Difficulties of the Medico-Legal Practice in Benghazi

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Abstract
Legal aspects of medicine are based on statutory and case laws relevant to the practice of medicine. Laws are specific; ethics are conceptual. The principles and provisions of the law also apply to medicine. In most instances laws and ethics are congruent. But different cultural approaches between countries, and within multicultural societies such as Australia, can lead to differing views regarding applicable ethical mores. Medico legal centre in Benghazi city (Eastern Libya) responsible for examination and reporting of living and death cases, this study was focused on the facilities available to do such a scientific examination and to recommend the centre about the suitable solutions.

Methods
Four forensic specialists, two nurses, one autopsy technician and another three non-medical people (total number was ten), working in the Forensic Medicine department in MLCB, were interviewed (one hour for each) and asked questions according to each person’s role regarding the difficulties and problems they face whilst working in the Forensic Medicine department. Interview direct questions were categorised under the following topics: answers were taken according to their experiences as witnesses in this field without using any analytical test.

1. Injured living victims (time of referral and accompanied medical investigation)
2. Alleged sexual assault cases
3. Autopsy cases
4. Road traffic accident victims
5. Medical malpractice
6. Others

Results
The results found were the following, grouped according to interview topic: there is no specific statistical analysis method used as all results depend on direct questions (there is no previous studies and they were answered according to their clinical daily experience).

1. Injured living victims
a. There is a delay in the referral of cases, resulting in the disappearance and even healing of the most superficial injuries.
b. Scanty information is present in the primary report with an illegible doctor’s signature.
c. Discharge hospital papers are brief and contain incorrect information.
d. Medical reports are incorrectly translated (English, French).
e. The investigator has no idea of the time that was needed to decide the permanent infirmity, e.g. in cases of head and eye injuries.

2. Sexual assault cases
a. There is a delay in referrals and the absence of findings.
b. No DNA fingerprinting is carried out.

3. Autopsy cases
a. The performance of an autopsy is the doctor’s decision.
b. Most of the time the crime scene is not available to be visited.
c. There is a lack of forensic science experts.

Background
Practising clinicians, particularly those involved in medico-legal practice, should be aware of the local legal background and requirements of evidence pertinent to the case under consideration. A number of initiatives are underway to improve policies and practices of forensic science [1]. Having a medico-legal report framework useful in opinion formulation [2].

In recent times there has been increased care by judicial officers and the media of forensic opinion, in regard to their reports and also their attitude as expert witnesses [3,4]. Written reports are vital because research has identified limitations when communication of opinion is limited to only verbal discussion with other experts [5].

In relation to the consideration of medical evidence, judicial comment has emphasised the need for experts to explain the basis of their opinions in a logical and objective process [6]. One of the primary reasons that DNA is on a more solid scientific foundation compared to many of the other forensic disciplines is a community-wide use of standard methods and materials to produce quality measurements [7]. Seventeen Y-STR loci included in the AmpFISTR YfilerTM PCR Amplification kit and DNA profiles of 15 STR loci were used to type a sample population of 238 from eastern Libya (Benghazi region) [8,9].

The Medico-legal centre of Benghazi (MLCB) provides forensic services including the examination of living victims to assess body damage, the cause of injury, duration of treatment and any permanent infirmity, in cases of violence, road traffic accidents, industrial accidents, self-inflicted wounds, as well as pathological examinations in the case of unnatural deaths and medical malpractice. This practice is similar in most countries, but differs in the problems it faces, which are affected by the cultural background and the administrative as well as legal system in each country.

Aim
The aim was to determine the problems encountered during medico-legal practice in Benghazi and suggest potential solutions.
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Furthermore, these doctors must function under an appropriately designed system that is applicable to all the federal and provincial governments. In Pakistan, there has been a recent push to implement a new system of forensic medicine training. In the USA, a detailed forensic examiners’ system already exists for investigating suspicious deaths, efforts to train doctors in clinical forensic medicine are underway [12-I5]. Recently, the College of Physicians and Surgeons started to offer fellowships in Forensic Medicine for most of the clinical forensic work [12]. In the UK, the system of police surgeons has worked well, where physicians, who have been properly trained and are forensically aware, mostly with training in forensic medicine, are responsible for most of the clinical forensic work [12]. In the US, where an elaborate medical examiner system already exists for investigating deaths, efforts to train doctors in clinical forensic medicine are underway [12-I5]. Recently, the College of Physicians and Surgeons in Pakistan has started to offer fellowships in Forensic Medicine in order to cater for the needs of Forensic Medicine training in every city? [13].

The examination of injuries and their certification require special forensic training, since an Untrained physician can easily misinterpret, overlook, contaminate or even destroy valuable evidence [10]. Certain areas (such as paediatric forensic examination) are highly specialized, since the classical signs may be altered and there are numerous conditions that can mimic the injuries [11].

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The conclusions were drawn from our results are as follows:

• Cases of suspected sexual assault should be examined within 24 hours of the incident.
• Doctors are requested to provide more clarification regarding the incident.
• Crime scene examination is essential.
• Autopsies are compulsory in cases like death in custody, RTA deaths, deaths due to occupational hazards, deaths in suspicious circumstances, homicides and suicides.
• There is a need for training in forensic science expertise.
• A Medical board of medical malpractice should be organized in every city.

Recommendations For Medico-Legal Work In Libya

1. The clinical medico-legal examination in cases of personal injury, and the documentation of injuries during an autopsy, should involve examination, medical description and proper documentation of the injuries, as well as collection and preservation of evidence.

2. There is an urgent need to outline laws detailing the medico-legal duties of doctors aiming to install a proper medico-legal investigation system in Benghazi. Along with a central forensic authority, a special cadre of highly trained doctors such as police surgeons in the UK [17,18], should be created to perform medico-legal work for the state besides performing the usual medical duties. This can be done without much expense since doctors are routinely designated for medico-legal work except that presently their careers are managed in a haphazard fashion.

3. The doctors currently performing medico-legal work should be certified through standardized training courses, which can be developed at the college of Physicians and Surgeons with the help of notable medico-legal experts in the country.

4. There should be a minimum qualification for new physicians before entering the forensic cadre like the well-established postgraduate diploma in Medical Jurisprudence (DMJ).

5. Teaching of the subject of Forensic Medicine and Science should be remodelled in order to train the graduates to perform forensic duties. Training programs instituted in other countries may act as a guideline in this regard [19]. Postgraduate training in Forensic Medicine should also meet minimum international standards [20].

6. One aspect of the new hurt laws is that only authorized doctors can perform medico-legal work, which means that a report by another physician is not acceptable evidence in court [21].

7. The police and public must be made aware of medico-legal work, of its importance and availability.

References


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