

UNIVERSITY OF PÉCS

FACULTY OF LAW



Dissertation Summary

**Liability of Medical Practitioners for Malpractices and Negligence in Rwanda
—A Legal Perspective**

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1. Scope of the Study

Patient safety remains a challenge in modern medical practice.¹ Yet, as the former World Bank Group President Jim Yong Kim correctly puts, “Good health is the foundation of the country’s human capital, and no country can afford low-quality or unsafe healthcare.”² According to the World Health Organisation (WHO) recognises that unsafe healthcare significantly contributes to mortality and morbidity, particularly in low- and middle-income countries (LMICs), including Rwanda.³ Given this reality, a 2017 joint study conducted by the WHO, the Organisation for Economic Co-operation and Development (OECD), and the World Bank highlights the urgent need for policymakers to implement measures aimed at enhancing healthcare quality and service delivery.

In Rwanda, the incidents of medical malpractice have recently been highlighted by the Parliament’s Public Accounts Committee (PAC) as a contributing factor to governmental fiscal strain.⁴ Besides, the reports from medical professional councils and case laws reveal that there is a need for action.

Medical practices that compromise patient dignity not only violate fundamental ethical principles but are also widely condemned and can be legally actionable. Healthcare practitioners whose actions or omissions breach medical ethics and patient safety standards, as defined by existing legal frameworks, may be held liable for medical malpractice or negligence. However, challenges in documenting and proving malpractice cases have limited successful litigation in Rwanda, with only a few cases resulting in legal accountability due to a lack of sufficient evidence.

The present study explores the medical liability in Rwanda. The researcher begun by examining the phenomenon of medical malpractice and negligence in Rwanda to lay down the landscape, forms and factors contributing to the problem. Throughout the study, the standard of care is one of the essential concepts throughout the study, which constitutes a benchmark for healthcare service delivery to ensure quality and safety.

Various forms of medical malpractice have been identified including medication error; neonatal injury or death during childbirth; maternal injury or fatality; unnecessary ablation or resection procedures; surgical errors; incorrect count and retained surgical instruments (RSIs); and the lapse in standard medical protocol within the therapeutic relationship.

The study examines the legal and policy frameworks underpinning the liability for medical malpractice and negligence. It focuses on Rwanda’s constitutional, statutory, regulatory, and

¹ Katharine A. Wallis, “No-Fault, No Difference: No-Fault Compensation for Medical Injury and Healthcare Ethics and Practice,” *British Journal of General Practice* 67, no. 654 (2017): 38–39, <https://doi.org/10.3399/bjgp17X688777>.

² World Health Organization, “Low Quality Healthcare Is Increasing the Burden of Illness and Health Costs Globally,” 2018, <https://www.who.int/news/item/05-07-2018-low-quality-healthcare-is-increasing-the-burden-of-illness-and-health-costs-globally>.

³ WHO, “Patient Safety,” 2023, <https://www.who.int/news-room/fact-sheets/detail/patient-safety?form=MG0AV3>.

⁴ Emmanuel Ntirenganya, “PAC Warns against Negligence in the Medical Sector,” *The New Times*, September 2021, <https://www.newtimes.co.rw/article/189406/News/pac-warns-against-negligence-in-the-medical-sector>.

institutional frameworks governing medical malpractice and negligence. In this context, patient rights and healthcare duties are discussed. Additionally, the implementation of healthcare laws and regulations are also examined to assess the effectiveness of the Rwanda's medical liability framework.

The possible modes of liability in Rwanda's healthcare system include professional, administrative, civil, criminal, and corporate medical liability. The main remedial forums are courts. Professional medical bodies also play a critical role in ensuring compliant and accountable medical practice by holding wrongful healthcare practitioners liable. Remedies are granted on fault-basis and are available to victims in forms of pecuniary and non-pecuniary damages.

Although Rwanda is the central jurisdiction of this study, selected jurisdictions (France, Hungary, South Africa, and Canada) have been examined about damages awarding in medical malpractice cases to draw normative and policy lessons relevant to Rwanda's context. Similar to Rwanda, in those jurisdictions, medical malpractice is primarily addressed through civil liability, even where criminal liability may arise. Besides, courts retain discretion in assessing the scope and quantum of damages.

