for obtaining justice and compensation.

The other roles as shared by the respondents were advocacy and becoming voice for Patients and Families (15 respondents; 8.20%), spread awareness on Patients' rights and redressal systems (14 respondents; 7.65%), enquire, understand and investigate the case (12 respondents; 6.56%), suggest further steps (7 respondents; 3.83%), take action against medical malpractice (7 respondents; 3.83%), Use of media including social media (6 respondents; 3.38%), resource mobilisation (4 respondents; 2.19%), help in maintaining transparency in treatment process (3 respondents; 1.64%), support in obtaining treatment required for victim (3 respondents; 1.64%), conducting campaigns and strikes (3 respondents; 1.64%), partial help (3 respondents; 1.64%), taking precautions against medical malpractice (2 respondents; 1.09%), formation of support groups (2 respondents; 1.09%), depends on victim's socio-economic conditions (2 respondents; 1.09%). Other roles are as follows that were shared by 1 respondent (0.55%) each that are save life, serve as a witness, economic assistance, write a book on the topic, labour work, institutional support and multisectoral efforts.

One of the respondents shared that they haven't received any help from social workers yet. 7 respondents (3.83%) were not aware about the same. 11 respondents (6.01%) did not respond and for 11 respondents (6.01%) it was not applicable.

MAJOR FINDINGS FROM THE PROSPECTIVE STUDY

PART II: MEDICAL SERVICER PROVIDERS

For the purpose of research, Medical Service Providers consists of Medical Practitioners and Interns providing their services in the Civil Hospital Campus, Ahmedabad and SSG Hospital, Vadodara.

This section is divided into major 6 parts which are as following:

- Personal Background of the Respondents,
- Details of the Patients, knowledge about Rights and Duties of patients,
- Awareness about Medical Negligence/Malpractice,
- Awareness on Legal Rights of Patients as Consumers,
- Views about evidence which can help as a Valid defense against Medical Negligence/Malpractice and
- Social Workers' Role in Medical Malpractice/Negligence.

Snapshot of Type of Respondents and Research Setting at the time of Interview:

Interviews on the topic of research was conducted with **total 21 Medical Service Users**. Out of which **14 (66.67%)** medical service users were providing their services at SSG hospital, Vadodara and **7 (33.33%)** were performing their duty at Civil Hospital Campus, Ahmedabad.

[A] Personal Background of the Respondents

Department wise Distribution of Respondents:

Majority of the respondents (42.86%) were from Medicine Department, followed by Orthopedic Department to be 23.81%. Remaining respondents were from other departments such as Psychiatry (14.29%), Chest (9.52%), Kidney (4.76%) and Preventive and Social Medicine (PSM) (4.76%).

Specialization of Respondents:

Similar to the trends of department in the previous table, majority of the practitioners (42.86%) were doing or have completed M.D. Medicine, followed by medical practitioners (23.81%) doing M.S. Orthopedic. Two respondents were specialized in Psychiatry and Pulmonology each and one respondent each were practicing Gynecology, Community Medicine, and Anesthesia.

Hierarchical Status in Public Healthcare System:

The SR were in their final year of residency and were mainly involved in the supervisory duties of other residents (R1, R2 and R3). Hence, they could allocate time of 1-2 hours for providing their responses for the research. The same is reflected in the data as majority of the respondents (9 respondents, 42.86%) were senior residents (SR). One of the reasons for more number of senior resident doctors were 2 of the respondents (9.52%) were Assistant Professors and Medical undergraduate interns each. 8 respondents (38.10%) were Resident Doctors of Level 1,2 and 3 i.e. first, second and third year of residency program.

Total Experience in the Medical Field:

Most of the respondents (~80%) were pursuing their post-graduation in medicine or surgery and were in their Residency program. Majority of the respondents being Medical Professionals of Residency (pursuing their post-graduation), 61.90% had experience between 6-10 years. It was followed by 6 practitioners (28.58%) having experience of 11-15 years. 1 respondent had less than 5 years of experience and more than 16 years of experience each.

Experience in the current Medical Setup:

Majority (71.43%) had experience of less than 5 years which was once again in alignment of data mentioned above, followed by 6-10 years' experience possessed by 4 respondents (19.05%) and having more than 11 years of experience by 2 respondents (9.52%).

Age of the Respondents:

Most of the respondents (61.90%) were between the age group of 26-30 years. It was followed by 28.57% were between 21-25 years of age. 2 respondents were more than 30 years.

Sex of the Respondents:

2/3rd of the respondents were Male, and 1/3rd respondents were Female.

Indemnity Insurance Facility Availed:

The respondents were asked whether they had availed such insurance for their professional practice. Most of the respondents (90.48%) mentioned that they have not availed any indemnity insurance facility for their medical malpractice. 2 respondents (9.52%) had taken the insurance.

Extraordinary Positive Gesture experienced from Patient or their Family:

The respondents were asked about whether they have experienced extraordinary positive gestures from the patient or their family to which most of the respondents (19 respondents; 90.48%) shared that they have positive experiences with medical service users. 2 respondents did not agree to this.

Incidences of Positive Gestures from Patient or Family:

Few of the incidences shared by the medical practitioners were appreciating the medical practitioners, bringing sweets and food items, bringing gifts at the time of discharge, celebrating patients' birthdays with the doctors, not taking any charges when the respondent mentioned they are doctors, putting at par with God. These incidences showcase the trust of the patients on medical practitioners.

[B] Knowledge about the Rights and Duties of Patients:

This section includes the awareness of respondents on various rights and duties of the patients.

Patient's Rights:

Majority of the respondents' agreed to the different rights of patients which were:

- (1) Right to avail Medical Facility without discrimination based on age, caste, nationality, gender, religion etc. (20 respondents, 95.24%),
- (2) Right to Confidentiality (21 respondents; 100%),
- (3) Right to Informed Consent (20 respondents; 95.24%),
- (4) Right to determine whether to take or refuse treatment (18 respondents; 85.71%),
- (5) Right to seek details, indoor and outdoor case records, prescriptions, bills, receipt and other evidences of diagnosis, treatment and payment (15 respondents; 71.43%),
- (6) Right to Complaint (21 respondents; 100%), and
- (7) Right to Compensation (17 respondents; 80.95%).

Patient's Duties:

Most of the respondents agreed to various duties by the patients.

- (1) Duty to provide complete information about your problem (21 respondents; 100%),

- (2) Duty to provide medical history, measures taken before medical consultation, illness, medicines, allergies etc. (21 respondents; 100%),
- (3) Duty to seek complete clarification (21 respondents; 100%),
- (4) Duty of patient not to take discharge against medical advice (DAMA) (11 respondents; 52.38%), and
- (5) Duty to respect doctor or medical staff as expected from them (20 respondents; 95.24%).

All the duties of the patients were majorly agreed by the respondents except for duty not to take DAMA which was disagreed by 6 medical practitioners (28.57%).

[C] Knowledge of Medical Service Providers about Medical Malpractice/Negligence:

This section includes the knowledge of the Medical Service providers about the Medical Malpractice or Negligence.

Formal curriculum including the topic of ‘Medical Malpractice/Negligence’:

The respondents were asked whether they have studied Medical Malpractice or negligence in their formal curriculum. Approximately 3/5th of the respondents (57.14%) shared that they have studied about this at Graduation Level. 42.86% respondents said that they have not studied but knows about the same.

Medium of Information from where the Respondents had heard about incidence of Medical Malpractice:

Approximately 3/4th respondents shared that such incidences are mostly heard from the social media. Television, Newspaper, professional groups etc. are the other medium of information.

Whether personally experienced or know any practitioners with alleged Medical Malpractice:

When the respondents were asked about whether they have personally experienced or know any practitioner with alleged medical malpractice to which 14 respondents (66.67%) agreed and 7 respondents (33.33%) disagreed.

