

Status of medico legal service in Nepal: Problems along with suggestions

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ABSTRACT

Forensic medicine deals with the application of medicine for the purpose of law. It is now commonly used to describe all aspects of forensic caseworks; including forensic pathology, that branch of forensic medicine which investigates death, and clinical forensic medicine, which involves interaction between the law, judiciary and the police involving (generally) living persons.

The medico legal investigation system in our country still lags far behind the developed countries. The doctors doing the medico legal and post-mortem work at the district level hospitals are often untrained in this sensitive job. It is a job of great responsibility and to leave it to inexperienced doctors is actually doing injustice to the society. Forensic experts handle a very small part of total medico-legal work as most of them work in private medical colleges which are not permitted to handle the work. Mortuaries are housed in outdated facilities. Exposure to the medical students on medico legal cases including autopsy is done only on a sporadic basis taking them to nearby government hospitals and even if they visit the hospitals, inadequate infrastructure prevents better learning. Private medical colleges are conducting postgraduate course in forensic medicine without handling medico legal cases.

There should be a post of forensic medicine specialist, at least at the zonal hospitals and the district hospitals handling more medico legal cases. The private medical colleges, especially those enrolling postgraduate students in the field, must seek permission to conduct medico legal works and the government also should not be reluctant in permitting so as it's not producing adequate experts in itself as per the need of the country.

Key words: Autopsy, forensic, government hospital, medico legal, Nepal, private medical college.

INTRODUCTION AND SCOPE OF FORENSIC MEDICINE

The term 'Forensic' is derived from the Latin word forensis, meaning 'of the forum'. In Rome, forum was the meeting place where civic and legal matters were discussed by the competent authorities. Forensic

Medicine is the branch of medicine which deals with the application of medicine for the purpose of law.¹ Medicine and law are related from the earliest times by the bonds of religion, superstition and the magic. The functions of the physician and the jurist were united in the priest, the intermediary between the God and man. In early civilizations, primitive legal codes, religious doctrines, and social precepts were often ill

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distinguished and laws with a medical content were often found within their context.²

Forensic medicine is now commonly used to describe all aspects of forensic casework- including forensic pathology-that branch of forensic medicine which investigates death, and clinical forensic medicine, which involves interaction between the law, judiciary and the police involving (generally) living persons. In broad terms, forensic pathologist doesn't deal with living individuals, whereas a forensic physician doesn't deal with the deceased. There are many areas where clinical and pathological aspects overlap.³ Most English-speaking countries practice clinical forensic medicine and forensic pathology separately⁴⁻⁶ while most non-English-speaking countries practice forensic medicine which includes clinical forensic medicine and forensic pathology.⁷⁻⁹ In Nepal, the forensic experts deal with both the areas.

Clinical forensic medicine is a sub-specialty of forensic medicine and is intimately associated with the justice system of a country. This includes examination and report on patients of: assault, road traffic and industrial accidents, sexual assault, elder, spousal and child abuse, neglect and starvation, torture, self-infliction, criminal abortion, criminal poisoning, and drunkenness/intoxication by alcohol or any other means. Some of these areas need highly specialized skills for a proper examination and expert opinion.³

Medical expertise is crucial in death investigations. It begins with body examination and evidence collection at the scene and proceeds through history, physical examination, laboratory tests, and diagnosis in short, the broad ingredients of doctor's treatment during the life of the patient. The key goal is to provide objective evidence of cause, timing, and manner of death for adjudication by the criminal justice system.

Today, throughout the world, medical sciences have been playing very strong role for disbursement of justice through legal system. But unfortunately, the medico legal investigation system in our country still lags far behind the developed countries. Although performed, autopsies are extremely deficient and therefore inappropriate to elucidate crime. The quality of practice of clinical forensic medicine is also poor. We have tried to analyze the major reasons for such deficiencies along with suggestions.

Lack of training to the doctors and the staff doing medico legal and post-mortem examination

The doctors doing the medico-legal and post-mortem work at the district level hospitals are often untrained in this sensitive job. It is a job of great responsibility and to leave it to inexperienced doctors is actually doing injustice to the society. Many autopsies are incomplete. Bodies are just examined externally. Even if an incision is made, it's just superficial and without exploration of the internal organs. The medical graduates who may not even have observed a case of postmortem autopsy are authorized to perform autopsies when they join government hospital. How can a good and illustrative report be expected from them? A poor opinion is often worse than no opinion at all, as in the latter case, the legal authorities will at least be aware of the deficiency in their evidence, rather than be misled by the often dogmatic inaccuracies of an inexperienced doctor.¹⁰ Therefore, any medical officer, who is put on this duty, should be fully trained before handling this job.

