

**LEGAL VALIDITY OF PSYCHOLOGICAL AUTOPSY IN SUICIDE CASES: A
MEDICO-LEGAL ANALYSIS**

-Ms.Golda Sahoo¹

ABSTRACT

Psychology plays a vital role in criminal justice system. Forensic psychology is the intersection between psychology and the justice system. Within the context of a contemporary investigation process, psychological autopsy has occupied a prominent role. Psychological autopsy is a method to elucidate the mode of death in cases where it was ambiguous by examining, the factors surrounding the death and the deceased. Basically the term psychological autopsy signifies a psychological profile to resolve the mental state of deceased. Psychological autopsy is also an attempt to understand the state of mind of suicide bombers. Unfortunately there has been insufficient research that examines the reliability or validity of psychological autopsies. Often, mental disorders, particularly mood disorders, are presented as the most relevant antecedent of suicide and often a causal link between mental illness and suicide is implied. In a recent incident of Delhi, the psychological autopsy report has revealed that, eleven members of a family who were found dead at their home in North Delhi's Burari in July 2018 were not committed suicide, and it was an accident that occurred during a ritual. However because of various factors, its reliability and validity is not much acceptable among the Criminologist. Factors such as number of informants, their mental state, and their relationship to the deceased, the time period lapse between death and the interview etc. The problem of delayed interview is the biggest shortcoming to this method. Because, it is assumed unethical to interview the surviving family and close friends during the earliest part of the unnatural death.

This paper is an attempt to understand the meaning, process and importance of psychological autopsy in present investigation scenario. The paper also highlighted some of the current incidents where with the help of this tool many suicide mysteries have been resolved. Then author critically analyzed the different methods involved in Psychological Autopsy and highlighted some of procedural weaknesses involved in this process. Finally the author

¹ Ms.Golda Sahoo, Assistant Professor, TNNLU,Trichy

suggested some necessary measures to renovate the Psychological autopsy process as suicide prevention strategies in future.

Key words: *psychology,autopsy,suicide,prevention*

INTRODUCTION

“A discarded theory remains a theory. There are good theories and bad theories theories currently regarded as true by everyone and theories that no one any longer believes to be true. However, when we reject a matter of fact, we take away its entitlement to the description: it never was a matter of fact at all.” — Steven Shaplin and Simon Schaffer
Leviathan and the Air Pump (1985)

There is a sheer rise in the number of suicides all over the world.² According to the World Health Organization, 7.5 per cent of India’s 135-crore population suffers from mental health issues. Currently, it is becoming a need of the hour for mental-health professionals on account of its rising incidence. Especially, with regard to the incidents of suspicious death in which the mental state of a deceased person is to be assessed. If some accurate assessment can be made sort of personality, their thought processes, it may throw light on their actual cause of death which it may assist the investigating agency to discover ‘equivocal death’. Such process is known as a psychological autopsy which is an attempt to recreate a person’s psychological state prior to death.³ Especially the case for which a psychological autopsy may be of used as a tool is one in which there is some doubt as to whether death was accidental, self inflicted or homicide and if the deceased played an active role in his/her own demise. Such issues are having paramount important in case of life insurance claims when it becomes crystal clear that the death was suicide. It is also used with regard to the inquiry in mysterious planned murder.

A Medico-Legal autopsy determines the cause of death by examining the physical condition of the body. In some cases evidence found that an autopsy doesn’t reveal the manner of death. In such cases where the manner of death is mysterious and it’s not clear, a psychological autopsy may assist the coroner or medical examiner in clearing up the mystery. It refers to assessment of

² World Health organisation, Suicide Data, available at https://www.who.int/mental_health/prevention/suicide/suicideprevent/en/ , accessed on 20th February 2019

³ A.K.Siddamsetty, “Concept of Psychological Autopsy”, Delhi Psychiatry Journal, Volume 17, available at <http://medind.nic.in/daa/t14/i2/daat14i2p458.pdf>.

the mental state of deceased person before death. It involves Evaluation of the sort of person they were their personality, and thought processes, will be required to assist the investigation. The procedure is called psychological autopsy. It is also called psychiatric autopsy, retrospective death assessment, reconstructive evaluation, and equivocal death analysis. The “psychological autopsy” is a “procedure for investigating a person’s death by reconstructing what the person thought, felt and did preceding his or her death”. This reconstruction is based upon information gathered from personal documents, police reports, medical and coroner’s records and face to face interview with families, friends and others who had contact with the person before the death .The psychological autopsy constitutes one of the main investigative tools for better understanding suicide and the circumstances surrounding death. This present article explains the importance of psychological autopsy and its application in understanding suicides.

