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## A review: Challenge in conducting medico legal autopsies in custodial death

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### Abstract

Custodial death as death that has occurred in custody. Allegation of torture and any matter related to it comes toward the side of custodians. Autopsies and post-mortem reports, if conducted properly, can be powerful evidence to prove police abuse in custody. The National Human Rights Commission has, in the past, made efforts to create mechanisms to report custodial deaths. In this paper we have discussed the many challenges faced during the medico legal autopsies during custodial death.

**Keywords:** Custodial death, medico legal autopsies, evidence, challenges, torture etc.

### Introduction

Custodial death is where the person was in the custody of the State or where the State may have failed to meet the obligation to protect life Article 21 of the Indian Constitution states that “No person shall be deprived of his life or personal liberty except according to a procedure established by law.” Custodial deaths are therefore, in conflict of the right to life and a failure of the state to protect the life of the person <sup>[1]</sup>.

Autopsy, literally meaning self-study of a dead body, is carried out for clinical as well as medico-legal purposes <sup>[2]</sup>.

The forensic expert carrying out ML autopsy is handicapped majority of the times by the absence/lack of adequate background information due to improperly conducted panchanama. In addition the facts provided in the panchanama may be intentionally distorted ones misleading him. This necessitates a thorough complete autopsy with an open mind and makes correlation of autopsy findings and background information difficult. On the other hand the job of the pathologist carrying out clinical autopsy is made easier by availability of detailed, reliable background information, in the form of clinical case sheet, provided by a highly trained professional <sup>[9]</sup>.

### What are the challenges in conducting medico-legal autopsies in custodial deaths?

#### Key Challenges <sup>[3]</sup>

- Potential Manipulation of Evidence.
- Local doctors may succumb to police pressure, potentially distorting factual findings.
- Risk of post-mortem reports being intentionally altered to protect institutional interests.

#### Procedural Difficulties

- Limited independent evidence in cases of custodial violence.
- Incomplete or improperly conducted initial investigations.
- Lack of comprehensive autopsy documentation.

#### Primary Objectives

- Ruling out potential torture or forceful activities by authorities.
- Establishing an impartial and accurate cause of death.
- Collecting reliable forensic evidence.

#### Recommended Mitigation Strategies <sup>[5]</sup>

- Video recording of post-mortem examinations.

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- Evolving more broad autopsy recording forms.
- Ensuring independent and thorough forensic examination.
- Implementing strict protocols to prevent evidence manipulation.

The ultimate goal is to prevent potential human rights violations and ensure justice through meticulous and unbiased forensic investigation.

#### Testing's to be conducted for investigation during custodial death <sup>[4]</sup>

- Large organ and tissue specimens
- Histology/ Histopathology
- Toxicology
- Microbiology
- Molecular/ DNA testing
- Entomology

At the end of autopsy, it is the responsibility of the doctor to conclude the cause of death and identification of the deceased. But in many cases, cause of death cannot be determined from the autopsy findings alone without any other information/ investigation/ laboratory tests about the death. Often, the doctor is also required to conclude the manner of death. But the final authority is the court when it comes to concluding the death investigation <sup>[8]</sup>.

The autopsy report should be sufficiently comprehensive for another forensic doctor, at another time and place (And supported by access to the photographs) to be in possession of all the relevant observations required in order to come to his or her own conclusions about the death <sup>[6]</sup>.

#### Conclusion

Form this review we can conclude that with effective and unbiased autopsies and investigations and co-operation of the concern departments the proper reasons for the custodial death can be found out.

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