



FORENSIC AND LEGAL DILEMMAS IN DEATH RITES: NAVIGATING RELIGIOUS DIVERSITY AND MEDICO-LEGAL PROTOCOLS IN INDIA

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ABSTRACT

India is a country that is home to more than one culture and a wide range of religious beliefs. Two articles of the Constitution of India, namely Article 25 and Article 26, provide protection for the religious rights of individuals. According to the teachings of spirituality, the soul is eternal, unborn, and unbounded, while the body is the sole thing that passes away. In addition to this, it is a firm believer in the concept of rebirth and the path to Nirvana, which is the ultimate deliverance from the cycle of birth and death). It is the underlying reason for the practice of a variety of death rites, which vary according to factors such as age, gender, marital status, religion, and the manner in which the death occurred. However, there are a few socio-cultural traditions that cause conflict and place an excessive load on the involved authority, both of which cannot be ignored in any way. The practices that are associated with the performance of the final rite, which includes the disposal of the deceased, have given rise to a number of concerns in the field of legal medicine as well as for the authorities who are concerned. In order to deal with these problems, we need to develop an alternative way to do so.

KEYWORDS : Religious diversity, forensic challenges, legal conflicts, environmental impact, policy recommendations.

INTRODUCTION:

Death is an unavoidable consequence of being born alive, as stated in the introduction. The end of life occurs when any kind of life is extinguished. Death is not merely a fleeting happening; rather, it is a process that takes place over time. The death of a person sets in motion a chain of occurrences that cannot be avoided after the person has passed away.⁽¹⁾

Legal medicine's perspective on death is as follows: According to Black's Law Dictionary, death is the complete and whole termination of life; the complete and total cessation of existence. According to the definition provided by medical professionals, it is characterised by the full cessation of blood circulation and, consequently, the end of vital functions and the animal.

Two types of death—somatic and molecular—are distinguished by the fact that death is an irreversible cessation of life. The full loss of sensation and the inability to move, along with the complete cessation of the functioning of the brain, the heart, and the lungs, is what is known as somatic death. Cellular death, also known as molecular death, refers to the process by which tissues and cells individually pass away. This is accompanied by the cooling of the body, changes in the eye, skin, blood, and muscles, and the full cessation of the anaerobic enzymatic activities. All of these changes manifest themselves simultaneously.

Definition and Meaning of the Word "Death"
Death is defined as "a person in whom permanent disappearance of all evidence of life occurs, due to brain-stem death or in a cardiopulmonary sense, at any time following live birth," according to section 2(e) of the Transplantation of Human Organs and Tissues Act, which was passed in 1994. Brain-stem death is defined as the "stage at which all functions of the brain-stem have permanently and irreversibly ceased," as certified under sub-section (6) of section 3 of the Act. This definition is found in section 2(d). Death is defined as the "permanent disappearance of all evidence of life at any time after live birth," according to section 2(b) of the Registration of Births and Death Act, which was passed in 1969.^[2-4]

Legally Or Affirmatively Deceased

The deceased are no longer recognised to be individuals from a legal standpoint. There are just three cases in which the concerns of the living extend beyond the time period of death, and the law recognises these concerns: for the purpose of referring to the remains of an individual: Every single person

who has passed away has the right to a burial that is respectful.

According to Section 297 of the Indian Penal Code, the violation of a grave is considered to be a crime. Regarding the departed person's standing in the community: According to Section 499 of the Indian Penal Code, a libel committed against a person who has passed away will be examined in court. Within the context of testamentary succession, the law recognises the ambitions of the deceased to influence the activities of the living when it comes to the succession of assets. According to the common law, a corpse is not considered to be property; nonetheless, the next of kin or an approved executor of the deceased person has the right to possession of the body in order to dispose of it. The same levels of respect that are accorded to living creatures should also be extended to those who have passed on, as is the custom and culture of the Indian people.^[4-8]

In The Context Of Spirituality And Religion, Death Is Viewed As: Religion And Spirituality

It is possible to trace the origin of the term "spirituality" back to the French word "spiritualite" as well as the Latin word "spiritualitatem (spiritualitas)," which in turn is derived from the Latin word "spiritualis." In turn, this is derived from the Latin term "Spiritus," which means "breath" or "spirit," which in turn developed from the Latin verb "spiro," which means "breathe" or "be alive." The concept of spirituality does not have a definition that is widely acknowledged. When it comes to spiritual practices, there is a significant difference that sets them apart from religious practices. The phrase "spirituality" is a wide term that describes the aspiration of an individual to find divine meaning and purpose in their existence. There was a shift away from traditional religious organisations and institutions in the development of modern spirituality. In addition to being known as Hindu Universalism, Neo-Vedanta was a significant factor in the development of western spirituality. Neo-Vedanta is the name that Swami Vivekananda gave to this universalist philosophy when he brought it back to the western world.

