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# **Legal Responses to Medical Negligence during Pandemic in Bangladesh: A Critical Analysis.**



## **LL.M THESIS**

**A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF THE  
CREDIT REQUIRMENTS FOR AWARDDING THE DEGREE OF MASTER  
OF LAWS BY DAFFODIL INTERNATIONAL UNIVERSITY**

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## Letter of Transmittal

Date: 16/09/2022

To,

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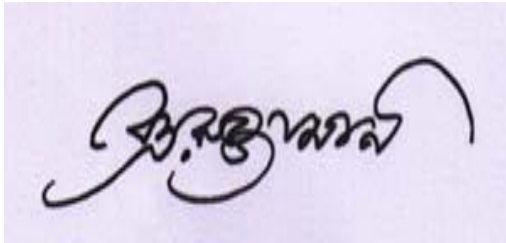
Subject: Submission of Research Monograph Sir,

With due regard, I mean to cause you kind to notice the way that I am an study of LL.M (1 year) bearing Batch: 36, Roll: 213-38-008. I am presenting the Research Monograph as a piece of the finishing of the LL.M (1 year) program. I am asking your benevolent absolution for certain slip-ups and blunders of which I was not completely concerned.

Sincerely,  
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## Certification

This is to affirm that the examination paper depends on the work did by the creator himself and under my watch in the division of law, Daffodil International University, Dhaka, Bangladesh. It is additionally confirmed that the work introduced here is unique and appropriate for the incomplete satisfaction of the level of LL.M (1 year).

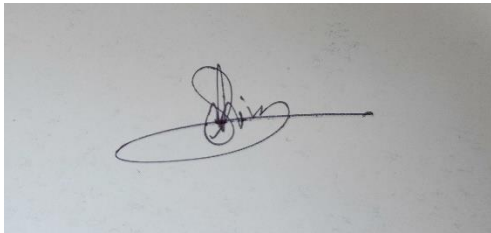
A handwritten signature in black ink on a light purple background. The signature is written in Bengali script and appears to be 'মু. ম. বাদরুজ্জামান' (Mr. Mohammad Badruzzaman).

Sincerely  
Mr. Mohammad Badruzzaman  
Assistant Professor  
Department of Law  
Daffodil International University

## Declaration

I, thus seriously proclaim that the work introduced in an undertaking paper "Legal Responses to Medical Negligence During Pandemic in Bangladesh: A Critical Analysis. " has been completed by me and has not been recently submitted to some other University/College/Organization for a scholastic capability or an expert degree. I thusly guarantee that the work that has been introduced here doesn't break any current copyright.

I further embrace to reimburse the University against any misfortune or harm emerging from penetrate of the previous commitment.

A photograph of a handwritten signature in black ink on a light-colored surface. The signature is stylized and appears to read 'Md Abir Shad Sinha'.

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## Acknowledgement

I Am Md Abir Shad Sinha, Student of Daffodil International university .Thanks to my Law Department to For Giving This Research Monograph course , here I got the first hand experience about how to do social research. In this regard, I would like to express my thanks and gratitude to my supervisor, Mr. Mohammad Badruzzaman, for his guidance and great support. His suggestions and affection showed me the way.

I express my special thanks to the doctors, officials, staff for facilitating my visit to the hospital. In fact, during this visit I awakened to an understanding of hospital operations in different regions of Bangladesh. And my thoughts are made from the significance, the legitimate meaning of the legal act and its investigation and the global record, the insurance rights in the global perspective, individual case examination with my subject. These thoughts motivated me, my sir's help is happily special and focused me to tackle Legal Responses to Medical Negligence During Pandemic in Bangladesh: A Critical Analysis on Clinical and Rights and Obligations and Patients and Treatment under Bangladesh Law”. Many thanks to Mr. Mohammad Badruzzaman), Assistant Professor,

and Department of Law, DIU. Thanks to all who helped me in any way to conduct this peer research,

September 2022

Md Abir Shad Sinha

Daffodil International University

Dedicated to  
**My Parents**

## Abbreviations and Glossary

BMA	Bangladesh Medical Association
BMDC	Bangladesh Medical and Dental Council
CPC	Code Of Civil Procedure 1908
CrPC	Code Of Criminal Procedure 1898
ICESCR	International Convent of Economic, social and Cultural Right
NIIP	National Health Policy
NWDP	National Woman Deployment Policy
UNHR	Universal Declaration of Human Policy
UN	United Nations
Who	World Health Organization
PIL	Public Interest Litigation
ICU	Intensive Care Unit
COVID-19	Corona virus Disease 2019

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## **Abstract**

*This Research centers around the Arbitrary Legal Responses to Medical Negligence during Pandemic in Bangladesh: A Critical Analysis. It inspects the Provision of certified condition of clinical inconsiderateness. It will be saw any place some individual committed for clinical remissness like subject matter experts, specialist and staff of the of the clinical facility. They don't play out their commitment in fitting way. By then talk about the authentic privileges and commitments of trained professionals and patient and fixes under the law of Bangladesh for clinical imprudence. By then endeavoring to find the legal lacks of our present regulation.*

*This paper highlights different authentic issues and systems for ensuring the clinical recklessness of Bangladesh During Covid19 Pandemic. At the last endeavoring to give a couple of recommendations subject to this investigation.*

**Keys: / Definitions/ International Documents/Constitution/others legal provisions/Problems/analysis/ Recommendations/Legal Count**

# CHAPTER ONE

## Introduction

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### 1.1) Background of the Study

The medical profession is one of the greatest professions in the world. Ordinary people pay homage to the great God of doctors because they protect the lives of individuals and people. So that they believe that the place of this profession is when on the side of God. Internally they need to possess a selected level of learning, knowledge, experience and skills and maintain a cheap degree of "care and vigilance", where activity is their duty. Patients are one of every important department of the client.

But in Asian countries, patients belong to the most neglected sector of buyers. Patient rights were not taken seriously or considered in the Covid19 situation. The role of healthcare professionals is seen as a money-making business and patients are seen or treated as healthcare buyers. However, hospital malpractice causes thousands of injuries and deaths once a year. Countless people have died due to lack of oxygen in Covid19 positive condition of millions of people. One day a person suffers and usually dies due to treatment in Asian countries. The negligence of doctors is difficult to determine by judges because they are not trained in life sciences. Expert opinion supporting their choice. Judges apply the basic principles of law in conjunction with land law to form a mill. Rationality and prudence are the guiding factors. However, medical negligence primarily considers the negligence or rash work of medical professionals for any injury to the patient. Medical negligence can lead to reasonably efficient misconduct on the part of a caregiver. In the strictest sense, the term may not refer to medical negligence, a variety of skilled misconduct or misconduct, such as disqualification of

qualifications or qualifications, prescribing additional drugs or tests for extra benefit, taking undue advantage of the patient's condition, and so on. But when dealing with medical negligence

from the point of view of an individual's rights, it is necessary to consider the complete difference between medical malpractice and misconduct as well as the skilled negligence of medical professionals. Because, a factor in these misdeeds has a common consequence; They cause serious violations of health and medical rights.

