

Indian Academy of Forensic Medicine

Governing Council (2019-2022)

Registration No.349, Panaji, Goa



Official website - www.iafmonline.in

Dr. P.C. Vyas
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Report
IAFM Committee
On
Suggestions
For
Amendments in Section 174 CrPC
to
Improve the Quality
of
Forensic Medicolegal Post-Mortem
Services in the India

23rd December 2020

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Report of the Committee formulated to give suggestions for amendments in 174 CrPC

to improve the quality of forensic medicine post-mortem services of the country

Background and Summary:

1. Indian Academy of Forensic Medicine (IAFM) is constantly working on the upgradation of medicolegal or forensic medical services of our country. IAFM was also aware about the present problems in the medicolegal services prevalent all over the country. Various research papers were also published in various journals as well as presented in various conferences by the IAFM members about the existing poor quality of medicolegal services.
2. Governing Council members during E.C. Meeting dated: 22.06.2019 had discussed proposal submitted by Dr. Indrajit Khandekar regarding amendment in Criminal Procedure Code to improve the medicolegal services and P.M. Examination.
3. In the said meeting it had been decided unanimously to constitute a Committee comprising of one member from each zone for submission of draft for further communication with concerned government authorities. Name of members approved were as follows(**Annexure- I**):

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Sr No.	Name	Designation
1.	Dr. Pankaj Gupta (ECM, NZ)	Chairman
2.	Dr. Manish Kumath (J.S., CZ)	Member
3.	Dr. R. Sudha (ECM, SZ)	Member
4.	Dr. Gunajeet Das (E.C.M, EZ)	Member
5.	Dr. Indrajit Khandekar (W.Z.)	Co-ordinator

- Resolution passed in E.C. Meeting dated: 22.06.2019, was approved by General Body Meeting of Indian Academy of Forensic Medicine (IAFM) dated: 31.01.2020.
- The aim of this exercise is to suggest to government such amendments in 174 CrPC which will help to improve the quality of post-mortem services and morgues and to address the various other problems that are faced by the doctors including forensic medicine experts and forensic science personnel, other stakeholders and public in relation to post-mortem services.
- The committee after deliberate discussion decided to invite suggestions from all the concerned. So, a detailed appeal dated 05.02.2020 was made through official portal of IAFM to invite the suggestions via email for amendments in 174 CrPC to improve the quality of forensic medicine post-mortem services of the country (**Annexure II**).
- The Committee received suggestions from the faculties/ doctors/ experts all over the country. The list of the faculties/ doctors/ experts who gave suggestions is attached herewith as an **Annexure III**.

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Introduction:

8. The sudden or unexplained death of an individual has a profound impact on families and friends of the deceased and places significant responsibility on the criminal justice agencies tasked with determining the cause of death. Increasingly, science and technology play a key role in death investigations. One of the hallmarks of science is adherence to clear and well-grounded protocols. The inquest upon a dead body is the basis of the scientific crime investigation and administration of criminal justice.
9. The investigation of cases of unnatural death is essentially an important function of the Police, as the general public, in most of the cases, frequently forward allegations of foul play and if the unnatural death occurs within the view or custody of Police, the things would become very serious. Ideally, all deaths due to unnatural causes and deaths that are believed to be due to natural causes but where the medical cause of death is not certain or known should be subjected to an inquest. The objective of an inquest is to ascertain facts pertaining to the death. Though the inquest system exists in all parts of the world, the laws for the same vary considerably from country to country. In most of the other countries there are separate acts¹ and/or chapters exist to carry out not only inquest but also to carry out post-mortem examination, collection of samples/ viscera and use of scientific technology in death investigation. However, in India only 2 sections² are related with it.

¹ The details of acts have been given in section attached as Annexure I.

² See Section 174 & 176 of The Code Of Criminal Procedure, 1973

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10. Death investigations carry broad societal importance for criminal justice and public

health. Death investigations provide evidence to convict the guilty and protect the innocent, whether they are accused of murder, child maltreatment, neglect, or other crimes. Death investigations aid civil litigation, such as in malpractice, personal injury, or life insurance claims. Death investigations are critical for many aspects of public health practice and research, including surveillance, epidemiology, and prevention programs, most often in injury prevention and control but also in prevention of suicide, violence, or substance abuse. And death investigations are emerging as critically important in evaluating the quality of health care and the nation's response to bioterrorism³.

