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The Burden of Proof for Moral Damages in Medical Tort: Challenges in Georgian Civil Law

Mariam Vashakidze, PhD Candidate
Caucasus University, Tbilisi, Georgia

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Abstract

This article examines the burden of proof for moral damages in medical tort cases under Georgian civil law within the broader context of post-Soviet legal transformation. The evolution of medical liability, the strengthening of patient rights, and the expanding role of courts reflect the modernization of legal and medical professions in Georgia. The burden of proving moral damages remains one of the most complex issues in legal doctrine, particularly due to the difficulty of establishing psychological and emotional harm. Although Georgian legislation provides a general framework for medical liability, it lacks clear standards for identifying and assessing moral damages. In practice, the burden of proof is primarily placed on the patient, creating significant legal challenges. The article analyses the allocation of the burden of proof, the admissibility of evidence, and the role of expert testimony in medical tort proceedings. It also examines judicial practice and its contribution to the development of legal standards in this field. This analysis shows that the current legal approach does not fully ensure the effective and consistent protection of moral damages in medical tort. The allocation of the burden of proof primarily to the patient creates significant obstacles to effective judicial protection. These issues highlight the need for a more flexible distribution of the burden of proof, improved expert assessment standards, and the development of unified criteria for evaluating moral

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damages. Such an approach would strengthen the protection of patient rights and promote a more consistent and predictable judicial practice.

Keywords: Moral damages, burden of proof, medical tort, professional liability, patient rights, Georgian civil law, medical negligence

Introduction

In the post-Soviet legal transformation of Georgia, the role of legal and medical professionals has undergone significant development. The evolution of medical liability, the increasing importance of patient rights, and the expanding role of courts in resolving medical disputes illustrate how both the medical and legal professions have adapted to new standards of accountability and professionalism. Against this background, the allocation of the burden of proof in medical tort cases reflects not only doctrinal issues but also the broader institutional transformation of legal professions in Georgia.

Against this background, the aim of the present article is to define the burden of proof for moral damages within the framework of medical tort and to examine the rights and obligations of the parties under Georgian legislation. The article analyses legal issues related to the distribution of the burden of proof between patients and medical personnel, with particular emphasis on the factors influencing liability, the role of expert examination, and the legal mechanisms involved in establishing moral harm.

The objective of this study is to evaluate the current legal approach and assess its compliance with the principles of fairness and effective judicial protection.

This topic is particularly relevant, as the burden of proof in cases involving moral damages plays a crucial role in safeguarding patients' rights and ensuring fair judicial outcomes. Determining how this burden should be allocated is especially important in cases involving not only physical injury but also emotional and psychological harm. Since the burden of proof typically rests with the patient, a number of legal challenges arise, including the assessment of the extent of harm, the evaluation of the claimant's psychological condition, and the substantiation of subjective experiences. These challenges highlight both the practical and theoretical complexity of the issue and its broader implications for the protection of individual rights and the regulation of medical practice.

The article is structured as follows. The first section examines the concepts of medical tort and moral damage, the essential elements required to establish liability, and the procedures for identifying moral harm within Georgian civil law. The second section analyses the allocation of the burden of proof in medical tort proceedings, including the criteria for evaluating evidence, the role of expert medical testimony, and the factual circumstances

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relevant to determining the amount of damage. The conclusion summarises the findings, proposes potential legal reforms, and presents the author's perspective on improving the existing legal framework.

The research is based on the methods of legal analysis and synthesis, which provide a comprehensive understanding of the issues under consideration. In addition, a comparative legal method is employed, through which different approaches to the regulation of moral damages in various jurisdictions are examined and assessed in relation to the Georgian legal framework. The selection of Germany, France, and the United States is based on their representative approaches to non-pecuniary damages, reflecting different legal traditions and levels of judicial discretion, which allows for a meaningful comparative assessment relevant to the Georgian legal context. The analysis of Georgian judicial practice is based on selected decisions of the Supreme Court, chosen for their relevance to issues concerning the burden of proof and the assessment of moral damages in medical tort cases. The combination of these methods allows, on the one hand, an in-depth evaluation of existing legal norms and judicial practice, and, on the other hand, a critical assessment of their effectiveness and the identification of existing challenges. The findings of the study reflect this methodological approach and highlight the existing legal gaps and challenges related to the burden of proof for moral damages in medical tort cases.