It has been seen that some hospitals have opened Covid19 Unit without permission due to Covid19 epidemic. Some hospitals have made millions. False certificate of corona virus detection test.

Significantly, these problems have a relationship to their origin and essence. Therefore, when managing medical negligence and the right to healthcare, it is extremely important to consider these aspects of treatment.

Services so that a comprehensive evaluation can be formed. We want to carry these principles within the light weight of some court judgments and examine what can be expected from a doctor as a cheap person. Since these problems are at the core of the health profession, hospitals with associate degrees are directly plagued by new interpretations of an existing law relating to medical professionals, so it is relevant to include hospitals at the individual level of the doctor and additionally at the employer level.

## **1.2) Statement of the problem**

In Bangladesh, The Bangladesh Medical and Dental Council (BMDC) is empowered to take disciplinary action and to suspend or withdraw recognition of any institute and the qualifications conferred by it if its functioning is found to be substandard. To add, it is the only authority to regulate and control the professional conduct of the doctor and to take appropriate actions in the case of the negligence. But the actions taken by the Council are very few. Another problem is that the BMDC is subject to some limitations while exercising disciplinary function because its jurisdiction is limited to the doctors who are practicing privately or who are the employees of private clinics. In such a case only the Director-General of Health or Health Ministry can take action, but they rarely exercise their function in this regard. Even recently the Law Commission

acknowledged the fact that the BMDC's power is very confined to address the 'negligence' issue.

Health Information Services (HIS) is not yet fully developed. Due to this the general public does not have proper knowledge of proper health care, preventive services etc. and this is the reason why there is widespread unconsciousness among the people during this epidemic. There is a lack of supervision in the pharmaceutical industry and the top 10 companies supply about 80 percent of the drugs. Lack of proper medical personnel and equipment has reached alarming levels. According to the Bangladesh Health Facilities Survey 2009, on an average, more than 30 percent of basic equipment is missing in health services. For every one thousand people there are zero point 30 doctors, zero point 26 nurses or midwives and zero point 20 dentists.

The lack of mental health care support is extremely worrying when considering population statistics with mental health issues. Since there are negative perceptions about mental health services in Bangladesh, there are 0.49 mental health professionals for every one lakh people. However, about 16 percent of the adult population suffers from some form of mental illness. Inadequate medical facilities, lack of awareness and subsequent lack of follow-up are the main obstacles in this sector.

The health system of the country as a whole is very inefficient. Administrative and regulatory issues The Secretariat is not given adequate time for policy formulation and planning. Also, Secretariat officials lack specific knowledge or training in the health sector. There is no formal coordination system to give due respect to the role of each organization and to abide by them. Corruption is entrenched in every aspect of healthcare. Procurement of government posts, misuse of drugs, money laundering from government funds, etc. are some of the major problems in this sector and they need to be resolved quickly.

Clinical negligence is creating a terrible problem in a helpless nation like Bangladesh, a low middle income country, during the Covid19 situation where they are being deprived of their basic rights.

In many cases they are ignoring and evading hospitals, doctors, caregivers, clinic staff and the vast offices provided by the government.

### **1.3) Objective of the Study**

Each research article has a certain nature and focus. Therefore, my research work is inside its bounds. Medical negligence During pandemic and Law and Practice in Bangladesh has been chosen as the research topic, therefore it is related to analytical, journal, newspaper, historical, scientific, and methodically approaches. For law students, the prescribed topic is significant and relevant. Particularly for individuals who want to work in the field of human rights their entire lives. Regardless of their wealth, every patient in our society is valued equally. However, in our society, medical carelessness is a concern for those who are ill, and many are reluctant to visit a doctor when they are unwell. They believe that if they see any unidentified doctor, their life will be more at risk. Despite numerous organizations taking the required efforts to avert this situation, our country remains silent about it.

### **1.4) Research Question**

1. What causes medical negligence during epidemics?
2. What kind of medical negligence happens in our country during the pandemic?
3. Is it becoming a big problem in Bangladesh?
4. Is it creating a bad impression among our Bangladeshi doctors during the epidemic?
5. How to reduce it during a pandemic

### **1.5) Research Methodology**

The method of research may be understood as the method or technique that is used for conducting a specific research. In this research imperial and qualitative descriptive study design was used. Also some past literature, analysis of past case studies and books in the area of medical negligence law with the main objective of examining the required standard of care by a

doctor, which is one of the main factors of a medical negligence claim. For finding out the actual legal protection that the laws of Bangladesh provide to Arbitrary Legal Responses to Medical Negligence During Pandemic in Bangladesh: A Critical Analysis victims, it includes an examination of the factual background and the legal literature considers investigation and also the theoretical underpinnings for the study. Data's been collected from secondary sources and analyzed case studies, academic expressions and identified best practices around the world to protect the interests of both the patient and the doctor, experiences on victims of medical negligence gathered from media reports. In order to conduct the research on Medical Negligence in Covid19 Units And Other Units DuringCovid19 Pandemic. Law and Practice in Bangladesh; qualitative and empiric Methodology was used. Books, journals, published and unpublished articles, newspaper, official's documents, paper clipping, case laws and etc. were helpful in this regard. In interpreting case laws, both analytical and critical approach was used and rational arguments have been accepted and included herein.

## **1.6) Review of Related Literature**

Literary review makes the researcher aware of other related work that has already been done. Literary review expands and sharpens the researcher's knowledge in conducting research. Literary reviews also reveal that the researcher has theoretical knowledge in the field of his chosen research. It also helps to find the knowledge gap between the previous researcher and the current researcher. Some literature relevant to the current research proposal has already been reviewed.