11. The term medicolegal death investigation system is something of a misnomer. It is an umbrella term for a patchwork of highly varied state and local systems for investigating deaths. Death investigations are carried out by coroners or medical examiners or police or prosecutor fiscal⁴ or magistrates as per the legal provisions applicable to states. There are broad differences between medical examiners, coroners, and police in training and skills and in the configuration of state and local organizations that support them. Medical examiners are physicians, pathologists, or forensic pathologists with jurisdiction over a county, district, or state. They bring medical expertise to the evaluation of the medical history and physical examination of the deceased. A coroner is an elected or appointed official who usually serves a single county and often is not required to be a physician or

³ Medicolegal Death Investigation System: Workshop Summary (2003) available online on <http://www.nap.edu/read/10792/chapter/4>

⁴ As per Scottish Govt act- Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

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to have medical training. But, in India no special specifications have been provided for the police to carry out investigation.

12. Serious concern has been expressed at various quarters on account of recent abnormal spurt in the unnatural deaths, especially at places like hospitals, police firings and police encounters, railways and other vehicles, and even in the household by way of dowry deaths, raising suspicions of adoption of illegal means with a strong possibility of the complicity of the officials of the State. It has also been found that in criminal cases, the divergent post-mortem reports and the statements of witnesses have led to an alarming rate of acquittal in criminal cases⁵.
13. Moreover, scope of Article 21 has been enormously expanded by the Apex Court, so as to include the right to know or right to have the correct information and this will also include the right to know the correct cause of death of any person⁶.
14. It is also clear that public interest will be greatly sub served and the moral fabric of our democratic government would be considerably strengthened, if the correct and true cause of the death of any person is known, especially when the death is unnatural or there are surrounding suspicious circumstances⁷.

⁵ Proposal for enactment of new Coroners Act applicable to the whole of India. Law Commission Of India. Report No.206. June 2008. Available online on <http://lawcommissionofindia.nic.in/reports/report206.pdf>

⁶ Proposal for enactment of new Coroners Act applicable to the whole of India. Law Commission Of India. Report No.206. June 2008.

⁷ Proposal for enactment of new Coroners Act applicable to the whole of India. Law Commission Of India. Report No.206. June 2008

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15. Protecting the lives of its citizens is a primary function of the State. Its processes for

investigating sudden, suspicious deaths ideally should be geared to finding the causes and eliminating them for the future, while respecting the sensibilities of the family in its grief.

16. The law commission report (62) August 2000 Wellington, New Zealand, quoted that,

‘There has been a changing view of death in our society. This view is perhaps best summed up in a submission that:

“Just as we changed our birth practices in the second part of the 20th century, we need to change our death practices in the first half of the 21st century”.

17. Present Indian law neither use the word nor defined “post-mortem” examination/ autopsy.

Indian law But, laws of other 40 countries/ states have not only used the word ‘post-mortem’ but have also defined it^{8,9,10,11,12}. For the various definitions please see the Annexure.

18. Since 1860, police & doctors have been following the provision of Section 174 CrPC

chalked out by the British government for forensic death investigation and post-mortems, which is now outdated. Even after over 160 years, there was not a single amendment in the law that would help to check the existing pitiable quality of medico-legal death investigation by police and the horrendous quality of post-mortem services in the country.

This has resulted into travesty of justice. Existing law has allowed untrained doctors to do post-mortems and SafaiKarmacharis to assist them and even resulted into carrying out

⁸ Section 88 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁹ Coroners Act 2008 No. 77 of 2008 Victoria

¹⁰ The Coroners Act- Jamaica

¹¹ Section 19 of Coroners Act 2003. Queensland

¹² Coroners Act (Chapter 63a) Act 14 Of 2010. The Statutes Of The Republic Of Singapore

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lakhs of unnecessary post-mortems. Condition of the mortuaries is dilapidated and most of the time dignity of the dead bodies is not maintained. Therefore, IAFM felt that comprehensive amendment in law is needed that will help to solve the most of existing problems and to improve the quality of post-mortem services in India.

19. Law commission itself has also observed that lack of expertise and sustained effort in investigation and non-utilization of scientific methods of investigation (Inept, unscientific investigation by the police) and lack of proper coordination between police and prosecution machinery is resulting in low rate of convictions and even implication of innocent accused persons¹³. The present conviction rate only shows enormous waste of public money and valuable working hours of the courts.