Meaning of Medical Malpractice:

The respondents were asked about the meaning of Medical Malpractice. 2 respondents shared that it is ‘an act of commission or omission that causes harm or injury to an individual’ and ‘breach of the duty done by a doctor to his patient to exercise reasonable care and skill, which results in some physical, mental or financial disability’ each. Majority of the respondents (15 respondents; 71.43%) agreed both to be the meaning of medical malpractice. 2 of the respondents did not agree to any of the above meanings.

Classification of incidences between Medical Malpractice/Negligence:

The respondents classified the incidences mentioned below between Medical Malpractice, Medical Negligence, both, none and not sure.

The classification of the incidences where majority of the respondents agreed are as follows:

Incidences Classified as Medical Malpractice:

- 1) Conducting unnecessary Surgery (85.71%)
- 2) Unlawful Removal of Patient’s Organs (76.19%)
- 3) Making False or misleading representation concerning the need or usefulness of the treatment (76.19%)
- 4) Treating patient without required medical qualification (71.43%)
- 5) Refusing to provide case papers, bills to patient or caregivers (71.43%)
- 6) Unnecessary Pathological tests (66.67%)
- 7) Not observing the provisions of medical legislation (57.14%)
- 8) Giving approval/recommendation/endorsement/certificate/report with respect to any drug, medicine, surgical, therapeutic article, apparatus with respect to quality and its use (52.38%)
- 9) Exceeding the scope of informed consent (47.62%)
- 10) Doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc. (47.62%)
- 11) Physician running an open shop for sale of medicine for dispensing prescriptions prescribed by other doctors or for sale of surgical appliances (47.62%)
- 12) Withdrawing the case without giving proper notice to the patient and family (42.86%)
- 13) Breach of confidentiality (42.86%)
- 14) Suggesting wrong treatment after diagnosis (38.1%)
- 15) Defective products/prosthesis used (38.1%)

Incidences classified as Medical Negligence:

- 1) Leaving surgical instrument in patient's body during surgery (85.71%)
- 2) Before Surgery, error in providing or administering anesthesia (76.19%)
- 3) Not taking informed consent (61.9%)
- 4) Substandard quality of Surgery (61.9%)
- 5) Failure to attend the patient at the time of emergency (61.9%)
- 6) Undue delay in diagnosis or treatment (52.38%)
- 7) Not warning patients and relatives of specific risks (52.38%)
- 8) Blood transfusion error/Hazards/Reactions (52.38%)
- 9) Operation not indicated even when essential (47.62%)
- 10) Allergic Reaction to patient due to not conducting Allergic Testing where necessary (47.62%)
- 11) Failure or inaccuracy in maintaining Medical Records (47.62%)
- 12) Injection and Vein Puncture hazards (38.1%)
- 13) Mistake While performing surgery or substandard quality of surgery (33.33%)

Incidences classified both as Medical Negligence and Malpractice:

Majority of the respondents (33.33%) mentioned that 'Mistake while performing surgery or substandard quality of surgery' is considered as Medical Negligence and Malpractice both.

Incidences not classified as Medical Negligence or Malpractice

The respondents, while classifying various incidences, did not classify a few of the examples as Medical Negligence or Medical Malpractices. One such example- 'Patients not responding to medication of doctors' was correctly classified as not falling under Medical Malpractices or Negligence by majority of the respondents (95.24%). 42.86% respondents mentioned that 'Error of judgement in diagnosis' cannot be considered as Medical Negligence/Malpractice. Almost half i.e., 47.62% respondents did not classify 'doing advertisement/publicity through any mode as to invite attention to him or to his professional position/skill etc' as Medical Malpractice or Negligence.

[D] Response of Medical Service Providers and Users in the cases of Medical Malpractice/Negligence:

System to record complaints of Medical Malpractice/Negligence:

Majority of the respondents (71.43%) agreed that the current healthcare setup has a system to record the complaints.

Process to escalate the complaint:

Most of the respondents (80.95%) agreed that the current health set up has a process in place to escalate the complaint to the higher authority. When the respondents were asked where can they escalate the same, they mentioned to Resident Medical Officer, Head of the Department, Medical Superintendent.

[E] Views of Medical Service Providers towards Medical Negligence/Malpractice:

In this section, the respondents were asked to express their views on different statements narrated by the researcher and share whether they agree to the statement or not. Following are the responses received.

Statements to which majority of the respondents agreed:

- 1) Any error done by genuine and unintended mistake should not be considered as medical negligence.
- 2) Personal Problems must be kept at bay during treatment of patient.
- 3) Law protects the complainant filing complaint for medical negligence.
- 4) Concerns related to alleged malpractice may be solved mutually.
- 5) Medical Practitioner must take reasonable care while treating the patient.
- 6) Observing prescribed Medical Ethics are very important for doctors while treating the patients.
- 7) Medical Practitioner must maintain dated and signed documents to treat patients well and for his treatment in future.
- 8) Special law should be enacted to manage the risk of occupational violence against doctor and other medical staff.
- 9) Corrective measures must be taken against the doctor involved in medical negligence or malpractice.

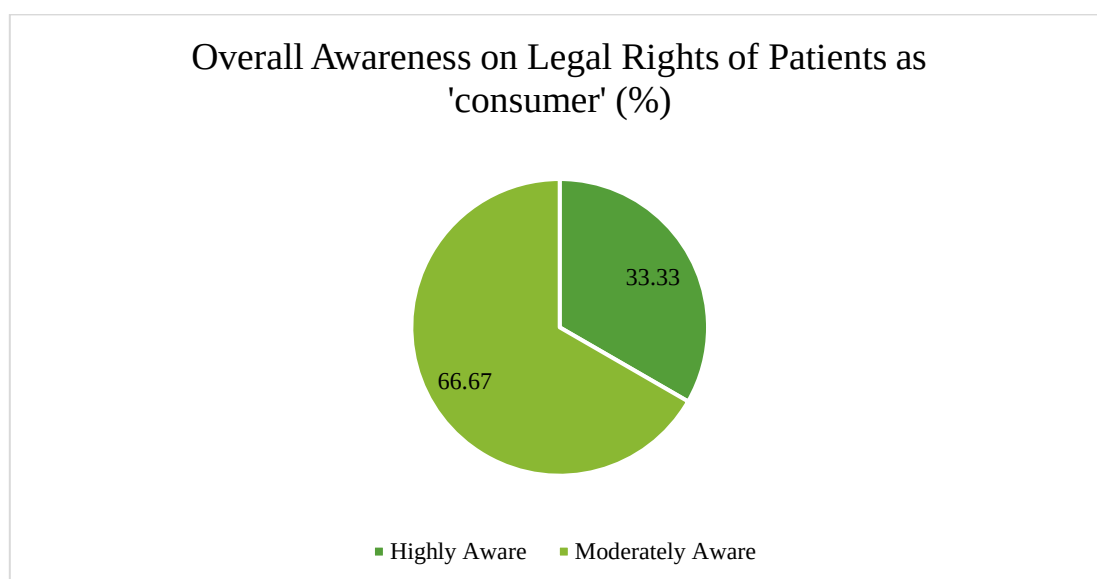
- 10) Doctor should own their mistakes/ negligence.
- 11) Patient must take legal help if aggrieved by medical negligence/malpractice.
- 12) Every system of medicine is handled by human agency and errors by human being is inevitable and permissible.
- 13) Medical Practice by Quacks must be consciously regulated.
- 14) Unfair practices are existing in the medical sector.
- 15) Usually, patients and their family members without understanding the medical ailment start blaming doctor for medical negligence.
- 16) There is at times 'Contributory Negligence' on part of patients which worsens patient's health.
- 17) Overly fatigued doctor must be given time period for rest and rejuvenate in order to prevent possibility of negligence by him/her.

