

To the Editors:

Should the Judicial Medical Officer (JMO) discuss the cause and manner of death with the family of the deceased?

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Discussing the cause and manner of death with the family of the deceased after the autopsy has generated both confusion and inconsistency in medical practice. The autopsy procedure, which is laid down in law prescribes the conduct of the Inquirer but not the Judicial Medical Officer (JMO) [1]. Nor does the Sri Lanka Medical Council guidelines help the JMO in this regard [2]. The conventional approach begins with the 'history' from the family and ends with discussing the autopsy findings with them. However, a minority of JMOs choose to depart from this practice, at least in some sensitive cases, as they do not believe it is an ethical or legal duty towards the family.

In the living, the family does not have any legal right to influence medical management of competent adults. Even in the unconscious, the family is consulted merely because it is not humane to do otherwise [3]. The doctors' duty to the families of their patients does not extend beyond general humanitarian considerations, but the duty towards their patients has a solid legal and ethical basis arising from the doctor-patient relationship.

Even with the dead the family's position is not different. They are not automatically entitled to all the information of the deceased as medical confidentiality does not end with death. The family does not have any legal standing in a medico-legal autopsy.

As medico-legal autopsies are done on legal orders from Inquirers, the JMO's responsibility is to the Inquirer. Theoretically, any deviation from this practice would be considered *sub judice* resulting in contempt of court [4]. However, this would happen only if the material is

published with the design to prejudice criminal proceedings that are pending [5]. A mere discussion with the family about the cause and manner of death in an uncomplicated case should not put the JMO at risk of contempt of court.

It seems that JMOs do not have a specific ethical obligation nor do they have the legal authority to discuss the cause and manner of death with the family. However, since this practice has many benefits it needs to be encouraged at least in uncomplicated cases. Therefore, the Inquirers should be advised to grant permission to the JMO to do so in writing whenever it is deemed safe.

References

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4. Submission on Contempt of Court in Sri Lanka: Recommendations for Codification by ARTICLE 19 Global Campaign for Free Expression. London: 2003.
5. Suresh H. A note on the law of contempt, with reference to the case of Michael Anthony Fernando. Asian Human Rights Commission. <http://www.humanrights.asia/resources/journals-magazines/article2/0205/a-note-on-the-law-of-contempt-with-reference-to-the-case-of-michael-anthony-fernando>.

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