20. Though the law commission itself accepts that the divergent postmortem reports¹⁴, lack of expertise and sustained effort in investigation and non-utilization of scientific methods of investigation (Inept, unscientific investigation by the police) is one of the reasons for low conviction rate, not proposing even a single amendment in law that would help to improve the quality of postmortem examination, to utilize scientific methods for the death investigation, to prescribe minimum expertise for death investigator and the medical practitioner to carry out post-mortem examination is really a unfortunate one.

¹³ Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities. LAW COMMISSION OF India. Report No.239. March 2012. Submitted to the Supreme Court of India in W P (C) NO. 341/2004, Virender Kumar Ohri Vs. Union of India & Others

¹⁴ Even one of the members of the Committee of IAFM had filed a Public Interest Litigation (PIL) in Nagpur bench of Bombay high Court for upgradation of quality of postmortem services in the country. PIL- WP No. 30/2014 titled Dr Indrajit Khandekar vs Union of India.

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21. Though British gave India the provisions of 174 CrPC in 1898 (followed all over the part of the country), but they themselves never followed such inadequate, incomplete provisions for their own country before and even after that. It is however; really unfortunate that even after 6 decades of independence we are following the same inadequate and incomplete provisions for such a sensitive and important issue of death investigation. British had a coroner act which was also made applicable to limited territorial jurisdiction of only Bombay and Calcutta in 1871. British countries periodically amended the coroner act for effective death investigation and have also taken a prospective step by upgrading coroner system with forensic medical examiner system in a step wise manner. But, in our wisdom we repealed coroner act on 1999 in Bombay and took a very unfortunate and retrograde step by making CrPC applicable to these areas also; rather than making coroner act applicable to whole country, periodically amending it and replacing coroner system with forensic medical examiner system in a phase wise manner.

22. Law of other developed countries:

- ✓ made it mandatory for the crime investigator to collect the medical certificate of cause of death from the medical practitioner who has attended the deceased in last illness and to take it into consideration before taking the decision to order the dissection of a dead body.
- ✓ gives specific authority to the investigating officer to forward the dead body to the medical man for post-mortem examination & to ask the medical man to collect the

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small amount of samples (not 1-2 kgs as followed in India) from the dead body without the consent of next of kin unlike the law of India, Pakistan and Bangladesh (Law of India, Pakistan & Bangladesh is the same) only when necessary and not in each and every case reported to investigating officer.

- ✓ also make provision for only external examination and for limited post-mortem as per the discretion of a medical man.
- ✓ made it mandatory for investigating officer and doctor to inform the relatives about the extent of the dissection to be performed.
- ✓ prescribe legal right to the relatives to object the decision of investigating officer to carry out full dissection of dead body.
- ✓ made legal provisions to give regard to the dignity of the deceased person while conducting the post mortem examination and while transferring the dead body to the mortuary.
- ✓ prescribe power to investigator to select the doctor having necessary skills to conduct the autopsy having regard to the particular circumstances of the case.
- ✓ made it mandatory to a person who has any medical records of the deceased person, or tissue samples (collected before death) from the deceased person, to give them to the doctor who is to conduct, or conducted the autopsy.
- ✓ made it mandatory for the death investigator to obtain tissue and fluid samples suitable for DNA identification, typing, and testing while conducting Autopsy on unidentified body.

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- ✓ made it mandatory to take by a qualified person such blood or other fluids of the victim (in relation to motor vehicle accident) as are necessary to a determination of the presence and percentages of alcohol or drugs.

23. Though whole country was crying for low conviction rate; Indian Legislature and law commission did not take any efforts to amend the 120 years old provisions of laws pertaining to death investigation so as:

- a. to improve the quality of medico-legal death investigation in our country
- b. to check the present pitiable quality of death investigation
- c. to check the present pitiable quality of postmortem examination in our country,
- d. to improve the quality medico-legal postmortem examination by making it mandatory to be carried out preferably by a forensic medicine expert or by a medical practitioner specially trained in forensic medicine.
- e. to improve the inquest procedures,
- f. to promote the use of scientific methods in death investigation including collection of sample for DNA analysis as per the need.
- g. to prescribe special provisions for investigating the death of unknown persons.
- h. to prescribe special provisions for investigating the death of a person who has allegedly been raped and killed.
- i. to prescribe special provisions for investigating the death of a newborn baby.

