

MEDICAL EXPERTISE OF THE JUDICIARY AND THE EVOLVING ROLE OF THE EXPERT WITNESS FOR ASSISTING JUDICIAL APPRECIATION OF MEDICO-LEGAL EVIDENCE

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This article focuses on assessment of medical knowledge among judiciary members, how some degree of medical knowledge assists in decision making among members of the judiciary. Further, this article discusses the ever-expanding role and scope of the Expert witness including the selection of such experts underlining the significance of checks to achieve the confidence in the quality of testimonies and neutrality of the witness. Furthermore, the chapter explores the requirements that expert witnesses need to satisfy to provide credible, reliable and reproducible testimony for effectively assisting in justice delivery systems.

Medical Knowledge of the Judiciary

The relationship between law and medicine requires the judiciary to be knowledgeable in medicine to facilitate appropriate decision-making in medico-legal cases¹¹⁶¹. Judges do not only decide cases but are expected to monitor the evaluation of experts and comprehend medical evidence. Thus, in consequence, it follows that any judge aspiring to handle health-related cases must learn some basics of medicine because such cases come with bias involving exclusive professional opinions. The understanding of certain terms and concepts in relation to the medical profession affects a judge's capacity to evaluate the reliability of expert testimony. In *R v. Bonython* [1984] 38 SASR 45, it was observed that question of admissibility of expert evidence hinges on judges' capacity to understand for determining scientific reliability from the expert opinion and relatability to the matters in issue¹¹⁶². Especially, for the judges who rarely come across medical jurisprudence, they might be seen misinterpreting the provided evidence in a

manner that contributes to the improper court decisions.

Furthermore, the development of complex medical procedures and introduction of new technologies in healthcare requires judges to be up to date with modern medical practice. For instance, when there are issues such as psychiatric evaluations, which cannot be evidenced through laboratory tests, it becomes difficult to assess the admissibility of expert opinions; a factor arrived at while addressing the issues of reliability of impressive medical evidence. Judges need to be in a position to analyse expert opinions with an understanding that, some of these opinions maybe conflicting even with professionals. Based on this crucial significance, there is a growing concern on the lack of structured education programs or other forms of training that seeks to build the knowledge of judges in medical issues¹¹⁶³. In the USA particularly and also in the UK, judicial officers undertake mandatory medico-legal courses to better appreciate expert evidence.

¹¹⁶¹ Brazier, Margaret. "Medico-legal history: why bother?." In *Law and healing*, pp. 1-20. Manchester University Press, 2023.

¹¹⁶² *R v. Bonython* [1984] 38 SASR 45

¹¹⁶³ Carpenter, Anna E., Jessica K. Steinberg, Colleen F. Shanahan, and Alyx Mark. "Studying the New Civil Judges." *Wis. L. Rev.* (2018): 249.

There is often judicial education in forms of workshops, seminars and online courses dedicated to the pertinent medical matters. Specifically, the provision of the non-jury trial training sessions in fields such as forensic medicine, pharmacology, and psychological assessment would add value to interactions between judges with experts to evaluate their testimonies¹¹⁶⁴. In addition, the requirement of continuing education would help judges keep a tap with new developments in medical practice and legal precedent, bringing more knowledgeable bench. This demand is supported by numerous legal precedents and statutes that might have referred to or required medical knowledge into the judiciary. For instance, the Rules of Civil Procedure of England – the CPR Part 35 defines the conditions for the expert evidence, and knowledge and impartiality are underlined. The role the judge has shifted from merely accepting medical testimony to determining if an expert is well equipped to handle a given case.

On the other hand, several such lacunae exist within the Indian judiciary system. As embodied by the Indian statutes including the Indian Evidence Act, 1872, such evidence is crucial in legal processes¹¹⁶⁵. Indian courts have started to constantly accept the need for judges to first have a rudimentary knowledge of medical jurisprudence especially in practice areas such as medical malpractice and torts. The Hon. Apex Court, in Jacob Mathew vs. State of Punjab (2005) 6 SCC 1, has pointed out that not only the negligence is judged upon evidence and nature of evidence but also, the quality and authenticity of testimonies of expert medical witnesses are crucial therein thus emphasizing on the importance to be adopted by renders on critical assessment of proofs and medical witnesses credibility¹¹⁶⁶. In addition, the guidelines on expert witnesses in India have

been decided by Medical Council of India; more importantly, MCI has affirmed a comprehensive scrutiny over the qualifications of the expert witnesses, and their independence.