HISTORICAL BACKGROUND

The term ‘Psychological autopsy’ was coined in 1958 by Edwin Shneidman, Norman Earberow, and Robert Litman, the directors of the Los Angeles suicide prevention center (LASPC) ⁴. Ebert in 1987 made a step towards formulizing the conditions under which a behavioral scientist should carry out a ‘Psychological autopsy’⁵.

Shneidman et al (1970) interviewed relatives, friends, employers, physicians and others, including teachers and in some cases even bartenders, who could give relevant information in an attempt to rebuild the deceased’s family background, personal relationships, personality traits and lifestyle.⁶ They sought significant details of the events immediately preceding the death. All of this information was subsequently reviewed by the “Death investigation team” in the Coroner’s office resulting in a determination of the mode of death.

Shneidman (1976) subsequently developed an outline for conducting a psychological autopsy, which essentially consisted of a 16 point check list that is not that dissimilar to the framework that might be used by any physician in preparing a medical case history. The major differences from other forms of medical case history are the focus on what is known about the deceased’s

⁴ Dr. Vasudeva Murthy, “*Psychological Autopsy – A Review*”, 2010 available at <http://medind.nic.in/jbc/t10/i2/jbct10i2p101.pdf>.

⁵ *Ibid*

⁶ Canter, D. (1995) “*Psychology of Offender Profiling*” in R.Bull and D.Carson (eds.) *Handbook of Psychology in Legal Contexts* Cichester: John Wiley and Sons pp343- 55

typical actions, especially reactions to stress, what might be known of their interpersonal relationships, their thought processes and their experiences surrounding the death.

The most noticeably stated principle is that expressed by Faberow and Schneidman (1961)⁷ that most suicide victims communicate their intentions to others in some way. These principles have been converted into a standardized assessment protocol by Jobes et al (1991).⁸ They provide a 55 item “Death Investigation Checklist” that can be used by medical examiners. On the basis of a successful test of the validity of this checklist they developed 16 criteria that they called the Empirical Criteria for the Determination of Suicide (ECDS).⁹

METHOD ADOPTED FOR PSYCHOLOGICAL AUTOPSY

The method used for collecting all available information on the deceased through structured interviews of family members, relatives or friends as well as attending health care personnel. Some information is collected from available health care and psychiatric records, other documents, and forensic examination¹⁰. The method is usually used in cases of suicides and incidents involving suicide bombers. The information collected is classified into three categories:

1. Biographical information (age, marital status, occupation).
2. Personal information (relationships, lifestyle, alcohol/drug use, sources of stress).
3. Secondary information (family history, police records, diaries)

Sources used for Psychological Information:

- 1) **Suicide Note:** Interpretation of suicide note is important to confirm suicide or abatement of suicide or homicides or identify causation. The correct interpretation of suicides note requires handwriting expert to confirm that note is written by the offenders / subject as its contents may reveal the following:

⁷ Faberow, N. and Schneidman, E. *The Cry for Help* New York, McGraw-Hill, 1961

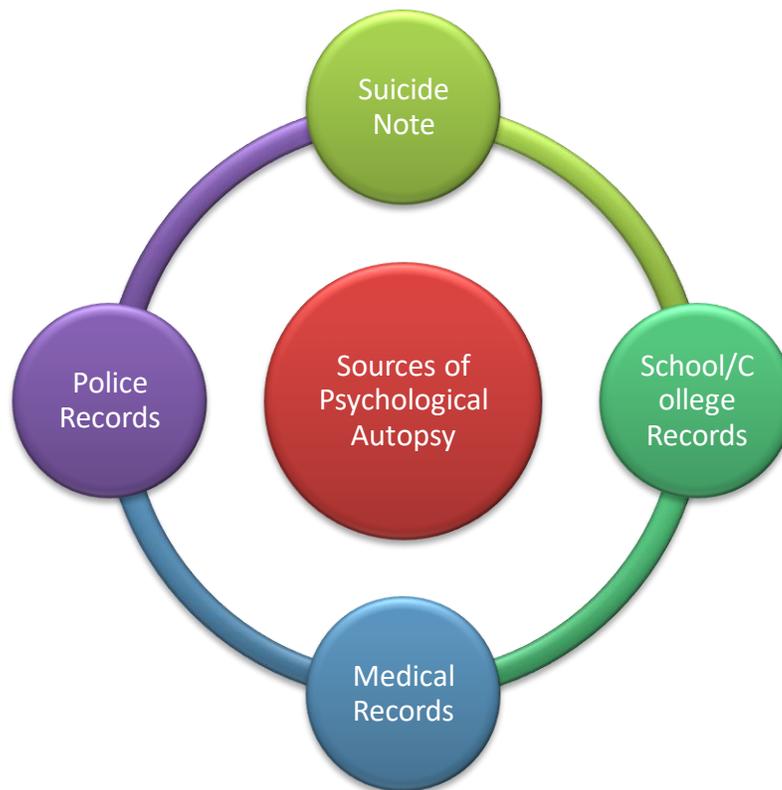
⁸ Jobes, D.A., Berman, A.L. and Josselson, A.R. (1986) “The Impact of Psychological Autopsies on Medical Examiners’ Determination of Manner of Death” *Journal of Forensic Sciences* 31 (1) 177 -189