Statements to which majority of the respondents disagreed:

- 1) Legal provision for medical malpractice is unnecessary.
- 2) Medical Practitioner should continue treating the patient despite he/she acts violently.

[F] Knowledge on Law/Legal Rights of Patients as ‘Consumer’:

Overall awareness of Medical Practitioners on COPRA:



The respondents were asked set of questions regarding legal rights of patient as consumer and about the Consumer Protection Act, 2019. 2/3rd of the medical practitioners were moderately aware about the same and 1/3rd of the respondents were highly aware.

[G] Awareness about the Evidence that can help as a Valid Defense against Medical Negligence/Malpractice:

Majority of the respondents agreed to different Evidences that can help to the medical practitioners as a Valid Defense against Medical Malpractice or Negligence. Following are their responses:

8. Qualified Expert's Opinion for the case for which complaint has been filed: 100% respondents
9. Written records of diagnosis, treatment and payment: 100% respondents
10. For diagnosis of medical ailment, adopting more than one method or multiple laboratory tests: 95.24% respondents
11. Medical Practitioner taking necessary precautions while treating the patient: 100% respondents
12. If patient/family members have given consent despite mentioning possible mishap: 100% respondents

13. Putting forth strong arguments or evidence to prove/disprove medical negligence/malpractice: 90.48% respondents
14. Undue delay beyond prescribed time bar in filing the complaint with valid reasons can be condoned by the consumer forum: 52.38% respondents

[H] Role of Social Worker while interventions for Medical Malpractice:

The respondents were asked whether the social workers can play important role in preventing the cases of medical negligence/malpractice and restoring justice to the victims. To which most of the respondents (85.71%) agreed and only 2 respondents (9.52%) disagreed.

Suggestions by the respondents regarding the Role of Social Worker:

The respondents mentioned set of expectations from the Social Workers in prevention of cases of Medical Malpractice and restoration of justice. The roles that were mentioned by the practitioners were as follows:

- Approach the doctors interested in proper practice and spread awareness through them.
- Awareness on Rights of Patients and help them to be responsible patients.
- Become bridge between doctors and patients.
- Intention of SW shall not to increase the cases of negligence in courts, but to reduce the communication gap between practitioners and patients.
- Building transparency in medical practice.
- Awareness on redressal, how to approach the case.
- Provide unbiased intervention to both the parties.
- Not involving into Controversy; helping patient not to fall prey to WhatsApp University.
- Preventing false cases against doctors
- Counselling
- Gather the proofs.
- Recognize early signs.

CONCLUSION

The research attempted to understand Medical Malpractice in the light of the Consumer Protection Law from the Social Work Lens. The phenomena were approached in two phases. In the first phase, the retrospective study was undertaken where the researcher studied 197 judgements passed from the Consumer Dispute Redressal Forums of Vadodara and Ahmedabad from 1st April, 2015 to 31st March, 2023 i.e. 8 years. It was concluded that medical malpractice/negligence cases can occur at any stage of the Medical Practice i.e. Diagnosis of ailment, treatment, Surgery, pre and post Operative Care, Administering Anaesthesia, supervision of the treatment etc. Majority of the cases are disposed from Vadodara Forum majorly due to infamous Vaduwala Case where 16 patients lost their eye-sight after undergoing the cataract operation from 1998-2006. Hence, majority proven cases were of **eye-related ailments**; followed by Orthopaedic and gynaecology related cases. Compensation being a measure of punishment in Consumer Protection Law, the victims were provided average Rs. 2,43,068 in the judgements where the medical malpractices were proven. The Consumer protection law claims to provide speedy trial in resolving the consumer grievances. However, it was found that the average duration in the case disposal was 7 years 11 months in the cases where Medical Negligence was proven.

Second Phase of the research was conducted by interviewing two sets of respondents. Medical Service Users (Patients and Caregivers) and Medical Service Providers (Medical Practitioners). Total 183 patients and caregivers were interviewed. The research concluded that Majority of the Respondents were **Highly aware** about the incidences of Medical malpractices and **Moderately aware** about the Consumer Protection Law. In addition, 21 medical service providers were interviewed. Medical practitioners classified the incidences of Medical malpractices/Negligence according to where the incidence was intentional or mistake. Majority of the practitioners were moderately aware about the Consumer Protection Law. It is important to note that majority of the medical service providers and medical service users agreed that social workers have a role to play in prevention of malpractices and restoration of Justice.

The case of Medical Malpractice has Biopsychosocial and Financial Impacts. Medical Malpractice have tremendous **biological or physiological impacts**. It is a precondition that for malpractice/negligence to be proven in the court of law, there has to be an adverse consequence. Without damage/injury/loss, it cannot be considered as medical malpractice. As seen in the cases presented in the retrospective study or the experiences shared by the respondents in

prospective study, sometimes, it leaves a patient suffer from short term injuries, in other cases it may cause permanent impairment and disability. Due to miscalculation in giving certain dosage of drugs or mistake in surgeries, there are possibility of long-term impact or permanent damage on some organs of one's body. When medical malpractice is combined with genetic vulnerability of the patient, it can multiply the ill-effects on the health of the patient. In many medical malpractice cases, the patient may require making changes in the dietary patterns which may not be affordable for some patients and can worsen the health condition even more. It can cause physical illness, infections, diseases etc. In one of the cases of medical malpractice, the medical practitioner without taking into consideration the fact that the patient has higher level of sugar content in her body, prescribed glucose to her resulting into death of the patient. In other case where the patient's finger was significantly injured due to falling of heavy stone, the medical practitioner did not administer Tetanus injection. This resulted in patient developing tetanus within 5-6 days and causing him permanent impairment. In addition, nothing can be worse than death of the patient resulting from the act of medical practitioner either through negligence or carelessness. The medical malpractice irrespective of its severity in nature cause physiological dysfunction temporarily or permanently.

Medical Malpractice incidences also have **profound psychological impacts** on the victim and their caregivers or family members. It can increase the mental health issues and adversely affect their psychological well-being. The stress of recovery or post recovery can lead to the patient and families suffer from anxiety, depression, frustration, changes in the sleep patterns, difficulty in sleeping, concentration, expressions, emotional stress etc. When the victims do not understand the mechanism to seek redressal and justice, or when he/she has to remain dependent on the caregiver for day-to-day activities, it leaves a feeling of helplessness. It is possible that the patients or caregivers, as a coping mechanism, start or increase the use of alcohol, tobacco or drugs which again have adverse effects of one's health.

In the severe conditions where the victims or family members are unable to cope up or accept what has happened, it may cause Psychosis. It is a disorder in which thought, and emotions are so impaired that contact is lost with external reality.

It may also happen that the family, friends, and other caregivers tend to start blaming themselves for not asking the right questions, signing the consent forms without clarification, not documenting evidence, not paying attention or not having taken the right actions to stop malpractice or negligence. It becomes difficult for them to overcome this feeling of regret.

At times, the victims or family members fear whether to report or file a legal complaint. The fear is of retribution by those making mistake that have a possibility of making situation even worse or getting harmed even more. They also fear that they will be left stranded without adequate treatment to quell the already occurred damage.

In addition, even when the complaints are filed, the burden of proof remains on the complainant which again cause psychological distress to collect the evidence, convince other expert practitioners to provide their opinion on affidavit, trials and waiting for long duration for availing justice. The incidence of medical malpractice provides emotionally testing experience to the victims and their family members.

The **social impacts** due to medical malpractice, the victim may become dependent either through injury, illness or because of basic biological limitation of performing functions normally expected from him/her. The attitude of society in regard to individual who require care and attention varies considerably. In some societies, those who are sufferers have to go through harshness, exclusion and stigmatisation. Whereas, in other families, very good care and emotional support is provided to the victim of medical malpractice. In all the cases, there are social impacts on the individual and their families.