Despite an appreciation of the role of medical knowledge, research shows that there continues to be an effecting loss of medical knowledge among legal professionals. A sample study conducted on Swiss judges identified that despite the professionals' understanding of the need for medical information, they do not have the means to assess scientific evidence¹¹⁶⁷. This gap could lead to injustices whereby the judge relies mostly on the expert testimony without adequate cross examination hence arriving at decisions which may not be backed up by proper scientific facts. To overcome this gap, legal institutions should pay more attention to the cooperation of clinicians and legal experts. Such measures may range from formation of panels, which will comprise of medical practitioners to make recommendations to the judges on some of the complicated cases that are presented to the court. The combination of such expertise would most likely help to broaden judicial awareness regarding medical evidence as well as facilitate the creation of a more coherent system of evaluating expert testimonies in court.

Selecting an Expert Witness

The choice of expert witnesses remains an important factor that can promote judicial effectiveness, impartiality to deliver justice. Expert evidence may be decisive at trial in a broad range of cases and the quality and credibility of such evidence may be determinative in matters typically characterized as requiring specialized medical knowledge. Speaking of legal practitioners, they have to consider and evaluate necessity of trusting the expert evidence to its maximum, as the general rules are considered to have been defined in

¹¹⁶⁴ Wang, Zhuhaio. "The fate of evidence law: two paths of development." *The International Journal of Evidence & Proof* 24, no. 3 (2020): 329-348.

¹¹⁶⁵ Indian Evidence Act, 1872. https://www.indiacode.nic.in/bitstream/123456789/15351/1/ica_1872.pdf

¹¹⁶⁶ Jacob Mathew v. State of Punjab (2005) 6 SCC 1

¹¹⁶⁷ Canela, Carlos, Anna Buadze, Anish Dube, Christian Jackowski, Ingo Pude, Romilda Nellen, Paola Signorini, and Michael Liebreinz. "How do legal experts cope with medical reports and forensic evidence? The experiences, perceptions, and narratives of Swiss judges and other legal experts." *Frontiers in psychiatry* 10 (2019): 18.

the case of *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582 where the medical negligence was considered to be secondary if not corresponding to the practices of the medical community¹¹⁶⁸. This case highlighted as to why it is important for the judicial officers to ensure that they enrol expert witnesses with the requisite length and breadth of knowledge and experience in a particular proceeding.

The selection of an expert witness should involve the identification and evaluation of potential experts to culturally competent healthcare professionals with relevant knowledge and good communication skills. For instance, in *Harris vs. Johnston* [2016] EWHC 3193 the court observed that for an expert to be competent to appreciate legal principles in the case and how absence thereof leads to dismissal of crucial evidence. It is crucial in the legal system since efficiency of any judicial system depends on understanding of the judges/jurors and more importantly by an expert who can express a valid credible and dependable opinion acceptable to the courts and explain the scientific basis for his opinions.

Another factor that determines the competency upon an expert witness is therefore the independence and impartiality when selecting such witnesses. As prescribed under Civil Procedure Rules (CPR), UK, Part 35, the evidence has to be given independently, there should not be any conflict of interest¹¹⁶⁹. There have been cases wherein the court dismissed an expert's evidence because of his previous associations with the defendant party. It can result in severe legal consequences for the expert witness such as the exclusion of their testimony or adverse effects on the instructing party's case. It cannot be over-emphasised that legal teams must ensure requisite disclosures and conflict of interests to maintain a high level of integrity.

Additionally, it should be noted that the qualifications of the expert witness should be carefully examined and especially in view of the dynamics of medical science. In the Indian context, according to the Indian Evidence Act, 1872 such witnesses who offer their testimonial evidence need to have specialized knowledge and experience in the relevant area of the proceedings. In *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, the Hon. Apex Court positioned qualifications of experts as a dominant criterion in establishing negligence claims indicating that inadequate scrutiny of expert witnesses might inundate the judiciary with errors¹¹⁷⁰.

