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***“Indian Law Perspective Of Medical Jurisprudence - A Legal Study”***

By: Ms. Jayapreethi (M.SC, B.ED, M.L) (Assistant Professor of Law, Saveetha School of Law,  
Saveetha Institute of Medical and Technical Sciences, (SIMATS), Saveetha University)

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## **ABSTRACT**

Medicolegal is that the term, which includes the fundamentals of 2 sister professions i.e. medicine and Law. everyone talks regarding the law however few, other than lawyers, judges and law lecturers, have more than the vaguest notion of what constitutes law. the typical common man usually has as much correct information concerning the law as he has concerning medicine-or life on Venus. physicians often comprehend too little concerning the law and the way it affects them within the practice of their profession. The doctor meets the law at each turn. He confronts it when, as the treating doctor, he's subpoenaed as a witness during an personal injury lawsuit; he meets it once his aid is wanted as an expert in reference to a claim that another member of his profession has been negligent and once he's faced in his workplace or clinic by a narcotic addict, a person with a shooting wound, or a young couple seeking a biopsy. The medical practitioner, in fact, finds a good deal of the law intensely irritating, actually because he's conditionally clear on its purpose. The revolution in scientific technology is waving like quick flowing air and water within the present of advancement. the sphere of law is additionally below the shadow of scientific advancement. judiciary, notably the criminal justice system, isn't untouched with the advancement of science. In this paper, we shall discuss in detail about the new tests that have evolved like narco Analysis, Brain mapping, Human Cloning etc and see how their implementation has affected in India.

**KEY WORDS:** Narco Analysis, Medical jurisprudence, Scientific Advancement, Law, Information.

## INTRODUCTION

Medical jurisprudence is that the application of life science to legal issues. it's generally concerned in cases regarding blood relationship, mental state, injury, or death ensuing from violence.<sup>1</sup> Autopsy is commonly accustomed verify the reason behind death, notably in cases wherever iniquity is suspected. Post-mortem examination will verify not solely the immediate agent of death (e.g. gunfire wound, poison), however might also yield vital contextual information, like how long the person has been dead, which might facilitate trace the killing. medical specialty has additionally become progressively vital in cases involving rape.<sup>2</sup> modern techniques use such specimens as semen, blood, and hair samples of the criminal found within the victim's bodies, which might be compared to the defendant's genetic makeup through a way called DNA fingerprinting; this method might also be used to establish the body of a victim.<sup>3</sup> The establishment of significant mental illness by a licensed psychologist are often utilized in demonstrating incompetence to face trial, a way which can be utilized in the mental disease defense, albeit occasionally.<sup>4</sup> he following subjects contend with all the higher than aspects of Law and medication are # Forensic medicine, # Medical Jurisprudence, # Toxicology. Machine learning and artificial intelligence (AI) is creating speedy strides within the aid sector in India. international technology leaders like Microsoft, Google and Siemens furthermore as dozens of recent Indian startups are introducing promising AI solutions to deal with the country's burgeoning aid wants.<sup>5</sup> Negligence could also be outlined as breach of duty caused by the omission to try and do one thing that an inexpensive man, target-hunting by those concerns that unremarkably regulate the conduct of human affairs would do, or doing one thing that a prudent affordable man wouldn't do, unjust negligence consists within the neglect of the utilization of due care or observant due care and ability toward someone to whom the suspect owes a obligation of observant due care and ability.<sup>6</sup> The aim of the study is to understand in detail the various perspectives of usage of Medical jurisprudence in India. The objective of this research is to know about the medical jurisprudence

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<sup>1</sup> (Tripathi)

<sup>2</sup> ("Medical Jurisprudence")

<sup>3</sup> (Rai Bahadur Jaising)

<sup>4</sup> (Glaister)

<sup>5</sup> (Taylor)

<sup>6</sup> (Lyon)

in general, To analyse about the various new advancements like DNA fingerprinting, Brain mapping, Narco Analysis and To understand the effects of these tests in solving a case.

## **LITERATURE REVIEW**

### **A Textbook of Medical Jurisprudence and Toxicology (25th Edition), Dr. Jaising P. Modi , 2016.**

A Textbook of Medical Jurisprudence and toxicology reigns supreme in its field since its initial edition in 1920. it's a well-established, specialised and extremely recommended text on Medical Jurisprudence and pharmacological medicine. this 25th edition of this monumental work is revised by Justice K Kannan, a noted decide and a famous scholar, unitedly with specialist contributors from various fields. retentive the flavour of Modi's pristine brilliance, this completely revised edition traces comprehensively all major developments within the field of law and medical specialty. during this revised edition, references to obsolete medical literature are weedless out and several other chapters are rewritten in light-weight of latest scientific advancements. Medico-legal aspects of rape are re-examined, keeping in mind the considerations of academic community on sensitive gender problems. The section on pharmacological medicine has been extensively updated to form it a lot of helpful to rhetorical scientists and analytical chemists. this edition can encourage be useful in understanding each the complexities and therefore the nuances of the topic and its practical application.

