

COMMENT

Medico-legal autopsies after sunset: Ethical issues

YADUKUL S, PRAGNESH PARMAR, PRASHANTH MADA, DIVYA REDDY

Abstract

From the British era, regular medico-legal autopsies have never been done in India after sunset, except for those specially permitted by the law enforcement agencies. The Ministry of Health and Family Welfare, Government of India, issued a notification on November 15, 2021, regarding the "Conduct of post-mortem in hospitals after sunset". This has given rise to much debate on whether post-mortems can be conducted after sunset in an ethical manner. Here, we briefly discuss the various issues related to the carrying out of post-mortems after sunset in India.

Keywords: post-mortem; autopsy; sunset; India

Introduction

An autopsy or post-mortem examination is a systematic examination of a person's dead body, conducted by a doctor or medical board, to ascertain the cause, manner and time of death, for various medical, legal and research purposes. Autopsies may be: academic/anatomical autopsy; pathological/clinical autopsy; or medico-legal autopsy [1].

In India, medico-legal post-mortem examination of dead bodies is done in all cases of death involving medico-legal issues by a recognised medical officer, after receiving a written order from a police officer, authorised under Section 174, Criminal Procedure Code (CrPC), or a magistrate, under Section 176, CrPC, depending on the circumstances of the case [2]. It has been a practice in India to conduct post-mortems preferably during the daylight hours and not after

dark, as insufficient artificial light may hamper the ability to recognise the colour changes of injuries, of post-mortem hypostasis and many other issues [3].

Guidelines issued by the Government of India

On May 17, 2021, the Directorate General of Health Services (DGHS), Ministry of Health and Family Welfare, Government of India constituted a technical committee of experts in forensic medicine and toxicology to examine all aspects related to the conduct of post-mortems in hospitals during the night hours [4]. The DGHS office memorandum also highlighted the need to consider the matter in the context of organ donation and the feasibility of digital autopsy. Subsequently, the Government issued a detailed notification on November 15, 2021, regarding the "Conduct of post-mortem in hospitals after sunset". The salient points in the notification are as below.

1. Post-mortem can be conducted after sunset at hospitals that have the infrastructure for conducting such post-mortems on a regular basis.
2. Cases under categories such as homicide, rape, decomposed bodies, and suspected foul play, should not be subjected to post-mortem during night time unless there is a law and order threat perception.
3. Post-mortems for organ donation should be taken up on priority and be conducted even after sunset if adequate infrastructure is available.
4. It is also to be ensured that video recording shall be done for all night time post-mortems to rule out doubts, and shall be preserved for future reference for legal purposes [5].

The present situation in India

Even before this notification, many states, like Karnataka, Tamil Nadu, Kerala, and Maharashtra, have already been performing night autopsies in cases related to deaths in road traffic accidents and in cases involving law and order problems, where hospitals have the required facilities.

Karnataka has allowed night time post-mortems since 2003, for road accident cases [6]. The government of Tamil Nadu has allowed post-mortems after sunset since 1996, in road accident deaths, only at the Madras Medical College [7]. However, this permission was withdrawn following the advice of an expert committee in 2013. Night time autopsies

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have been allowed in Kerala since 2015 — only at five specified government hospitals [8]; and have also been allowed in Maharashtra, since 1976, if the lighting arrangements are satisfactory [9].

Discussion

In India, the courts have time and again reiterated the need to uphold the dignity and rights of the dead. In 1989, the Supreme Court of India, in *Parmanand Katara vs. Union of India*, recognised that the right to life, fair treatment and dignity, extends not only to a living person but also to their dead body. These rights have been derived from Article 21 of the Constitution of India [10].

Several ethical issues apply to an autopsy conducted during night time, especially while handling the dead body before and after the autopsy. The advantage of conducting a night post-mortem is that the body can be handed over to the relatives at night without delay, so they can proceed to the final rituals. When autopsies are performed after sunset with proper infrastructure and human resources, they will facilitate the transporting of dead bodies to distant places without delay; and help increase organ donation within the prescribed timelines after death. In the absence of night autopsies, some instances of facial disfigurement of the dead body by rodents and other animals due to poor storage in morgues, has also been a serious issue [11].

Potential problems of autopsies during night time include a shortage of the necessary human resources to deal with night autopsies, and lack of adequate illumination on par with daylight. This could result in misinterpretation of certain findings during court proceedings.

In spite of government orders directing medical officers to conduct autopsies after sunset, infrastructure and manpower are insufficient even in the government medical college hospitals, as stated by the Director of Medical Education, Thiruvananthapuram, in his statement before the Honourable High Court of Kerala [8]. Hence, it is clear that, the Government

needs to ensure that mortuary facilities and infrastructure are upgraded in all the existing medical institutions before implementing regular night autopsies.

Just as a living person has the right to health (examination and treatment as early as possible), the dead person has the right to be cremated with dignity (with post-mortem examination performed without undue delay). Such an initiative will ensure that this positive step by the government will achieve its objective.

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