It should also be noted that while choosing an expert witness one must also consider their past deposition or testimony as well as their previous services to the profession. The test of reliability of expert testimony by the court is more likely when the expert has given consistent testimony in the past. The credibility of expert witnesses can further be backed up with evidence of continuing education and production of peer-reviewed articles showing the expert's continuous knowledge update in their respective field¹¹⁷¹.

However, there are other influences such as the roles and interactions within the legal team and the personality of both the expert and the attorney that can influence the success of the expert witnesses' testimony. An expert who understands how to deal with the legal team and respond when they cross examine better stands a chance to do justice fully. It is vital that an expert must always be able to answer questions coherently and accurately despite the pressures¹¹⁷².

Given these changes, the inclusion of two medical professionals as part of the judicial process can be an additional safeguard for improving quality of expert evidence. Further, enriching the knowledge of legal personnel with

¹¹⁶⁸ *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582

¹¹⁶⁹ Civil Procedure Rules (CPR) Part 35. <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part35>

¹¹⁷⁰ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1

¹¹⁷¹ Houck, Max M., Christine Funk, Harold Feder, and Harlan A. Feder. *Successful expert testimony*. CRC Press, 2018.

¹¹⁷² *ZZZ v. Yeovil District Hospital* [2019] EWHC 1642

medical evidence will enhance the choice and use of expert witnesses in legal cases. Legalizing the industry relations and interaction between the representatives of legal profession and medical professionals, will contribute to the better assessment of the expertise credibility.

Conditions Expert Witnesses Should Fulfil

In other words, the efficacy of medico legal procedures cannot be mooted without due consideration being given to education, experience as well as behaviour of individuals who serve as experts in legal proceedings. Implicit in these conditions is the notion that any expert possesses a certain level of specialization in the case being prosecuted or defended. Part 35 Civil Procedure Rules (CPR) specifically notes that the expert has to be reliable in the field that he or she is providing the evidence in and the opinion ought to be grounded in accepted medical management practices¹¹⁷³. In *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582, the court observed that the conduct of an expert has to be reasonable and prudent as would any other expert in the same field of practice¹¹⁷⁴. This principle implies that expert witnesses require pertinent academic qualifications and actual experience relevant to their opinions.

Also, independence is one of the basic requirements that should be met by expert witnesses. A professional witness should be able to give his evidence without any bias and with no interest in outcomes of the proceedings. When bias is present, it compromises any validity of the expert testimony. Legal practitioners must be satisfied that the specialists they wish to rely on can remain independent, and there is a duty to alert the court of any potential conflicts as soon as an application is made under the CPR Part 35.

Besides independence, the witnesses are supposed to uphold to high standards of probity and professionalism. The expert should

give the impartial opinion which will help the court to come to a fair decision¹¹⁷⁵. Breaches to these ethical rules may lead to judicial reproach as happened e.g. *Harris vs. Johnston* [2016] EWHC 3193 wherein court opined upon the expert failing to meet ethical benchmarks and thus their input was deemed significantly less persuasive¹¹⁷⁶.

Moreover, there is a crucial requirement that an expert witness must possess good communication ability apart from his specialized knowledge in his field of practice. This is important for the jurors and the judiciary to comprehend and grasp the information relayed by the medic in detail. It also helps to establish the dependability and reliance upon the said expert as well as enhancing the concrete nature of the medical issues under consideration¹¹⁷⁷.

According to the Medical Council of India, the requirement exists for certain courses for mandatory completion by the expert witness the requirement to fulfil continuous education means that the expert should possess all the necessary qualities of an education and knowledge that should be up to date with the advance in the field of practice¹¹⁷⁸. According to Indian Evidence Act, 1872 some of these conditions for admissibility of the expert evidence have been explained more elaborately, where in it is required that the expert should possess specialized knowledge in respect of the matters involved in the case as well as the specialized experience in such matters¹¹⁷⁹. While interpreting the medico-legal evidence in *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, the Hon. Apex Court stressed upon a need for judges to consider the

¹¹⁷³ Civil Procedure Rules (CPR) Part 35.
<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part35>

¹¹⁷⁴ *Bolam v. Friern Hospital Management Committee* [1957] 1 WLR 582

¹¹⁷⁵ Judiciary, UK. "Family Justice Council Resources and Guidance." 2022. *Courts and Tribunals Judiciary*. September 14. <https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/family-justice-council/resources-and-guidance/>.