### **A Text-Book of Medical Jurisprudence and Toxicology, Rai Bahadur Jaising, 2017,**

Medical Jurisprudence and toxicology for India covers some essential details and sensible aspects of medical jurisprudence and pharmacological medicine. This book is organized into 2 part encompassing thirty four chapters. The opening chapters of half I handle legal procedure in criminal courts, physical proof of the crime, autopsy, exhumation, and a few medico-legal practices. extensive chapters ar dedicated to different aspects of legal drugs, as well as determination of death causing, legitimacy of proof, incident of rape and unnatural offenses, miscarriage, infanticide, insanity, and therefore the privileges of medical men. half II focuses on the materia medica aspects. This half emphasizes the medico-legal aspects of some categories of

poisons, like corrosive, irritant, neurotic, cerebral, spinal, cardiac, and peripheral poisons. This book can prove helpful to medical school students.

**Medical Jurisprudence for India: With Illustrative Cases, Isidore Bernadotte Lyon, 2018,**

This work has been selected by students as being culturally vital, and is an element of the knowledge base of civilization as we all know it. This work was reproduced from the initial whole, and remains as faithful the initial work as attainable. Therefore, you may see the initial copyright references, library stamps (as most of those works are housed in our most vital libraries round the world), and different notations within the work. This work is in the public domain in the united states of America, and presumably different nations. among the us, you'll freely copy and distribute this work, as no entity (individual or corporate) contains a copyright on the body of the work. As a replica of a historical whole, this work might contain missing or blurred pages, poor footage, errant marks, etc. students believe, and that we concur, that this work is vital enough to be preserved, reproduced, and created usually obtainable to the general public.

**DNA Fingerprinting: Advancements and Future Endeavors, Hirak Ranjan Dash, Pankaj Shrivastava, Braja Kishore Mohapatra, Surajit Das. 2018**

This book describes the fundamentals and numerous applications of DNA process, as well as in actual case studies. The book is split in four modules; Module 1: Basics of DNA process, Module 2: Applications of DNA process, Module 3: DNA Fingerprinting: Case Studies, and Module 4: way forward for DNA process. every module consists of four to five chapters, written by supposed researchers, teachers and rhetorical scientists from around the globe. The several chapters cowl e.g. connected fields, the tools and techniques used, numerous genotyping kits, real-world case studies, ancient DNA and wildlife forensics, molecular diagnosing of human diseases, legal aspects, microorganism forensics and therefore the economic science of the DNA process technique. The book offers a sensible guide for professionals, graduate and postgraduate students within the fields of rhetorical Science, Medicine, Genetics, social science, biology, and biology. It additionally is a helpful reference resource, summarizing major technological advances within the field of DNA process, issues|the issues} visaged during this field of science and attainable new solutions to those problems. Presently, DNA process is employed in finding the bulk of criminal

cases; in and of itself, the book is additionally useful for investigation agencies, because it includes representative case studies.

**Law of Lie Detectors: Narcoanalysis, Polygraphy, Brain mapping, Brain Fingerprinting, Yawer Qazalbash, Universal Law Publishing Company, 2011.**

The authors critically analyse most of these laws, examining their justifications, background debates, and evolution, along with how they violate constitutional and jurisprudence. Taking under consideration relevant and up to date comparative case law and developments in jurisprudence, this book makes a powerful case for daring legal reforms and suggests numerous measures for improvement.

## **MATERIALS AND METHODS**

The methodology adopted is both doctrinaire and empirical. The problem is analysed in the light of the international instruments, constitutional provisions and other relevant statutory materials besides relevant case laws touching on the topic.. For convenience discussions are made under various chapters. In a total 1554 samples were taken for the present study in a random sampling and questionnaire method. The research tool used for the present study is SPSS DATA Analysis software which is used for the sample size calculation. The independent variable taken for the present study is the gender. The dependent variable in the present study is the information regarding the national importance is safer to disclose and non disclosure of certain information is constitutionally valid. The dependent variable taken for the present study is calculated in accordance with the independent variable available for the present study. The sampling method used in the present case is questionnaire method. Chi square analysis, crosstab and frequency analysis test is used for the present study for the calculations of the sample size.

## **RESULT ANALYSIS AND DISCUSSION**

### **HYPOTHESIS**

**H<sub>0</sub>:** Complete benefit of these medical jurisprudence techniques are enjoyed already.

**Ha:** Complete benefit of these medical jurisprudence techniques can be enjoyed only if an enactment recognizing these techniques as primary evidence is formulated.

