Review Research Paper

Critics and Sceptics of Medico-legal Autopsy Guidelines
In Indian Context

*Basant Lal Sirohiwal, **Luv Sharma, ***P.K. Paliwal

Abstract
Medicine is governed by set code of principles which are followed by every Medical professional during his medical practice. Doctors dealing with medico-legal work, bear a further burden of not only abiding by these rules but also by being vested with deciding authority in such matters. World over, medico-legal authorities issue guidelines and rules, which vary in procedural content from nation to nation. In India, the basic guidelines are almost the same, though differences in their applications differ from state to state. Comparison of both Indian and Western scenarios on this issue lay bare a basic difference. Uniform medico-legal guidelines and standard protocols make medico-legal work less complicated in practice. In India, however, stark differences exist even amongst states as far as application of medico-legal guidelines is concerned. Consequently, no comprehensive unanimity exists in medico-legal work in India. This paper attempts to make a critical and sceptical analysis of this problem with a few suggestions for the streamlining of medico-legal work in India.

Key Words: Medico-legal guidelines; Differences; Manual, Medical Professional

Introduction:
Whenever a patient comes to a general practitioner, he should abide by some guidelines, both in the interest of the patient as well as himself. These become more important particularly in medico-legal subjects. All states in India have different formats for medico-legal and postmortem examination with almost identical content, but different autopsy guidelines are being followed in different ways in each state whose critical and skeptical analysis has been attempted in this article.

Legal Concept:
The concept of a medico-legal autopsy has been mentioned in the sections 174 and 176 Code of Criminal Procedure (Cr.P.C.) during investigations of a suspected death. [1]

Objects of a Medico-Legal Autopsy:
The objective of the post-mortem examination is to establish the identity of a body, when not known, to ascertain the time since death and the cause of death; and whether the death was natural or unnatural and if unnatural, whether it was homicidal, suicidal or accidental.

Corresponding Author:
*Professor,
Department of Forensic Medicine,
Pt. B. D. Sharma PGIMS, Rohtak
E-mail: drbasantsri@gmail.com
**Prof,
***Senior Prof & HOD
DOR: 14.05.13 DOA: 1.11.13

In case of newly born infants, the question of live birth and viability assume importance and should be determined. [2]
The term "postmortem examination" is often used as a simile for "autopsy." Basically, it is not.[3] A postmortem examination means only what it says that the body was examined after death. It can mean and often does mean that the physician merely looked at the body, fully clothed, or that he "viewed" the body at a funeral home or in a morgue.

A complete autopsy involves opening all body cavities and all organs of the trunk, chest, and head. [3] In all cases, a complete and not a partial examination are more necessary in this country on account of the imperfectness of the preliminary evidence as to the possible cause of death. [4] However, legal authorities have often made exceptions to this rule by commenting that it is not at all necessary for the autopsy surgeon to open all the cavities in the body of the deceased, where the cause of death is otherwise ascertainable.

The postmortem report is still reliable even if no x-ray was done. This is exemplified in the celebrated murder case of Smt. Indira Gandhi late Prime Minister of India, The Apex court stated in its judgment that undisputedly Smt. Indira Gandhi died as a result of the gun shot injuries inflicted by Beant Singh and Satwant Singh with their service revolver and carbine respectively. In view of such clear evidence about the cause of the death, the post-
mortem or a fuller postmortem examination loses all its significance. It becomes important only in cases where the cause of death is to be established and is a matter of controversy. [5]

**General Guidelines for Conducting the Post-mortem Examination:**

- **Consent for Post-mortem Examination:**
  
  No consent is required for post-mortem examination of medico-legal deaths. However, whenever a pathological / hospital autopsy is required for knowing the nature of the disease resulting into the death of a non-medico-legal subject; then the consent of relatives is a must.

- **Authority to conduct a Post-mortem:**
  
  A medico-legal post-mortem can be conducted only after a written request has been made by the police or by the order of the Court. It can be conducted only by a medical officer who has been authorized to do so. [6, 7]

- **Time of Conduction of a Post-mortem:** [6]
  
  It may however, be noted that no medico-legal post-mortem examination is permitted to be conducted after 5.00 P.M. unless there is serious threat to the law & order machinery and in such situation instructions for conducting the medico-legal post-mortem is invariably issued by the District Magistrate by stating the reason.