Medical Malpractice enhances the feeling of dependence in the victim and increases caregiver burden leading to complex relationship and adjustment issues. It creates **financial burden** on the family for expenditure of further medical treatment, cost of litigation and trials. At times, the victim loses the employment opportunity or current livelihood which makes the financial condition even worse. When the victim of medical malpractice is a sole bread-earner in the family, it multiplies the ill-effects. In those cases, other family members must come on front to maintain the status quo and fulfil the economic needs of the family. It also leads to unequal division of labour within the family as the roles performed by the victim are now to be performed by other members of the family. The family may face difficulties in the child rearing, taking care of elders, their nutritional, hygiene, and clothing needs etc.

The maladjustment within families lead to the social problems such as domestic violence, problem families etc. When the parents suffer from or lose their lives due to medical malpractice, it has an impact on not only them but the next generation too. Dr. John Bowlby propounded the concept of ‘mental deprivation’ as one of the most dangerous pathogenic factors in child development. Children who are victims of broken families early in their childhood are sometimes found to display psychopathic behaviours, immature personality in

the later years and even retardation of growth, speech and intellect. Adverse events in the childhood may also lead to a person commit even bigger crime which is ultimately suffered by the members of the society. At times, severe outcomes of medical malpractice can also lead to the family becoming problem families whose standards of life are generally far below as accepted minimum. The parents and family members are unable to meet the physical and emotional needs of their children.

Social Withdrawal, exclusion, fear of losing on social resources etc. are other social impacts of medical malpractice. When young children have to become a victim of malpractice, they have to lose an opportunity of education and at times, suffer from bullying and discrimination by other classmates due to disability.

The healthcare and justice system are also a part of the society. The medical malpractice does not only cause illness/injury or loss of life, but also lead to deterioration of doctor-patient relationships and trust on medical practitioners in general. It can also manifest the beliefs on faith healers, quacks etc. which is again injurious practice. The victims and families depend on legal system for seeking justice.

In this Context, carving the role of social workers in the area of Medical Malpractice becomes extremely important. Social work has a role in crisis management, supportive counselling, guiding patients and family members on the redressal mechanisms available for registering complaints, becoming link between patients, families, medical practitioners and redressal mechanisms.

Social Workers can work at micro level with patients and families; at Mezzo level, with neighbourhoods, local organisation, and communities; at Macro level, with the healthcare systems, policy, laws, regulations and international associations.

RECOMMENDATIONS

The researcher recommends the multidisciplinary approach in dealing with the Medical Malpractice in context of Legal framework. The suggestions are provided to following stakeholders:



Below are the specific suggestions and recommendations in this regard.

1) **SUGGESTION TO GOVERNMENT/POLICY MAKERS:**

- **Development of Health Ecosystem:** According to researcher's observations and findings from the research, there is a dire need for allocation of resources for the Healthcare in terms of development of an ecosystem such as health infrastructure, adequate doctor to reduce doctor: patient ratio, adequate support staff, adopting competency frameworks in order to prevent medical malpractices/ Negligence.
- **Guidelines for Medical Malpractice/Negligence:** It is recommended to evolve special guidelines for dealing with Medical Malpractice/Negligence. The robust mechanism may include cross functional domain experts – medical, legal, civil society organizations, academia etc.



The Supreme Court of India too, in the judgement of Jacob Mathew case (2005) suggested the government to develop the guideline for dealing with the cases of medical negligence. However, it is still awaited.

The illustration shows an article published in this regard in Sandesh

- **Formulation of policy for rehabilitation of victims:** The policy for rehabilitation of victims and their families who have been aggrieved due to medical malpractices is recommended. A special measure shall also be taken for the victims who are the main breadwinners of the family.
- **Portal for registering Unethical practices in healthcare:** An online portal is recommended to be created for registering the unethical practices prevalent in the healthcare sector.
- **Independent Regulatory Body:** Establishing an independent regulatory body for keeping checks on the unscrupulous and negligent medical practices existing in both-government and private health sector is suggested. Such bodies shall audit and keep checks on the money minded and business led hospitals, pharmaceutical companies, pathological laboratories to prevent unethical health practices & find out irregularities.
- **Policy against Violence on Doctors:** It is recommended to devise and pass the special policy emphasizing to prevent violence on medical practitioners.

2) SUGGESTIONS TO MEDICAL FRATERNITY:

- **Prevention of Medical Malpractice:** Medical practitioners have a primary responsibility to prevent the medical malpractices by discharging their duty to exercise reasonable skill and care. In addition, they also have a responsibility to prevent the unfair trade practices and promote ethical healthcare practices.
- **Defining and streamlining the Standard Operating Procedures:** The medical institutions are recommended to the extent practicable define and streamline the SOPs for the treatment that can be followed step wise to reduce the error of omission. In

addition, it is recommended to have defined policies for the regular checkups/visits by the medical practitioners and workflow management. There shall also be attempt to reduce overburden on the doctors due to skewed doctor: patient ratio, balancing attendance of the doctors, substitution of doctors in case of non-availability, governing leaves for the doctors, medical students, interns, and staff members to prevent fatigue and burnout and thereby taking steps preventing medical negligence. A reliever system can be developed for enabling the practicing doctor to rest and rejuvenate.

- **Self-Regulatory body for Ethical Medical practice, Education, and research:** Formation of self-regulatory bodies or association is suggested for the promotion of ethical medical practice, education, and research.
- **Role of Medical Education:** While creating the health ecosystem, medical education institutions play important role. The number of students enrolled in the undergraduate and post graduate medical programs is recommended to be increased to cater to the high demands of the healthcare of patients. In addition, regular lectures and trainings in their respective field/disciplines must be conducted and regulated. The teachers have a role to play in instil the medical ethics in the students so as to promote diligence & ensuring skill and care while treating the patients.
- **Regulations against Medical Malpractices:** The Medical fraternity is recommended to develop and maintain the regulations regarding the action that can be taken in the cases of medical malpractices.
- **Capacity Building of Medical Service Providers:** Building capacity and competence of the doctors and the paramedical staff members to prevent the cases of medical negligence. It was shared by the medical service providers that the topic of medical malpractice and negligence are taught in the forensic medicine subject with little importance in the curriculum. It is suggested that more emphasis shall be placed along with the refresher programs and lectures that are open to all on the same topic to develop the ethical workforce in health sector.
- **Invitation to Cross-functional teams:** Researcher recommends that medical fraternity shall invite and accept the cross-functional teams in the treatment of the patients consisting of the medical practitioners, specialist, paramedical staff, nursing support staff, social workers, psychologists etc with a clear boundary on the role for the well-being of patients.

- **Professional and ethical conduct:** The medical service providers are suggested to keep the professional and ethical conduct with the medical service users, respecting their individuality and dignity. For that there shall be training session on how to deal with patients with compassion and empathy, communication and other soft skills shall be conducted across all the levels.
- **Enhancing Access to the Medical Service Users:** It is suggested that every large public/private hospital shall put the sign boards that are self-explanatory, in vernacular language so that the medical service users are able to access various facilities available. In addition, in the Indian context, when the patient is accompanied by more than one relative, there shall be adequate provision for lodging, boarding and refreshment at a nominal rate through resource mobilization from government or private Corporate Social Responsibility funding.
- **Awareness Generation:** It is recommended to generate awareness through display boards about the rights, responsibilities of the patients, mechanisms for the grievance redressal and support systems available within the hospital set up.
- **Obtaining Informed Consent:** It is the responsibility of medical practitioners to explain in detail about the consent process, the outcome of the medical procedures, measures to be taken cared of and post-operative consequences. In case if the patient and relatives seek any clarification, they shall provide the same and thereby obtaining informed consent in true sense. Also, informed consent shall be compulsorily prioritized before any clinical trials.
- **Taking Accountability:** The medical service providers are recommended to assume responsibility and accountability in case of any error/mistake that have happened by them in the treatment process. The training programs for the medical practitioners are suggested to include how to break the bad news and handle the emotional reactions of the medical service users.
- **Developing Mechanism for handling Grievances:** The medical service providers, while data collection shared that, senior doctors in the position of decision making at the healthcare facility can be approached in case of complaint about the Medical Malpractice or Negligence. However, it is recommended to design the robust system for both the public healthcare institution and private health setup through policy measures for the medical service users to escalate their complaints and grievances. The

system shall be disseminated to all the doctors, staff as well as the patients and families to make it accessible.