As a law student, I have knowledge regarding criminal laws such as penal code (specifically section 304A, 312-316, 323, 325), Criminology (CrPC). Also journals, newspapers, NG Oreports on this topic is available. I have studied a lot of medical negligence cases from my books and websites articles and also observed the case of victims who filed a case for medical negligence some times don't get the proper judgment. From the gathering knowledge, I am going to complete my research on "Medical Negligence". So this is the proper time to realizethe important social issue and help to doctor how to prevent it. This is not the only research on this topic but a lot of researches have been done earlier but none of the researchers focused on the

issue discovered herein bellow. This research work to find out problems regarding medical negligence and the life of a victim. All of these searchers talked about the problems facing by the victim because of medical negligence but none of the researchers found out that the actual reason way of happening. To do this research, I used the book Bangladesh Medical and dental Council Act, (2010), Code of Medical Ethics, Bangladesh Medical and Dental Council (2010), The Medical and Dental Council Act, (1980), The Limitation Act, 1908, Code of Criminal Procedure, 1898, The Constitution of the People's Republic of Bangladesh, 1972, The Penal Code of Bangladesh, 1860, Ain O Salish Kendro, Medical Negligence, (2008) etc. Also, I used some journal like Md. Ershadul Karim, 'Examining Liabilities Arising from Doctor's Negligence'(2005) Dhaka University Law Journal, Anurag K. Agarwal, 'Medical Negligence: Law and Interpretation', Indian Institute of Management, (2011), Bangladesh Government approves 'Consumer Rights Protection Ordinance, 2007', Asia Pulse (2007), David Goguen, 'Types of Medical Malpractice Claims', Dr Belal Husain Joy, 'Law Management Skills' (2005), Dr Belal Husain Joy, 'Right to Life and Food Adulteration', New Nation, (2005) Health ethics insix SEAR countries, 'World Health Organization (WHO)',

Health Ethics in South-East Asia,(1991), Mark Lunney and Ken Oliphant, Tort Law, Oxford University Press, (2003). These all help me to complete my research work properly. But through this research proposal , I have discovered two major issues of such obstacles on Medical Negligence in Covid19 Units And Other Units During Covid19 Pandemic.



## CHAPTER TWO

### Case Study of Medical Negligence During Pandemic

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#### 2.1 Regent Hospital

Regent Hospital Is a private which is situated un Dhaka . It is a also a Covid 19 Dedicated Hospital .

**Address:** Mamun' Home, 14 Begum Rokeya Avenue, Dhaka 1216

#### Negligence of Regent Hospital

Here, in shared arrangement, the shut Regent Hospital without restoration of permit has been changed over into a committed Covid clinic, Memorandum of Understanding has been executed and 3 thousand 939 examples of Covid patients have been tried liberated from cost in the lab of Nipsom, an administration organization.

Be that as it may, "From which one crore 37 lakh 86 thousand 500 taka has been acknowledged as three and a half thousand taka for every patient for unlawful compensation. Plus, the month to month interest of Tk 1 crore 96 lakh 20 <sup>1</sup>thousand has been raised in regards to the designation of food costs of specialists, attendants, wardboys and different authorities of Mirpur and Uttara parts of Regent Hospital. What's more, a sum of 3 crore 34 lakh rupees was stolen for the expense of testing and treatment of Covid tests.

After the flare-up of Covid in the country, the Department of Health consented to an arrangement with Regent Hospital on March 21 last year for the treatment of Covid-19 patients. The wellbeing pastor and a few secretaries were available on the event.

In the span of 90 days, there were charges of different abnormalities against the Regent, including giving phony reports without testing for Covid, taking cash from the patient subsequent to giving the bill to the public authority.

It was then discovered that the clinic's permit had terminated in 2017 some time before the arrangement was agreed upon.

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<sup>1</sup> Khalidi, T., 2022. Regent Scam: Former DG Health Azad is accused along with Shahed. [online] bdnews24. Available at: <<https://bangla.bdnews24.com/bangladesh/article1943022.bdnews>> [Accessed 21 August 2022].

## **2.2 Jobeda Khatun Healthcare (JKG Healthcare)**

JKG Healthcare Is a Health Care Which Is situated in Dhaka

### **Negligence of JKG Healthcare**

Fake tests for coronavirus and giving certificates in exchange for money happened at Jobeda Khatun Health Care. JKG chief executive Ariful Haque Chowdhury and his wife Dr. Sabrina Arif Chowdhury, JKG executive officer Shafiqul Islam, the organization's official Humayun Kabir Himu, his wife Tanjeena Patwari, JKG coordinator Abu Said Chowdhury, Biplab Das alias Alman and Zebunnesa Rima have been made accused.<sup>2</sup>

Among the blamed are Abu Saeed Chowdhury Ariful Haque Chowdhury's sister by marriage and Jebunnesa's sister. In the charge sheet, Ariful and his better half Sabrina are the administrators and 6 other blamed as accessories in their extortion in giving declarations without testing and giving authentications in return of cash subsequent to gathering crown tests.

Last March, Jobeda Khatun Healthcare (JKG) consented to an arrangement with the Department of Health to gather free crown tests through corners. From that point onward, the organization set up 44 corners in six better places in Dhaka and Narayanganj. JKG gathers 300 to 350 examples from these areas consistently. Notwithstanding, the association broke the agreement and began gathering tests by going house to house for 5 thousand to 8 thousand taka. JKG gives manufactured report without testing these examples.

## **2.3 United Hospital**

United Hospital Limited is a private hospital in Gulshan Thana, Dhaka, Bangladesh. Mohammad Faizur Rahman is the managing director and chief executive officer of the hospital. Evercare Hospital Dhaka and Square Hospital along with United Hospital Limited are considered top tier private hospitals.

**Address:** Plot 15 Rd No 71, Dhaka 1212

### **Negligence of United Hospital**

Fire in Corona unit of United Hospital and death of 5 patients.

Five patients died in a fire in the corona unit of United Hospital in the capital. Kamrul Islam, duty officer of the fire service headquarters, said that the fire incident and death occurred on Wednesday May 27, 2020 night. He said that after the fire broke out at 9:55 on Wednesday

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<sup>2</sup> pundrokotha. 2022. pundrokotha. [online] Available at: <<https://pundrokotha.com.bd/post/21639>> [Accessed 21 August 2022].

night, three units worked to control it at Baridhara Fire Station. Five corona infected patients have died in the corona unit.

## **2.4 Anwer Khan Modern Medical College Hospital**

Anwer Khan Modern Medical College is a confidential clinical school in Bangladesh, laid out in 2008. It is situated in Dhanmondi, Dhaka. It is subsidiary with the University of Dhaka as a constituent school. It offers a five-year course of study prompting a Bachelor of Medicine, Bachelor of Surgery degree.

**Address:** house-17, Rd No. 8, Dhaka 1207

In this epidemic during the Corona period Anwar Khan Mordan Hospital was billed 1,70,000 Taka for the treatment of a Covid-19 patient<sup>3</sup>

## **2.5 Chattogram Medical College Hospital**

Chittagong Medical College is located in the port city of Chittagong, Bangladesh and is the oldest medical college in the southeastern region of the country. It is affiliated with a tertiary hospital where clinical students are trained in medicine, surgery, obstetrics and gynecology and other sub-specialties.

Address: 57 K.B. Fazlul Kader Rd, Chattogram 4203

### **Negligence of United Hospital**

The vast majority of the committed clinics in Chittagong for treating corona patients don't have focal oxygen. As the disease is expanding, the entire area is sobbing for oxygen. Family members gripe that oxygen is expected for patients with intense respiratory misery however isn't accessible from the emergency clinic as a rule. Albeit the concerned have guaranteed to address the emergency, general wellbeing specialists say that the state of medical services in the area is desperate. Because of absence of coordination, the emergency of oxygen chambers has arrived at its pinnacle.