⁹ “*Empirical criteria for the Determination of Suicide manner of Death*”, Centre for Suicide Prevention, available at <https://www.suicideinfo.ca/resource/siecno-19940969/>.

¹⁰ Brent, D.A., Perper, J.A., Maritz, G., Allman, C.J., Roth, C., Schweers, J. and Balach, L. (1993) *The Validity of Diagnoses Obtained Through The Psychological Autopsy Procedure in Adolescent Suicide Victims: Use of Family History*. *Acta Psychiatrica Scandinavia*, 87, 118-122.

- a) **Intention:** - It is reflected from suicide note that the individual has billed himself. This intention is strengthened by history of previous attempts.
 - b) **Physical illness:** - The changes in handwriting for example tremors (due to alcoholism, drug poisoning, fear or anxiety) or changes of size of letters (gradually becoming small due to intake of antipsychotic drug) may indicate presented of physical illness.
 - c) **Psychiatric illness:** The contents of suicide note may indicate the presence of psychiatric disorder for example schizophrenia.
 - d) **Situational Factor:** Whether the individual is threatened or suicide note; is dictated.
 - a. Ex: good content in an illiterate individual, repeated cutting or suicide pact suicide note signed by more than one individual or simple contents in different notes], or suicide intent of another person or abatement of suicide.
- 2) **School/ College Records:** Information such as change in academic performance or recent absences and tardiness.
 - 3) **Medical Records:** Family history, visits to physician, illness and medication taken and referrals to specialists¹¹
 - 4) **Police records:** May give the information about his previous attempts of suicide and involvement in anti-social activities.

¹¹ Jason Payne-James, Anthony Busuttill and William S. Smock. Text book of forensic medicine clinical and pathological aspects. First edition. London: Greenwich medical media; 2003. pp 707-720



DIFFERENCE BETWEEN PHYSICAL AUTOPSY AND PSYCHOLOGICAL AUTOPSY

A physical or medical autopsy is generally a physical examination of the deceased in order to determine the 'cause' of death. On the other hand, psychological autopsy aims to understand the mental state the deceased by interviewing close relatives, friends and scrutinized the medical history etc. to reveals the reason of death.

ROLE OF PSYCHOLOGICAL AUTOPSY IN INDIA

If we will look into the history, there are only few incidents where the psychological autopsy tools have been used. The following are the incidents.

1. SUNANDA PUSHKAR DEATH CASE

In the Sunanda Pushkar case, the special investigation team (SIT) conducted a 'psychological autopsy' in order to establish a case of 'marital discord' between Shashi Tharur and his wife Sunanda Pushkar. Interviews with her family and friends were taken in order to understand the

psychological state of Sunanda Pushkar. The medico-legal and forensic evidence were analyzed during the investigation but after carrying out the psychological autopsy, the investigators came up to the conclusion that Pushkar committed suicide and booked Tharoor for abetment of suicide and for subjecting her to cruelty.¹²

2. 2006 NITHARI KILLINGS

Forensic psychologists were also engaged in the investigations of the infamous 2006 Nithari killings, where 19 bodies were recovered from the backyard of Moninder Singh Pandher's house at Nithari village in Noida, Uttar Pradesh. Pandher was charged with murder and rape.

3. DELHI'S BURARI FAMILY CONFIRMS SUICIDE

The psychological autopsy conducted by the CBI is consistent with our findings. It confirms that for over a decade, one of the family members, Lalit Bhatia, had been writing on or dictating ritualistic practices to other relatives," said the investigator. The CCTV footage of the family members bringing stools and wires to hang themselves further convinced the police that these were suicides. The notes left behind suggested that the family had expected to be saved by their dead patriarch the moment they hanged themselves.¹³

Methodological Problems

There are number of methodological errors in psychological autopsy cases. As David Canter points out there has been very little research that examines the reliability or validity of psychological autopsies or related contributions to enquiries into fatalities. As a result, particularly within the context of suicide, alternatives to the psychological autopsy are being called for. e.g. Hjelmeland et al (2012) who argue that "psychological autopsies should now be abandoned. Instead, we recommend qualitative approaches focusing on the understanding of suicide beyond mental disorders, where narratives from a relatively high number of informants around each suicide are systematically analyzed in terms of the informants' relationships with the deceased."