¹¹⁷⁶ *Harris v. Johnston* [2016] EWHC 3193

¹¹⁷⁷ *ZZZ v. Yeovil District Hospital* [2019] EWHC 1642

¹¹⁷⁸ Aithal, P. S., and Shubhrajyotsna Aithal. "Analysis of higher education in Indian National education policy proposal 2019 and its implementation challenges." *International Journal of Applied Engineering and Management Letters (IJ-AEML)* 3, no. 2 (2019): 1-35.

¹¹⁷⁹ Indian Evidence Act, 1872.
https://www.indiacode.nic.in/bitstream/123456789/15351/1/iea_1872.pdf

adequacy of expert witnesses' qualifications and credibility, which again points to the role of these conditions in streamlining this methodology¹¹⁸⁰.

Lastly, it must be emphasised that expert witnesses have to be prepared for questions from the other side, during cross examination. Such an approach to legal work creates a certain level of controversy and calls for professionals to be confident about provided opinions and their ability to withstand criticism. The cross-questioning of the expert may also involve the ability to respond effectively to opposing counsel and addressing difficult questions that may be asked is critical in ensuring that the expert's evidence is credible.

Importance of Medical Members or Medical Witnesses

Medical members or medical witnesses play a significant part in the judicial processes in order to uphold the standards of the medico-legal jurisdiction. Their participation mediates between the practice of medicine and the law to improve the credibility of evidence that is presented before the courts and assist judicial decision-makers. It is therefore extremely important to have medical professionals play an active role in legal matter particularly in areas of clinical negligence, personal injury, and mental health law. Medical professionals through their professional training, can understand and appreciate medical evidence, explain its implications, and put forward factors that may not be so obvious to legal minds.

In most civil and medical negligence trials involving medical evidence, there can be more than one expert who give complicated or contrasting evidence¹¹⁸¹. The input of outside medical professionals may also serve to explain differences and contribute to a clearer assessment of circumstances in question. In, *Harris vs. Johnston* [2016] EWHC 3193, there is

emphasis on the necessity of independent medical evidence to support or refute the claim made by the medical expert witnesses¹¹⁸². It can be argued that their interpretative skills of such independent Amicus curiae medical experts when dealing with medical language enables the judicial members to appreciate the presented evidence and make an informed decision. Furthermore, medical witnesses may also help to enhance communication between medicine and law.

The role of medical witnesses can also be seen in the Indian Context where the Indian Evidence Act, 1872 defines position reserved for an expert witness within any legal system. The Indian courts have gradually realized the need for doctors to testify in court especially in cases of medical malpractice. In *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, the Hon. Apex Court explained why medical witnesses are pivotal in assessing the standard of medical management in a given case¹¹⁸³. This appreciation underscores the central role that medical practitioners play within the legal processes by providing evidential input on legal decisions.

Also, the involvement of medical personnel in courts can help to restore the population's confidence in the work of the judiciary. In the cases where the validity of the evidence is to be assessed, judges and jurors must feel confident that professional and reliable medical practitioners are expert assessors of such evidence. This trust is especially apparent in cases that profoundly affect an individual's life as is the case in torts or where the defendant is assessing their mental status. It also means that, by making medical knowledge accessible and ensuring its proper use, the legal system can increase the public's confidence that it will be able to provide justice. Therefore, one can assert confidently that, in medico-legal processes, medical members or medical witnesses play an irreplaceable role. As the

¹¹⁸⁰ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1

¹¹⁸¹ Mueller, Christopher B., Laird C. Kirkpatrick, and Liesa L. Richter. *Evidence Under the Rules: Text, Cases, and Problems* [Connected EBook with Study Center]. Aspen Publishing, 2023.

¹¹⁸² *Harris v. Johnston* [2016] EWHC 3193

¹¹⁸³ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1

legal work develops and progresses further it is only necessary for the judiciary to incorporate the views of medical experts in its work so that the verdict made would be fair and suitable to everyone included in the process.