- **Data Management:** It is suggested to provide importance to the maintenance of dated and signed medical records, payment receipts, lab reports of the patients etc. & storing it up to appropriate time for safeguards in case of medical negligence/malpractice. Awareness on data management can be spread and technology shall be used to include its access to patient and their families.

3) SUGGESTIONS TO LEGISLATURE/JUSTICE SYSTEMS:

- **Enactment of Law:** The legislature is recommended to enact the laws to restore justice to the stakeholders of Medical Malpractice.
- **Capacity Building of Consumer Forums for fair and Speedy Trial:** It is observed in the findings that, the Consumer Protection machinery which was developed for the fair and Speedy Trial protecting the rights of consumers, took average more than 7 years to deliver justice. Hence, measures are recommended for capacity building to ensure the fair and speedy trial and adjudication in the interest of justice.
- **Alternative Mechanism for Medico-legal issues:** It is suggested to develop an alternative machinery for dealing especially with the medico-legal issues.
- **Involvement of Legal Aid:** The existing machinery of the legal service authorities, NALSA, DLSA etc. can spread awareness about the legal safeguards available for both the medical service users and providers.
- **Involvement of Medical Professionals in bench:** In case of deciding about the medical malpractice/negligence, it is recommended that the medical practitioners shall be considered in the bench of expert during proceedings and adjudication.

4) SUGGESTIONS TO REGULATORY BODIES:

- **Medical Regulations:** It is recommended to develop an independent regulation for the medical practice and education, drug and medical equipment/device manufacturing & marketing and usage.
- **Regulating the Unscrupulous Practices at local level:** The research showed that most of the patients visiting public hospitals first consult about their symptoms at clinics near to their home or family doctors. This becomes the first point of contact for the patients

of the healthcare providers. Hence, appropriate checks and balances at the local level are suggested to prevent unscrupulous practices for example treatment by quacks, prescription of inappropriate medications without clinical trials, AYUSH doctors practising allopathy etc.

- **Monitoring and Evaluation:** Monitoring and evaluation of the medical regulations to address the gaps, challenges and prevent non-compliances. The checks and balances on the pharmaceutical company's tie ups with doctors shall be assessed by identifying the sponsored vacations, conferences and the drugs prescribed on majority basis by the medical practitioners.

5) SUGGESTIONS TO MEDICAL SERVICE USERS:

- **Awareness about the Treatment process:** The Medical service users are recommended to take interest and be aware about the treatment process by understanding the medical procedures, seeking clarifications, obtaining medical reports, payment receipts, laboratory test reports etc. It also involves providing informed consent for the treatment process.
- **Obtaining Second Opinion:** The users are suggested to obtain second opinion of other doctors; double verification of the lab reports especially in the cases of critical illness in order to save themselves from being victim of the medical malpractice and negligence.
- **Not to fall prey of the guarantees:** The medical users must understand that the success of the treatment is dependent on the multiple factors. As a patient, it is their duty not to fall prey to the guarantees and false promises provided in the advertisements of the health service providers and double examine before agreeing for the treatment.
- **Providing correct medical history:** The medical service users are recommended to provide correct medical history, explanation of the symptoms and the prior treatment if taken to enable medical practitioners decide on the accurate line of treatment and prevent the cases of medical errors.
- **Protecting the respect and dignity of medical practitioners:** The medical service users are suggested to protect the dignity and respect of the medical practitioners. This also includes not to take law in their hands and show aggression/violence of the medical practitioners and staff members.

6) SUGGESTIONS TO SOCIAL WORKERS:

- **Carving the role of social work in dealing with Medical Malpractice:** Social workers are recommended to evolve near these new issues that have emerged due to increasing medical malpractices.
- **Capacity Building of Medical Social Workers:** The social workers are recommended to be equipped with the adequate knowledge and skills about their role in case of incidence of medical negligence or malpractice.
- **Crisis Intervention:** Social worker has a role in the crisis intervention and counselling in the incidence of medical malpractice for both the stakeholders i.e., medical service providers and medical service users.
- **Awareness and Sensitization Programs:** The social workers are suggested to conduct awareness and sensitization programmes for the local communities, medical practitioners and lawyers about the rights and duties of the patients, incidences of medical negligence/malpractice, legal machinery and redressal systems, safeguards in medical negligence/malpractice. The social workers in this case take support of the doctors and lawyers interested in proper practice and spreading awareness.
- **Medium of Spreading awareness:** The research identified that the popular medium of information about the medical negligence and cases against medical practitioners are primarily newspaper, social media, and television. The same can be utilized for the awareness generation as above by the social workers.
- **Role of a Mediator:** The social workers are recommended to play a role as a mediator during the process of medical treatment to build transparency, accountability, and clarity on both the sides. They can explain the patients about the need of the treatment, importance of medical procedures and aid the medical practitioners about convincing the patients about the line of treatment and maintain discipline of the hospital. In addition, social workers can contribute to reduce the contributory negligence on the patients' side and false allegations on medical practitioners. However, in case of adversity, they can also become a voice for raising patients' concerns.
- **Prevention of Violence on Doctors:** Social workers are suggested to exhibit the skill of grievance handling and thereby prevention of violence on the healthcare professionals.
- **Participation at Local Level:** Social workers are suggested to build the capacities of the local self-governing bodies, healthcare staff at the primary and secondary health

services and the local community and thereby developing sensitisation and proactive approach while dealing with medical malpractice cases at local level. In addition to that, appropriate empowerment of the ASHA workers and other leaders as many a times, they also play a role of a caregiver in rural and semi-urban areas.

- **Promotion of Collective Action:** As provided in Chapter IV, few of the voluntary consumer organization came forward to take collective action for the victims who have suffered from similar type of medical negligence. More such organisations are recommended to be formulated for protection of rights of the patients, prevention of medical malpractices & restore justice to the victims and family.
- **Formation of Victim Support Groups/Associations:** Social workers are suggested to facilitate the formation of support groups or association of the victims of medical malpractice for the guidance on restoring justice and remedial measures.
- **Preparing cadre of Volunteers:** As mentioned above in the suggestion to medical fraternity to put the sign board so that medical service users can understand about the directions and access the health facilities. In view of this, social workers are suggested to mobilize the cadre of volunteers may be the retired professionals, youth or other interested individuals who can guide and support the patients and caregivers to access the resource systems. In Vadodara and Ahmedabad, many fieldwork placements in social work education are provided in the health institutions and the student social workers can bridge the gaps between the need and the available resources. A short-term course shall also be offered to them to build their capacities and sensitivity to work in the health sector.
- **Policy Advocacy:** The policy advocacy by the social workers is crucial to prevent the cases of medical malpractices and to prioritize the topic to be included in the formal medical education giving its due weightage, along with developing the alternative strategies for awareness building and sensitization at macro level.
- **Wellness workshops for Medical Service providers:** Social workers are recommended to conduct wellness workshops for the medical practitioners so that they do not treat patients with stress, anxiety and burnouts and thereby medical negligence can be prevented. This can provide a platform for the medical practitioners to rejuvenate from the demanding work schedules.

