

Forensic doctors plays a vital role in our judicial system.



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Name of the Author:

Dr. Ahmad Sadek

(MBBS, DFM, MCPS)

Associate Professor & Head

Department of Forensic Medicine & Toxicology

Army medical college, Chittagong-4210

Bangladesh

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ABSTRACT

Forensic Doctors play a great role in criminal justice system, because a medico- legal report is very important document in most of the criminal cases, The bondage of law and medicine is ancient one, as old as Egyptian civilization, The code of Hammurabi [Babylon-2200 BC] is oldest code on medical -legal cases. The Forensic medicine & Toxicology and medical jurisprudence gained lot of importance in the modern world due to newer technology like Finger Printing and DNA. It is prudent for young police officers ,prosecuting officers, defence counsels and general public to gain fundamental knowledge of medical jurisprudence, forensic medicine and toxicology. The forensic medicine deals with the medical aspects of law viz. death, injuries, sexual offences ,infant deaths, poisoning , accidents, homicide. The Medical jurisprudence deals with the legal aspects of practice of medicine viz. medical negligence ,rights & duties of doctor, professional misconduct. Forensic Science today makes an important contribution to the operation of the Criminal Justice System providing evidence which could help decide the guilt of a suspect. Forensic Science is able to do so because it has developed to operate within the reality determined by the Criminal Justice System.

Key Words: victims, criminal proceedings, forensic examination, doctor, medico-legal report, perpetrators, access to justice, autopsy.

I. INTRODUCTION

Every thing about Law& Society, I feel that every one needs to know some thing about Law and something about Society, in which we live, Man is by nature a political animal said Aristotle.^[1] Medicine and law have been related from the earliest times, perhaps from the perceived necessity of protecting the community from the irresponsible acts of unqualified medical practioner and quacks.^[2] Forensic medicine deals with the application of medical and paramedical knowledge to aid in the administration of justice. It is used by the legal authorities for the solution of legal problems. Some examples are: applying the medical knowledge in deciding cases of injuries, murder, suicide, accidents, sexual offences, poisoning etc because law have no medical knowledge The beauty of the discipline of Forensic Medicine is its multifaceted nature and its extension and relevance into many branches of medicine. Of note is its medical, social and legal relevance. Mainly in our country forensic service given by two way: Autopsy (Forensic pathology) and Victim examination (Clinical forensic medicine). In Bangladesh all unnatural deaths are to be reported at the nearest police station and an appointed police officer should visit the scene of crime for investigation and to arrange Autopsy if required^[3]. Every citizen wants proper justice. Though who are died due to unnatural, griefless family members 1st tolerate severe painful sensation in his/her life also police harassment, then gone to mortuary and here spent long times till receiving the dead body. So then they only want proper justice which can be ensure by proper autopsy.

II. FUNDAMENTALS OF MEDICAL REPORT

The medico-legal report should be two parts consists of examination of body and the opinion, The examination of body consists both external and internal. No doctor should sign the medical report without examining the body & observing due formalities ,including visiting scene of crime to form suitable expert opinion on the cause of the death. If doctor does not visit the scene of crime ,he may not know all details of the crime.Autopsy report in original, inquest papers, dead body,clothings and other articles etc handed over to police official No. of Police Station whose signatures are herewith.Signature,Name of Medical Officer:(in block letters),Designation,Seal.The medico- legal report prepared by doctor should based on his own observation,the doctor should be able to defend the same in the court of law personally testifying ,he should not hesitate to give details of observation in the court and answer all questions diligently posed by the court and patiently face the cross examination of defence counsel by answering questions in an unbiased manner. He should confine himself to medical knowlegde,his role is furnishing the expert opinion of the crime.The presumptions,conjectures and assumptions are not expert evidence or proof. There should be no scope for vagueness or inaccuracy in preparing the medical report. The medical reports play crucial role in courts cases, it is corroborative piece of evidence in determining the crime.It has become indispensable part of criminal justice^[4].

III. SPECIMENS COLLECTED & HANDED OVER :-

- a) Viscera(Stomach with contents, sample of liver,kidney(one half of each) , sample of blood on gauze piece (dried),any other viscera, preservative used)
- b) Clothes

- c) Photographs(Video cassettes in case of custody deaths, finger prints etc)
- d) Foreign body(like bullet, ligature etc.)
- e) Sample of preservative in cases of posioning &Sample of seal
- g) Inquest papers (mention total number & initial them)
- h) Slides from vagina, semen or any other material.

