



ORIGINAL RESEARCH PAPER

Forensic Medicine

SPIRITUAL AND RELIGIOUS PRACTICES IN THE CONTEXT OF DISPOSAL OF THE DEAD AND ITS IMPACT; A PERSPECTIVE

KEY WORDS: Legal medicine, Spirituality, Jal Samadhi, Bhu Samadhi, Brahminism, Buddhism, Christianity, Moslems

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ABSTRACT

India is a country of diverse cultures with various religious beliefs. People's religious right is protected under Article 25 and Article 26 of the Constitution of India. Spirituality states that only the body dies but the soul remains unborn, immortal, and infinite. It also believes in the theory of reincarnation and attaining Nirvana (the ultimate liberation from birth and death cycle). It is a root cause of practicing various death rituals depending upon age, gender, marital status, religion, and how the death had happened. But few socio-cultural practices create conflict and overburden the concerned authority which somehow cannot be overlooked. Practices related to performing the last rite including disposal of the dead have created some issues in the field of legal medicine as well as for concerned authorities. We must find an alternative way to cope with these issues.

INTRODUCTION:

Death is an inevitable event of being born alive. Life ends with the death of any life form. Death is a process, not just an accident that happened momentarily. Once a person is dead, his or her death initiates a series of unavoidable events.

Death In The Eyes Of Legal Medicine:

Death, according to Black's Law Dictionary, is the cessation of life; the cessation to exist. It is defined by physicians as a complete cessation of blood circulation and, as a result, a termination of the animal and vital activities. [1]

Death is an irreversible cessation of life and is classified as somatic and molecular. Somatic death is the complete loss of sensibility and ability to move with complete cessation of the functions of the brain, the heart, and the lungs. Molecular or cellular death is the death of the tissues and the cells individually. This is accompanied by the cooling of the body, the changes in the eye, skin, blood, and muscles, and the complete stoppage of the anaerobic enzymatic processes.

Definition Of Death

Transplantation of Human Organs and Tissues Act, 1994 defines death through section 2(e) a deceased person as "a person in whom permanent disappearance of all evidence of life occurs, because of the brain- stem death or in a cardio-pulmonary sense, at any time after live birth has taken place" and defines under section 2(d) brain -stem death as the "stage at which all functions of the brain- stem have permanently and irreversibly ceased" and is so certified under sub-section(6) of section 3 of the Act)

Sec 2(b) of the Registration of Births and Death Act, 1969 defines death as the "permanent disappearance of all evidence of life at any time after live birth has taken place" [2].

Dead In The Eyes Of The Law

In the eyes of the law, the dead are no longer regarded as individuals. There are just three things about which living men's fears extend beyond the era of death and which the law takes notice of; a. concerning a person's body: Every dead body has the right to a decent burial.

The criminal law makes it an offense to violate the grave as per Indian Penal code 297, b. With regard to the reputation of the deceased: A libel against a deceased person will be prosecuted, Indian penal code section 499 c. the desires of the dead are entertained by law to regulate the actions of the living is that of Testamentary succession. In common law, a dead body is not property, but the next of kin or an authorized executor of the deceased has the right to custody of the body for disposal. The same human respect that a live being is expected to be treated with should be extended to a person who is dead, according to Indian tradition and culture. [3]

Death In The Eyes Of Spirituality And Religion:

Spirituality

The term Spirituality is derived from the French word 'Spiritualite' and from the Latin word "Spiritualitatem (spiritualitas)" which is in turn derived from the Latin word "Spiritualis" [4]. This is developed from the Latin word 'Spiritus', which means breath or spirit, which in turn developed from the Latin verb 'spiro' meaning breathe or 'be alive'. [5]. Spirituality does not have a universally accepted definition [6] [7]. There is an important distinction to be made between religious and spiritual practices. Spirituality is a broad term that refers to a person's desire for divine meaning and purpose in life [8]. Modern Spirituality drifted away from established religious organizations and structures. [9]. An important influence on western spirituality was Neo-Vedanta, also termed Hindu Universalism. This concept of universalism was brought back to the west as neo-Vedanta, by Swami Vivekananda [10].

