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Abstract

In 1979, Pakistan's penal laws underwent extensive reforms aimed at aligning them with Islamic Jurisprudence. These new laws altered the definitions and punishments for various types of injuries and also redefined and reclassified the crime of murder. According to the laws, injuries must be identified and documented by an authorized physician. However, several issues arise from these reforms: the new classification of injuries and deaths, inadequate forensic training for emergency room physicians, the involvement of doctors early in their careers in medicolegal work, and the theoretical approach to forensic medicine education at the undergraduate level. These issues negatively impact the quality of medicolegal work in Pakistan. This article provides an overview of Pakistan's medicolegal system, examines the current laws and their effects on the medical and legal systems, and offers recommendations to improve forensic training and work standards.

Keywords: medicolegal ramifications, legal system, injury legislation

1. Introduction

Pakistan is a large and populous country in Southeast Asia. The country inherited a medicolegal system that relied heavily on police investigations, and this approach has persisted. Legal provisions for medical examinations were few and mostly applied to deaths resulting from criminal injury, allowing investigating officers to include medical examinations only when deemed necessary. In 1979, the criminal justice system underwent significant changes with the introduction of the Hudood Ordinance, followed by the Qisas and Diyat Ordinance in 1990, aimed at aligning the laws with Islamic principles. The Hudood Ordinance repealed laws related to sexual offenses, while the Qisas and Diyat Ordinance addressed laws governing bodily harm. These new laws redefined both the definitions and punishments for various injuries, resulting in a legal classification of injuries that differs from medical classifications. The laws mandated examinations by government-appointed medical officers, marking an advancement. Additionally, the concept of compensation (Diyat) for injuries was introduced, requiring offenders to pay different types of compensation to the injured persons or their legal heirs, who could choose to accept or waive it.

2. The Islamic Laws in Pakistan Covering Bodily Injuries and Death

The Qisas and Diyat Ordinance (QDO) was integrated into the Pakistan Penal Code (PPC) via the Criminal Law (Amendment) Act of 1997. This amendment revised approximately 40 sections of Chapter XVI of the Pakistan Penal Code of 1860, which pertains to offenses affecting the human body. Under the new law, adulthood is defined as reaching the age of 18 for males and 16 for females, or upon achieving puberty, whichever occurs first.

The Qisas and Diyat Ordinance (QDO) redefined bodily injuries, categorizing them according to Islamic principles, surprisingly aligning closely with modern forensic medicine, but in a more comprehensive manner. The law distinguished injuries to the head and face from those to other body parts, effectively redefining skull wound types. Injuries were divided into two main subcategories, in addition to those causing dismemberment, amputation, or permanent impairment of any organ or limb. The categories are:

2.1. **Shajjah:** Injuries to the head and face, further classified into:

- Injuries without bone exposure.
- Injuries exposing the bone without fracturing it.
- Injuries fracturing the bone without dislocating it.
- Injuries fracturing and dislocating the bone.
- Skull injuries fracturing the bone and exposing the meningeal membrane.
- Skull injuries fracturing the bone and rupturing the meningeal membrane.

2.2. **Jurh:** Injuries to other body parts, leaving a temporary or permanent mark, subdivided into:

- Injuries extending into body cavities.
- Injuries not extending into body cavities, including:
 - Skin ruptures with bleeding.
 - Incised wounds without bone exposure.
 - Lacerations.
 - Bone exposure without fractures.
 - Bone fractures without dislocations.
 - Bone fractures with dislocations.

2.3. **Other Hurts:** All other types of injuries.

Each subcategory has an Arabic name and specific compensation, which the offender must pay if the injured person agrees.

The definitions of offenses related to death due to injury were revised, replacing the corresponding laws in the Pakistan Penal Code.

The new categories are:

1. **Murder with Intent to Cause Death (Qatl Amd, Sec. 300):** This includes deaths caused with the intention of killing, causing bodily injury likely to result in death, or committing an act known to be imminently dangerous and likely to cause death.

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2. **Murder with Intent to Cause Bodily Harm (Qatl Shihh Amd, Sec. 315):** This involves deaths resulting from an intention to harm the body or mind of a person, but not necessarily to cause death, using means that are not typically fatal.
3. **Death Without Intent to Cause Bodily Harm (Qatl Khata, Sec. 318):** This refers to causing death without intending to harm or kill, due to a mistake in action or fact, such as deaths from negligent driving or medical errors.
4. **Death Due to an Unlawful Act Without Intent to Cause Death or Harm (Qatl-bis-Sabab, Sec. 321):** This covers deaths caused by an unlawful act without any intent to kill or harm, resulting in unintended fatal consequences.

The medicolegal system in Pakistan operates with police conducting investigations into crimes and enlisting the assistance of the medical profession in relevant cases. In most instances, there is now a legal requirement for a medicolegal examination or autopsy, as necessary. Medicolegal officers (MLOs) are appointed by health departments in various hospitals at district, divisional, and provincial levels. Notably, there is no mandate for postgraduate qualifications or forensic medicine training for these appointments; doctors can become MLOs within two years of graduating. Their exposure to forensic medicine typically consists of 60–100 hours of teaching or training integrated into the undergraduate medical curriculum.

At the provincial level, most medical schools' forensic medicine departments engage in medicolegal work. Here, faculty members usually possess postgraduate qualifications in forensic medicine and are trained to perform such duties. Autopsies are primarily conducted in hospital mortuaries, although some medical schools have their own facilities for this purpose. Neither forensic medicine departments nor hospitals provide forensic laboratory services, as these are exclusively offered by government chemical examiner laboratories. Reports from these laboratories are the only ones admissible in courts of law.