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<sup>3</sup> Hossain, A., 2020. Where to complain about private hospitals? what to do - BBC News Bangla. [online] BBC News Bangla . Available at: <<https://www.bbc.com/bengali/news-52917367>> [Accessed 24 August 2022].

In Chittagong, corona patients are being treated at the General Hospital, Chittagong Medical College (CHMEC) Hospital and BITID. Field Hospital, Railway Hospital, Mother and Child Hospital have been begun by confidential drive, however there are numerous issues. And, surprisingly, however the confidential medical clinic proprietors made sense of for the Holy Crescent government, it was unrealistic to begin 6 ICUs because of labor supply deficiency.

Despite the focal oxygen framework, the patient is in a condition of hypothermia. Oxygen chamber support is given in General Hospital yet it is deficient. Accordingly many are biting the dust because of absence of oxygen. Veteran legal counselor Kabir Chowdhury died on June 2, 2020 at the General Hospital because of Corona. His child Shafi Uddin Kabir Abid said, "I purchased my dad an oxygen chamber from outside." the evening of May 30, 2020, oxygen immersion dropped to 70 and 65. Afterward, support was given from two patients. One chamber doesn't endure over 4 hours. Emergency clinic chambers are not accessible before 10 am. At the point when the condition deteriorated, the dad was taken to the ICU the evening of 31 May 2020. He kicked the bucket on June 2, 2020. On June 1, 2020, Swapan Chakraborty kicked the bucket at Faujdarhat BITID Hospital without ICU offices. Here oxygen support is given in chambers yet there is intense emergency. Head of BITID Dr. Mama Hasan Chowdhury said, "I have given the interest letter for the oxygen chamber. The emergency will end when it comes.

## **2.6 Dhaka Medical College Hospital**

Dhaka Medical College and Hospital is a government medical college and hospital located in Dhaka, the capital of Bangladesh. It houses a medical school as well as a tertiary care hospital on a campus. The country's first autologous bone marrow transplant was performed at its bone marrow transplant unit.

Address: Secretariat Rd, Dhaka 1000

### **Negligence of Dhaka Medical College and Hospital**

Around 21% of the patients who came to Dhaka Medical College Hospital with corona and corona side effects couldn't be saved. The greater part of them passed on in the span of a day of hospitalization.

Specialists are keep Covid-19 passings in those with affirmed instances of the coronavirus. That large number of passing on with side effects were not tried alive or after death. As indicated by the specialists, 3 thousand 316 individuals have gotten treatment after the corona unit was sent

off on May 2, 2020. 185 individuals kicked the bucket in 1 day. The passing rate is a little more than 6%.<sup>4</sup>

On the other hand, the registration book of the hospital's morgue office shows that the number of deaths due to coronavirus and symptoms since May 2,2020 is 696.

## **2.7 Square Hospitals Ltd.**

"SQUARE Hospitals Limited is a 500 beds debut tertiary consideration Hospital and the main supplier of private medical care administrations in Bangladesh. At present Square Hospital involves three structures on one or the other side of Panthapath associated by over-spans. The primary medical clinic building is 18 stories and is roughly 450,000 sq.ft. The subsequent structure (Extension Wing-1) is situated across the road and is 16 stories with 136,000 sq.ft. The third structure (Extension Wing-2) is simply other than the fundamental structure associated by a committed lift and an interfacing span on level-8. Square Hospital has practically all branches of clinical science under one rooftop which empower us to convey legitimate incorporated administrations to our patients.

**Address:** 18 Bir Uttam Qazi Nuruzzaman Sarak West, Panthapath, Dhaka 1205

Corona virus infection contamination is expanding step by step in Bangladesh. Recently analyzed patients are expanding consistently. The walk of death doesn't stop. Specialists say more tests are expected to decrease corona contamination. Because of this, the public authority has permitted corona tests in a few confidential clinics. Simultaneously, the corona test expense has been fixed at 3500 taka. Nonetheless, a few casualties have grumbled of gathering extra cash notwithstanding the 3,500 taka fixed by the public authority through different stunts.

This time, a specialist himself has raised such a grumbling against the confidential medical clinics of the country, Square Hospital in Panthapath.

This patient composed little notes on the clinical bungle while lying in the emergency clinic bed.<sup>5</sup>

He was confessed to this emergency clinic because of pneumonia because of cold. Clinic specialists put him in a coma following confirmation. Their assertion was that life backing ought to be given to save him. In any case, the patient kicked the bucket following 17 days on that help

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<sup>4</sup> Muhammad, A., 2022. From newspaper pages. [online] sarbojonkotha. Available at: <<https://sarbojonkotha.info/sk-24-news-highlight/>> [Accessed 21 August 2022].

<sup>5</sup> Menon, M., 2022. A note and some questions written by a patient before his death at Squire Hospital. [online] banglanews24.com. Available at: <<https://www.banglanews24.com/english/>> [Accessed 21 August 2022].

## 2.8 Hazera Clinic and Diagnostic Center

Hazera Clinic and Diagnostic Center is a private Clinic . which is situated in Chanchkoir, Rajshahi

Address: Chanchkoir, Rajshahi - Bogra Hwy, 6440

Maqbul Hossain's significant other Laili Begum said that her better half had no infection with the exception of hernia. They came to Hazera Clinic at 10 am on Wednesday for the activity. Yet, since there is no specialist, we need to stand by at the center till evening. At a certain point, specialist Aminul Islam Sohel conceded her significant other and ready for the activity. Saline and infusion are given right now.<sup>6</sup>

Maqbool's little girl Roksana Akhtar said that her dad was taken to the activity theater at eight o'clock in the evening and infused into his midriff. From that point on, his dad became numb to the shouts. As of now, blood was emerging from the midsection. Individuals of the facility swiftly took him to the bed and put squeeze on the chest. At a certain point, the center specialists called an emergency vehicle and sent it to Rajshahi without the consent of the facility. He said that the emergency vehicle which the center individuals organized to take his dad to Rajshahi didn't take his dad to Rajshahi Medical. Rescue vehicle driver Shafiul Alam was terrified on the way and brought him back. The driver said his dad was dead.

And Also A woman died in the operation theater of that clinic.

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<sup>6</sup> Jugantor. 2021. Allegation of death of patient due to wrong treatment. [online] Available at: <<https://www.jugantor.com/todays-paper/city/432799/%E0%A6%AD%E0%A7%81%E0%A6%B2-%E0%A6%9A%E0%A6%BF%E0%A6%95%E0%A6%BF%E0%A7%8E%E0%A6%B8%E0%A6%BE%E0%A7%9F-%E0%A6%B0%E0%A7%8B%E0%A6%97%E0%A7%80%E0%A6%B0-%E0%A6%AE%E0%A7%83%E0%A6%A4%E0%A7%8D%E0%A6%AF%E0%A7%81%E0%A6%B0-%E0%A6%85%E0%A6%AD%E0%A6%BF%E0%A6%AF%E0%A7%8B%E0%A6%97>> [Accessed 23 August 2022].