The Hindu Religion's Spirituality

The Hindu religion does not adhere to any conventional religious system and does not have any centralised religious authorities. polytheistic, pantheistic, monistic, or atheistic beliefs are all possible among Hindus. The term "Ksairaja" refers to an individual's spiritual experience within the context of Hinduism, which is characterised by a broad and open framework. The path that a person takes towards moksha,

self-awareness, the revelation of higher truths, the true essence of life, and a consciousness that is unfettered and contented is what is typically understood to be the definition of spiritual practice.

A Guru provides assistance to a spiritual path in the Jñāna marga tradition. In addition to chanting and singing in the manner of kirtans, Bhakti Marga is a path that is characterised by faith and devotion to deities. A person is said to have achieved karma marga when their rigorous practical labour (varṭa in Sanskrit, which means a profession that is not done for the sake of gaining worldly gain) becomes in and of itself a spiritual practice that leads to the attainment of moksha, the ultimate liberation. Raja marga is a practice that can lead to Samadhi through the cultivation of essential virtues, self-discipline, tapas (meditation), introspection, and mindfulness. This practice may also involve seclusion and the renunciation of the world. It is a state of peak experience that occurs during this stage of Samadhi.^[6-10]

Comparison Of Religion And Spirituality

Despite the fact that spirituality is present in each and every religion, it appears that it is not limited to any particular religion. Rather, it seems to be the fundamental content of one's being and guides one's search for the truth about life as a human being.^[10-12]

Beliefs And Practices Related To Religion

With regard to the idea of 'Reincarnation' on the one hand and 'Resurrection' on the other, the primary distinction that exists between the four great faiths of the world, namely Brahmanism, Buddhism, Christianity, and Islam, is the doctrine of 'Reincarnation'. Christianity does not believe in reincarnation, but it does believe in the doctrine of "resurrection," which states that there is only one world, which is this one, and that there are two lives: one here in the natural body, and one hereafter in the body of the resurrection for the individual. Both Brahmanism and Buddhism adhere to the belief that the current universe is not the first or the final that ever existed. They also support the theory of reincarnation. It is but one of an infinite series that appears and disappears, as well as a series of consecutive existences inside it, up until the point where morality, devotion, and wisdom reach a high kind of detachment, which is the cause of ultimate liberation, also known as Sangsara. In order to achieve freedom, one must first reach Nirvana, the highest possible condition. Regarding Heaven and Hell, they are in agreement with Christianity; however, they do not agree with the concept of the resurrected body due to the fact that the fleshy body disintegrates eternally after death. Each of the four religions is in agreement with the subtle and death-surviving element that is present in the physical body of flesh and blood. This includes the Brahmanic Atma, the Muslim Ruh, and the Christian 'Soul'. Additionally, each of these religions has a complex of activities (or Skandha) that are both psychological and physical, and they have successively generated one from another, resulting in a continuous transformation, similar to Buddhism. As a result, death is not a definitive conclusion in any of these religions; rather, it is the disconnection of the psyche from the physical body. The former then begins a new life, whereas the latter goes through a process of deterioration because it has lost its ability to animate. It has been asserted, however, that death does not necessarily break the chain of conscious states. This is because there is a phenomenon known as Phowa, which is the capacity to project awareness and enter into the body of another individual. Tantraraja asserts that the same power of leaving one's body, known as Svehchhotkranti, can be achieved by the operation, known as Vayudharaana, of the vital activity at thirty-eight spots, known as Marmas, of the body. The Egyptian Book of the Dead also discusses the manner in which death occurs and other concepts that are associated with it in Egyptian mythology. In

the religion of Hinduism, the Garuda Purana discusses death rites, burial ceremonies, building up, the methods of the Pretashraddha ceremony, a new body for the Preta or deceased in lieu of that which was destroyed by fire, the Judgement, and after that, the numerous states through which the spirit of the deceased traverses until he is reincarnated.^[10-14] The Constitution of India, namely Articles 25 to 28, which are titled "Right to freedom of Religion," safeguards the religious liberties of the individuals affected." All persons are equally entitled to freedom of conscience and the right to freely profess, practise, and propagate religion subject to public order, morality, and health," declares Article 25 of the Constitution of the United States. Article 26 further specifies that "all religious denominations have the right to manage their own affairs in the matter of religion subject to public order, morality, and health" [29]. This is a provision that is included in the constitution. The way in which people in society think about death and the deceased is significantly influenced by the religious ideas about which they hold.