The research introduces a new model for enhancing patient safety and healthcare accountability to include various layers such as patient interaction and safety, service delivery competence and reporting, institutional governance and compensation, ethical and legal aspects, as well as continuous improvement. Under this model, new concepts and strategies for advancing patient safety were proposed including the application of patient safety incident response framework (PSIRF-style learning), patient-reported experience measures (PREMs), patient-reported outcome measures (PROMs), privacy by design approach, and regulatory sandboxes. It also encourages early notification, just culture, systemic learning, blame-free culture, apology, time-bound settlement of the medical malpractice claims, and the introduction of ADR mechanisms and no-fault compensation approach.

The scope of this research is to examine the Rwanda's medical liability framework. It explores legal, regulatory, ethical, and institutional approaches by striking the balance between the health practitioners' liability and systemic learning, as well as the patient protection and fairness. Eventually, the study provides some reform prospects to strengthen healthcare accountability and patient safety.

2. Purpose of the Study

Medical malpractice and negligence are frequently seen as threats to patient safety and as financial burdens on the country, healthcare organisations, and the community. Yet, there has not been substantial reporting on the liability of medical practitioners for such patient harm in Rwanda. The present research aims to investigate the liability of medical practitioners for malpractice and negligence in Rwanda.

Malpractice liability seeks to strike a balance between the interests of medical practitioners and those of patients by establishing accountability for their conduct.⁵ As Danzon argues, the liability of healthcare service providers can encourage the most effective treatment for patients.⁶ All forms of liability ultimately aim to prevent medical malpractice by providing victims of medical injuries with a flexible remedy and successful compensation. Indeed, one of the goals of medical liability is to create “deterrence,” whereby medical practitioners must exercise caution in their professional endeavours to prevent medical errors that could subject them to liability.

The present research sheds light on medical liability, which is a public concern. It also aims to contribute to the legal and policy frameworks by providing remedial approaches for victims of medical malpractice in Rwanda. The research is therefore envisaged to contribute to the development of sound healthcare that guarantees compliance with international health regulations (IHR) and meets minimal standards for health services. Ultimately, the research is expected to inform the government and its stakeholders in the healthcare sector to take action to prevent medical malpractice and negligence, and advance “patient safety” and “access to justice” as the two most important aspects of the right to good health.

2.1. Research Objectives

- i. Evaluate the degree of the medical malpractice situation in Rwanda;
- ii. Identify the forms and factors that contribute to medical malpractice and negligence;
- iii. Assess the existing modes of liability for medical practitioners;
- iv. Evaluate the loopholes and challenges in the legal and policy frameworks that may lead to medical malpractice;
- v. Explore various theories and doctrines associated with medical liabilities;
- vi. Suggest possible legal remedies for victims of medical malpractice and negligence.
- vii. Define the mechanisms that could strengthen patient safety and promote medical malpractice compensation system in Rwanda.
- viii. Provide appropriate recommendations on the prevention of medical malpractice and negligence and enhance the healthcare service users’ rights and safety.

2.2. Research Questions

2.2.1. Primary research question

The main research question is “How does Rwanda implement its medical liability framework, and what can be done to strengthen healthcare accountability and patient safety?”

⁵ Ronen Avraham and Max M. Schanzenbach, “Medical Malpractice,” in *The Oxford Handbook of Law and Economics: Volume 2: Private and Commercial Law*, ed. Francesco Parisi, vol. 2 (Oxford University Press, 2017), p. 122, <https://doi.org/10.1093/oxfordhb/9780199684205.013.006>.

⁶ Danzon M. Patricia, “Liability For Medical Malpractice,” *Journal of Economic Perspectives* 5, no. 3 (1991): 52–53, 64–65.

2.2.2. Sub-questions

- i. To what extent do medical malpractice and negligence cases occur in Rwanda, and what are their predominant forms and underlying contributing factors?
- ii. How do Rwanda's legal and regulatory frameworks establish a liability regime for malpractice and negligence, and what challenges undermine its effectiveness?
- iii. What mechanisms can promote healthcare accountability and patient safety in Rwanda?