## **CHAPTER THREE**

### **Mis-Management During Pandemic**

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#### **3.1 Oxygen deficiency in hospital**

Individuals experiencing respiratory illness Covid-19 must be given artificial oxygen in the event that their condition is convoluted. As indicated by government gauges, clinics have half of the oxygen chambers expected to deal with patients. There is likewise a deficiency of embellishments. Specialists say that a choice ought to be taken to rapidly give oxygen in an elective framework.

The Ministry of Health has chosen 19 emergency clinics in the capital and 64 different clinics in 8 divisions of the country for crown treatment. Ayesha Akhter, aide head of the public authority's Health Emergency Operations Center and Control Room, said last Thursday that there are 3 thousand 200 oxygen chambers and 2 thousand 739 arrangements of adornments (breathing devices, flowmeters, keys, streetcars) in the medical clinics assigned for crown outside the capital. 3 thousand 45 arrangements of oxygen chambers and 3 thousand 189 arrangements of extras are expected by the patient's requirements.

As indicated by the public authority, there is no notice of the number of more oxygen chambers that are required for the capital. In any case, specialists say, as different emergency clinics in the country, there is a lack of oxygen chambers in the capital.

#### **3.2 Situation outside the capital**

The public authority has fixed 64 emergency clinics outside the money to treat Covid-19 patients the nation over. The wellbeing office has as of late evaluated the oxygen supply circumstance in these clinics. That computation is finished for every office, each locale and every particular emergency clinic. It has been found that each clinic has deficiency of oxygen chambers and other fundamental things.

As indicated by that, Rangpur division has just 82 oxygen chambers for Covid-19 patients. Khulna division has the most, 706. Barring specific emergency clinics in the capital, there are 649 oxygen chambers in Dhaka Division.

An estimation of the number of extra chambers that might be expected in any segment has likewise been made. It shows that the most extra 550 oxygen chambers are required in various clinics of Sylhet division.

### **3.3 Capital situation**

As per the authority estimations, there are 2 thousand 583 oxygen chambers in 19 medical clinics of the capital. 10 of these emergency clinics have unified oxygen supply framework. The excess eight have just chambers. Shaheed Suhrawardy Hospital has concentrated oxygen supply just in ICU, activity theater and dialysis focus.

As indicated by the data of the Department of Health, Kurmitola General Hospital of the capital has 350 chambers. There are 123 in Kuwait Bangladesh Maitri Hospital. Furthermore, there are 48 oxygen chambers in Mahanagar medical clinic. These three emergency clinics don't have focal oxygen supply framework.

Dhaka Medical College Hospital and Mugda General Hospital have 628 and 245 oxygen chambers separately notwithstanding focal oxygen supply framework.

Mirpur Lalkuti Hospital has 20 oxygen chambers. Yet, there is no streetcar to assume chambers starting with one position then onto the next, government records said.

### **3.4 Problem with cylinder**

Teacher Ahmadul Kabir, Secretary General of Bangladesh Medicine Society said, 'Coronavirus patients need continuous oxygen supply. In any case, it isn't totally imaginable in chamber. A chamber of oxygen is spent in 4 to 5 hours. Then another chamber must be utilized.



A common specialist in a region in the southern piece of the country, who didn't wish to be named, said that a corona patient necessities ceaseless oxygen supply for four to five days or more. However, when the oxygen runs out, the chamber must be changed each 3-4 hours. Furthermore, the individuals who continue to change the chambers are likewise in danger of contamination.

An authority of an unfamiliar wellbeing research organization let Prothom Alo know that a patient will require 3 to 4 chambers every day. This implies that one-fourth of the quantity of chambers can be utilized by patients (3 thousand 200 chambers will be helpful for 800 patients). A specific number of chambers will be headed straight toward be loaded up with oxygen.

Specialists say that regardless of whether the public authority needs to, it will be hard to construct focal oxygen supply framework in medical clinics reserved for Covid-19 in a brief timeframe. It would have been feasible to construct a focal oxygen supply framework in a few medical clinics whenever arranged and started in February or early March. In this present circumstance, the public authority ought to bring the general population and confidential medical clinics which have focal oxygen supply framework and have less patients under the Coronavirus sickness. Plans for speedy exchange of patients from these emergency clinics to the particular emergency clinics.

### **3.5 Corona treatment services are inadequate outside Dhaka**

As the contamination increments, corona patients are expanding outside the capital Dhaka. Clinical consideration for corona patients is for the most part Dhaka-driven. Many administrations outside the capital are poor, at times non-existent. Specialists express that there is little consideration paid to corona treatment outside Dhaka.<sup>7</sup>

As per the data of the Department of Health, there is no dialysis framework for kidney patients impacted by Corona outside the capital. There are just seven emergency unit beds for corona patients in four regions of Mymensingh division. 205 ICU beds in Dhaka city and different regions of Dhaka division. The quantity of beds for corona patients is additionally lacking in many regions...

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<sup>7</sup> Kabir, A., 2020. Coronavirus treatment inadequate outside of Dhaka. [online] Prothomalo. Available at: <<https://en.prothomalo.com/bangladesh/government/coronavirus-treatment-inadequate-outside-of-dhaka>> [Accessed 31 August 2022].

Specialists say that beds are not exactly needed in practically all offices. A month-and-a-half back, the Public Health Advisory Committee of the Health Department, while setting up a suggestion on emergency clinics, had expressed that no less than 898 beds would be expected for the Barisal division. They proposed 6,612 beds for various areas of Barisal, Khulna, Mymensingh, Rajshahi, Rangpur and Sylhet divisions. The advisory group likewise said that these beds will be fixed in certain emergency clinics at the area and upazila levels. The Department of Health has organized 4 thousand 200 beds in these 6 areas. That is, 2 thousand 412 beds not exactly the proposal.

Mymensingh division has the most minimal ICU. Just a single clinic in Mymensingh Sadar of this division has seven beds for corona patients. There are no ICU administrations in the excess three locale. As per the data of the Department of Health, there are no ICU beds for corona patients in 49 regions of the country. This assistance is fundamentally given in the divisional urban areas.

There are 158 ICU beds in the capital Dhaka and 47 ICU beds in 6 regions of Dhaka Division for corona patients. That is, 60% of the complete ICU beds are for Dhaka patients. 40% ICU until the end of the nation's patients.

### **3.6 Only 67 ICUs in Dhaka for treating COVID-19 patients**

Despite the fact that the quantity of individuals contaminated with coronavirus (Covid-19) is expanding in the country, the greater part of them won't the medical clinic. 93.56 percent patients are getting treatment from home. Then again, more than 66% (67.48 percent)<sup>8</sup> of the beds designated for corona treatment the nation over are lying empty.