APPLICATION OF METHODS OF SOCIAL WORK

Social work profession provides their interventions through six methods: (1) Social Case Work, (2) Social Group Work, (3) Community Organization, (4) Social Welfare Organization, (5) Social Action, (6) Social Work Research. Below is the application of the methods of social work with regard to the research topic:

1) Social Case Work:

There are multiple components involved in the social casework i.e. Person, Problem, Place and Process. It is believed that **Person** with a **Problem** comes to a **place** where social worker provides intervention by **process**.

Components of Social Case Work:

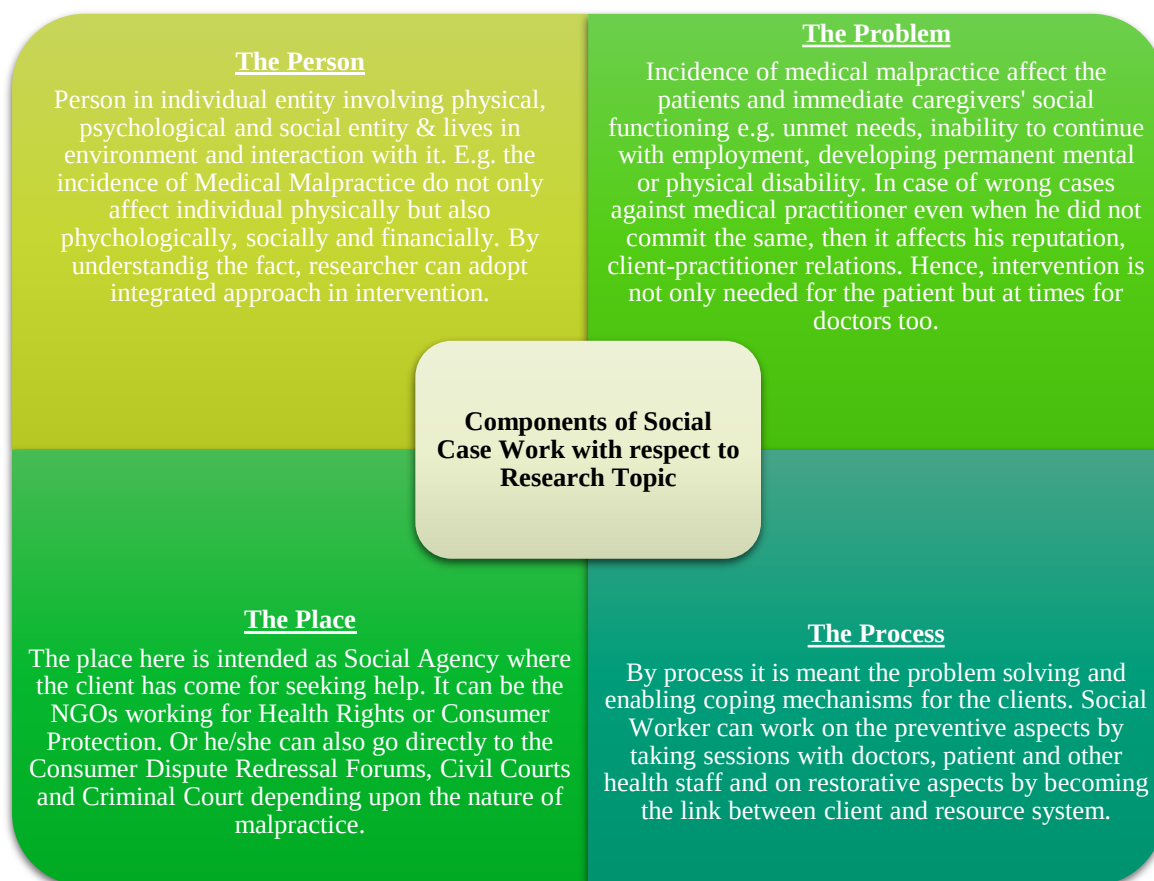


Figure 42 Components of Social Casework

As mentioned, social casework is the intervention at individual level and majorly in Medical Social Work, excepting the role of community awareness/sensitisation, social worker becomes the link between different systems for easing the process of healing.

Role of Social Case Worker:

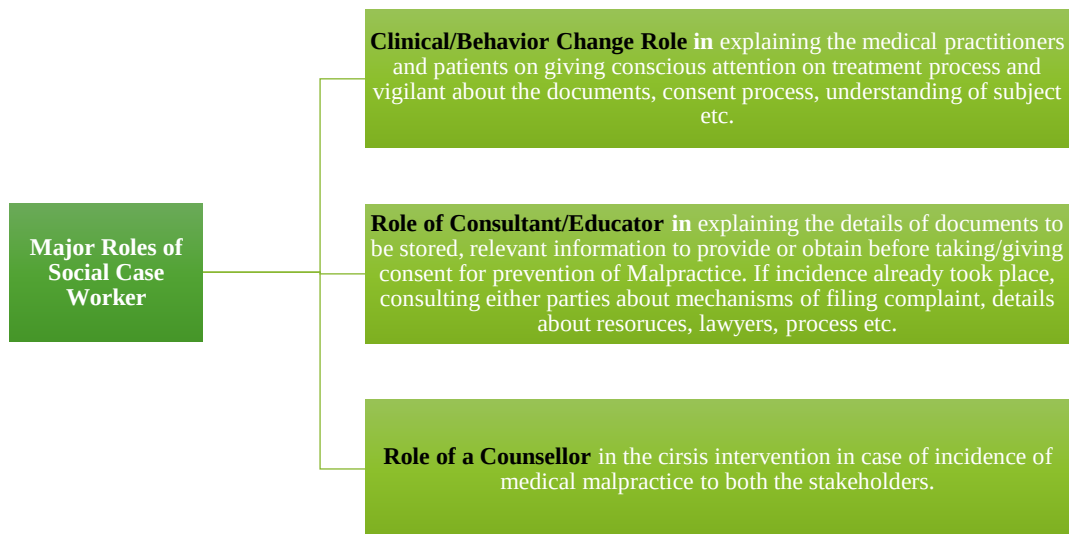


Figure 43 Role of Social Case Worker

Social worker can use multiple techniques such as **interview, home visit, referral, environmental modification, communication** etc. From above description, it can be inferred that social worker by using the method social casework can contribute significantly to prevention of medical malpractices cases and restoration of justice.

2) Social Group Work:

Programme Planning can be very much useful for generating awareness among different groups and community members so that they remain conscious of the diagnosis, treatment process, consent in the healing process and the legal measures that can be taken by them in case of any mishap. In addition, various social security measures can be informed to them for health. **In the Health Settings**, group worker is an important member of the team that is composed on medical doctor, psychiatrists, psychologist, therapists, nurse and case worker. The group worker can provide their services and

- Enable the patients facing similar problems in coming together and support each other.
- Generating the feeling of belongingness and by that providing courage to adjust to community at large after the illness.
- Making the use of group as therapeutic agent for emotional growth and attitudinal change through process of mutual exchange of information and feeling.