- **Other Salient Requisites:**
  
  1. Post-mortem examination is not an emergency requiring pressing necessity or urgency, which is a common misconception in the eyes of the lay public, authorities and investigating agencies. Such pressure on the autopsy surgeons usually leads to improper and unscientific actions which will negatively affect the outcome of the postmortem examination and ultimately leading to denial of justice in the Courts of Law.
  
  2. Written request /requisition on a prescribed form (25.35 A, B, C) [7] i.e. Inquest report from competent authority like police or magistrate is a must. [6,7] Sometimes, it has been observed that the authorities ask for post-mortem examination without complete inquest reports by stating that the inquest is being prepared and will be submitted soon by the time that the autopsy is over.

  Such requests preferably should not be entertained. In order to render this part of the evidence more definite and more valuable, it is necessary that the police, in handing over the body for examination, should at the same time hand over an account of all that is known as to the suspicious circumstances of death and it should be noted by the medical officer whether he was in possession of this information or not when making the postmortem examination. [4] It looks odd that as per these instructions, post-mortem examination may be conducted without knowing the account regarding the suspicious circumstances of death and will put the doctor in adverse situation. However, most of the recognized authors mention that the police report should be thoroughly gone through before commencement of the post-mortem examination.

  3. Post-mortem examination is permitted from 6.00 Hrs to 18.00 Hrs on all days and the requisition for autopsy can only be received up to 16.00 Hrs. [2] In India, whenever, a death occurs around sunset, the relatives cremate/bury the body the next morning. Therefore, apart from the scientific reasons of not performing night autopsies, there is a religious and cultural basis for this too.

  4. The authors feel that a receipt should be issued to the police official indicating the date and exact time of bringing the body in the mortuary. Prior to receipt of the police papers it should be ensured that a tag indicating the name of police post with FIR/DD number has been put on the dead body by the police for the purposes of identification, and a completely filled request form must be submitted along with the inquest papers by the police officials;

  5. An autopsy should be conducted in broad daylight and not in artificial light between 7 a.m. to 5 p.m. [8] Always avoid delaying in performing PME.

  6. The identification of the dead body must be confirmed by the relatives /police before the start of the PME; always take signature of at least two relatives of the deceased persons on the PM report in case of known bodies, and police official in case when the body is unknown. This issue assumes greater significance in cases of burnt/mutilated/decomposed dead bodies. There have been reports in the media that such bodies got exchanged.

  7. Medical officer should always try to study all the available facts of the case prior to PME from inquest report, hospital records, the bed head ticket /summary of the death etc.

  The condition of the deceased before death must be perused to know his clinical condition, treatment and terminal events for taking precaution for self as well as staff of the mortuary in case of high risk infectious diseases like AIDS, rabies, etc; in hospital deaths.
8. Don't allow any unauthorized person into the mortuary while PME is going on. Being laymen, certain scientific facts/findings could be distorted after being leaked out by interested parties to the press that may lead to avoidable rumour mongering regarding the case. Such situations can show the forensic personnel in bad light. However, some exceptions can be made to this general rule— the Investigating Officer can be shown certain findings found on autopsy contrary to the inquest report. Allegations of the relatives could be scientifically countered by showing them the findings on the dead body.

9. The Medical Officer should not accede with the version of the relatives or the police while giving opinions which must be based honestly on the scientific facts.

10. Prepare the PM Report simultaneously and at the earliest and the original copy the PMR should preferably be handed over to the police. However, there is a recent Punjab & Haryana High Court Order on preparation of medico-legal reports generated by computer and uploading the same on the web.

11. Considering the inadequate infrastructure and manpower, the authors have evolved an alternative that in the first instance, handwritten report is handed over to the police and later on a computerized report may be obtained after about a week. This will significantly lead to a decrease in paperwork and workload as only those cases in which the police file a charge sheet in the Hon'ble Courts may request for the same. Many times the police do not report to collect the computer generated reports.