24. Inadequate, improper and dubious law has resulted into:

- a. Poor quality of death investigation and post-mortem examination.

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- b. Ordering post-mortem examination even when the medical practitioner who has attended the deceased in his last illness has issued or is able to issue cause of death as per the provisions of section 10 (3) of Registration of Births & Death act.
- c. Non collection of specific samples while investigating death of unknown person that would help to ascertain the identity of the deceased.
- d. Conduction of post-mortem examination of sensitive cases by an untrained doctor who is not forensic medicine expert or specially trained in forensic medicine.
- e. Conduction of a death investigation by untrained police officials who are not specially trained in scientific death investigation.
- f. Non utilization of scientific methods in death investigation.
- g. Not taking into account by the police official, the past medical records and opinion of the medical practitioner of the deceased who had attended him in his last illness before ordering the dissection of a dead body. This has resulted into unnecessary post-mortems even in those cases where ample evidence was available to certify the cause of death.

25. Consequences of Poor/Inadequate Death Investigation Services:

1. Deprives the relatives of the deceased as well as society from 'right to have the correct information and right to know the correct cause of death of any person' guaranteed to them vide **Article 21 of the Constitution of India**.
2. Stumbling block in the administration of justice and leads to miscarriage of justice.
3. Many homicidal cases escape detection.

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4. Deaths from purely natural causes have been misinterpreted & attributed to homicidal violence.

5. Leads to conviction of innocent persons and acquittal of perpetrator of crime.

Historical Origins: India-

26. In the last decade of the 18th century, Lord Cornwallis made changes in the criminal justice system and British judges replaced their Indian counterparts in Fauzdari Adalats.

As the Raj expanded, courts were established in different parts of India¹⁵. The code of criminal procedure was enacted for the first time in 1861 as part of a series of criminal law reforms undertaken by the Raj in the wake of the 1857 mutiny¹⁶. In an incremental reform, the next version of CrPC was enacted in 1872 and then 1882.

27. The CrPC of 1898 contained further reforms towards providing a uniform law of criminal procedure for the whole of India. The British legacy in this respect was carried on by independent India till CrPC was recast again in 1973, yielding the present code.

28. The law relating to Criminal Procedure applicable to all Criminal Proceedings in India (except those of state of Jammu & Kashmir and Nagaland and the tribal areas of Assam) is contained in the Criminal Procedure Code, 1898¹⁷. This code has been amended from time to time by various Acts of the Central and State Legislatures. Apart from several Amendments, the provisions of the Code of 1898 have remained practically unchanged through the decades and no attempt was made to have a comprehensive revision of this

¹⁵ <http://timesofindia.indiatimes.com/city/hyderabad/CrPC-was-enacted-after-1857-mutiny/articleshow/3010641.cms>

¹⁶ The Code of Criminal Procedure- 1861. <http://lawmin.nic.in/legislative/textofcentralacts/1861.pdf&http://bombayhighcourt.nic.in/libweb/oldlegislation/crpic1861/Contents.pdf>

¹⁷ The Code Of Criminal Procedure, 1898 [ACT NO V OF 1898] Bombay High Court Judges Library available online on <http://bombayhighcourt.nic.in/libweb/oldlegislation/CRIPC1898/crpic1898.html>

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old Code till the Central Law Commission was set up in 1955. Basing on the recommendations of Law Commission, the Code of Criminal Procedure 1973 was enacted extending to the whole of India except the State of Jammu & Kashmir. It came into force on the 1st day of April, 1974. The coroner system was introduced in India in 1871 by way of Coroners Act, 1871, in the presidency towns of Bombay and Calcutta^{18,19}. The coroner was usually an advocate, attorney, or pleader. Under this act, the coroner was empowered to²⁰ inquire into causes of all unnatural and suspicious deaths. Presently, there is no coroner system in India. It was abolished in 1999 when the Coroner's Act was repealed²¹. The last city in India to have a coroner system was Bombay. Before the repeal of coroners, in the entire country, the Coroners Act, 1871 applied only in respect of very limited territorial jurisdiction, namely, the ordinary original civil jurisdiction of the High Courts of Calcutta and Bombay and thus the entire territorial boundaries of even these two States had not been covered under the said Act.