IV. MEDICAL EXAMINATION OF RAPE VICTIM&PROCEDURES/ FORMALITIES:

No doctor can examine women without prior request form from Investigation Officer or magistrate and no women can be forced to undergo medical examination, her prior consent is required, if victim is under 12 yrs or unsound mind ,the consent of parents or guardians must be taken in writing.

The victim should be examined in the presence of female nurse or attendant. The I.O should also ensure that victim should be taken to hospital immediately[not take bath or change cloths prior to medical examination].

The moot questions for the doctor is:-

- [1] whether there is recent evidence of sexual intercourse with presence of semen or other discharges.
- [2] physical signs to confirm use of the force viz. pain or oozing of blood from vagina or bruises ,wounds,scratches,teeth bites on the body parts e.g face,chest[breast],hands,thighs and genital organs.
- [3] Whether medical evidence confirm the allegations of sexual assault. ^[5].

Importance of Doctor’s Report in The Criminal Proceedings of Bangladesh

The importance of medical evidence is to lend corroboration to other types of evidences. ^[6]. It proves that the injuries were possible in the manner alleged. ^[7]. But, in case of hurt, rape, death and acid throwing, chemical examination and the report of doctors are essential for criminal adjudication. In case of rape, the medical examination is supposed to be completed as soon as possible after the occurrence ^[8]. When the victim appears before the doctor, the doctor should give report and certificate about the occurrence. In a medical examination of rape victim, the doctor first takes the history of the incident from the victim and follows with an examination of the injuries. Where there is other reliable evidence to prove the offence, medical evidence is not indispensable. A seal is given in the medico-legal report and the doctor in whose name seal has been given, has to be produced in the court for confirming the report. The evidence of the doctor is another reason for delay in rape cases ^[9]. Statement given by a doctor is important evidence in Bangladesh. According to the *Code of Criminal Procedure*, 1998, the deposition of a doctor or other medical witness, taken and attested by a Magistrate in the presence of the accused may be given in evidence in any inquiry, trial or other proceeding under this Code. ^[10]. In a criminal proceeding, the report of a post-mortem examination is used as evidence, even if the doctor who made the report is dead or is incapable of giving evidence or is beyond the limits of Bangladesh and his

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attendance cannot be procured without an amount of delay, expense or inconvenience which, under the Circumstances of the case, would be unreasonable, such report may be used as evidence. [11]. On the other hand, any document purporting to be a report under the hand of any chemical examiner or assistant chemical examiner to Government or any serologist, handwriting expert, finger print expert or fire-arm expert appointed by the Government is used as evidence in any inquiry, trial or other proceeding under this Code. [12]. Doctors are appointed by a governmental body and operate under statutes that give them investigational jurisdiction in criminal cases. Doctors in their pathological reports must make a determination of the manner of death, i.e., whether the death was a homicide, an accident, or a suicide and must make determination of the manner of assault. All the findings are thoroughly documented in a medico-legal report and in auxiliary documentation. The medico-legal report lists all the medical diagnoses evident in the case and the actual cause of death is then determined. [13]. Sometimes, in criminal cases, a defendant may allege certain circumstances of death of the deceased victim or assault of the victim and the doctors need to determine whether this explanation fits or does not fit the nature, pattern, and extent of injuries and the findings at the place of occurrence. In modern times, forensic science has become an integral part of the process of crime detection and new aspects of forensics are being developed along with technology to support them. [14]. In the forensic examination, doctors also see incidental cases of very challenging deaths, such as battered or shaken children alleged to have sustained accidental fall injuries, dismembered or decomposed homicide victims, masked suicides, unusual causes of death such as water intoxication or exotic drugs, rare genetic diseases, and apparently unexplained deaths in medical facilities. [15]. Every doctor in pathological service has an implicit duty of presenting the forensic findings in a clear and bias-free manner. In our adversarial system of trial procedure, the medical examiner must be the standard bearer of unvarnished truth. [16].

V. CONCLUSION

According to Bangladesh Constitution, everyone has the right to life, liberty and security of person, [17]. no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment [18]. and all are equal before the law and are entitled without any discrimination to equal protection of law. [19]. There are five different stakeholders that are involved in criminal process, such as, (i) victims, (ii) police, (iii) lawyers, (iv) judicial officers and (v) doctors. If all stakeholders perform their duties honestly and sincerely, justice is sure to be served to the victims and accused.

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Corresponding author :

Dr. Ahmad Sadek

(MBBS, DFM, MCPS), Associate Professor & Head Department of Forensic Medicine & Toxicology, Army medical college, Chittagong-4210, Bangladesh

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