Fallibility of Medical Evidence

It is critical to judges and legal personnel to appreciate the drawbacks and sources giving rise to bias in medical evidence so as not to be misled when using such evidence to come to a conclusion¹¹⁸⁴. On the one hand, complicated and vast medical knowledge and on the other, some of them regarding the human body are reliant on personal perception and examination, there are always going to be disagreements amongst the experts making it difficult for judicial proceedings.

The first issue that the scientific community faces with respect to credibility is inconsistency of various experts. This means that even well qualified experts may come up with different conclusions given in relation to the same facts. This is especially true in disciplines which are dependent upon the diagnoses that are not always measurable or based on a physical impairment..

In addition, bias on the part of individual medical experts can also taint the credibility of their evidence. Bias may stem from influence of money, acquaintance, or disposition towards the case. Despite the proclamations in Civil Procedure Rules (CPR), UK, Part 35 that expert witnesses should offer their opinions independently and impartially, biases will often seep in and shape the expert's evaluation¹¹⁸⁵.

Moreover, the process through which the experts have reached their opinions can also lead to the unreliability of medical evidence. Practical activities by using techniques that may be considered irrelevant or scientifically unproven may result in wrong conclusions. For example, if an expert relies on personal

experience instead of scholarly articles in reaching a conclusion, their evidence may not be admissible in court¹¹⁸⁶. This concern is more exigent in medical specializations that are constantly changing like oncology, pathology or neurology whereby new information can squarely shift existing practices.

Similar apprehensions over the credibility of medical evidence have also been a point of consideration in the Indian context as well. In Jacob Mathew vs. State of Punjab (2005) 6 SCC 1, Hon. Supreme Court of India portends an important message regarding the treatment given to the medical testimony scrutiny¹¹⁸⁷. On this, the court emphasised that we deal with intelligent professionals in the field of medicine and that they have to work in terms of guidelines laid down, and deviation of which could impact on the outcome of negligence claims. Thus, judicial officers must understand and recognize imperfection in medical evidence and be cautious especially when dealing with the expert opinion evidence.

In addition, it was found that due to factors such as 'the CSI effect' especially in the United States, entail the expectations of jurors to receive evidence that has been gathered through media influence complicates the evaluation of medical evidence even more¹¹⁸⁸. The jurors are in some ways predisposed with certain beliefs about what sort of evidence is going to be present as well as the degree of certainty that this particular evidence will be offered to the jurors which in turn, influences their views on such cases being tried. Judges and legal practitioners therefore need to learn critical appraising skills for reducing any possibility of being on wrong side of the scientific testimony. It means not only the understanding of the medical principles but the ability to evaluate the methods which is used by experts in the formation of the results. Judges can provide

¹¹⁸⁴ MacLean, Carla L., Lynn Smith, and Itiel E. Dror. "Experts on trial: Unearthing bias in scientific evidence." *UBCL Rev.* 53 (2020): 101.

¹¹⁸⁵ Civil Procedure Rules (CPR) Part 35. <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part35>

¹¹⁸⁶ Wilcox, A. McCarthy, and N. NicDaeid. "Jurors' perceptions of forensic science expert witnesses: Experience, qualifications, testimony style and credibility." *Forensic science international* 291 (2018): 100-108.

¹¹⁸⁷ Jacob Mathew v. State of Punjab (2005) 6 SCC 1

¹¹⁸⁸ Cosenza, Erin M. "The Effect of Crime Drama Viewing Habits and Technology on Potential Jurors." PhD diss., Walden University, 2023.

permission to question the fundamentals of the expert proof as well as seek clarification in the matters of certain shades of doubt¹¹⁸⁹. It may also help in identifying weaknesses, which can be found in expressed experts' opinions, and provide a broader perspective on the presented evidence.

Second, there is also another argument that the working of judicial system can be helpful in situation where protocols involve more than one expert opinion. Having one medical expert then another one presenting his view on the matter can prevent biases and give a clearer picture of the situation at hand. This approach does not only increase the quality of evidence but also strengthens the assumptions that the medical science is an objective that could have different interpretations¹¹⁹⁰.

Interactions between judiciary and Medical Experts

Communication between legal and medical professionals are crucial for the appropriate intendment and utilization of evidence from the medical field in the judicial system¹¹⁹¹. These relations have been found to be intricate and a variety of them forms barriers that may hinder the efficient communication of information between law and medicine. Therefore, optimizing this communication enables the improvement of expert testimony, enabling better decision-making and, most importantly, justice.

