

## REVIEW ARTICLE

# India's Latest NHRC Advisory on the Problem of Floating Corpses in the River Ganges: Forensic Dental Recommendations

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## Abstract:

In May 2021, thousands of human dead bodies were seen floating in the down-streams of the river Ganges. This incident highlights a few glaring issues, such as the inhumane treatment of human corpses, the potential escalation of the bio-hazardous situation, and most importantly the possibility of foul play and involvement of crime. As a response to this incident, the National Human Rights Commission issued a detailed advisory regarding the dignified management of the dead to all the states and union territories of India. In India to date, the identity of the dead is never associated with their dignity. The article introduces the 'right to identity' after death as an important interpretation and natural extension of the right to live with dignity. It is not only essential to identify a dead from a humanitarian perspective, but also from a forensic aspect to rule out any crime or wrongdoing. This article gives fundamental administrative recommendations in regards to how forensic odontology can solve the problem of unidentified dead bodies in India while maintaining their dignity.

**Keywords:** Dignity of dead; Forensic odontology; National human rights commission; Right to identity; Unidentified dead.

## Introduction :

India witnessed massive numbers of COVID-19 patients and the number continues to rise. The first case of COVID in India was reported on January 30, 2020 in Thrissur, Kerala.<sup>1</sup> India announced a nationwide lockdown on March 24, 2020 to curb the spread of infection.<sup>2</sup> In spite of the preventive measures, the COVID pandemic has struck the entire world including India very hard. Hospitals are tested for their capacity to cope in situations of limited/scarcely supply of life-saving resources like oxygen, medicines, etc. The total number of deaths due to COVID has exceeded the half million mark.<sup>3</sup> The crematoriums also saw an unprecedented number of bodies coming in for the last rites. Due to the nature of the disease, most of the time the bodies of COVID victims are not repatriated to their relatives and the responsibility of safe disposal/last rites of the body lies on the local administration.

The rights of the dead, oftentimes are not honoured and many such instances go unnoticed. During the COVID pandemic, when the entire healthcare system was overburdened with a storming number of COVID cases, a particular incident in Uttar Pradesh, Bihar, and Madhya Pradesh garnered a lot of media attention for the wrong reasons.<sup>4-6</sup> Thousands of bodies were seen floating in the River Ganges notably in Prayagraj, Buxar, Kanpur, Ghazipur, Chandauli and Varanasi.<sup>7</sup> It was speculated that the bodies

belonged to the COVID victims whose last rites were performed on the banks of the River Ganges.

Many below dignity acts and some even amounting to crimes have been committed against the dead in the form of stealing from the dead,<sup>8</sup> overcharging the relatives for ambulance services<sup>9</sup> and last rituals of the dead,<sup>10</sup> stuffing numerous bodies one over the other during storage and transportation,<sup>11</sup> not using enough resources, like wood to ensure proper cremation<sup>12</sup> and inhumane handling of the dead.<sup>13</sup> There have been reported instances where in the body in a mortuary was eaten by rats<sup>14,15</sup> and dogs.<sup>16</sup>

In the background of such human rights violations, the National Human Rights Commission (NHRC) of India issued an official advisory for upholding the dignity and protecting the rights of the dead on May 14, 2021.<sup>17</sup>

## Current Status of Rights of Dead in India:

The rights of the dead were first addressed after World War II wherein the bodies of soldiers were mutilated by the enemies even after death (as an act of overkill). The first legislation came into effect by way of Article 16 (II paragraph) of Geneva Convention 1949 IV.<sup>18</sup> Later as the years passed by, the rights and dignity of the dead, which initially were discussed in military and conflict parlance, percolated their way into civilians as well, encompassing each and every human being.

NHRC of India<sup>19</sup> was established under the Protection of Human Rights Act (PHRA) 1993,<sup>20</sup> later amended by the Protection of Human Rights (Amendment) Act, 2019.<sup>21</sup> It is in conformity with the Paris Principles, adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October 1991, and endorsed by the United Nations General Assembly by its Regulations 48/134 of

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December 20, 1993.<sup>22</sup> The NHRC is an embodiment of India's concern for the promotion and protection of human rights.

Section 2 (1) (d) of the PHRA defines Human Rights as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

Article 21 of The Constitution of India<sup>23</sup> discusses the fundamental rights of any individual and includes the right to life and the right to personal liberty. Right to life is the most basic yet the most complex right. The Supreme Court of India, which is the guardian of The Constitution has interpreted the Article 21 (the right to life) in many ways including but not limited to the right to live with human dignity, right to livelihood, right to health, right to pollution-free air, right to education, etc. The 'Right to Identity' of the dead is yet to be addressed/interpreted as of now. The right to identity of the unknown dead is a natural extension of the right to live with dignity.