¹² <https://www.dnaindia.com/delhi/report-sunanda-pushkar-death-case-sit-relied-on-forensic-psychological-autopsy-2615149>

¹³ <https://www.hindustantimes.com/delhi-news/burari-psychological-autopsy-confirms-suicide/story-tJ2OYJFVNbhtvFgmy19rJK.html>

In keeping with a procedure that has evolved in response to practical and legal demands, there is no well developed conceptual or theoretical basis for deriving conclusions from the various sources of information to provide guidance on equivocal deaths.¹⁴ It appears that the professionals involved draw upon their experience to relate the facts to symptoms or syndromes that they would draw upon in their daily practice, searching for example for evidence of psychosis, depression or organic dysfunction.

There had been many attempts to determine how effective they actually are. Yet there has been very little research that examines the reliability or validity of psychological autopsies or related contributions to enquiries into fatalities. Psychological autopsy is a very important tool for assessing the causes and precipitants of suicide. More and more studies in this field are required with a larger sample size for the evaluation of suicides.

Over the years, a number of serious methodological problems inherent in PA studies have been discussed (e.g., Beskow et al., 1990; Hawton et al., 1998; Pouliot & De Leo, 2006. In a particularly meticulous paper, Pouliot and De Leo (2006) listed the following serious weaknesses¹⁵:

- 1) Most PAs are conducted under the medical model paradigm and a causal link between a mental disorder and suicide is drawn. However, this model does not fully account for the fact that psychopathology never is a sufficient cause of suicide, although it might be a contributory one. Moreover, suicide rates are unrelated to rates of mental disorders;
- 2) In the measurement of mental disorders most PAs have used non-standardized and/or ill-defined instruments in the diagnostic process, and, in cases where standardized instruments have been used, they have not been validated for use by proxies. Their semi-structured nature also leave them open for interviewer bias;
- 3) problems related to the informants: emotion-related response bias, no systematic control of type of informants or their relationship with the deceased, number vary by study, the

¹⁴ Ault, R.L., Hazelwood, R., and Reboussin, R. (1994) Epistemological Status of Equivocal Death Analysis. *American Psychologist*, 49, 1, 72-73.

¹⁵ Pouliot L., De Leo D. *Critical issues in psychological autopsy studies. Suicide and Life-Threatening Behavior*. 2006;36:491–510, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3662079/>. ; See also Weisman, A.D., and Kastenbaum, R. (1968). *The Psychological Autopsy: A Study of the Terminal Phase of Life*. Community Mental Health Journal (Monograph No. 4). New York: Behavioural Publications, available at <https://pdfs.semanticscholar.org/5a34/7d9bd94654ea8c16ba8ec26ae3794a45d30d.pdf>.

controls are informants themselves in some of the controlled studies, their attitudes toward suicide may influence their responses, and, memory may be affected by how they learned about the suicide;

- 4) problems related to the interviewers: no control of their psychological and social characteristics, nor how/if they were trained, interviewer perception bias/error;
- 5) problems related to time between suicide and interview; and
- 6) problems related to the control groups: matching between cases and controls, and, whether alive or dead controls were used (both have their problems).

MEDICO -LEGAL ANALYSIS OF PSYCHOLOGICAL AUTOPSY

Medical evidences and scientific techniques are also used by investigating agencies to prove the guilt of the accused. In view of current scientific developments, the medical and scientific evidences can play a major role in identifying the accused and proving his guilt. These evidences are mainly considered as corroborative pieces of evidences.

An expert witness is not a witness of fact. His evidence is really of an advisory character. The duty of a medical witness is to furnish the judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the judge to form his independent judgment by the application of such criteria to the facts proved by the evidence of the case. This was clearly summed up by Justice Monir (as he then was) in his principles and Digest of the Law of Evidence where he states that ‘when a medical person is called as an expert, he is not to witness the facts, because his evidence is not direct evidence of how an injury in question was done. He gives his opinion only on how that, in all probability was caused. The value of such evidence lies only to the extent it supports and lends weight to direct evidence of eye-witnesses or contradicts evidence and removes the possibility of the injury in question and could take the manner alleged by the witness. Opinion Evidence.