12. Hand over the PM report and other articles only to an authorized police official;
   As per settled principles of law, PM Report is not a public document. [9] In fact, the opinion of Medical officer contained in the post-mortem report is only to aid the investigating officer in the investigation and this report is not a record of Medical Officer of his official “act” for use of the public and, thus not a public document covered under sections 74 and 76 of Indian Evidence Act. [10]

   Therefore, post-mortem report being an expert opinion can be given only on specific orders of the court, on clear direction regarding issuing of the same, whether the post-mortem report is to be supplied to the applicant or not. Postmortem examination - when and whom held- the legal requirement in respect of postmortem examination by a qualified surgeon are contained in section 174(3), code of criminal procedure. [1]

   In every case where death appears to have been due to suicidal, homicidal, accidental or suspicious causes and where any doubt exists as to the exact cause of death, or if it appears to the officer conducting the investigation whether under section 157 [1] or section 174, code of criminal procedure [1] expedient to do so, the body shall be sent to the nearest medical officer authorized by the local government to conduct postmortem examination. The sending of the body for examination may only be dispensed with, where such action is otherwise required when condition exist, such as advanced putrefaction, which would clearly makes examination useless.

   Many a times, it has been observed that after the post-mortem the attendants request for keeping the dead body in the cold storage and to take the body on the next day. Such a request may be considered depending upon the circumstances related to the availability of cold storage and if at all it is allowed, these bodies should be kept separately to avoid mixing with other cadavers in the mortuary.

   Ordinarily, a dead body is sent to the morgue for autopsy, but in exceptional cases [2] the medical officer may be taken to visit the scene of death. Preferably, this practice should be avoided as far as possible because it will increase the workload on already meagre number of experts.

   The medical officer must establish the identity of the deceased before the start of the post-mortem by at least one relative or accompanying person and the police official. The signatures should be obtained on the post-mortem report before the start of the autopsy. In cases of unidentified dead bodies, it is the primary duty of the Police personnel accompanying the dead body to identify such bodies before the start of the autopsy. This is very essential as there may be mixing of such unclaimed dead bodies in the mortuary leading on to autopsy of wrong bodies as has been reported in literature.

   All the details of the post-mortem observed by the medical officer should be carefully entered by him on the spot in the post-mortem report or in a notebook but whenever the rough notes are prepare, the same should be preserved, which can be used as evidence in a legal inquiry in case a serious discrepancy arises in the report submitted to police and the notes. He should not mind the report getting soiled; this will enhance its value, inasmuch as it goes to prove that it was written at the time.
when facts were still fresh in the mind. If there is an assistant, the best plan is to dictate to him as the examination proceeds step by step, and then to read, verify and attest the report. [2]

In the absence of an assistant, a tape recorder may be useful. It is not safe to trust memory and to write the report later after completing the examination. There must be no discrepancy in the notes and the report to be sent to court and must tally with each other. Nothing should be erased and all alterations should be initialed.

However, the recent judgment by The Hon’ble High Court of Punjab & Haryana ordering submission of computerized Medico-legal reports to police/courts at time of autopsy must be kept in mind in the present scenario. [11] However, keeping these orders in view with regards to limited infrastructure and trained computer operators, in our department we have devised procedure to give hand written reports immediately to the police with directions to collect a computer generated copy after about a week.

To decrease this workload, only those post-mortem reports should be computer generated where the police decide to file a charge sheet in the Hon’ble courts. Medical officer should note the timings of the arrival of the body at the morgue, the date and hour of the post-mortem examination. The necessary papers authorizing the medical officer to hold an autopsy are frequently brought by the police long after the body has arrived.

This dilatory method on the part of police has occasionally led to the decomposition of the body in post-mortem room even when it has arrived in a good condition. It is, therefore, safer to note the exact time of delivery of these papers. The accused person is not entitled to inspect any document (including post-mortem and other medico-legal reports) or property in the custody of the investigating agency till such time that a charge report had been filed against him in the court.