2.3. Research Delimitations

The present research is purposely limited in respective matters. The research focuses on medical liability resulting from the healthcare service delivery and does not examine broader public health law, health financing, or health policy issues except where they directly interconnect with liability, accountability, or patient safety.

Besides, the study does not explore clinical or medical science or assess the technical appropriateness of clinical trial or medical procedures beyond the legal evaluation against established standards of care. It undertakes neither the examination of insurance law or insurance market dynamics although it discusses the mandatory professional liability insurance aimed at access to remedies and accountability in healthcare system.

In addition, the comparative analysis under this study is selective rather than exhaustive. Thus, the selected jurisdictions were examined in relation to the compensation awarding to evaluate alternative compensation and accountability models, identify best practices applicable to Rwanda, and for illustratively support normative recommendations for potential reforms withing Rwanda's legal and institutional context, not in depth for their own sake.

Then, the study does not interact with patients to understand their personal experiences about medical malpractice incidents beyond the available institutional data, nor does it assess patient-safety outcomes through epidemiological or statistical modeling. In other words, the study primary focus remains legal accountability, remedial appropriateness, systemic improvement, rather than healthcare performance dimension as such.

3. Methodology

Methodologically, the study employs a mixed doctrinal and non-doctrinal (socio-legal) approach. The doctrinal aspect focuses on legal texts, case law, and regulatory frameworks, while the non-doctrinal component evaluates how these norms function in practice through empirical data drawn from healthcare regulatory bodies, professional councils, the judiciary, and relevant institutions.

4. Literature Review

This study explores a wide range of literature examining the liability of medical professionals, accountability mechanisms, patient safety, compensation models, and comparable contexts with

particular attention to Rwanda and selected jurisdictions. A comparative study between those jurisdictions about medical liability laid a comprehensive understanding of the topic, which complemented the available literature on Rwanda's liability framework and substantiated the analysis of the gathered information from various institutions and case laws. Literature is underpinned by various legal theories, concepts and principles developed and discussed by various renowned scholars. It delves the foundations of liability in medical practice throughout the existing Rwandan legal regime.

4.1. Theoretical Foundations

The analysis is theoretically anchored in Kantian deontological ethics, professional liability theory, and human error theory, which together frame medical liability as an ethical, legal, and systemic phenomenon.

4.2. Comparative and Case Study

4.2.1. Comparative study

A comparative study made aimed to evaluate accountability mechanisms and alternative compensation models, identify best practices relevant to Rwandan context, draw comparable applicable to medical liability, and support normative and evidence-based recommendations for reforms.

The study reveals that in all the selected jurisdictions, civil liability is the primary route for medical malpractice cases and pecuniary and non-pecuniary could be awarded for harm suffered by the victims of medical malpractice. In exceptional cases, symbolic or punitive damages like punitive damages might be awarded in South Africa, for example. Restitution in kind could also be granted in Hungary. In Canada, non-pecuniary damages are subject to caps. Besides, medical malpractice liability coverage is necessary for practicing physicians.

However, the best international practices in ensuring patient safety and healthcare accountability, such as adoption of “just culture” and patient safety incident response framework (PSIRF) in England, offer a valuable reference for Rwanda's healthcare system. Equally important, strategies aimed at enhancing patient safety and access to justice, such as no-fault schemes, the use of ADR mechanisms, medical professional liability insurance, and establishment of specific funds for medical malpractice remain particularly relevant. The comparative analysis reveals some gaps in the Rwanda's remedial architecture, emphasising the need for harmonisation and providing guidance on best practices to adopted to ensure the patient safety and healthcare accountability.

4.2.2. Case study

Rwanda was chosen to be the case study due to its dynamic and evolving legal landscape that offers a unique context for examining medical liability within a post-conflict, reform-driven framework. Its hybrid legal tradition, combining civil law with increasing influences from common law principles, along with a system that adapts to legal changes, and a rapidly transforming healthcare sector, makes Rwanda a compelling case for academic study. With the country's ambitious healthcare reforms, greater involvement in clinical research, and a stronger

focus on patient rights and ethical medical practices, the legal landscape plays a vital role in building a robust system of medical accountability. However, the mere presence of legal framework does not suffice for accountability and malpractice victims' access to justice. Thus, the harmonisation of the existing liability regime and establishment of implementation mechanisms are essential.