In *Fakir Mohamed Ramzan V. Emperor*¹⁶, it was pointed out that the numerous decisions in which it had been held that Courts ought not to rely upon the evidence of an expert alone, went further than was justified.

¹⁶ *Fakir Mohamed Ramzan V. Emperor* AIR 1936 Bom. 151

It has been observed in *Milkiyat Singh V. State of Rajasthan*¹⁷ as follows :

“In this state of evidence, specially the medical evidence, it is difficult to hold with any certainty that the occurrence had taken place in the way the prosecution witnesses allege. From the medical evidence it is difficult to reach a firm conclusion that the defense version is altogether false. In these circumstances, Court do not find it safe to maintain the conviction of the appellants. The court, allow the appeal, set aside the conviction of the appellants and the sentences passed on them and acquitted them of the charges framed against them; they are on bail, the bail bonds furnished by them are discharged.”

There is a line of thinking that it is too much for the judges to be able to appreciate scientific methodology and some sort of specialized set up to deal with the admissibility of scientific evidence should be set up to improve scientific adjudication. Introducing a separate set up specially for evaluating the testimony or scientific expert may carry with it the drawback of interference with the judicial process of decision-making.

The most extra-ordinary events occur in medico-legal practice and a careful evaluation be always made to ensure that dogmatic statements by medical witnesses should not mislead the courts. The medical witness should not be dogmatic about his opinion, and the lawyers should not expect him to do so. They should be reasonable in their opinions and should not overstate the likelihood of a relationship between cause and effect. The doctor should be ready to defend every finding and conclusion on the report on clinical & scientific grounds¹⁸

CONCLUSION

Oftentimes, evidence tells a story and helps an investigator re-create the crime scene and establish the sequence of events. If analyzed and interpreted properly, physical evidence is more reliable than testimonial evidence; testimonial evidence is more subjective in nature¹⁹. In many cases the investigating agencies after going through the preliminary investigation found that the case of suicide while after careful persuasion, it reveals a case of planned murder. While dealing

¹⁷ *Milkiyat Singh V. State of Rajasthan* AIR 1981 SC 1579

¹⁸ Parekh & Singh (2007), ‘Crime, Investigation and Medical Science’, 1st Ed., Dwewadi and Co. Allahabad.,p.154.

¹⁹ Vallejo CA, Edsicker D (2001) Crime Scene Investigation and Physical Evidence Manual.

with such cases of suspicious deaths, the forensic expert should adopt a scientific approach there evaluate the incidence with logical and systematic approach at the scene of crime and during examination of the dead body, by using his/her common sense and experience to reconstruct the actual happening. A forensic expert must have the knowledge and skills to understand fully the various causes and manner of death. Judges may decide the disputed fact without the need for lengthy (and typically highly prejudicial) testimony. While considering expert witness in mysterious cases, the basic qualifications, background in education or experience must take it into consideration. The methodology used must be sufficiently scientifically sound to support an opinion. In the aftermath of a person's death, coroners will often begin immediately collecting information to complete the autopsy as quickly as possible while the evidence is still fresh. In the wake of a suicide, on the other hand, the process is much slower and far less exact. This is often because, from a research ethics perspective, it is considered unethical to impose upon surviving family and friends during the earliest part of the grieving process. Law commission of India (42nd report, 1971) advocated to repeal section 309. IPC Amendment Bill was introduced in the Rajya Sabha in 1972 and passed in 1978. Unfortunately, before it could be passed by the Lok Sabha, it was dissolved and consequently, the Bill lapsed. In 1994 (P. Rathinam Vs Union of India), Supreme Court repealed Section 309 but only after a gap of 2 years, Supreme court reversed its own decision and the law was reinstated.²⁰ Mental Health Care Act, 2017 decriminalized suicide attempt by a mentally ill person . Finally, it is need of the hour to empower educators, parents and other primary care givers, who are regularly engaged with young people to be able to provide guidance in times of need.

SUGGESTIONS

- Mandatory psychiatric consultation of all patients admitted following attempted suicide
- Increased restrictions on access to the most commonly used lethal methods of suicides (insecticides, prescription medications) and improving control of facilitatory factors such as alcohol .
- Awareness must be made to dictate suicidal tendency people so that it can be prevented in its preparatory stage. NGOs could also be taken to propagate the fact that around 90% of

²⁰ <http://medind.nic.in/daa/t09/i1/daat09i1p121.pdf>

those who die by suicide have a mental disorder and that timely intervention by experts can bring down this number significantly

- Last but not the least, there is an urgent need for the development of a national plan for suicide prevention with the help of psychologist so that the psychological autopsy tools can be implementing in a more efficiently.