**FREQUENCY TABLE**

**AGE**

		<b>Frequency</b>	<b>Percent</b>	<b>Valid Percent</b>	<b>Cumulative Percent</b>
<b>Valid</b>	<b>Below 18yrs</b>	<b>504</b>	<b>32.4</b>	<b>32.4</b>	<b>32.4</b>
	<b>19 - 30 yrs</b>	<b>632</b>	<b>40.7</b>	<b>40.7</b>	<b>73.1</b>
	<b>31 - 50 yrs</b>	<b>371</b>	<b>23.9</b>	<b>23.9</b>	<b>97.0</b>
	<b>Above 50 yrs</b>	<b>47</b>	<b>3.0</b>	<b>3.0</b>	<b>100.0</b>
	<b>Total</b>	<b>1554</b>	<b>100.0</b>	<b>100.0</b>	

From The above table it can be concluded that when the age group was chosen as a independent variable, totally 1554 were surveyed. Out of which 32% were below 18 years of age. And 40% were 19-30 years age group. 23% were within the age group of 31-50 years. However only 3% were of age group above 50.

**The complete benefit of these medical jurisprudence techniques can be enjoyed only if an enactment recognizing these techniques as primary evidence is formulated.**

**Crosstab**

**Count**

**7.The complete benefit of these medical jurisprudence techniques can be enjoyed only if an enactment recognizing these techniques as primary evidence is formulated.**

		Agree	Strongly agree	Neutral	Disagree	Strongly disagree	Total
<b>AGE</b>	<b>Below 18yrs</b>	248	63	177	3	13	504
	<b>19 - 30 yrs</b>	122	316	45	104	45	632
	<b>31 - 50 yrs</b>	92	68	39	130	42	371
	<b>Above 50 yrs</b>	23	6	6	9	3	47
<b>Total</b>		<b>485</b>	<b>453</b>	<b>267</b>	<b>246</b>	<b>103</b>	<b>1554</b>

From the above table it can be inferred that under the age group of 18 years, 504 responses were collected out of which 248 agreed, 63 strongly agreed, 177 remained neutral, 3 disagreed and 13 strongly disagreed when asked “ The complete benefit of these medical jurisprudence techniques can be enjoyed only if an enactment recognizing these techniques as primary evidence is formulated.” Similarly in the 19-30 category 122 agreed, 316 strongly agreed, 45 remained neutral, 104 disagreed, 45 strongly disagreed. In the category of 31- 50 years, 92 agreed, 68 strongly agreed, 39 neutral, 130 disagree and 42 strongly disagreed. In the category of above 50 years, 23 agreed, 6 strongly agreed, 6 neutral, 9 disagreed and 3 strongly disagreed.

### **Chi-Square Tests**



	Value	df	Asymptotic Significance (2-sided)
<b>Pearson Chi-Square</b>	<b>579.690<sup>a</sup></b>	<b>12</b>	<b>.000</b>
<b>Likelihood Ratio</b>	<b>605.226</b>	<b>12</b>	<b>.000</b>
<b>Linear-by-Linear Association</b>	<b>92.697</b>	<b>1</b>	<b>.000</b>
<b>N of Valid Cases</b>	<b>1554</b>		

**a. 1 cells (5.0%) have expected count less than 5. The minimum expected count is 3.12.**

The Pearson chi square value 0.00 which is less than 0.05. The minimum expected count is 3.12. Therefore, the alternate hypothesis has been moved and therefore, The complete benefit of these medical jurisprudence techniques can be enjoyed only if an enactment recognizing these techniques as primary evidence is formulated.

## **DISCUSSION:**

Narco Analysis: A Volcano In Criminal Investigation System: The revolution in scientific technology is waving like quick flowing air and water in the contemporary world of advancement.<sup>7</sup> the sphere of law is additionally underneath the shadow of scientific advancement. judiciary, notably the criminal justice system, isn't untouched with the advancement of science.<sup>8</sup> A volcano has emerged within the age recent established laws of crime detection and investigation with the introduction of readtechniques of crime detections like Brain Mapping, Narco-Analysis, Hypnosis, P-300 and polygraph test in laws of proof and criminal jurisprudence.<sup>9</sup>

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<sup>7</sup> (Pinto)

<sup>8</sup> ("A Review: Medical Jurisprudence for India")

<sup>9</sup> (Latha)