It is crucial that awareness and training continue on the part of both legal and medical practitioners. Special training sessions such as workshops and seminars that address the basics of medical terminology to help lawyers and the basics of law to help medical personnel can help make the interaction a better one. Such kind of undertakings may make the respective fields to be more understandable

thus enabling the professionals to interphase with one another.

Besides, the use of templates for preparation of expert reports also help to improve and maintain structured communication. Part 35 of the Civil Procedure Rules (CPR), UK, sets out pertinent requirements for preparing the expert evidence and stresses simplicity¹¹⁹². This is why legal professionals should employ standardized templates that outline typical expectations for expert reports – it makes sure that the medical expert presents their findings in an easy to comprehend manner and pertinent to the legal case. This approach is not only useful in the speedy review of expert evidence but also minimizes the risk of misinterpretation by Judges and juries.

Besides, the significant improvement of standardized reporting, the initiative to organize joint expert meetings would also advance communication between the dominant legal and medical experts. These meetings allow the researchers themselves to examine findings together, deliberate on the differences they might have, and come to a consensus of exactly what the medical evidence supports.

The Indian Evidence Act, 1872 incorporated an important concept of an expert opinion and thus draws attention to how a clear two-way exchange between the judicial and medical experts is vital¹¹⁹³. Consequently, it is now widely noted by Indian courts that it is essential for judges as well as legal professionals to meaningfully interact with medical professionals. In *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, the verdict of Hon. Apex Court underlined the importance of the knowledge of medical evidence for quantifying negligence and underlined the necessity of communication between different entities of judicial power¹¹⁹⁴.

¹¹⁸⁹ He, Jiahong. *Methodology of judicial proof and presumption*. Springer, 2018.

¹¹⁹⁰ Sox, Harold C., Michael C. Higgins, Douglas K. Owens, and Gillian Sanders Schmidler. *Medical decision making*. John Wiley & Sons, 2024.

¹¹⁹¹ Hall, Mark A., Mary Anne Bobinski, David Orentlicher, I. Glenn Cohen, Nicholas Bagley, and Nadia N. Sawicki. *Health Care Law and Ethics: [Connected EBooks]*. Aspen Publishing, 2024.

¹¹⁹² Civil Procedure Rules (CPR) Part 35. <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part35>

¹¹⁹³ Indian Evidence Act, 1872. https://www.indiacode.nic.in/bitstream/123456789/15351/1/ica_1872.pdf

¹¹⁹⁴ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1

Also, the “CSI effect,” whereby jurors’ or certain judicial expectations for forensic evidence are based on media depictions, underscores the need for effective communications in the courtroom¹¹⁹⁵. The effect can be mitigated by legal professionals through insisting on the medical experts explaining their evidence presented, including the possible misunderstanding that could be existing or the deficit in the evidence produced.

Addressing the CSI Effect

The “CSI effect” is the claim that jurors’ expectations and perceptions of the forensic evidence are shaped by popular CSI-inspired TV shows¹¹⁹⁶. This effect presents special problems in the legal context, especially when it comes to assessing medical and scientific testimony. Due to the influence of fictional shows, jurors develop unrealistic expectations which may not be aligned with actual crime scene and can forget real differentiation between credible evidence required in a case.

Unfortunately, one potential downside to the CSI effect is that jurors expect a higher quality of forensic evidence than is possible in most cases. Some of the jurors may be eager to see immediate outcomes of the forensic tests like DNA tests or the results from toxicology, as portrayed in most of the television series, which in real life situations is not possible.

In medical evidence, CSI effect poses a threat that it deepens misconceptions about the admissibility and credibility of expert witnesses, as jurors or some judicial officers may have prejudices and assumptions strongly rooted in their belief systems considering that the opinions of the medical experts are as reliable as depicted in the movies and TV shows¹¹⁹⁷. It can create difficulties in deciding the weight that should be given to allegedly ‘expert’

opinions from the opposing side, which in turn hampers the decision-making of both judges and juries.

In an effort to avoid / lessen the effect of the CSI effect, the medicolegal experts as well as advocates must focus on the distinction between fiction and real-life portrayal of forensic science, medicine, and law. This can also involve fair representation of the drawbacks that are associated with the medical tests as well as the risks that are involved in the evaluation that is done by the experts.