29. Coroners Act, 1871 that was applicable in the presidency towns of Bombay and Calcutta^{22,23} (before repeal) has following provisions about post-mortem examination & medical witness²⁴:

¹⁸ Bardale 2011

¹⁹ Modi 2005

²⁰ Parikh 1999

²¹ Parikh 1999

²² Bardale 2011

²³ Modi 2005

²⁴ Coroners Act 1871. Available on official website at Bombay High Court <http://bombayhighcourt.nic.in/libweb/acts/1871.04.pdf>

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- ✓ When the inquiry is concluded if the Coroner is satisfied as to the cause of death and if a post-mortem examination is in his opinion is not necessary, the Coroner may authorize the body to be disposed of²⁵. This provision was created by substitution of original section by section 2 of Bom. 13 of 1930. In the original Coroners Act, 1871 of Central Government²⁶ the provision to dispose of the body without post-mortem was not there.
- ✓ Provided that when a preliminary inquiry on the body has been held under, section 8, or if from the medical evidence or from a medical certificate, the Coroner is satisfied that no advantage will result from such viewing, the Coroner may dispense with a view of the body at the inquest²⁷.
- ✓ If before proceeding to view a body under section 8 or at the view, or at any stage of an inquest by jury, it appears to the Coroner that a post-mortem examination of the body is necessary to ascertain the cause of death, he may direct such examination to be held by his surgeon or by a duly qualified medical practitioner²⁸.
- ✓ The Coroner may also direct an analysis of any of the organs or parts of the body or of their contents²⁹.
- ✓ Every medical witness other than the Chemical Examiner to Government and the Coroner's Surgeon shall be entitled to such reasonable remuneration as the Coroner thinks fit³⁰.

²⁵ Subsection (2) of Section 8. Coroners Act 1871.

²⁶ The Coroners Act, 1871. ACT NO. 4 OF 1871 available online on <http://indiankanoon.org/doc/792853/>

²⁷ Section 15. Coroners Act 1871 (substitution of original section by section 2 of Bom. 13 of 1930)

²⁸ Subsection (1) of Section 18. Coroners Act 1871. (substitution of original section by section 2 of Bom. 13 of 1930)

²⁹ Subsection (1) of Section 18. Coroners Act 1871.

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30. In India, at present, statutory power to make and investigation and draw up a report of the

apparent cause of death, describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any); such marks appear to have been inflicted is vested under sub-section (1) of Section 174 of the Code Of Criminal Procedure, 1973 (hereinafter labeled as CrPC) with the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf. The report thus made under section 174 (1) CrPC shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub- divisional Magistrate³¹. The power to investigate and draw up a report of the apparent cause of death etc. is exercised by the officer in charge of a police station or some other police officer specially empowered by the State Government in that behalf when he receives information that a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident, or has died under circumstances raising a reasonable suspicion that some other person has committed an offence³². Also Section 176 of CrPC gives statutory power to magistrate empowered to hold inquests to hold an inquiry into the cause of death either instead of, or in addition to,

³⁰ Subsection (1) of Section 18. Coroners Act 1871

³¹ Section 174 (2) of The Code Of Criminal Procedure, 1973

³² Section 174 (1) of The Code Of Criminal Procedure, 1973

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the investigation held by the police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence³³.

31. In 1986, Professor Dr. S. M. Das Gupta made a strong recommendation for adoption of the medical examiner system of inquest in India, where the forensic pathologist plays the pivotal role and leads the “unnatural death investigation team.” He suggested that while the coroner system had proved to be completely unsuitable for Indian conditions, an alternative solution had not been found to the growing challenge of scientific investigation of deaths in India³⁴.

Historical Origins: Other countries-

32. The evolution of today’s diverse death investigation system traces back to medieval England. Coroners date back to 9th and 10th century England. They were formalized into law in the 12th century under King Richard I (Richard the Lion-Hearted). The king dispatched coroners to death scenes to protect the crown’s interest and collect duties (coroner is derived from Anglo-Norman coroner, the “guardian of the crown’s pleas”). Coroner laws were imported into the colonies with the early colonists. For example, the British Colony of Georgia followed British Common Law in 1733; the first state constitution mentioned coroners; and subsequent statutes described coroner duties. The first move toward reliance on a medical examiner took place in 1860 with the passage of Maryland legislation requiring the presence of a physician at the death inquest. Thus, the

³³ In Criminal Procedure Code, 1898, the numbers of the sections that are used in present CrPC were same.