I. Legal Aspects of Medical Tort and Moral Damages

1.1 The Concept of Medical Tort and Moral Damages

When a patient seeks medical services, a contractual relationship is established between the patient and the healthcare provider. This relationship may arise either through a formal agreement or through the completion of medical documentation required by healthcare legislation, including informed consent.[1] In addition to evaluating the patient's condition and needs within their professional competence, medical professionals are obligated to adhere to documentation standards, conduct thorough anamnesis, and avoid any form of medical error. They must also be familiar with the patient rights guaranteed by the Law of Georgia on Health Care. In many cases, however, these procedural responsibilities are assumed by the administrative staff of medical institutions, and healthcare professionals often only encounter patient rights when medical tort has already occurred.

A violation of patient rights may, depending on the circumstances, give rise to medical tort liability. Medical liability arises from the breach of professional standards in the provision of healthcare services.[2] For instance,

[1] (Law of Georgia on Patients' Rights, 2000 Chapter IV)
[2] (Herring, 2022)

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disclosing a patient's medical information to a third party without their consent constitutes a breach of confidentiality. [3]Such disclosure may result not only in physical but also in psycho-emotional deterioration for the patient.

Beyond professional accountability, medical professionals must adopt a diligent approach that ensures not only the delivery of high-quality healthcare services but also unconditional protection of patient rights

Medical tort refers to a professional error committed by a healthcare provider when their conduct infringes upon a patient's rights. To claim moral damages In such cases, the harm caused by the breach of medical standards must have an impact on the patient's psychological and emotional well-being.

As provided by the Law of Georgia on Health Care, a patient, their relative, or legal representative has the right to lodge a complaint against a doctor, nurse, or other medical staff, or a medical institution before the administration of the institution, the health oversight body, a court, or any other competent dispute resolution body.[4]

In Georgian practice, in disputes related to medical tort, the defendant is, as a rule, the medical institution. At the initial stage, the patient typically addresses the State Regulation Agency of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, which examines the quality of the medical services provided and issues a corresponding expert conclusion. This conclusion may serve as a basis for subsequent legal proceedings.

The patient has the right to challenge the conclusion issued by the Regulatory Agency before a court. In judicial proceedings, the defendant is generally the medical institution; however, where the dispute directly concerns the challenge of a decision rendered by the Regulatory Agency, the administrative body itself appears as the defendant. The determination of the defendant thus depends on the nature and content of the claim submitted by the patient.

Furthermore, on the basis of a final court decision, the medical institution is entitled to seek recourse against the physician and recover the damages incurred as a result of the physician's professional error.

Within the Georgian legal framework, the submission of an internal complaint does not constitute a mandatory pre-trial procedure. However, in practice, patients typically address the medical institution initially and subsequently apply to the relevant supervisory authority, namely the State Regulation Agency.

Although direct access to the courts is legally permissible, during judicial proceedings it generally becomes necessary for the case to be assessed

[3] (Law of Georgia on Patients' Rights, 2000 Chapter V)
[4] (Law of Georgia on Health Care, 1997, Article 104)

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by a competent authority or through expert evaluation. Furthermore, medical institutions, as defendants, almost invariably request the involvement of specialized expert examinations, which play a decisive role in the resolution of such disputes.

The concept of medical tort encompasses the physician's liability in the treatment process, the intent behind their actions, the presence of negligence, the assessment of the damages caused, and the condition of the injured party. Moral damages may manifest following the completion of a procedure, for instance, when treatment results in a decline in the patient's psychological state, fear, stress, depression, or emotional suffering due to medical error. In such cases, the patient must establish not only physical harm but also the existence and impact of emotional and psychological damages on their quality of life.

Distinguishing between physical and emotional damages presents a major challenge for both injured parties and courts. In most cases, plaintiffs seek compensation for moral harm alongside physical injury. However, establishing moral damages requires expert evaluation, and there are no uniform legal criteria. Expert conclusions are typically used both to confirm a violation of professional standards and to assess the patient's emotional and psychological condition.

Although direct access to the courts is legally permissible, during judicial proceedings it generally becomes necessary for the case to be assessed by a competent authority or through expert evaluation. Furthermore, medical institutions, as defendants, almost invariably request the involvement of specialized expert examinations, which play a decisive role in the resolution of such disputes.