In the same way in the Indian context, the CSI effect is also seen where the crime shows like “C.I.D.” have formed the general perception of the forensic science and legal procedures. The Hon. Supreme Court of India appreciated the need for jurors to have an eagle eye on evidence especially the forensic and medical ones. In *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1, the court underlined obligation of judges to scrutinize the expert evidence carefully and, thereby, restated the concern that not all medical evidence is conclusive and the jurors should not blindly rely on the expert opinion¹¹⁹⁸.

Conclusions

This article focusses on minimising the variables that can contribute to the improvement of judicial efficiency within the domain of medicolegal evidence. Stringent qualifications for expert witnesses guarantee that only those experts who are genuine and not influenced by any party will be participating in the judicial process, thus making the information provided in the trial accurate. The requirements that must be met before a person can be considered an expert witness, namely, impartiality, probity and communication skills are measures for ensuring the credibility of the testimony in the judicial process. Furthermore, admitting the variability of medical evidence makes the expert pay more attention to

¹¹⁹⁵ Chin, Jason M., Hayley J. Cullen, and Beth Clarke. "The prejudices of expert evidence." *Monash University Law Review* 48, no. 2 (2022): 59-96.

¹¹⁹⁶ ISANI, SHAEDA. "CHAPTER EIGHT A MOST REVEILED PROFESSION: FICTIONAL REPRESENTATIONS, CULTIVATION THEORY AND PUBLIC PERCEPTIONS OF US LAWYERS." *The Context and Media of Legal Discourse* 536 (2020): 160.

¹¹⁹⁷ Hamer, David, and Gary Edmond. "Forensic science evidence, wrongful convictions and adversarial process." *U. Queensland LJ* 38 (2019): 185.

¹¹⁹⁸ *Jacob Mathew v. State of Punjab* (2005) 6 SCC 1

contradictions and draw conclusions which can be also seen as critical thinking. Lastly, it is emphasised that combating the influence of popular media misconceptions is possible through educational programs and interdisciplinary cooperation. Combined, these aspects improve the assessment, impartiality and efficacy of the judicial system creating a higher degree of legal certainty across the UK and India.

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⁵ Indian Evidence Act 1872
www.indiacode.nic.in/bitstream/123456789/15351/1/iea_1872.pdf

⁶ Jacob Mathew v. State of Punjab (2005) 6 SCC 1

⁷ Canela, Carlos, Anna Buadze, Anish Dube, Christian Jackowski, Ingo Pude, Romilda Nellen, Paola Signorini, and Michael Liebreiz. "How do legal experts cope with medical reports and forensic evidence? The experiences, perceptions, and narratives of Swiss judges and other legal experts." *Frontiers in psychiatry* 10 (2019): 18.

⁸ Bolam v. Friern Hospital Management Committee [1957] 1 WLR 582

⁹ Civil Procedure Rules (CPR) Part 35.
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¹⁰ Jacob Mathew v. State of Punjab (2005) 6 SCC 1

¹¹ Houck, Max M., Christine Funk, Harold Feder, and Harlan A. Feder. *Successful expert testimony*. CRC Press, 2018.

¹² ZZZ v. Yeovil District Hospital [2019] EWHC 1642

¹³ Civil Procedure Rules (CPR) Part 35.
<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part35>

¹⁴ Bolam v. Friern Hospital Management Committee [1957] 1 WLR 582

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¹⁶ Harris v. Johnston [2016] EWHC 3193

¹⁷ ZZZ v. Yeovil District Hospital [2019] EWHC 1642

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¹⁹ Indian Evidence Act 1872
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²⁰ Jacob Mathew v. State of Punjab (2005) 6 SCC 1

²¹ Mueller, Christopher B., Laird C. Kirkpatrick, and Liesa L. Richter. *Evidence Under the Rules: Text, Cases, and Problems [Connected EBook with Study Center]*. Aspen Publishing, 2023.

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²⁴ MacLean, Carla L., Lynn Smith, and Itiel E. Dror. "Experts on trial: Unearthing bias in scientific evidence." *UBCL Rev.* 53 (2020): 101.

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