³⁴ Das Gupta SM Gupta. Unnatural death investigation in India. A plea for the introduction of a medical examiner system of inquest. Am J Forensic Med Pathol. 1986 Jun;7(2):133-6.

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role of the coroner and medical examiner evolved from a highly decentralized system rooted in local or county ordinances. With awareness of the need for expertise in death investigations, there has been a nationwide trend, since 1877, to replace coroners with medical examiners, but efforts have been stalled since the middle 1980's³⁵.

33. Person who conducts Inquest/ investigation/ Inquiry:

- In the English legal system, the person who conducts an inquest is called a Coroner.
- In Scotland, he is called a Procurator Fiscal.
- The United States of America use the Medical Examiner System and he is called as Medical Examiner.
- In India, he is officer in charge of a police station or some other police officer specially empowered by the State Government³⁶ and any District Magistrate or Sub-divisional Magistrate and any other Executive Magistrate specially empowered in this behalf by the State Government or the District Magistrate³⁷.

34. Existing Procedure followed by police official of India in relation to post-mortem examination of the dead body:

- It is a matter of common knowledge that whenever the police investigate the death under section 174 CrPC, the dead body is forwarded to the authorized medical man for post-mortem examination to ascertain the cause of death along with format of post-mortem report.

³⁵ Hanzlick R1, Combs D. Medical examiner and coroner systems: history and trends. JAMA. 1998 Mar 18;279(11):870-4.

³⁶ Section 174 (1) of The Code Of Criminal Procedure, 1973 (hereinafter labeled as CrPC)

³⁷ Section 174 (4) of The Code Of Criminal Procedure, 1973

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- Even though the medical certificate of cause of death (MCCD) is issued under subsection (3) of section 10 of Registration of Births & Deaths Act 1969³⁸ by the medical practitioner who has attended the deceased in his/ her last illness and police official has no doubt regarding that cause of death issued in the said certificate, the police officer are still sending the dead bodies for post-mortem examination. It has been also observed that as it is not mandatory for the police official to collect the medical certificate of cause of death (as per the provisions of RBD Act) from the medical practitioner who has attended the deceased in his or her last illness, they are not collecting it in most of the cases.
- It has been also observed that in cases where a patient who is admitted & under treatment for natural disease condition (for example cancer etc) in one hospital, is referred to other hospital for further treatment and dies on the way to the said hospital is declared as brought dead (dead on arrival). The hospital where patient has been referred informs such case to police under the brought dead category cases for further necessary action. In such cases also, police are sending the dead bodies for postmortem examinations without taking into consideration the hospital records.

35. Statutory Power of police official of India to forward the dead body to the medical man for examination and its purpose:

³⁸ As per section 10 (3) of the Registration of Births and Deaths Act 1969 (RBD act) it is the legal duty of the medical practitioner to forthwith issue the cause of death certificate (without charging any fees), if the person who was attended by him during his last illness dies.

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- Subsection (3) of section 174 CrPC gives the authority to police official to forward the dead body for medical examination.
- The said subsection has been quoted below.

When³⁹-

- i. the case involves suicide by a woman within seven years of her marriage; or
- ii. the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or
- iii. the case relates to the death of a woman within seven years of her marriage and any relative of the woman has made a request in this behalf; or
- iv. there is any doubt regarding the cause of death; or
- v. the police officer for any other reason considers it expedient so to do, he shall, subject to such rules as the State Government may prescribe in this behalf, forward the body, with a view to its being **examined**, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

³⁹ Subsection (3) of section 174 CrPC

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- This section gives the discretion to the police official not to send the dead body for examination in certain cases. This clearly means that legally it is not necessary to send the dead body for examination in each and every case under investigation.
- Subsection (3) of section 174 does not make it mandatory (except the provisions related with married women)⁴⁰ to send the dead body for medical examination when there is no doubt regarding the cause of death.
- So, when the medical certificate of cause of death is issued under subsection (3) of section 10 of Registration of Births & Deaths Act 1969⁴¹ by the medical practitioner who has attended the deceased in his last illness and police official has no doubt regarding that cause of death as mentioned in issued certificate then legally there is no need to send the body for medical examination.
- Purpose of sending the dead body for medical examination:
 - ✓ Clause (i), (ii) & (iii) of subsection (3) of 174 CrPC gives power to police official to forward the body of woman (who has died within 7 years of marriage) for medical examination. However, law does not make it clear the purpose of forwarding the body for medical examination under these clauses.
 - ✓ Clause (iv) of subsection (3) of 174 CrPC gives power to police official to send the body for medical examination there is any doubt regarding the cause of death.