Spirituality In Hinduism

There is no conventional religious system and centralized religious authorities in Hinduism. Hindus can be polytheistic, pantheistic, monistic, or atheistic [11,12,13]. Spirituality in Hinduism is an individual experience referred to as "Ksairaja" in a broad and open structure [14]. Spiritual practice is defined as a person's journey towards moksha, self-awareness, the revelation of higher truths, the true nature of existence, and a freed and contented consciousness. [15] [16] [17]

In Jñāna marga a spiritual path is assisted by a *Guru* [18]. Bhakti marga is a path of faith and devotion to deities; includes chanting, singing as in *kirtans* [19]. Karma marga is when, individual diligent practical work (vartta in Sanskrit meaning a profession which is not done for materialistic gain), becomes in itself a spiritual practise towards attaining ultimate liberation (Moksha) [20][21][22]. Raja marga is a practice that leads to *Samadhi* by the development of necessary virtues, self-discipline, tapas (meditation), introspection, and consciousness, sometimes with solitude and renouncing of the world [23]. This stage of *Samadhi* is a state of peak experience [24] [25].

Spirituality Versus Religion

It seems that spirituality is not confined to any religion though it is found in every religion. Rather, it appears to be the true substance of one's existence and leads one's search for life's truth being human.

Religion And Religious Beliefs

The main difference between the four major religions of the world namely, Brahmanism, Buddhism, Christianity, and Islam, is the doctrine of 'Reincarnation' on the one hand, and 'Resurrection' on the other. Reincarnation is rejected by

Christianity, but believes in the doctrine of 'Resurrection', one universe only- this, the first and last- two lives, one here in the natural body and one hereafter in the Resurrection body. Brahmanism and Buddhism accept the doctrine of Reincarnation and believe that the present Universe is not the first and last. It is but one of an infinite series that appears and disappears and series of successive existences therein until morality, devotion, and knowledge that high form of detachment which is the cause of ultimate Liberation i.e *Sangara*. Freedom is the attainment of the Supreme state called *Nirvana*. They agree with Christianity in terms of Heaven and Hell, but not with the resurrected body because the fleshy body dissolves forever after death. Each of the four religions agrees with the subtle and death surviving elemental and psychical- in the physical body of flesh and blood, such as the Brahmanic *Atma*, the Moslem *Ruh*, and the Christian 'Soul', and a complex of activities (or *Skandha*), psychical and physical, successively generated the one from another, a continuous transformation, as in Buddhism. Thus, death is not an absolute end in any of these Faiths, but rather the separation of the Psyche from the material body. The former then begins a new life, whilst the latter, having lost its animating power, decays [26]. However, it is claimed that death does not always break the chain of conscious states, as there is *Phowa*, or the ability to project consciousness and enter into another's body. The same power of leaving one's body (*Svechhotkranti*) is obtained, according to the *Tantraraja*, by the operation (*Vayudharaana*) of the vital activity in thirty-eight points (*Marma*), of the body [27]. The Egyptian Book of the Dead also covers the technique of death and related ideas in Egyptian mythology. In Hinduism, the *Garuda Purana* deals with death rites, funeral ceremonies, building up, the means of the *Pretashraddha rite*, a new body for the *Preta* or deceased in place of that destroyed by fire, the Judgement, and thereafter the various states through which the deceased soul passes until he is reborn [28].

Their religious rights are protected under Article 25 to 28 (Right to freedom of Religion) of the Constitution of India. Article 25 states "all persons are equally entitled to freedom of conscience and the right to freely profess, practice, and propagate religion subject to public order, morality and health." Further, Article 26 states that "all religious denominations have right to manage their own affairs in the matter of religion subject to public order, morality and health" [29]. These religious beliefs have a significant impact on the societal approach towards death and the deceased.

Challenges Of Being A Forensic Examiner

It's far more difficult to deal with death than it is to live with life. Life is largely enjoyable, but death comes with series unavoidable events. Religious beliefs prevail when a person dies, regardless of his own faith. Even an atheist needs to adhere to at least one religious belief when it comes to the disposal of the deceased. Whether death is natural or unnatural, mixed emotions attached to the dead are intense and overbearing. It is reflected in various forms of emotions (pain, anxiety, anguish, anger, rage, fear, guilt, nostalgia, abuse, violence, etc.). People's misconceptions about mortuaries, forensic examiners' work, and related legal procedures, as well as their religious beliefs about death, invite a slew of unavoidable situations and make it difficult for forensic examiners to do their duty. It is a legal duty of a forensic examiner to do an autopsy to aid in delivering justice at various levels. As a result, a forensic examiner faces various challenges daily while working on medico-legal cases (suicidal, homicidal, accidental, unknown, and unclaimed dead bodies). It is stressful and traumatic for the medical examiner. It is both mentally and physically draining. Later on, the forensic examiner has to cope with the repercussions, which include distressing court summons at any point in his life. Surprisingly, every dead body has the same skin, flesh, organs, bone, and color of blood but yet so much difference when it comes to following different faith or religion. The

process of death is the same but looks different in the eyes of different religions. Various religion speaks about the afterlife, resurrection, and rebirth which serves as a ground for performing the last rites of the deceased.