#### Right to Identity:

The right to identity should be interpreted under Article 21 of The Constitution of India in the context of the unidentified dead. Correct identification of the unknown dead is important from a humanitarian as well as forensic perspective.

The bodies found floating in the River Ganges not only raise the issue of inhumane treatment of the human corpses and the potential biological hazard but it raises many questions that are far more serious. Out of hundreds of bodies washed off by the river, how many actually died of COVID? What was the exact cause of death? Was crime involved? What was the identity of those bodies? The mystery about the cause of death of those hundreds of bodies remains unsolved and many questions are left unanswered.<sup>24</sup>

The United Nations Inter-Agency standing committee's operational guidelines on human rights in natural disasters<sup>25</sup> recommend that appropriate measures should be taken to facilitate the return of remains to the next of kin. Measures should allow the possibility of recovery of human remains for future identification and reburial if required. In India, Police will wait for 48-72 hours for any 'relative'<sup>26</sup> of the dead to show up and claim the body. Identification is attempted based on the 'big three'; age, sex and stature.<sup>27</sup> Personal effects found on the body can also be utilised, but the identity may not be conclusive in each case. Police also look for any signs of religion such as a religious tattoo, suggestive clothes, circumcision, etc., to decide the last rites of the dead. However, if the body is decomposed and not in a visually recognisable state, and also due to the fact that the majority religion in India is Hindu, the unidentified dead bodies are disposed of by way of cremation. Ideally, it is the duty of the Police to establish the identity of the dead in a scientific manner, refraining from the utilisation of visual cues and personal effects solely as indicators of one's identity.

As per the National Crime Records Bureau (NCRB), a quarter million bodies are passed off by the Police as unidentified each year and disposed of by way of cremation without any identification.<sup>28</sup>

#### Problems Associated with Unidentified Dead:

1. An unidentified body is equal to a family living in false hopes and misery. Identification of a body is essential for bringing closure to the mourning process.
2. If a person was a victim of a crime, without identification the case will not progress.
3. If thorough efforts are not exerted for identification, it can promote criminal behaviour of dumping the crime victims in a sacred river as a way to get rid of the body under the pretext of religious customs.
4. At the worse, if a body is wrongly identified using unscientific and unsound techniques, it can lead to lots of disastrous ramifications.
5. If a body is cremated or buried without identification, the right of dignity of the dead is breached.

The NHRC advises the Police that 'the dead bodies should not remain in the mortuary for more than 72 hours and in case of an unidentified body, the Police should make serious efforts for its identification and disposal accordingly in a dignified manner'.<sup>17</sup> The term 'serious efforts' is debatable and subjective. We can construe this statement as Police should utilize scientific methods of identification<sup>29,30</sup> in case of unidentified dead bodies. Forensic odontology is a reliable, economical, effective, and non-invasive method of scientific identification. A few recommendations to bring clarity in this regard are as below;

#### Recommendations:

1. A central act should be formulated, directing the Police/district administration to make use of scientific methods of identification, including Forensic Odontology.
2. The National Dental Commission (NDC) should take cognisance of the immense potential of Forensic Odontology and recognise it as a separate branch of dentistry and officially define its scope.
3. The leading Forensic Odontology organisations in India, The Indian Association of Forensic Odontology (IAFO)<sup>31</sup> and Indo-Pacific Academy of Forensic Odontology (INPAFO)<sup>32</sup> should express willingness to assist in this regard and take the necessary initiative.
4. IAFO and INPAFO maintain a detailed list of members and qualified Forensic Odontologists from all over India. IAFO and INPAFO can suggest to the Police/district administration a member in a particular city or area who is available and willing to assist as and when the need arises with regards to the identification of a body. Later, the local Police and district administration can maintain contact with the forensic odontologists independent of IAFO or INPAFO.
5. Oral autopsy should be conducted in each case of an unidentified body by a qualified Forensic Odontologist.
6. The dentition of the unidentified dead should be photographed which can enable dental identification in the future. With little additional training, a Police photographer can take intra-oral photographs. A database of these

photographs should be created and maintained by the Police/NCRB.

7. Lastly, the Police should take utmost efforts to preserve a biological sample such as a tooth for future DNA-based identification. A Forensic Odontologist can extract a molar tooth or any other suitable tooth and the same can be stored at minus 20°C in a laboratory. A tooth is an ideal sample for DNA since it is made of hard tissue and it preserves the DNA really well. Also, obtaining the tooth sample is not an invasive process (if the same is compared to obtaining a liver sample which is routinely performed in India).

#### Summary:

The possibility of foul play and involvement of crime cannot be ruled out until conclusive identification of the dead is achieved. Forensic Odontology is a promising field under Forensic Science that offers solutions to this problem. NHRC should take cognisance of the availability of expertise in Forensic Odontology so the problem of unidentified dead will be taken care of to a large extent.

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