5. Chapter Overview

This dissertation is organized in nine chapters, and could be subdivided into three parts, systematically examining the liability of medical practitioners for malpractice and negligence in Rwanda. The first part (chapters One-Three) provides the foundational framework. Chapter One puts the foundational context by situating Rwanda's medical liability system within its legal framework from the historical evolution and post-genocide healthcare reforms aimed at harmonising healthcare with international standards. Chapter Two develops the conceptual framework of the research by analysing the key concepts including medical malpractice, negligence, duty of care, and standards of care. It also develops a theoretical foundation underpinning the study by advancing the Kantian deontological paradigm, professional liability theory, and human error theory by James Reason, that collectively emphasise the necessity of ethical compliance, systemic accountability, and patient safety in healthcare service delivery. Chapter Three covers the methodological aspect. It outlines a mixed-method design, which merges doctrinal legal analysis with socio-legal approach, applied to assess the law in practical operation.

The second part (Chapters Four-Eight) addresses the substantive research questions. Chapter Four examines the forms of medical malpractice and their contributing factors in Rwanda. It identifies various forms such as diagnostic and medication errors, maternal and neonatal injuries and deaths, surgical errors, and breaches of informed consent. This Chapter discusses various factors contributing to medical malpractice including systemic, organizational, and human failings. It goes far to the profound effects of medical malpractice and negligence on healthcare service users, professionals, and system itself. Chapters Five and Six dive deep into available legal and regulatory frameworks on medical liability. They lay institutional role and regulatory loopholes and explore the background of medical liability in Rwanda, foundations of medical ethics and standards of care, its normative justifications, and models. Chapter Six particularly analyses the liability approaches available in Rwanda including professional, administrative, civil, criminal, and corporate liabilities. It examines the damages assessment with a comparative approach and explores the available complaint and dispute-resolution mechanisms. This chapter also identifies the challenges posed by fault-based compensation such as procedural complexity, defensive medicine, and enforcement gaps. Chapter Eight covers mechanisms for enhancing healthcare accountability and patient safety in Rwanda. It proposes reforms that aimed at strengthening regulatory oversight, corporate and human-rights-based accountability, effective professional liability insurance, standardized process for vetting and accrediting medical experts for litigation, and adoption of a no-fault compensation system to improve access to justice and patient safety.

Chapter Nice, which is the final part, merges the findings, offering a concluding remarks and concrete recommendations for the development of more coherent and just medical liability framework that promotes patient-centeredness in healthcare service delivery in Rwanda.

6. Research Findings and Recommendations

6.1. Research Findings

- i. Frequent forms of malpractice include diagnostic errors, medication errors, wrong-site surgeries, maternal and neonatal injuries and deaths, postoperative care and monitoring, documentation lapses, and breaches of informed consent. However, a high rate is in Obstetrics/Gynaecology, which accounted for 59.9% of the 101 cases received by RMDC over the seven years from 2016 to 2022, and 69.5% of the 59 malpractice complaints received by NCNM over the four years from 2021 to 2024.
- ii. The reported numbers of medical malpractice complaints represent far fewer medical injuries (either reported or unreported) incurred in various settings of Rwandan health facilities. The compensation awarded in this context of remedy is limited to those who institute claims, which is relatively low. This undermines accountability and the reparation to the victims of medical malpractice.
- iii. Factors that contribute to medical malpractice incidents are in three main arrays: systemic factors, organizational factors, and human factors. Systemic factors include issues such as shortage of medical personnel, and outdated infrastructure while organisational factors entail issues such as inadequate planning and shortages or malfunctions of essential medical reagents and equipment. Then, human factors involve issues such as deficiency in medical training and medical corruption.
- iv. The reparatory regime for medical malpractice remains insufficient: remedial avenues for medical malpractice disputes are primarily the professional medical councils through hearings and courts through adversarial proceedings. This presents a lack of well-functioning ADR mechanisms, other than court-annexed mediation, that would increase access to justice in this respect. Besides, the medical liability framework presents regulatory shortages and ambiguity affecting compensation framework.
- v. Various forms of medical liability in Rwanda were include professional liability, administrative liability, civil liability, criminal liability, and corporate liability. But some of these require additional regulatory framework.
- vi. The lack of coherent and principled framework for calculating damages for medical harm in medical malpractice cases constitute an additional gap, compromising fairness, consistency, and transparency in damage awarding within the broach framework of healthcare accountability. Courts usually apply motor accident “floors” or “material damage” criteria to award compensation in medical malpractice cases, which presents a potential need for adopting a standard and transparent criteria fitting medical malpractice issues.