Even though moral harm may not always be outwardly visible, it can still have significant consequences on a patient's life and should therefore receive legal recognition. This, however, does not imply that every professional mistake leads to compensable moral damages. For example, if a patient is incorrectly diagnosed with a fatal illness and experiences mental suffering due to the fear of death, even if the diagnosis is later corrected and no inappropriate treatment was administered, compensation for moral damages may not be justified, as no actual harm to the patient's health occurred. In such a scenario, the requirement of harm as a necessary condition for a claim of moral damages is not fulfilled. The nature of a patient's physical and moral suffering must be assessed in light of the factual circumstances of the case, the victim's individual characteristics (such as age, health, and profession), and other relevant factors that determine the severity of suffering endured.[5]

[5](G.okreshidze, 2021)

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If an incorrect diagnosis leads to improper treatment that causes deterioration of the patient's health, and it later becomes clear that correct diagnosis and appropriate care could have prevented that deterioration, the resultant emotional suffering may be directly attributable to the medical tort. In such cases, both the physical harm and the severity of the psychological condition are evident. Studies suggest that medical errors may be associated with excessive workloads, sleep deprivation, and professional burnout among healthcare personnel. The risk of professional errors, the incidence of medical torts, and the worsening of patient health are often connected to the physical and mental exhaustion of healthcare workers, largely due to sleep deprivation and overwork, commonly referred to as "burnout."[6] To address this problem in Georgia, the Labour Code stipulates shift schedules and maximum working hours, which employers are legally bound to respect.[7] Nevertheless, overtime work remains common. While the Labour Inspectorate is authorised to monitor compliance in terms of additional compensation or compensatory rest, in practice, many medical workers prefer extra pay, which perpetuates irregular working hours. Accordingly, legislative reforms and supervisory mechanisms alone cannot ensure effective outcomes unless there is mutual commitment and active engagement from all involved parties.

1.2 The Process of Proving Moral Damages and Their Identification

Moral damages refer to harm that directly affects an individual's emotional, psychological, or mental health. In the field of medical tort, proving moral damages generally involves not only documenting physical harm or a specific adverse incident but also analysing the psychological and emotional consequences resulting from a medical error or negligence. This process requires the assessment of both the causal relationship and the patient's subjective experience.

To establish moral damages, the injured party must present evidence demonstrating both the existence of a medical error and the resulting non-pecuniary harm. Identification of moral harm entails the analytical examination of factors that directly or indirectly impair the patient's psychological condition. In exploring the concept of moral harm, personal beliefs and subjective interpretations also play a significant role. Thus, it becomes essential to assess how an individual's perceptions relate to their experience of moral injury. As noted in comparative legal scholarship, the assessment of non-pecuniary damages remains one of the most complex areas of tort law.[8]

[6] (Schwappach & Boluarte 2008)
[7](Labour Code of Georgia, 2010, Chapter V)
[8] (B Koch 2009)

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The identification of moral damages typically requires psychological expert examination. Such an assessment must demonstrate how the medical tort impacted the patient's mental and emotional state. Importantly, a patient may experience suffering due to their medical condition independent of any error. Therefore, expert conclusions must determine whether the psychological stress and emotional burden are indeed causally connected to the medical tort.

In Georgian judicial practice, claims for moral damages in medical tort cases are generally more viable where physical harm or another clearly established violation is proven. In the absence of such harm, the recognition of moral damages becomes significantly more difficult. This approach is also reflected in the practice of the Supreme Court of Georgia. In a recent decision, the Supreme Court of Georgia clarified that in medical tort disputes the patient bears the burden of proving the occurrence of harm, the breach of a medical institution's duty, and the causal link between the breach and the damage. At the same time, the Court emphasized that the medical institution must prove that it acted without fault and that all lawful and appropriate medical measures were taken. The Court further noted that moral damages must be assessed on the basis of the individual circumstances of the case, including the severity of suffering, the intensity of negative experiences, the patient's health condition, and the consequences of the medical intervention.[9]

In another recent decision, the Supreme Court of Georgia emphasized that an unfavourable medical outcome does not, by itself, establish the liability of a physician or a medical institution. The Court clarified that liability in medical tort arises only where the harm resulted from a culpable medical error or a deviation from accepted medical standards. Where the medical service was provided in accordance with professional standards, the mere occurrence of a complication or negative result is insufficient to establish liability.[10]

A comparison of the selected decisions of the Supreme Court of Georgia demonstrates that the courts consistently emphasize the necessity of establishing a causal link and rely heavily on expert evidence. While claims for moral damages are upheld where medical error and resulting harm are clearly substantiated, they are dismissed where adverse outcomes stem from inherent medical risks rather than professional negligence.