Forensic medicine specialists in Nepal

The number of forensic experts available in Nepal is very less. The total number of doctors registered in the Nepal Medical Council with specialization of forensic medicine is just eleven.¹¹ Forensic experts

handle a very small part of total medico legal work. Medico legal autopsies are usually carried out not by forensic medicine doctors but by MBBS doctors who have insufficient experience of such work except in BP Koirala Institute of Health Sciences, Dharan¹² and Institute of Medicine, Kathmandu.¹³

Mortuaries lacking basic facilities

To achieve the objectives for which a medico legal autopsy is carried out, mortuaries must be properly equipped. Facilities of mortuaries should be no less than operation theatres but unfortunately, in Nepal, most mortuaries lack even basic facilities. Mortuaries are housed in outdated facilities. Many mortuaries do not have cold storage chambers for preserving dead bodies, and the few lucky ones that have them do not have uninterrupted electric power supply to run them. As a result, dead bodies stored there decompose and crucial medical evidence along with the expectations of society and legal authorities for justice from the doctor. So called mortuaries in almost all government hospitals lack even basic cleanliness and facilities. There is no privacy at all such as broken window panes and doors allow people to peep in throughout the autopsy process and thus no confidentiality. Many mortuaries don't have closed roofs and well sealed walls so that predators get easy access and damage the bodies stored. There is a dearth of proper instruments and the lack of sterile containers to collect viscera for further investigations. The mortuaries lack preservatives, even sodium chloride so that the viscera are not preserved well and start to decompose soon after they are retrieved from the bodies.

As a result of this poor infrastructure, the chances of reaching a valid conclusion on the cause of death are

poor. Unless government policies address these issues on an urgent basis, the proper investigation of crimes based on the conduct of a conclusive and exhaustive medico legal autopsy, as is done in the Western countries, may be restricted to reel life. Dead persons also have rights and dignity. Their bodies should be handled with prestige. Proper well furnished and clean mortuaries should be built in all the hospitals that are expected to perform autopsies.

Problems of the public

There are no public waiting halls nearby the mortuaries. The persons accompanying the dead bodies, who are already grief-stricken, have to face a lot of inconvenience, mental and physical tension. Many of the mortuaries do not have even drinking water and toilet facilities.

The mortuary attendants are often not trained rather have gained experience just by working for a period of time. Many of them are inebriated most of the time and constantly demand some money from the relatives of the deceased who already are traumatized by the demise of their close ones. In some centers, all the expenses incurred for the conduction of the formalities of autopsy like photocopying of the documents, costs of vessels for the toxicological specimens etc have to be covered by the relatives though they have to be paid from the government side.

Forensic Science Laboratory in Nepal

The toxicological analysis of the specimens in medico legal cases throughout the nation is performed only by Central Police Forensic Science Laboratory located

in Kathmandu which too is not well equipped with adequate facilities. Therefore there is overburdening of cases and greater chances of overworked staff making mistakes. Many of the reports are inconclusive, thus not being that useful to ascertain the cause of death.

Post of forensic medicine specialist

The government hospitals are handling a good number of medico legal works but as they all are performed by the doctors having no formal training of the field, the quality work is not being done. There should be a post of forensic medicine specialist, at least at the zonal hospitals and the district hospitals handling more medico legal cases. This not only improves the medico legal service but also spares medical officers and other specialists to focus on the treatment of their patients. This post should be headed by a qualified doctor with MD in forensic medicine. They should be able to monitor the medico legal activities of their area and called to the hospitals whenever the medical officers can't handle the cases. The experts can be involved in continuous training of the medical officers of their area. Medical graduates should be encouraged to join the postgraduate in the subject by creating proper environment to work in their field once they become experts. The existing medico legal experts should be encouraged to perform the works in their field rather than only forcing them in academic works. The forensic experts working as faculties in medical colleges can be appointed as medico legal consultants in nearby government hospitals.