Disposal Of The Dead

In India, Hindus primarily cremate, Muslims and Christians bury, while Parsis expose the dead body to vultures. These religious and spiritual beliefs about life and death create unavoidable issues for legal authorities if not properly taken care of. It is difficult to deal with the issues arising from such diversity in India while dealing with the legal aspect of death. Much variation is observed in the Hindu community regarding the disposal of the dead in various regions of Uttarakhand. They have different methods of disposal of the dead depending upon age, caste or clan, sex, marital status, and region. In Uttarakhand, It is observed that the bodies of dead neonates and children are either buried or given Jal Samadhi (drown in river water). During psychological autopsy in mortuary of few confirmed known cases of Jal Samadhi it was revealed that depending on customs and certain beliefs, the disposal of dead is being done here. The disposal of the deceased women also varied greatly depending upon their age and marital status. Similarly, with elderly people, either they are burned or given Jal Samadhi. Saints or sanyasis are usually given either "Bhu Samadhi" or "Jal Samadhi" prevalent in the spiritual community as per deceased preannounced wish. And if no such wish had been given then preference is Jal Samadhi. These practices are prevalent here for ages. Jal Samadhi is immersing the dead into the river with stone tying around the waist with the help of linen. When the bodies were later surfaced, they were discovered floating freely. "Bhu Samadhi" is burying the dead. In the spiritual community, Jal Samadhi is given in saint sitting with lotus position in a meditative posture and a similar posture is acquired in Bhu Samadhi. Superficial burial (less than 6 feet) when unearthed either by natural calamities or by inhabiting carnivorous animals, is reported to the Police by local people. These bodies are often disintegrated and decomposed. Here, a conflict arises between practicing various religious beliefs and law of the land. All such cases are a burden for forensic pathologists and concerned authorities (Judicial & Executive).

Impact And Burden Over Concerned Authority

Uttarakhand is a pilgrimage and a holy city for the Hindu community. Spirituality brings many people from all around the world to this place, irrespective of their religion. They renounce the world and become homeless, wandering sanyasis. Few get accepted in Ashrams and certain religious communities otherwise rest live on their own. Most of them live in the streets and spent their whole life on alms. Usually, they do not have relatives and acquaintances as they have abandoned their worldly affairs. Therefore, often their body remains unclaimed when brought to the mortuary for post-mortem examination as it is difficult to establish their identity. There is a provision here to keep such unknown and unclaimed bodies for 72 hours to establish identity before conducting a post-mortem. Meanwhile, such bodies undergo decomposition. Till then their maintenance at the mortuary becomes the responsibility of The Department of Forensic Medicine & Toxicology which is quite arduous. An often different way of disposal of dead bodies in this region creates unavoidable circumstances for Forensic Examiner and the Concerned authorities.

Police in Uttarkashi reported a 13-year-old girl's body, floating in the River Bhagirathi (as given Jal Samadhi) because she was unmarried and recovering many such kinds of bodies usually every month. Uttarkashi Puri community members follow the same tradition. They have to investigate the cases from a criminal standpoint, which takes a lot of manpower and time [30]. Similar bodies are usually recovered from different areas such as Rishikesh, Muni Ki Reti, Devprayag, Raiwala, etc.

Police bring such bodies to the Mortuary for post-mortem examination to establish identity, cause of death, and manner of death. All such bodies were usually found floating in the river Ganges at different locations with few number of confirmed cases of Jal Samadhi as per the Police. Rest of the cases, circumstantial evidence such as a long saffron color cloth tied around the waist was usually present. Such cases create an unwanted burden on the concerned authority and forensic examiner. All such cases are time-consuming with the least outcome or no outcome at all as most of the bodies are usually found in an advanced stage of decomposition. Even if the death was natural prior to disposal, there is no record of it, hence it is being considered as a medico-legal case with legal implications.

CONCLUSION

Religious beliefs are inseparably associated with the disposal of the dead for ages. And every deceased has the right to a decent funeral. But above issue cannot be overlooked. Spiritual and religious beliefs are to be respected considering community sentiments toward the dead. So we need to find some alternative method to resolve it. To entertain their burial practices confined protected places should be allocated. In terms of Jal Samadhi, awareness should be raised among the local community addressing legal issues that occurred due to the disposal of such bodies and their negative impact on the environment. If we pollute one source, then it affects all beneficiaries as we drink the same water, eat from the same soil and breathe the same air. So we must keep it clean by following some healthy socio-cultural and religious practices. And the practice of "Agni Samadhi" or "Bhu Samadhi" in confined protected areas should be encouraged in the spiritual community.

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