Brain Mapping test: The Brain Mapping check is additionally referred to as P-300 test.<sup>10</sup> during this test of Brain Mapping the suspect is initial interviewed and interrogated verify whether or not he's concealing any information. The activation of brain for the associated memory is dispensed by presenting list of words to the subjects. Forensic Science embraces all branches of science and applies them to the aim of law. Originally all the techniques were borrowed from varied scientific disciplines like chemistry , medicine, surgery biology, photography. The importance of the medical professionals within the society and therefore the quantity of sincerity they place in to their work. It additionally portrays the issues that they moon-faced until go back the society within the name of Medical Negligence.<sup>11</sup>Autopsy: Autopsy is that the systematic examination of a clay for study or for deciding the reason behind death. Autopsy suggests that "see for yourself". it's a special surgery, performed by specially trained physicians, on a body. Its purpose is to find out the reality regarding the person's health throughout life, and the way the person very died. Autopsies, additionally called necropsies, postmortems, or postmortem examinations, use several organized procedures to work out the etiology and pathologic process of diseases, for epidemiological functions, for institution of genetic causes, and for family counsel. There are several benefits to obtaining associate degree autopsy. Even once the law doesn't need it, there's invariably one thing fascinating for the family to grasp.<sup>12</sup> Post-mortems could also be performed at the request of the authorities in cases of unexplained and suspicious death or wherever a doctor failed to attend death.<sup>13</sup> In alternative circumstances post-mortem examination could also be performed solely with the consent of the deceased's family or with permission granted by the person himself before death.<sup>14</sup> These examinations are a lot of oftentimes being employed for the getting of organs and tissues for transplantation.<sup>15</sup> Valuable medical data are often learned from a post-mortem examination.<sup>16</sup> Legionnaire's illness, for instance, was discovered as a results of autopsies, and improved safety standards have resulted from the examination of the bodies of crash victim.<sup>17</sup> DNA process or DNA identification or any of the many similar techniques for analyzing and

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<sup>10</sup> (Schmidtke)

<sup>11</sup> ("DNA Fingerprinting")

<sup>12</sup> (Nybom)

<sup>13</sup> (Kirby)

<sup>14</sup> (Mohan)

<sup>15</sup> (Jagadeesh)

<sup>16</sup> (Chaudhry)

<sup>17</sup> (Pāṭhaka)

examination DNA from separate sources area unit used particularly in law enforcement to identify suspects from hair, blood, semen, or different biological materials found at the scene of a violent crime.<sup>18</sup> It depends on the very fact that no 2 people, save identical twins, have precisely the same DNA sequence, which although only restricted segments of a human DNA are scrutinized within the procedure, those segments are going to be statistically distinctive. The DNAsamples of the offender is obtained from the scene of crime itself. as an example blood samples from a scene of murder or samples of seminal fluids deposited on the clothes or piece of furniture or within the body of the victim of rape are often used to acquire a sample of the culprits DNA. These samples is compared with those taken from a potential suspect within the case. DNA proof, except its use in legal code to see the killer or the rapist, is additionally used for varied different functions. Amongst its varied applications, Paternity testing, Personal identification (of a mutilated body or skeletal remains), study of the evolution of the human population and study of hereditary diseases like Alzheimer's disease etc. are enclosed. The success rate in determination advanced cases in legal code has greatly hyperbolic when the invention and use of DNA proof technologies. The introduction of DNA proof within the field of legal code has notably expedited convictions within the matters involving the offence of Rape.

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<sup>18</sup> (Inam)

## CONCLUSION

The introduction of medical jurisprudence has immensely benefited both the medical and the legal field of work.<sup>19</sup> A better understanding and cooperation has resulted and has facilitated a smoother working of both disciplines. Previously unsolvable cases are now solved with ease with the development of the field of medical jurisprudence. It covers in its ambit the provision of evidence for a wide range and scope of cases.<sup>20</sup> It can be used to determine the Paternity of a child and also be employed in determining the identity of human bodies, which have been mutilated beyond recognition in accidents like bomb blasts, factory explosions etc. In the field of Evidence Laws, it can be appropriated to solve cases involving murder, rape etc. Medical jurisprudence techniques like autopsy can also be employed to discover important facts vital to the case after the person has died. However, despite their vast benefits to the field of law, medical jurisprudential techniques are not treated as primary evidence till date. The present Indian Evidence Act continues to treat technical findings, such as the results of DNA tests, as expert evidence. This situation will continue till a legislation is drafted and enacted by the Parliament. The situation seems hearty solely as regards autopsy reports, that are given the standing of documentary proof below the Indian evidence Act. The benefit connected to them, however, remains subjective and varies from case to case. the entire advantage of these medical jurisprudential techniques are often enjoyed solely by an enactment recognizing these techniques as primary proof, giving it the credit it deserves.

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<sup>19</sup> (Davatzikos)

<sup>20</sup> (Stovkis)

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