3. Discussion

Implementation of Islamic laws and the mandate for a comprehensive medicolegal examination by an authorized physician aligns with prevailing forensic standards. This legal reform marks the first instance in Pakistan's history where due respect was accorded to medicolegal examinations. The primary objective of the law was to ensure legislation in accordance with Islamic principles. However, the implementation lacked proper planning, resulting in additional burdens on both the medical and legal systems of the country.

From a medical perspective, the examination and certification of injuries necessitate specialized forensic training, as untrained physicians risk misinterpretation, oversight, contamination, or destruction of crucial evidence. Certain areas, such as pediatric forensic examination, require highly specialized expertise due to altered classical signs and numerous conditions mimicking injuries. In Pakistan, as in other jurisdictions, documentation of emergency room diagnoses, management, and therapeutic interventions for physically abused patients is vital from a forensic standpoint. This record assessment forms the basis for establishing injury facts during later court proceedings.

Before the enactment of new laws, the government failed to adequately address the need for forensic medicine training arrangements. Presently, there are few trained forensic physicians available to manage the medicolegal workload in Pakistan. Training facilities in the subject are limited, and until recently, only two postgraduate training courses were offered: the Diploma in Medical Jurisprudence (DMJ) and the master's course (M.Phil.), provided at King Edward's Medical College under the University of Punjab. Recognizing the urgent need for training facilities in forensic medicine, the College of Physicians and Surgeons Pakistan recently introduced its fellowship program in forensic medicine to address the training needs within the country. In the absence of forensic physicians in Pakistan, emergency room physicians are tasked with additional responsibilities to conduct forensic examinations. Although these physicians are often designated as medicolegal officers by relevant health authorities, they lack formal training or residency programs in forensic medicine. Moreover, turnover in these positions is frequent, with new doctors replacing them who are similarly unqualified and untrained in legal and testimonial procedures.

Determining a person's age, as required by law, is a critical medicolegal question in Pakistan due to the lack of a birth registration system. While the government is now taking steps to address this issue, physicians currently bear the responsibility of age determination without adequate training or tools to make accurate diagnoses.

Furthermore, the laws have redefined various injuries, extending the usual forensic classification of wounds, which is more comprehensive but also more complex than the medical classification. Physicians are expected by health authorities to classify injuries according to these new laws, which can be unrealistic, time-consuming, and confusing. Delays in victims reaching medicolegal facilities due to logistical issues further complicate injury diagnosis.

Physicians are tasked with describing injuries thoroughly, collecting evidence, and submitting detailed reports to investigating agencies for court interpretation. However, the criminal justice system of Pakistan requires appropriately trained doctors to meet the forensic needs of the country, operating under a standardized system applicable to all federal and provincial jurisdictions.

In the UK, the police surgeon system has proven effective, where physicians with some forensic medicine training handle most clinical forensic work. In the US, efforts are underway to train doctors in clinical forensic medicine, alongside an established medical examiner system for death investigations. Urgent steps must be taken by the forensic community in Pakistan to streamline forensic education, training, and work standards, mirroring efforts in the UK and US.

4. Legal considerations

The notion of compensation within these statutes has altered the approach to prosecuting such offenses compared to previous methods. Should the victim or their legal successor opt to forgo compensation, or if compensation is deemed inapplicable by the judiciary, the offender may face discretionary punishment in the form of imprisonment. In such cases, the trial judge determines the severity of the punishment and whether to impose it, taking into account all evidence, including medicolegal data. This creates a situation where the wealthy can afford to pay compensation, thereby shifting the focus of the crime from an offense against the state to one against an individual. Matters are exacerbated when considering factors like poverty, lack of education, inadequate legal representation, and corruption in relation to the concept of compensation.

5. Recommendations

The recent legal reforms concerning injuries in Pakistan have exposed the vulnerabilities of the country's medical and legal systems. Urgent steps are needed to address this situation and align with modern forensic medicine principles.

- Restrict clinical medicolegal examinations for personal injuries and autopsies to examination, medical description, and proper documentation of injuries, along with evidence collection and preservation.
- Develop detailed laws outlining the medicolegal responsibilities of doctors to establish an effective medicolegal investigation system in Pakistan. While implementing a forensic investigation system similar to developed nations may not be feasible due to resource constraints, creating a realistic framework within existing resources is possible. This could involve establishing a specialized cadre of trained doctors, akin to police surgeons in the UK, to handle medicolegal work alongside their medical duties.
- Certify doctors performing medicolegal work through standardized training courses, possibly developed in collaboration with prominent medicolegal experts. Consider establishing a fast-track course in Forensic Medicine modeled after existing programs.
- Enforce minimum qualifications for physicians entering the forensic cadre, such as a postgraduate diploma in Medical Jurisprudence (DMJ), focusing on injury examination, sexual offense victim examination, autopsy techniques, histopathology, court procedures, and medicolegal certification. Regular assessment of their work by a board of forensic experts, including international experts, should be part of their continuing medical education.
- Integrate forensic medicine and science into undergraduate medical education to prepare graduates for forensic duties. Model training programs after those in other countries and ensure that postgraduate training meets international standards.
- Allow private and other doctors in remote regions without easy access to hospitals to conduct medicolegal examinations and document injuries. This requires providing minimum training in forensic medicine to graduate students.
- Raise awareness among police and the public about the importance and availability of medicolegal services.

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