⁴⁰ See clause (1), (2) & (3) of subsection (3) of 174 CrPC

⁴¹ As per section 10 (3) of the Registration of Births and Deaths Act 1969 (RBD act) it is the legal duty of the medical practitioner to forthwith issue the cause of death certificate (without charging any fees), if the person who was attended by him during his last illness dies.

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This clause also clearly explains the purpose of sending the body for medical examination i.e., to clear the doubt regarding the cause of death.

- ✓ Clause (v) of subsection (3) of 174 CrPC gives power to the police officer to send the body for medical examination if for any other reason considers it expedient to do so. Thus, this clause also clearly explains the purpose of sending the body for medical examination.

36. Comparison of the legal provisions of our country with other countries pertaining to the power to order postmortem examination:

- Apart from India, the committee has studied laws of around 43 countries/ states including the law of Pakistan and Bangladesh. The provisions of laws of other countries related with the power of investigating agency to order postmortem examination, collection of viscera/ samples, to conduct scientific death investigation and rights of the relatives of the deceased are attached with this report as an **Annexure IV**.
- Provision of Bangladesh⁴² and Pakistan⁴³ related to the investigation of death resembles that of India. Though British gave India the provisions of 174 CrPC (followed all over the part of the country), but they never followed such inadequate, incomplete provisions in their country. It is however; really unfortunate that even after 6 decades of independence we are following the same inadequate and incomplete

⁴² Section 174 Code of Criminal Procedure, 1898 (Act No. V of 1898) Bangladesh
http://bdlaws.gov.bd/print_sections_all.php?id=75

⁴³ Section 174 Code of Criminal Procedure, 1898 (Act No. V of 1898)- Pakistan

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provisions for such a sensitive and important issue of death investigation. British followed Provisions of Coroner Act- 1887⁴⁴ for investigation of suspicious and unnatural deaths. And since then in Brittan there were proper provisions for permitting the investigating officer to order for postmortem examination and to collect the samples for the body, to order special examinations, to request a person who possesses special qualification to do special examination. Their laws also made special provisions while dealing with alleged death due to negligence of the medical practitioner⁴⁵.

- Most of the countries/ states have special laws having various sections explaining the multiple issues of inquest and death investigation unlike India, Pakistan and Bangladesh which had no special enactment for death investigation. Though in Texas no special law is there and process of death investigation/ inquest is prescribed under CrPC, they have prescribed a separate chapter⁴⁶ including 39 sections for this purpose. In Sri Lanka they use provisions of Code of Criminal Procedure⁴⁷ that has also specific provisions about post-mortem examination. Scotland has enacted Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, which governs the system of judicial investigation of sudden or unexplained deaths in Scotland, so as to ensure that Scotland has an effective and practical system of public inquiry into deaths which is fit for the 21st century.

⁴⁴ 50 & 51 VICT. CH. 71. London)

⁴⁵ Subsection 4 of Section 14 Coroners and Justice Act 2009 (c. 25) London & Wales.

⁴⁶ Chapter 49 of Code of Criminal Procedure of Texas- for inquest upon dead bodies.

⁴⁷ Section 369, 370, 371, 372, 373 of Code of Criminal Procedure- 1979 Sri Lanka

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- In other countries the special laws applicable for death investigation/ inquest are known as Coroners Act, Fatality Inquiries Act, Death Investigation Act, Inquests and Post-Mortem Examinations Law, The Inquest Act, Fatal Accidents and Sudden Deaths Inquiry Act.
- Medico-legal investigations in the United States (primarily unnatural or suspected unnatural deaths) are carried out by medical examiner or coroner systems. Medical examiners-usually physicians and generally with training in pathology, medicolegal death investigation, and performance of forensic autopsies-generally have greater expertise in unnatural death investigations than do coroners. US have gradually replaced coroner systems by medical examiner systems that now serve about 48% of the national population⁴⁸. Presently, about 31% of counties in the United States are served by medical examiners at the county, district, or state level⁴⁹.
- In 1194, when the coroner system was formally established in England with the original interest in death to protect the financial interest of the crown. This coroner system was brought to the United States during the early 1600s where the first recorded autopsy was performed in Massachusetts in 1647. Significant changes were made to improve upon the coroner system. In 1877, the first medical examiner system was established in the state of Massachusetts, requiring that the coroner be supplanted by a physician known as a medical examiner. Using the system established in

⁴⁸ Hanzlick R, Combs D. Medical examiner and coroner systems: history and trends. JAMA. 1998 Mar 18;279(11): 870-4.

