MEDICAL JURISPRUDENCE

BY

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State can survive with “Kufr” but not without justice
Society / Justice

- Person / group / community
- Interaction with each other
- Inter se rights / obligation
- Code of conduct
  - Accepted
  - Un-accepted
- Enforcement of accepted code
- Sanctions against wrong doers
Concept of Life in the Eyes of Law & Medicine

Conception  Birth  Death

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CIRCLE OF WHEEL OF LIFE

LIFE

CIRCLE OF WHEEL OF LIFE

INTRAUTERINE  EXTRAUTERINE
MEDICAL CONCEPT

• Proliferative Phase

• Static Phase

• Retrogressive / Degenerative Phase

Conception → Birth → Death
LEGAL CONCEPT

- Dependent Phase
  Independents are responsible for dependents as well as for independents.
  This is the concept of responsibility and understanding of Law.

- Independent Phase

INTRAUTERINE

DEPENDENT

EXTRAUTERINE

INDEPENDENT
• **LIFE** Presence + Integration of vital systems of body

• **PURPOSE OF LIFE** Is to exist (integrity of life)

• **PURPOSE OF BODY** Is to function

*Law is interested in both i.e. *integrity of life* and *function of body.*

Any body doing any harm to these two purposes should be made punishable.
Law / Medicine Bondage

Law Colleges

Medical Colleges

Law Courts

Forensic Medicine Cross-road

Forensic

Medical
History of Criminal Justice

• Offences against the person
• Crime – social harm made punishable
• System – initially (till 1700) inadequate, unjust and not uniform; later societies started utilizing policing / doctoring.

Chronologically three eras of development.

i. Era of “might is right”.
ii. Era of “Pseudo justice”.
iii. Era of “Modern era”.

• **Era of “might is right” – Primitive.**

Punishment without trial and award of punishment by single individual (mightiest) holding authority in the community and later Two or more individuals (mightier) sharing authority.

No concept of appeal - victim unable to retaliate.
Era of “pseudo justice” – Intermediary

Self styled prosecutor and judge – without defined system.

Single scale of punishment i.e. eye for eye and life for life – without responsibility factors.

Political influence massive .
Era of “modern justice” – Latest

Proper – authority shifted to society (as a whole) crime investigation under specific laws and agencies, trial and punishment.

(a) Substantive law
(b) Legal procedure
(c) Execution of justice

Cognizance of responsibility factors.
Factors mitigating criminal responsibility

**Crime Composition**
(Commission stages)

- Mens rea (criminal intent)
- Actus reus (criminal act)

**Exception in law**
(Negates responsibility)
- Immaturity
- Insanity
- Intoxication (Involuntary)

**Presumption in law**
(Starting point)
- Sane / responsible
- Innocent until proved guilty
- Doubt favors accused
Law / Medicine Relationships

● Ancient and learned societies
  Since antiquity

● Common goals / interests
  Know the truth - service to mankind

● Divisive element - lack of understanding
  Specialize on patient / client
Different terms / names – considered synonymous

- State medicine
- Court medicine
- Legal medicine
- Forensic medicine
- Medical jurisprudence
Forensic Medicine is a branch of medicine, which deals with the *application of principles of medical knowledge* for the purpose of law for furtherance of justice whereas Medical Jurisprudence is the *application of knowledge of law* (rules & regulations) for guidance of medical profession (Medical practitioners)

- **Forensic Medicine** (Medical aspect of law)
- **Medical Jurisprudence** (Legal aspect of medical practice)
Forensic Medicine

Specialty importance: Not acknowledged by concerned authorities. (police / health / lawyer and courts).

Reason:

Because of inheritance of colonial medico-legal system (1947), designed for manipulation at all levels.

Leading to:

i. Inertia and non cognizance of the situation till date.
ii. Vim–based experimentation of laws i.e. Hadood, Qisas and Diyat ordinance, Women Protection Act etc.
Results:

- Offenses against the person -- investigation entrusted to all powerful but untrained police station house officer (SHO).
- Medico-legal certification – by the most junior general duty medical officer (GDMO).
- Re-examination by untrained controlling health officials and non-utilization of trained Forensic Medicine Specialists.
- Absence of examination places / logistics (medico-legal clinic / autopsy room / analytical laboratory).
Forensic Medicine

Recommendations:

i. No substitute for first (original) correct medico legal certificate.

ii. In current era of highly specialized medico-legal field, general duty medical officers (GDMO) have no place.

iii. Medico-legal specialist of Teaching Departments of medical colleges be tagged to respective area jurisdiction for comprehensive medico-legal services.
iv. In district without medical colleges, district medico-legal sections equipped with proper logistics / specialists be created.

v. Establishment of non-political association of experts i.e. forensic medicine, forensic science, lawyers, and law-enforcement and judges.

vi. Regular publication of news / scientific work in the form of journal.
Thanks