Social group work has **four different model** in which it can be practiced which are as below:

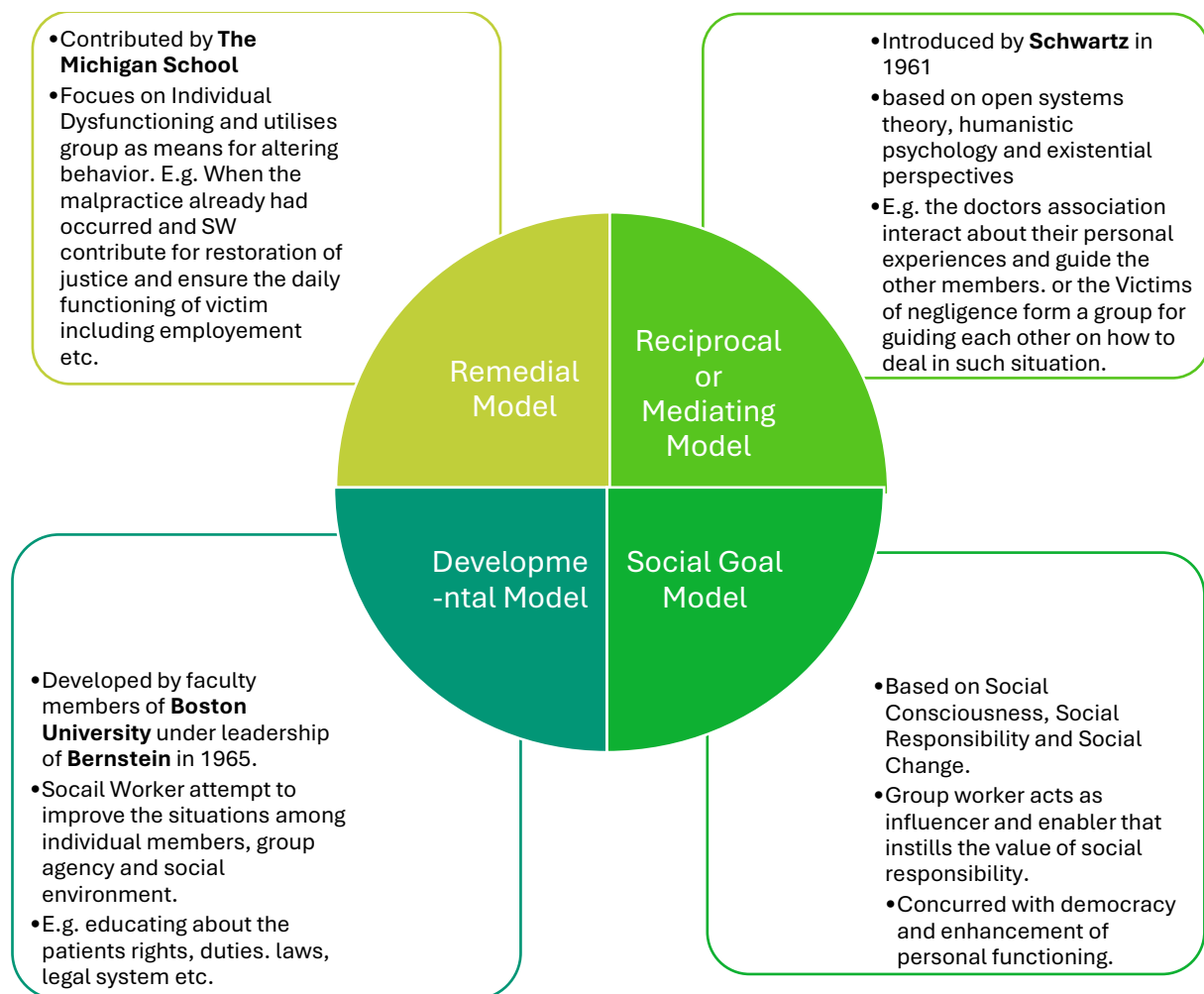


Figure 44 Models of Social Group Work

3) Community Organization:

Methods of Community Organising:

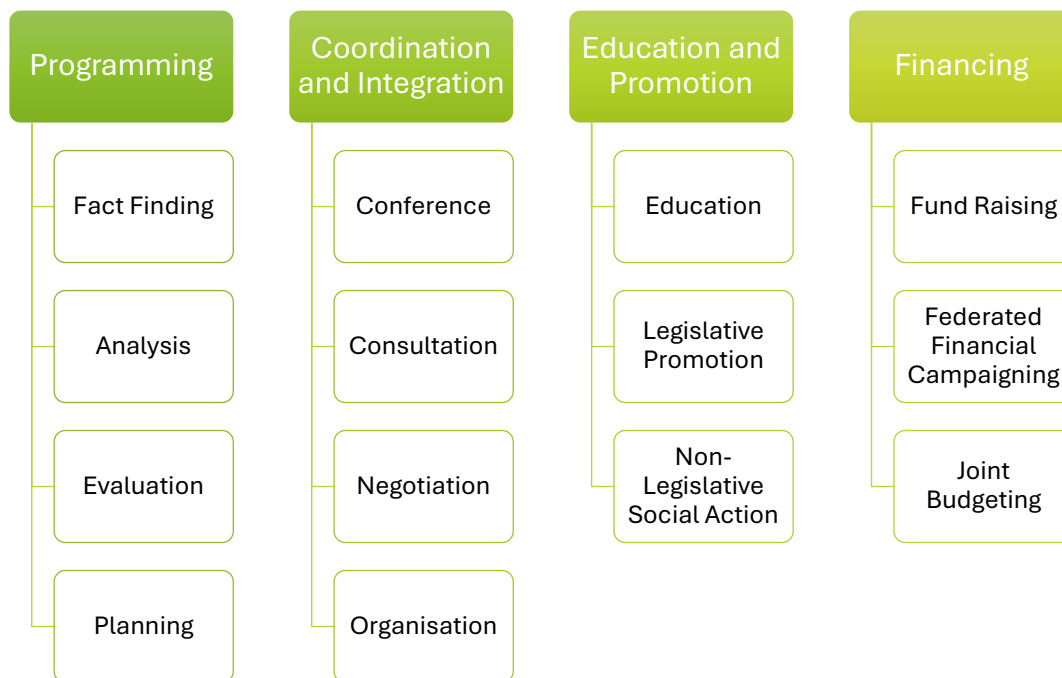


Figure 45 Compiled by Researcher from Book:

Community Welfare Organisation by Arthur Dunham

Few of the method of CO is also used as secondary methods and in administration, research, and social action. With respect to research topic, the description of methods are as follows:

- 1) **Programming:** To working with communities on Medical Malpractice and Consumer Protection Act;
 - **Fact-finding:** Magnitude of problem, service providers, survey of the cases of medical malpractices.
 - **Analysis** of effects of Medical malpractices on patients, functioning of the consumer dispute redressal machinery, difficulties faced, the specialty of doctors, details of the cases.
 - **Evaluation-** Evaluation of whether to focus on medical errors, unethical practices, misconduct, awareness or capacity building etc.
 - **Planning** about the project based on feasibility and resources.
- 2) **Coordination and Integration:** In this method, various resources are identified, and collaborations and partnerships are made to best execute the plan. It can be done through:

- **Conference** i.e. informal group discussion by members to integrate for the purpose. E.g. medical practitioner, legal expert, social worker, extension worker can come together in sensitising community for prevention of medical malpractice. For receiving technical and resource knowledge, skills, understanding of the problem and community from the specialised expert.
- **Consultation** and negotiations for consensus
- **Organisation** of roles and responsibilities.

3) **Education and Promotion:** in this research topic, education and promotion method at community level is utmost important. In the methodology, researcher has included the assessment of awareness of stakeholders about Malpractice and COPRA. Their awareness can ensure prevention of Medical Malpractice at first.

- **Education** includes understanding of problem, facts, produce conviction, developing community trust by participation of stakeholders.
- **Promotion of legislative objectives.** When the Consumer Protection Bill, 2019 was introduced in the Parliament and in 1995 when medical services were included in Consumer Protection Act, 1986, lot of deliberations were done by consumer organisation, legislators, lawyers, medical fraternity etc.
- **Non-legislative Social Action** can be done e.g. When the Medical Council caution or disciplines the doctors for medical malpractices.