In some cases, the plaintiff may demonstrate the occurrence of a medical error and the resulting physical harm. However, for a claim of moral damages to be successful, it must be proven that the physical injury directly contributed to psychological distress.

[9] (Supreme Court of Georgia, Case No. AS-1254-2025, 12 March 2026)
[10] (Supreme Court of Georgia, Case No. AS-906-2025, 30 October 2025)

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Comparative legal analysis demonstrates that approaches to non-pecuniary (moral) damages vary significantly across jurisdictions. In German law, compensation for non-pecuniary harm (Schmerzensgeld) is recognized primarily as a compensatory mechanism aimed at redressing personal injury and protecting personality rights, with courts exercising structured discretion based on statutory provisions and established case law. In French law, moral damages (préjudice moral) are broadly recognized and assessed on a case-by-case basis, taking into account the nature, duration, and consequences of the harm suffered, reflecting the civil law tradition's emphasis on individualized justice.[11]

In the United States, non-economic damages, such as pain and suffering or emotional distress are widely available in tort law; however, their assessment is often subject to jury discretion and, in many jurisdictions, statutory caps limiting excessive awards.[12]

These differences illustrate that while all three systems recognize moral harm as compensable, they diverge in terms of methodology, predictability, and the balance between judicial discretion and legislative regulation. In comparison, the Georgian legal framework lacks clearly defined criteria and a unified methodology for the assessment of moral damages, which increases the scope of judicial discretion and may lead to inconsistencies in judicial practice.

II. Allocation of the Burden of Proof and Determination of Moral Damages in Medical Tort Cases

2.1 Allocation of the Burden of Proof and Criteria for Evaluating Evidence in Medical Tort Proceedings

In medical tort litigation, the allocation of the burden of proof and the evaluation of evidence are particularly complex tasks. This complexity stems from the very nature of medical practice, which requires specialized knowledge and skills not easily accessible or assessable from a purely legal or non-medical perspective. Patients who bring claims before the courts are often at a disadvantage, lacking the necessary medical expertise to analyse and identify the errors or omissions committed by healthcare professionals.

Within this framework, the rules governing the burden of proof and the criteria for assessing evidence become crucial. The general principles of tort law require the establishment of harm, causation, and fault.[13] Georgian law regulates these matters under the Civil Procedure Code of Georgia, which sets forth the general rule that each party bears the burden of proving the facts upon which it relies in asserting a claim or defense.

[11](Koziol & Steininger, 2009)
[12] (Dobbs, 2000) ; (McGregor, 2020)
[13] (Markesinis & Deakin, 2013)

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However, judicial practice and legal doctrine in Georgia have recognized that, in cases involving medical tort, an exception to this general rule may apply. Where the claimant lacks access to essential medical documentation or technical information, which is typically in the exclusive possession of the defendant (a doctor or medical institution) - the burden of proof may be shifted, in whole or in part, to the respondent.

This approach is consistent with the jurisprudence of the European Court of Human Rights. In particular, in *Lopes de Sousa Fernandes v. Portugal* (2017),[14] the Court held that the provision of medical services must not only meet professional standards but also include the obligation to furnish patients with relevant information, enabling them to effectively protect their rights. Similarly, in *Sarishvili-Bolkvadze v. Georgia*, the Court emphasized the importance of effective legal mechanisms, finding a violation arising from the State's failure to ensure an effective investigation and adequate legal protection, thereby underlining the necessity of accessible and effective remedies in such cases.[15]

In Georgia, judicial practice has affirmed that in disputes involving medical tort, the defendant, as a professional subject, bears the obligation to prove that their conduct or inaction conformed to professional ethics and applicable standards. The Supreme Court of Georgia has repeatedly emphasized that physicians are required to substantiate their professional conduct through proper documentation.

Moreover, the assessment of evidence in such cases heavily relies on expert opinions, making the credibility and objectivity of such expert findings especially important. Expert conclusions often serve as decisive pieces of evidence in court proceedings. Accordingly, precise regulation of both the burden of proof and the evaluation of evidence is essential for achieving fair outcomes. Additionally, the principle of fairness in the evaluation of evidence and procedural equality must be upheld. Evidence must be assessed based on its credibility, relevance, completeness, and the substantive content of expert reports. An expert opinion cannot be presumed to be inherently conclusive, like any other form of evidence - it must be subject to legal evaluation by the court. It must be demonstrated that the medical service provider breached a professional duty or standard, and that this breach caused the patient's physical, moral, or material harm. Particular attention must be paid to the existence of a causal link, the claimant must show that the harm was a direct consequence of the defendant's act or omission, and that such harm would not have occurred in the absence of that specific conduct.

