



Research Article

CHALLENGES FACED DURING AUTOPSY OF CUSTODIAL DEATHS

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ABSTRACT

The first image striking many minds on hearing about custodial death is, torturing. This makes the custodial death related issue more sensitive, not only for custodian but also for doctors. Allegation of torture and any matter related to it comes toward the side of custodians. It thus is an obligation of an impartial authority to refute or accept such allegation with support of evidence. This support is provided by medico-legal autopsy conducted by an expert under Magistrate inquest (176 CrPC.). All such evidences need to be recorded, so that it can be produced in front of authority i.e. NHRC, and also for future references. Hence many challenges are faced at different level in a custodial death, for making the entire procedure impartial and smooth.

With this study an effort has been done to bring up few of such challenges encountered during a custodial death autopsy.

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INTRODUCTION

Never before in its history, was prison administration in India subjected to a critical review by the higher judiciary as in the last few decades from the inception of The Protection of Human Rights Act.^[1]

The international community has recognized the growing importance of strengthening national human rights institutions. In this context, in the year 1991, UN-sponsored meeting of representatives of national institutions held in Paris, a detailed set of principles on the status of national institutions was developed, these are commonly known as the Paris Principles. These principles, subsequently endorsed by the UN Commission on Human Rights and the UN General Assembly have become the foundation and reference point for the establishment and operation of national human rights institutions.^[2]

Before the formation of National Human Rights Commission, all deaths in police custody were dealt according to the instructions given by the state government and Director General of Police from time to time. All such cases in Mumbai were dealt by the Coroner Court and the investigations were done by the Crime Branch of Police. However, after 1999, the abolishment of coroner court, the inquest was done by the Magistrates similar to the procedure which was followed in rest of India.^[1]

The Commission came into effect on 12 October 1993, by virtue of the Protection of Human Rights Act 1993 in India.

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The commission introduced video-filming of post-mortem examination with effect from 1st October, 1995.^[3] The commission, after ascertaining the views of the states and discussing with experts in the field and taking into consideration, though not entirely adopting, the U.N. Model Autopsy protocol, has prepared a Model Autopsy form.^[4]

MATERIAL AND METHODS

The present study was conducted at Mortuary of Department of Forensic Medicine & Toxicology at Government Medical College Mumbai, which is an authorized regional referral centre for conducting autopsies in alleged custodial deaths. The study comprises of total 82 (Eighty Two) autopsies of custodial deaths which were referred for post-mortem examination by the Magistrate from various custodies in the region. The study was carried out over a span of 2 years. Each and every case under the heading of custodial death were attended personally and data was collected in the standardized Performa.

OBSERVATION AND RESULT

Table 1. It is observed in this study that minimum time interval between Magistrate inquest and start of Autopsy is 0.5 hours, while the maximum interval for the same is 3 hours. Average time interval for the autopsy to start after magistrate inquest is 1.15 hours.

The non-availability of videographer / photographer is the main reason for delay in starting custodial death autopsy after magistrate inquest is done. In this study it is observed in all the cases (82 cases) of custodial death's autopsies videographer is approved (not from collector's panel) by the Magistrate. Thus it is significantly related to the delay. Table 2. It was observed

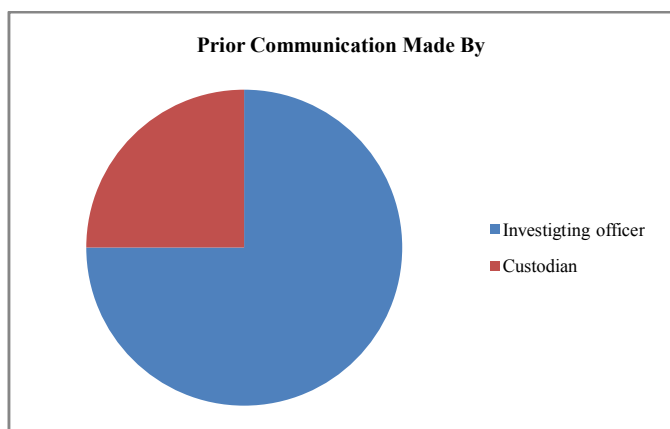
that in 24.39% of cases only, prior communication was made to the authorized autopsy centre in view to make the procedure go faster and smoother. Graph 1. Amongst these cases where prior communication was done, majority cases were of police custody death.