- vii. Healthcare lacks enough protection under Rwandan Competition and Consumer Protection Law despite being a business that sells services and products, including medications and medical devices. This reveals a potential need for guarantee of consumer protection rights.
- viii. Comparative analysis shows the need for adoption of a model that considers both fault-based and no fault-based compensation systems, prioritises patient-centred healthcare delivery, and promotes “just culture,” to enhance patient safety and healthcare accountability in Rwanda.

6.2. Recommendations

The research respectively recommends the Government of Rwanda, partners in health, healthcare professional bodies, and healthcare providers, the following:

- i. Establish radical reforms to empower regulatory enforcement, promote compliance, transparency and accountability. These reforms should improve staffing norms and workload management, initiate open reporting channels, reinforce the harm compensation process and medical professional liability insurance, as well as instill the attitude of patient safety over professional protectionism.
- ii. Enhance the value of expert evidence in malpractice litigations and establish a standardized process for vetting and accrediting medical experts.
- iii. Establish chamber specialized for medical malpractice complaints in Rwandan courts and reinforce ADR mechanisms to accelerate their resolutions.
- iv. Mandate institutional level grievance offices in hospitals with defined timelines for response, reporting obligations, and oversight to expediate malpractice complaints. This should be along with establishment of patient support units to help victims understand processes and access medical records and encouragement of broader use of ADR (mediation, expert review panels) to reduce court loads and uphold patient-provider relationships.
- v. Establish strategies for strengthening patient protection and empowerment by incorporating patient-centeredness in the routine hospital procedures.
- vi. Introduce patient information sheets or leaflets and improve the informed consent forms to incorporate multiple languages to serve diverse populations.
- vii. Align healthcare service delivery with international standards such as WHO patient safety guidelines, African regional health instruments, and best practices from well-functioning medical liability systems.
- viii. Promote cross-border learning in healthcare through benchmarking, regional conferences, and academic collaborations.

7. Research Gap

The existing literature on medical malpractice liability focused on developed jurisdictions and largely discusses tort-based and insurance-driven compensation models with caps. In Rwanda, the literature, although limited, describes the statutory and regulatory framework governing medical

practice, professional ethics, and general civil liability. However, this remains insufficient as it does not reflect the landscape of medical malpractice in Rwanda or make an in-depth critical analysis of medical malpractice liability system in the context of effective patient protection.

Particularly, the literature does not sufficiently examine the accessibility, suitability, and soundness of remedial approaches available to victims of negligent medical care, as well as the interaction between administrative disciplinary mechanisms, civil and criminal liabilities in practice. This gap remains significant as the mere existence of the legal framework does not guarantee meaningful accountability and compensation for patients. This literature lacks empirically grounded and doctrinally integrated analysis obscure systemic weaknesses within the malpractice liability framework, thereby undermining patient rights, restricting access to justice, and eroding public confidence in healthcare system. Additionally, despite the constitutional guarantees to good health and access to justice, patient-centered and patient rights-based approaches are not well developed in Rwanda.

The present research addresses these gaps by critical evaluating the liability framework of healthcare practitioners for malpractice and negligence by presenting the landscape of malpractice phenomenon, assessing the effectiveness of the existing liability scheme in providing comprehensive redress to the victims of medical malpractice, and proposing context-responsive legal reforms to enhance patient safety and adequate compensation that restores the dignity of the victims, thereby promoting access to justice.

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