The Obstacles That Come With Being A Forensic Examiner

It is a lot more challenging to come to terms with death than it is to live with life continuously. The majority of life is joyful, but death is accompanied by a series of experiences that cannot be avoided. When a person passes away, religious beliefs take precedence, regardless of the individual's own faith. When it comes to the disposal of the deceased, even an atheist is required to adhere to at least one religious belief in order to be comfortable. It doesn't matter if death is natural or unnatural; the range of feelings that are associated with the deceased is profound and overwhelming. It manifests itself in a wide range of feelings, including pain, worry, misery, fury, rage, fear, guilt, nostalgia, abuse, violence, and so forth. Various misconceptions that people have about mortuaries, the job that forensic examiners conduct, and the legal procedures that are associated with it, in addition to their religious beliefs around death, attract a variety of scenarios that cannot be avoided and make it difficult for forensic examiners to perform their duties. To assist in the administration of justice on multiple levels, it is a legal obligation for a forensic examiner to perform an autopsy on the deceased. As a consequence of this, a forensic examiner is confronted with a variety of obstacles on a daily basis while working on medico-legal cases (including situations involving unclaimed, accidental, homicidal, and known deceased corpses). The medical examiner is subjected to a very stressful and painful experience. Both intellectually and physically, it is exhausting to do. After some time has passed, the forensic examiner will be forced to deal with the consequences, which may include receiving painful court summonses at any point in his adult life. Surprisingly, every deceased person's skin, flesh, organs, bone, and blood colour are identical; nevertheless, there is a significant amount of variation in the manner in which different kinds of faiths or religions are practiced.^[14-18]

From the perspective of several religions, the process of death is identical, although it seems differently to each of them. The afterlife, resurrection, and rebirth are all topics that are discussed in a variety of religions, and these concepts serve as the foundation for the performance of the final rites of the departed.

Disposal of the Mortal Body in India, the majority of Hindus cremate their dead bodies, while Muslims and Christians bury them, while Parsis leave their dead bodies exposed to vultures. When it comes to life and death, these religious and spiritual views present problems for the authorities in charge of the law that cannot be avoided if they are not adequately addressed. When dealing with the legal element of death in India, it is difficult to deal with the challenges that arise from

the country's diverse religious and cultural backgrounds. When it comes to the manner in which the deceased are disposed of, the Hindu community in different parts of Uttarakhand exhibits a great deal of variance. Depending on factors like age, caste or clan, gender, marital status, and geographical location, they have a variety of approaches to disposing of the deceased. It has been noted that the bodies of deceased neonates and children in Uttarakhand are either buried or given Jal Samadhi, which is the practice of drowning in river water instead of being buried. In the course of a psychological autopsy performed in the mortuary on a small number of proven cases of Jal Samadhi, it was discovered that the disposal of deceased individuals is carried out in this location based on specific beliefs and traditional practices. There was also a significant amount of variation in the disposal of the deceased women, which was influenced by their age and marital status. Similarly, when it comes to aged individuals, they are either burned or given Jal Samadhi. Saints or sanyasis are typically granted either "Bhu Samadhi" or "Jal Samadhi," which are both prevalent in the spiritual world, according to the individual's wishes that were revealed before their death. And in the event that such a wish had not been expressed, the Jal Samadhi is the one that is given prominence. These customs have been the norm in this region for many years. During the Jal Samadhi ritual, the deceased are submerged in the river as a stone is wrapped around their waist with the assistance of linen. After some time had passed, the bodies were found floating freely when they were brought to the surface. "Bhu Samadhi" refers to the act of burying the deceased.^[15-20]

Within the spiritual community, the state of Jal Samadhi is achieved by sitting in a contemplative posture with the lotus position, and Bhu Samadhi is achieved by acquiring a posture that is very similar to this. The local population notifies the police when a superficial burial, which is defined as a burial that is less than six feet deep, is discovered. This can be the result of natural disasters or the presence of carnivorous animals. A significant number of these bodies have dissolved and decayed. The practice of various religious beliefs and the legislation of the land tend to come into conflict with one another in this situation. Each and every one of these cases is a hardship for forensic pathologists as well as the authorities that are interested (both judicial and executive).

CONCLUSION

Religious beliefs have been inextricably linked to the disposal of the deceased for centuries. Every departed individual is entitled to a dignified funeral. However, the aforementioned issue cannot be disregarded. Spiritual and religious convictions must be honoured, taking into account communal views for the deceased. We must identify an alternative strategy to address the issue. Designated protected areas should be established for the purpose of conducting burial customs. Regarding Jal Samadhi, it is imperative to enhance awareness throughout the local population concerning the legal ramifications associated with the disposal of such bodies and their detrimental effects on the environment. Polluting a single source impacts all beneficiaries, as we share the same water, soil, and air. Therefore, we must maintain cleanliness by adhering to certain healthy sociocultural and religious traditions. The practice of "Agni Samadhi" or "Bhu Samadhi" in designated protected spaces should be promoted throughout the spiritual community.

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