Table 1 Time interval for Autopsy to start after Magistrate inquest

Observation	Mean time interval	Minimum time interval	Maximum time interval	
Time interval between magistrate inquest and autopsy (hours)	82 cases	1.1524	0.5	3

Table 2 Prior communication to authorized centre

Prior communication (yes/ no)	Frequency	Percentage
No	62	75.61%
Yes	20	24.39%
Total	82	100.00%



Graph 1 Prior communication done by I.O/ Custodian.

DISCUSSION

The National Human Rights Commission^[5] recommended procedure for videography is as follows

1. The belongings of body videographed separately.
2. The face, eye & lips videographed.
3. All external injuries should be serially numbered with adherent tag.
4. The actual procedure of dissection for exposing three body cavities need not be videographed.
5. The hyoid bone should be exposed in situ.
6. The internal organ should be videographed before and after sectioning of each organ.
7. Both testes should be exposed and videographed. (Uterus & appendages in female).
8. Suspected fracture site should be exposed and videographed.
9. In fair skinned person discolored skin area should be cut and exposed and videographed. In dark skin person long incision over back & front of each limb be taken to exclude any internal contusion and video graphed.
10. Immediately after videography of autopsy is completed the important particulars of PM is written on the label and pasted on video cassette and should be sent to commission in a sealed condition.

11. During video-filming of every procedure of autopsy the face of the person and identification tag must be shown at regular intervals.

The aim of video-Filming and Photography of Postmortem Examination Should be

- a. To record the detailed findings of the post-mortem examination, especially pertaining to marks of injury and violence which may suggest custodial torture.
- b. To supplement the findings of post-mortem examination (recorded in the postmortem report) by video graphic evidence so as to rule out any undue influence or suppression of material information.
- c. To facilitate an independent review of the post-mortem examination report at a later stage if required.

In this study minimum time interval between Magistrate Inquest and autopsy is 0.5 hours (30 minutes) and maximum is 3 hours. The mean time interval is 1.15 hours. The main and the only reason observed for this delay is non-availability of videographer at the autopsy centre.

These are the videographer / photographer who are appointed by the collector of the district in view to conduct such in custodial deaths. This requirement of videographer is essential at both places i.e. at magistrate inquest, at the time of autopsy. The responsibility of appointment of videographer for these purposes has been given to the magistrate.^[6]

Appointment of the videographer and/or photographer as per NHRC has to be done through Collector appointed panel. There are centres or districts where there is no provision of Collector's panel videographer as such. At these places the videography is done by videographer who works privately but is appointed and approved by the magistrate doing the inquest. This arrangement of videographer by either collector's panel or magistrate approved takes time. This time which is elapsed in arrangement is another reason for the delay in conducting the custodial death autopsy.

Prior information to any upcoming thing makes one ready for it, also increases the speediness of the work. To these centres if prior information is given it will be easy to do paperwork which is necessary before starting PM. Also adequate staff can be mobilized within time frame.

Prior communication in view to fasten the procedure after arrival of body at the authorized centre was made by the Investigating Officer in majority of cases, i.e. 15 out of 20 cases in which prior communication was done. In 62 cases out of total 82 cases, there was no prior communication made to the centre.

CONCLUSION

Above Highlighted Issues can be Dealt with if

1. There is a dedicated, direct telephone facility at the authorized centres, the number of which is informed to all the concerned authorities related with custodial death.
2. The In charge / On duty doctors of all such authorized autopsy centre makes necessary pre-autopsy arrangements on receiving communication about such deaths from concerned custodian of the body of their jurisdiction. This will help in avoiding delay and

making available needed services for the autopsy in prompt and just manner.

3. A Government resolution mentioning the list of the authorized videographer along with their contact numbers the respective districts under District Magistrates of jurisdiction of such autopsy centres is provided.

4. Guidelines issued by the National Human Rights Commission on 27th March 1997 to adopt the Model Autopsy Form and the additional procedure for inquest.
5. Dr.Amit K.Patnaik& K. Mathiharan.“Model protocol for autopsies in custodial deaths.”Indian Journal of Medical Ethics, June 1999, (2)59-53.
6. Guidelines issued by National Human Rights Commission on 21st Dec.2001. “On modified instruction regarding videography of post-mortem examination in respect of deaths in jail.

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2. Commission on Human Rights Resolution 1992/54 of 3rd March 1992.
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