**Comparison of Medico-legal issues related to Autopsies in Different States of India:**

**Night Post-mortems:** as far as possible, post-mortem examination should be performed in daylight, and not in artificial light. However in the recent past, various state governments have issued orders to introduce night post-mortems. This has led to objections from Forensic Medicine experts regarding the verification of colour matching which is more accurate in natural light than in artificial light in different injuries. [2] It has been observed in almost in every facility that the dead bodies should be received along with inquest papers only up to 4 pm, as it will take one to one and a half hours to complete an autopsy.

This suggested time frame is contrary to the authors experience that it takes more than three hours to complete an ordinary autopsy; at times even more. Therefore, the dead body should be sent to the doctor for autopsy sufficiently early to avoid inconvenience to the relatives of the deceased. Some glaring differences with respect to night autopsies in various states are detailed below:

- Gujarart government permits post-mortem at night if it is not a case of poisoning or suspected poisoning, if it is not a case of woman below thirty years, if it is not a case of woman dying in her husband’s or in-laws place, if the body is not distorted and if adequate light resembling day light is provided. [2]
- The Medico-Legal Advisory Committee of the Ministry of Home Affairs based on the opinion of the standing committee of Forensic Medicine in the Bureau of Police Research and Development has recommended that the present practice of doing post-mortem during daytime be continued. [12]
- The Government of Kerala permits post-mortems from 8 am to 5 pm only. [13] Government of Kerala has given instructions to all district collectors, superintendent of police, revenue divisional officers and district police surgeons that post-mortem examination should be conducted in day light and not in artificial light a far as possible and that it should be as thorough and complete as circumstances permits. [14]
- In Tamil Nadu in 1996, post-mortems was permitted to be conducted on all the government hospital during night if the claimant of the body insisted and the cause of death was due to accidents.
- The order of Tamil Nadu states that the post-mortem can be conducted at night because cause of death is already well known. It is axiomatic to say that in case where the cause of death can be established by clinical examination and other attendant factors, the conduct of post-mortem can be dispensed with altogether. [15] In Tamil Nadu the post-mortem is permitted from 06.00hours to 18.00 hours on all days and the requisition for autopsy can be received up to 16.00 hours. [16]
Post-mortem is not an emergency and it should be remembered that the autopsy is performed as part of scientific investigation in aiding the administration of justice. Therefore, providing night post-mortem services cannot be equated to the absolute and paramount duties of a medical practitioner to save the life of a person in emergency situation. [2] It is only the politically influential and affluent who are able to obtain permission for night post-mortems. [17]

According to Hindu mythology, the cremation of dead bodies is never conducted after sunset. In fact, whenever death occurs after sunset, the body is kept at a calm and cool place till sunrise; some sects even worship the dead body by keeping lamp lighted throughout the night. Other religions such as Islam and Christianity also bury their dead in the day and never at night. However, in the modern age, people reside in multi-story apartments where it is not possible to carry the body up a high rise building; for such cases it may be useful to conduct the autopsy after sunset with facility of cremation nearby.

**Remuneration for Medico-Legal Work:**

To make the often avoided and unsung specialty of medico-legal work interesting, attractive and lucrative, remuneration of a suitable amount must be sanctioned. Such remuneration has already been sanctioned in states like Kerala, Madhya Pradesh, Manipur, etc. However for the majority of states, no such provision exists. However, way back in 1882, the provincial Government of Punjab sanctioned Rs.16/- for conducting post-mortem examinations and Rs. 10/- for conducting a medico-legal examination, that is still being ignored till date throughout this country, notwithstanding the appreciation of the rupee in 131 years. [4]

**Conclusion:**

The main aim of this paper was to attempt to formulize a uniform streamlined autopsy guideline in Indian context. Therefore, we have tried to compile the same considering all the available instructions and rules with a critical and skeptical analysis of the same.

There are different guidelines, Performa and rules for autopsy work all over India, whereas the investigative protocol is uniform for all investigative agencies almost throughout. This leads to a confusing and compromising situation as far as medico-legal autopsies are concerned.

**References:**

15. GO Ms No. 289, Health and Family Department, Government of Tamil Nadu, dated June 13, 1996.
16. GO Ms No. 629, Health and Family Department, Government of Tamil Nadu, dated September 1997