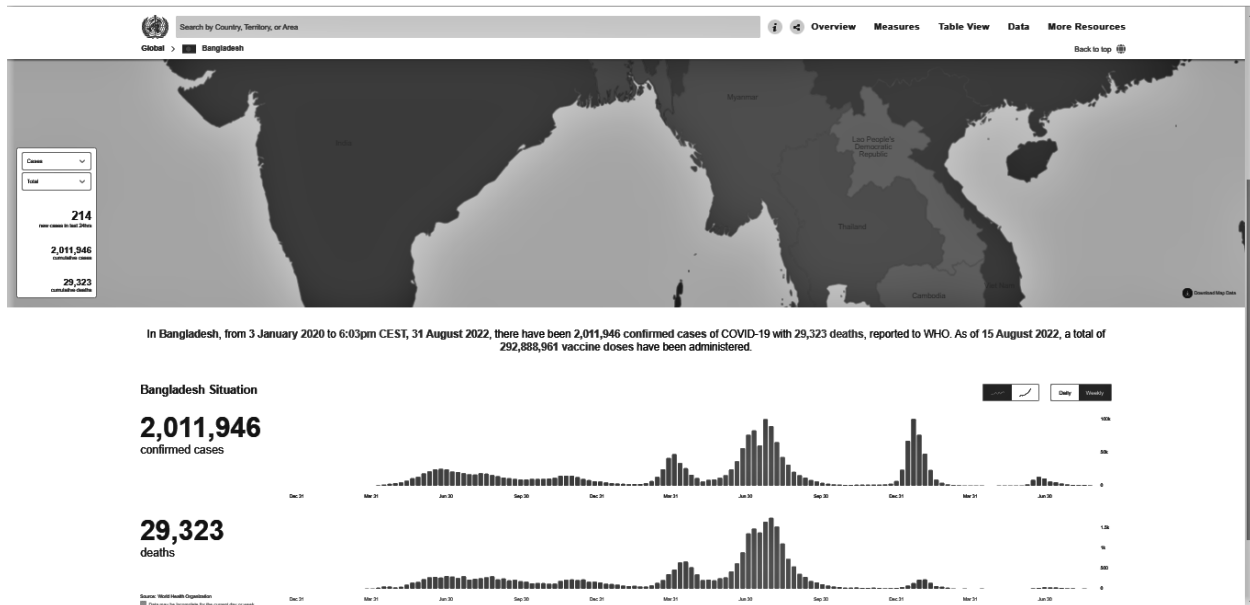
In practically all nations of the world, an enormous extent of those impacted have gentle signs and side effects. They needn't bother with to be owned up to the medical clinic. Essentially those whose condition is serious ought to be owned up to the emergency clinic. However, it has been seen for a long while that a piece of the people who are passing on because of corona infection in

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<sup>8</sup> Reza, S., 2020. Only 67 ICUs in Dhaka for treating COVID-19 patients. [online] Prothomalo. Available at: <<https://en.prothomalo.com/bangladesh/city/only-67-icus-in-dhaka-for-treating-covid-19-patients>> [Accessed 31 August 2022].

Bangladesh are biting the dust at home. Over the most recent six days, 23 percent of the complete passings happened at home. Specialists trust that in spite of the reality of the circumstance

### 3.7 Bangladesh - WHO Coronavirus (COVID-19) Dashboard

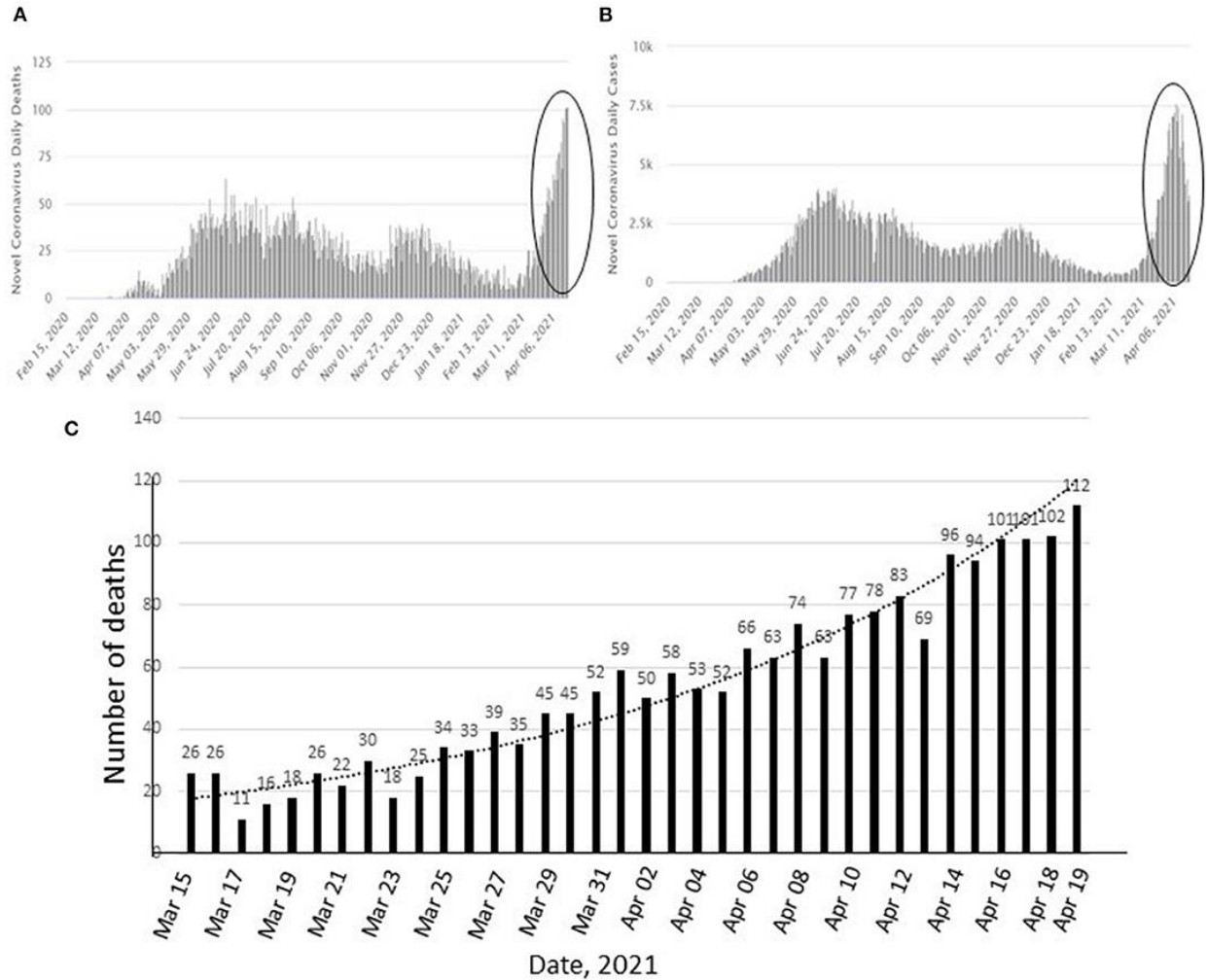


9

In Bangladesh, from 3 January 2020 to 6:03pm CEST, 31 August 2022, there have been 2,011,946 confirmed cases of COVID-19 with 29,323 deaths, reported to WHO. As of 15 August 2022, a total of 292,888,961 vaccine doses have been administered.