The author, after gaining postgraduate degree in forensic medicine and toxicology and specialized registration in the Nepal medical council had keen interest in working in the medico legal field by joining any of the

government hospitals though he could get lucrative jobs in private medical colleges. Unfortunately, there was no any vacancy, though Bharatpur hospital was approached for a post of medico legal expert from the local governing level (development committee) of the hospital. The hospital responded positively but required the approval of the ministry of health for the same. The ministry was also approached but it concluded that no medico legal experts can be recruited from the development committee of the hospital as all the medico legal works should be carried out by government doctors as per government cases act 2049.¹⁴ One positive point in this procedure came out; the ministry came to the conclusion to perform observation and management survey and to create the government post of the medico legal expert in the hospital if needed. Though, the author is supervising autopsies to the medical officers in the hospital when his advice is sought for in difficult and controversial cases. It is controversial as even the doctors who are recruited by the development committee of the government hospitals can be considered as government doctors or not. The medical officers who are appointed by the government under contract basis are even performing medico legal works.

Forensic Medicine education and teaching

The broad goal of teaching of undergraduate students in forensic medicine in Nepal is to produce a physician who is well informed about the medico legal responsibilities in the practice of medicine. The student should be capable of making observations and inferring conclusions by logical deductions to set enquiries on the right track in criminal matters and connected medico legal problems. He/she should acquire knowledge of law in relation to medical practice, medical negligence,

and respect for codes of medical ethics. At least ten autopsies of various natures have to be demonstrated to the students.¹⁵ But unfortunately, most of the medical colleges in Nepal except the government colleges are not handling medico legal cases. The students are expected to be exposed in the field taking them to the nearby government hospitals. But it's done only on a sporadic basis and even if they visit the hospitals, inadequate infrastructure prevents better learning. Therefore, many of the students land on even not observing a medico legal case including autopsy.

A serious defect in many countries is the separation of those who practice medico legal works from those who profess to teach it in universities. It is impossible to be a credible and convincing teacher unless one has continuing practical experience of the subject.¹⁰ Many private medical colleges are also enrolling medical graduates in postgraduate course in forensic medicine and toxicology. But none of them are conducting medico legal activities. The students are posted to the medico legal centers just for a short period of time (maximum of a few months) during the three years course. It is the need of the country to produce more forensic experts but the quantity of the experts should not be overcome by compromising in the quality. It is never possible to be a competent forensic expert if the postgraduate student is not exposed to the medico legal cases during the course. It is similar to studying surgery and not being exposed to the surgical patients. The Nepal Medical Council also has given permission to conduct the course without proper infrastructures and facilities in these regards in the medical colleges. The council should also suggest the government in allowing private medical colleges in handling the medico legal cases. Unless the colleges make sure that their postgraduate students are exposed to the medico legal cases throughout their course, they should not be

allowed to enroll the students in forensic medicine. The private medical colleges enrolling postgraduate students in the field must seek permission to conduct medico legal works and the government also should not be reluctant in permitting so as it's not producing adequate experts in itself as per the need of the country.

Private medical colleges and medico legal service

Present law restricts the medico legal services to be conducted in private hospitals including medical colleges. Now, the number of Nepalese forensic experts, who have proper medico legal knowledge of the nation, is gradually increasing and almost all of them are working as faculties in medical colleges. As per the requirements of the Nepal Medical Council, at least three faculties are required for a college enrolling 150 MBBS students.¹¹ They can be employed by the government to perform the medico legal works. The private medical colleges can help the government by providing with the infrastructure including mortuary. The medical colleges need the mortuary as per the requirement of medical council and/or university. The government should not be reluctant in joining hands in hands with the private medical colleges. In fact the government can allot the medico legal duties to the proper specialists and spare other clinicians for the patient care.

CONCLUSION

There should be great reformation of the medico legal service in Nepal. The sensitive job of medico legal works should not left to the medical officers having inadequate knowledge in the field. Poor opinion is no good than no opinion at all as the later can mislead the case and leads to administration of injustice.

Government should strive to train and to attract more qualified personnel, as well as to modernize facilities for the better medico legal service in Nepal. There should be a post of forensic medicine specialist, at least at the zonal hospitals and the district hospitals handling more medico legal cases. The private medical colleges should seek permission to conduct medico legal works and the government also should not be reluctant in giving so. The Nepal Medical Council should regulate the post graduate education in forensic medicine by reinforcing the medical colleges to undertake medico legal works before they give permission to conduct the post graduate course.

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