[14] (Lopes de Sousa Fernandes v. Portugal, 2017 App. No. 56080/13))
[15] Sarishvili-Bolkvadze v. Georgia 2018, App. No. 58240/08)

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For example, where a physician fails to conduct a necessary diagnostic test, leading to a delayed diagnosis that in turn worsens the patient's condition, a finding of medical tort is possible. Another example might involve a breach of sterilization protocols during surgery, resulting in a severe infection. In both cases, the burden of proof requires not only confirmation of the damages but also proof that the harm resulted directly from the medical error, rather than from other factors such as the patient's general health or pre-existing conditions. The Supreme Court of Georgia has elaborated on these issues in its jurisprudence. In one cassation decision concerning a civil tort claim, the court explained that under Article 992 of the Civil Code, liability for damages arises only if the conditions for attributing such responsibility are met. These include: (1) the occurrence of harm; (2) unlawful conduct; (3) causation between the conduct and the harm; and (4) fault on the part of the tortfeasor. Accordingly, in order to establish liability for harm resulting from medical treatment, the court must find that all four of these conditions are present.

2.2 The Role of Medical Expertise and Factual Circumstances in Determining the Amount of Damage

According to the Supreme Court of Georgia, compensation for moral damages serves three main functions: (1) to satisfy the injured party; (2) to exert a deterrent effect on the tortfeasor; and (3) to prevent future violations of individual rights by others. However, as the Court has also clarified, the purpose of non-pecuniary compensation is not to restore the injured party to their original state in full, since moral harm has no precise monetary equivalent and cannot be fully redressed. Given that full restitution is impossible in cases of moral harm, the determination of compensation must be based on a case-by-case assessment of the relevant factual circumstances.[16]

According to Article 413 (1) of the Civil Code of Georgia: "Pecuniary compensation for non-pecuniary damages may be claimed only in cases explicitly provided by law, in the form of reasonable and fair compensation." This provision raises the question of what constitutes "reasonable and fair" compensation. On the one hand, it offers a legal framework for the court to assess moral damages. On the other, it lacks a unified standard for defining what amount qualifies as reasonable or fair in any given situation. The assessment of damages, particularly non-pecuniary loss, requires careful judicial discretion.[17]

Since the provision is not accompanied by methodological guidelines, courts must independently evaluate each case and determine both the classification and the amount of the damages based on factual context. The

[16] (Supreme Court of Georgia, 2018, Case No. AS-660-660-2018)
[17] (McGregor, 2018)

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Supreme Court has emphasized[18] that the proper interpretation of the norm's purpose is critical. The Court has stated that while various legal relationships under private law may give rise to moral or emotional suffering, compensation is permissible only where the law explicitly allows it, that is, only for the infringement of specific protected interests. The goal of the legislation is to limit the arbitrary expansion of liability and to preserve legal stability and order in civil circulation. Medical expertise plays a decisive role in establishing the legal basis for medical tort. Courts attribute special weight to expert opinions, as it is the expert's professional responsibility to determine whether a breach of medical standards occurred and whether there exists a causal link between the error and the harm suffered by the patient.

In addition, concerns have been raised in legal doctrine regarding the potential for professional bias in expert assessments, particularly where experts operate within the same professional community as the defendant. Such circumstances may create risks of partiality or conflicts of interest, which can affect the objectivity of expert conclusions.

In this context, the functions of medical expertise may be broadly classified into two principal directions:

1. Identification of the error committed during medical treatment;
2. Assessment of the harm suffered by the patient, including the identification of moral damage.

In disputes related to medical tort, expert examination constitutes one of the most significant evidentiary tools, playing a decisive role in establishing both the breach of professional standards and the causal link between the conduct and the harm. Under Georgian legal practice, expert examination may be initiated either by the court or by the parties. Furthermore, both parties are entitled to obtain private expert opinions and submit them as evidence before the court.

As a general rule, the costs associated with expert examination are borne by the party requesting it. However, the final allocation of costs is determined by the court in its judgment, and the prevailing party is entitled to recover all reasonable litigation and expert-related expenses incurred from the opposing party.

The questions addressed to the expert are typically formulated by the party requesting the examination. Nevertheless, during the proceedings, the opposing party is also entitled to pose additional questions, and the court may, on its own initiative, address clarifying or supplementary questions to the expert. This framework ensures the thoroughness of expert evaluation and contributes to the objective assessment of evidence.