<sup>9</sup> Covid19.who.int. 2022. Bangladesh: WHO Coronavirus Disease (COVID-19) Dashboard With Vaccination Data. [online] Available at: <<https://covid19.who.int/region/searo/country/bd>> [Accessed 31 August 2022].

### 3.8 Second Wave of COVID-19 in Bangladesh: An Integrated and Coordinated Set of Actions Is Crucial to Tackle Current Upsurge of Cases and Deaths



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In 2020, Bangladesh had been able to successfully combat the initial wave of coronavirus infections. The country is currently dealing with the bloodiest phase of the pandemic as the infection rate has suddenly increased to 21-24%. The number of infected people and fatalities is increasing daily to new highs. The infection rate was below 5 from mid-January to the first week of March 2021, and starting in the latter week of March 2021, the infection and death toll progressively rose, indicating the beginning of the second wave of COVID-19

<sup>10</sup> Al-Bari, M., Hossain, S. and Zahan, M., 2021. Exploration of sex-specific and age-dependent COVID-19 fatality rate in Bangladesh population. *Frontiers in Public Health*.

## **CHAPTER FOUR**

### **Rights And Duties of Doctor And Patient**

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#### **4.1 Rights of Patient**

The patient's stable privileges are as follows:

1. the right to show consideration for others' feelings, needs, dignity, and best interests;
2. a person's right to privacy
3. the appropriate development of medical services
4. The best choice for receiving adequate health care.
1. The choice to receive valid and protected consideration.
5. make an assent offer or a rejection for any methodology and under any circumstances.
6. Ask a clinical master to clearly substantiate your medical conditions and insurance.
7. Right to raise questions and blatant concerns
8. The right to see your health information records.
9. The right to abundance, rise, and treatment
10. Right to security and privately
- 11 Right to access your medical file

## **4.2 Patient's Responsibilities**

Patients are expected to fulfill the following obligations:

1. Behave appropriately at all times, show consideration for various patients, and cooperate with all other staff
2. Give medical professionals all the information they need to better diagnose, treat, and care for their condition.
3. If a planned procedure or check cannot be completed, inform the staff as soon as possible.
4. Observe the hospital's environment, furnishings, and equipment.
5. Respect hospital policies to ensure that treatment is delivered properly.

## **4.3 Doctor's obligations**

1. A specialist should maintain the best practices of talented leadership.
2. specialist should follow their vocation unaffected by thoughts of gain.
3. To provide each patient with the same level of care and treatment across the board. Although a specialist has the right to select the patients they treat, doing so should never result in unjustified segregation, and crisis care should never be refused. Specialists have a duty to avoid provoking their clients, coworkers, or others on issues of sex, sex, sexual orientation, race, or any (assumed) group identity.
4. In order to protect life, it extends the patient's right to real independence and active force.
5. To respect the privacy and security of his or her patients and to only disclose medical treatment, therapy, and other relevant and specific health information with the patient's informed and written consent, or after being given the go-ahead by law or a court to try to do so.

## CHAPTER FIVE

### Finding and Recommendation

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#### 5.1 Finding

In Bangladesh, a victim of medical malpractice may go to court to seek redress under the Constitutional Law, Criminal Law, Civil Law, and other specific Laws. In addition, medical practitioners are expected to be aware of the legal repercussions of their medically negligent actions and to engage in ethical behavior in order to stay out of contentious situations and legal disputes.

Patients' deaths as a result of medical malpractice are a frequent complaint in this severe corona crisis. The doctors are citing a shortage of personnel as well as other justifications. Every nation recognizes abuse as a crime against humanity. In accordance with Section 304(a) of the Penal Code, it is expressly stated in the Penal Code of Bangladesh that if a person intentionally or recklessly causes the death of another person, they are guilty of a crime.

When a patient consults a doctor and the doctor takes over duty for the patient's care, the doctor cannot avoid Section 304(a) culpability if the patient dies as a result of the doctor's carelessness. because medical professionals are subject to the law. Medical care is listed as one of the fundamental necessities of Bangladeshi residents in the country's constitution, yet the medical care system has long been in a state of anarchy. Although it is legal to take corrective action for different medical care crimes, most people are unaware of this. Although specific legislation is required for this, it is not being implemented. As a result, crimes relating to medical carelessness are growing every day.

JKG Healthcare CEO Ariful Haque Chowdhury, his wife Dr. All eight defendants, including Sabrina Chowdhury, were given 11-year prison terms by the court. The verdict in the case was announced by Additional Chief Metropolitan Magistrate of Dhaka Tofazzal Hossain on Tuesday in the presence of the accused.

The government mandated free corona testing for select hospitals as a response to that catastrophe. In violation of the terms under which it was entrusted with the corona testing, JKG Healthcare has violated the Penal Code's Sections 420, 466, and 471 by lying, fabricating reports, and utilizing forged certifications as genuine in order to obtain benefits.

The trial will begin with the drafting of accusations against the accused in accordance with Sections 170/269/420/406/466/465/471/34 of the Penal Code, according to Metropolitan Magistrate of Dhaka Sarafuzzaman Ansari.

Charges were brought in this case under Sections 170 of the Penal Code for using a false identity of a public servant, 269 for negligence knowing that it could spread a dangerous disease, 406 for criminal breach of trust, 420 for cheating, 465 for forgery, 466 for forging official documents, and 471 for presenting a forged document as genuine.

Among them, the offender was given a section 420 sentence of three years in prison and a 3,000 fine. If they don't pay the fee, they'll have to spend another three months in jail.

Each of the eight defendants has been given a sentence of four years in prison and a fine of four thousand rupees, with a four month grace period, in accordance with Section 466 of the Penal Code.

In addition, four years in prison and a punishment of 4,000 taka have been mandated by Section 471 of the Penal Code, with an additional four months of imprisonment added in the event of nonpayment.

The three-part punishment will be carried out in stages, and each defendant will serve 11 years in prison. This sentence will be reduced by the time spent in jail.

The accused was exonerated in accordance with Sections 170, 269, 406, and 465 of the Penal Code because the allegations against him were not proven.