4) **Financing:** For execution of the planned project, financing becomes important through **fund raising. Federated financial campaigning** and **joint budgeting** to obtain resources.

4) Social Action:

Models of Social Action (Britto, 1984):

Elitist Social Action	Popular Social Action
Group Action carried out by elite or with marginal participation of masses. In this model, target group is not involved.	Social Action by elitists through incorporating the clientele in the process or beneficiaries themselves.
Legislative Social Action Model: Effort for modifying social policy through extensive study of gravity and urgency of problem and creating public opinion and lobbying. E.g. enactment of the Consumer Protection Act, 1986.	Britto's Model: Large section of people participating in confrontational action against unjust structures, agencies, policies, procedures, or oppressive agents. E.g. all-India protests by medical professionals/students for introduction of National Medical Commission Bill, 2019.
	Paulo Friere's Conscientisation Model: Creating awareness among masses through educating about the oppression, oppressed and oppressor. E.g. In this topic, if all the stakeholders in Medical Malpractice and Legal Action are conscientized, the cases can be prevented/reduced, and justice can be ensured.
	Dialectical Mobilisation Model: Promotes conflict with belief that better alternative system will emerge as a result. E.g. inclusion of Medical Profession within COPRA in case of Indian Medical Association v. V.P.Shantha and Ors in 1995.

5) Social Welfare Administration:

The two major welfare structures related to Researcher's topic is the **Healthcare Delivery Structure** and another is **Consumer Dispute Redressal Forums** wherein the social work interventions can be provided. Through social welfare administration can play crucial role in regulatory oversight, resource allocations for development of health ecosystems, increasing access to healthcare etc.

Healthcare Delivery in India: Administrative Structure

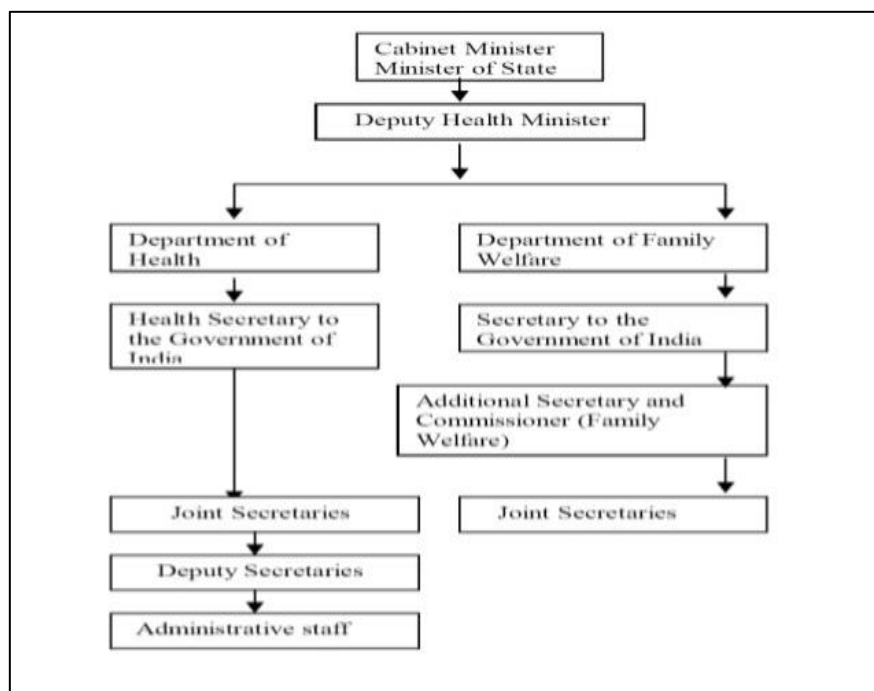


Figure 46 Structure at Central Level

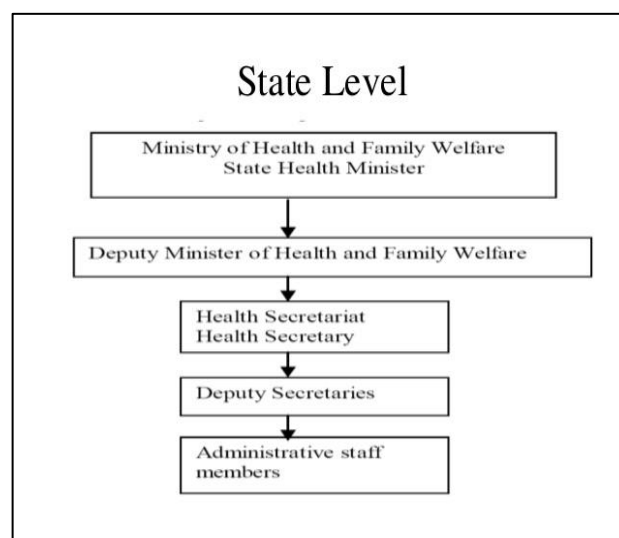
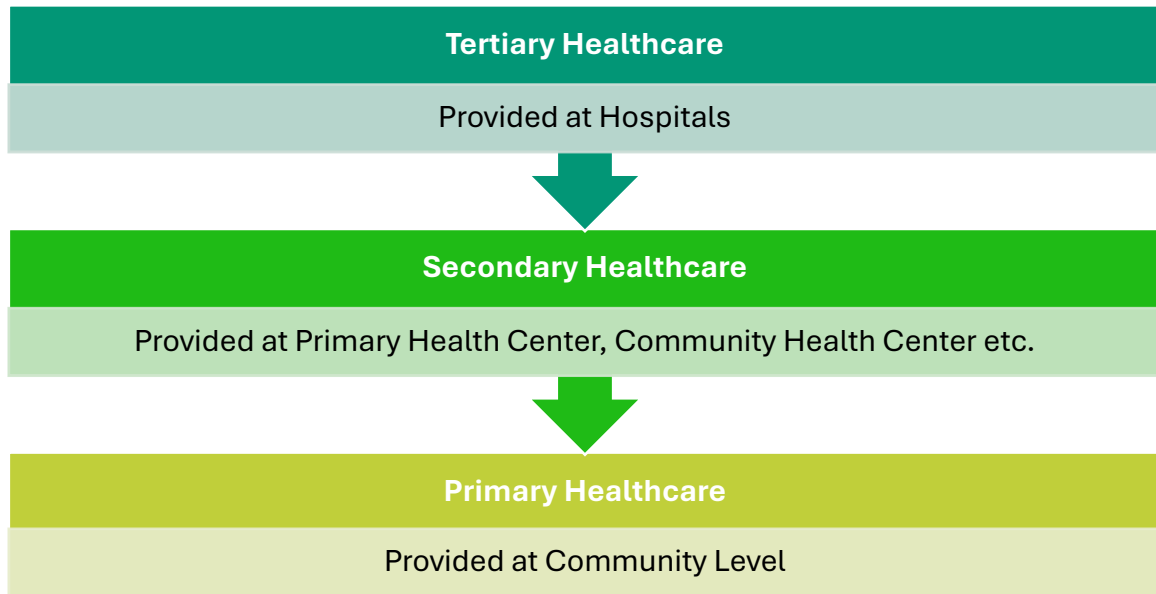


Figure 47 Structure at State Level

Levels of Healthcare at District Level:



6) Social Work Research:

Scope for further research from the lens of social work on the topic includes,

- Comparative Research on awareness of Medical Negligence/Malpractice from the stakeholders of healthcare at Rural and Urban Areas
- Research on Medical Malpractices with a focus on Private Health Sector including Trust Hospital, Polyclinic and Individual practitioners
- Research on Medical Malpractices/Negligence in context of Legal Systems – Civil, Criminal and Consumer laws.
- Research incorporating experience of Violence on Doctors