[18] (Supreme Court of Georgia, 2012, Case No. AS-1156-1176-2011)

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The amount of damages is assessed based on individual circumstances, such as the patient's age, initial health condition, the goals of the treatment, and the actual outcomes of the medical intervention. In certain cases, the court may also order psychological assessment to determine the existence and severity of emotional and psychological harm. It is crucial that experts provide not only a clinical or anatomical evaluation but also an assessment of emotional suffering and psychosocial consequences. Without this broader analysis, a full understanding of the nature and extent of moral harm is impossible. One illustrative example is a Supreme Court case in which a patient underwent an improperly performed surgery, resulting in a persistent fear of future medical treatment. The Court found that moral damages had occurred, as the patient's emotional condition had significantly deteriorated. The expert opinion confirmed that the surgery had breached professional standards. Although expert reports are essential for identifying and quantifying moral damages, Georgian law lacks a unified methodology for calculating their monetary value. The lack of uniform standards for non-pecuniary damages is a broader issue recognised in European tort law.[19] In practice, courts determine compensation on a case-by-case basis, which may result in amounts that do not always correspond to the gravity of the suffering experienced by the injured party.

Conclusion

Within the framework of medical tort, the burden of proof for moral damages represents one of the most sensitive and practically complex challenges in Georgian civil law. In cases where no physical injury or clearly qualified violation accompanies the harm, the burden of proof often renders the recovery of moral damages virtually unattainable for the injured party. As demonstrated in this article, the general rule for the burden of proof as set out in the Civil Procedure Code of Georgia frequently fails to accommodate the specific nature of medical tort cases. Patients lacking specialized knowledge are rarely equipped with the resources necessary to substantiate a medical professional's negligence or error. In this regard, the effective and consistent application of the mechanism for shifting the burden of proof is essential, particularly when all relevant information and documentation are in the possession of the defendant.

The institution of expert examination remains the most significant mechanism for substantiating claims of moral damage. Yet, despite the value of professional assessments, their accuracy, objectivity, and contextual interpretation are often contested. A critical issue lies in the fact that medical expertise is typically conducted by professionals within the same field as the

[19] (Van Dam, 2013)

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defendant, which raises concerns over collegial bias and potential conflicts of interest. To address this issue, the regulation of expert assessments should be strengthened through guarantees of objectivity, standardised methodologies, and clear evaluative criteria. In addition, experts involved in such proceedings should be institutionally independent and free from conflicts of interest in relation to the defendant medical facility. Nevertheless, this safeguard alone cannot ensure effective protection without the support of a comprehensive and coherent regulatory framework. Furthermore, Georgia's legal system lacks uniform standards for determining the amount of compensation for moral harm. Judicial decisions are often based on discretionary assessments, creating the risk of inconsistency and unpredictability in legal practice.

It is therefore essential to adopt legislative criteria that would assist courts in issuing fair and transparent decisions. This issue may be addressed through the development of legislatively defined criteria for the assessment of moral damages, as well as through the establishment of consistent approaches and interpretative standards within judicial practice, including the consideration of factors such as the intensity and duration of the harm and its impact on the patient's quality of life. Such an approach would provide courts with clearer guidance in determining the amount of damages, limit excessive judicial discretion, and ensure greater consistency in judicial decision-making.

Additionally, strengthening the liability framework for medical institutions could incentivise the adoption of preventive measures and reduce the incidence of medical torts. Ultimately, ensuring the effective protection of patients' rights in cases involving moral damages requires a coherent and balanced approach that integrates the reallocation of the burden of proof, the standardisation of expert assessments, and the development of clear criteria for evaluating non-pecuniary harm. This objective cannot be achieved through legislative reform alone but also requires the active engagement of the medical community, professional associations, and the continued specialisation of the judiciary in this field.

Limitations

This study is subject to certain limitations. It is primarily based on doctrinal legal analysis, selected decisions of the Supreme Court of Georgia, and the professional experience of a practitioner in the field of medical law, which provides additional insight into the practical challenges associated with the burden of proof for moral damages. However, it does not incorporate empirical data or the practice of lower courts, which may further illustrate variations in the application of legal standards. Future research could expand the analysis by including a broader range of case-law and empirical assessment of judicial trends, thereby offering a more comprehensive understanding of the practical implementation of legal principles in this field.

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