After the verdict, Farooq Ahmed, one of the defendants' attorneys, informed reporters, "In this instance, three portions have been sentenced individually. The longest possible sentence for convictions on distinct crimes is usually a jail sentence. But in this case, it is stated that the sentences will run consecutively, resulting in an 11-year penalty.

## **5.2 Recommendation**

Bangladesh does not have a distinct law that addresses medical malpractice. When someone becomes physically ill or injured, they should seek the advice of sections 337 and 338 of the law code for the proper remedies. Additionally, section 304A makes provision for causing death by negligence. In Bangladesh, if someone wants to get help getting well, they should turn to the aforementioned categories. These portions do have certain restrictions, though. These square measurements are here briefly defined.

1. Certain subsections of the Penal Code's existing Sections 337, 338, and 304A may incorporate provisions for medical negligence During Pandemic .
2. The definition of medical negligence, its varieties, and its scope must be specifically mentioned along with these additions.
3. The entire procedural complication must be eliminated in the event of medical malpractice.



4. All aspects of the lump sum investigation process must be eliminated in cases involving medical malpractice. The length of the lawsuits is increased by these investigative techniques.
5. To properly investigate cases of medical malpractice, the police must have the necessary training. They are incapable of understanding medical negligence. It is necessary to change their perverted males tendency in particular. On occasion, it appears that they are assisting the offenders in moving freely despite committing a crime. The perpetrators pause mid-sentence. By offering bribes, the offenders silence the police. Therefore, in order to establish the rule of law in society, the corrupted minds of police must be altered.
6. The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982 mandates that steps be taken to ensure that private clinics are inspected. As stated by the Ordinance, our nation's private clinics are not subject to inspection. The punishment for breaking the Ordinance is not as strict as it is in the Ordinance. Therefore, a provision of penalty for breach of the Ordinance must exist in order to take action against such a violation.
7. Accountability of the inspection authority must be guaranteed by revising the Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982.
8. For private clinics or hospitals to be granted a license, they must have enough treatment spaces, suitable medical tools, and sufficient seating for patient visits.
9. For surgical procedures, medical examinations and services, including pathological and radiological investigations, and preservation of patient records, suitable steps must be taken to determine prices for a private clinic and private laboratories.

### **5.3 Bangladesh Constitutional Law**

Actually, the Constitution of Bangladesh does not provide any special rights to the patient. Bangladesh Constitution has declared "right to life" (Article 32) as a fundamental right. Indeed, in its Fundamental Principles of State Policy, the State has been obligated to ensure the "basic necessities of life, including food, clothing, shelter, education and medical care and to 'raising of the level of nutrition and the improvement of public health'.

As a result, the provisions of Articles 15, 18, 31, 32, 44, and 102, which serve as guardians of citizens' right to health, provide constitutional remedies when health is in danger. The petitioner in the Doctor's Strike Case (*Dr. Mohiuddin Farooque v. Bangladesh & Others*) contested the government doctors' right to continue their strike, which the court characterized as a "failure to perform their statutory and Constitutional duties to ensure health services and medical care to the general public, arising out of the striking doctors' abstention from duties."

## **5.4 The Medical and Dental Council Act 1980**

Patients pay doctors a significant amount of money, but they do not receive the proper care from them. In this circumstance, the Council may, in accordance with Section 3 of the Act of 1980, dismiss any clinical gifted person. The Council may refuse to allow enlisting of any health professional or dentist who is suspected of acting unprofessionally in light of his profession (Section of 28i). The Council may also order the name of any registered health professional or dentist to be removed from the Registration permanently or for a specified period of time due to very bad behavior (Section of 28ii). According to Section 5(a) of the Code of Medical Ethics, gross negligence on the part of clinical and dental experts in fulfilling their patient commitments is also regarded as unpleasant behavior sufficient to warrant the suspension or expulsion of their names from the Registrar.

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

Specialists, any nearby facility, and public clinics have a duty of care to the patients. Patients pay for their treatment in camera facilities and symptomatic focuses during working hours because individual practice is absolutely forbidden (Section 4). Patients thereafter become clients there and are eligible for incite correct services. the right comfort and energizing environment for the patients, at least 80 square feet of floor space per patient, a cooled activity theater, the availability of a wide range of basic types of equipment, a satisfactory proposal of life-saving and basic medications, the necessary variety of regularly enlisted clinical professionals, medical professionals for patient activity, therapy, and administration, as well as auxiliary workers and experts in the field (area 9).

Additionally, this Act has granted the Director General of Health with more authority. Any office of an enrolled medical care provider, individual center, individual emergency clinic, or obsessive lab may be subject to investigation by the Director General of Health or another official designated by him to determine whether they violated or failed to comply with any provision of this Ordinance (Section 11).

## **5.5 The Penal Code, 1860**

Criminal complaints are being filed against medical professionals alleging that they committed crimes punishable under Section 304A or Sections 336, 337, or 338 of the Civil Code of 1860, alleging that their negligence caused a number of patients to die or suffer injuries of varying severity). The legal code contains safeguards for professionals suspected of criminal responsibility in sections 80 and 88.

According to Penal Code 1860 using a forged document as genuine (Section 471), Punishment for forgery (Section 465), Forgery of record of Court or of public register, etc (Section 466),

Causing Death by Negligence (Section 304A), Act Endangering Life or Personal Safety to Others (Section 336), Causing Hurt by Act Endangering Life or Personal Safety of Others (Section 337), Causing Grievous Hurt by Act Endangering Life or Personal Safety of Others (Section 338) are all examples of negligent acts (section 338) Can be deal with the Medical Negligence During Pandemic

In addition, Section 314 for offenses involving abortion and Sections 323 to 326 for a variety of offenses involving gross carelessness provide remedies for medical malpractice. In addition, Section 336 of the Penal Code specifies a maximum sentence of 3 months in prison and a fine of Tk 250 in the event that carelessness or negligence causes a death or other safety disturbance. In addition, negligently causing harm carries a maximum penalty of Rs. 500 in fines and six months in prison under Section 337 of the Penal Code. In contrast, Section 338 is quite consistent with regard to tort remedies for medical negligence. This clause states that a maximum of two years in prison, a maximum fine of 5,000 taka, or both may be imposed if any type of careless act or negligence results in injury.

# CHAPTER SIX

## Concluding Remarks

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### 6.1 Conclusion

In Bangladesh, medical negligence during pandemic time is a common occurrence and very important and also very significant subject ; it typically results from a lack of accountability. We firmly believe that medical professionals, including doctors, have a moral obligation to defend the lives and health of the public. The citizens of the nation are aware of cases of medical malpractice that cause death or other harm to them and are prepared to file legal complaints. Even if the current legal system has some flaws, the government of the People's Republic of Bangladesh is taking steps to minimize or prevent such occurrences.

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