⁴⁹ Hanzlick R. The conversion of coroner systems to medical examiner systems in the United States: a lull in the action. Am J Forensic Med Pathol. 2007 Dec;28(4):279-83.

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Massachusetts as a model, New York City developed an improved medical examiner system in 1915. The improvements made by New York City, under the leadership of men such as Drs. Charles Norris and Alex Gettler, essentially laid down the foundation for medical examiner systems and forensic toxicology throughout the country. Part 2 of this series begins in Maryland. Maryland soon followed in New York City's footsteps and in 1939 developed the first statewide medical examiner system in the U.S⁵⁰.

- Influenced by systems such as Maryland's and New York City's, Delaware established a medical examiner system in 1955 to work alongside of the pre-existing coroner system. It was not until about a decade later, in 1964, that the system became successful under the leadership of Dr. Ali Z. Hameli. In 1970, after 15 years of uphill battles with supporters of the antiquated coroner system, it was abolished, resulting in a statewide medical examiner system. Today, Delaware's medical examiner system has one of the best medicolegal investigative facilities in the country, complete with its own forensic sciences laboratory under the jurisdiction of a Chief Medical Examiner.
- The laws of the other countries prescribe special provisions for death investigation, postmortem examination, viscera/ sample collection. They also give right to the relatives to object the decision of investigator to order dissection of a dead body. Other countries law permits dissection of dead body and its extension only when medical

⁵⁰ Inguito GB, Pelletier TK, Pretzler E Jr, Ingle JH Delaware's medicolegal investigation of death. Del Med J. 2001 Jan; 73 (1): 11-5 & Feb;73(2):57-62 <http://www.ncbi.nlm.nih.gov/pubmed/11291196>

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practitioner deems it fit necessary. It also makes mandatory for the investigator to collect the medical certificate of cause of death from the medical practitioner who has attended the deceased in last illness and to take it into consideration before taking the decision to order the dissection of a dead body. It also permits doctor to carry out limited post-mortem/ partial post-mortem as per the need. It also makes provisions to give regard to the dignity of the deceased person while conducting the post mortem examination. It also prescribe the procedure to be followed for transferring the dead body to the mortuary on the orders of death investigator so as to maintain the dignity and respect to be accorded to deceased person. It also prescribe power to investigator to select the doctor having necessary skills to conduct the autopsy having regard to the particular circumstances of the case. It also makes it mandatory to a person who has any medical records of the deceased person, or tissue samples from the deceased person, to give them to the doctor who is to conduct, or conducted the autopsy. It made it mandatory for the police to take reasonable steps to notify the senior next of kin of the deceased person about his direction to perform autopsy. It also made it mandatory for the death investigator to obtain tissue and fluid samples suitable for DNA identification, typing, and testing while conducting Autopsy on unidentified body. It also made it mandatory to take by a qualified person such blood or other fluids of the victim (in relation to motor vehicle accident) as are necessary to a determination of the presence and percentages of alcohol or drugs.

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- Even their laws have made provision for appointment of a person who is specially trained in death investigation like Coroner, Forensic Medical Examiner.

Problems that are observed in India in relation to medicolegal practices and inquest:

37. After going through the various reports (including Survey Committee Report on Medico-Legal Practices in India 1964) already in public domain, newspaper stories/ clips, various observations made by judges of Supreme and High Courts etc., the committee observed various problems in relation to medicolegal services of the country. The few problems are listed here for ready reference. For detail Comparative chart highlighting the issues, loopholes in existing 174 CrPC and amendments needed please refer to **Annexure V**.

- a. Conduction of around 80-90 % Post-mortems in India by untrained doctors and not by Forensic Medicine experts.
- b. Sweepers and not trained technician/ forensic nurse assist the doctors to carry out the post-mortem examinations, collections of viscera and other forensic evidence from the body, its sealing and labelling etc.
- c. Poor conditions of morgues/ post-mortem center in our country.
- d. Conduction of autopsy at any place, even in open place without having any basic facilities.
- e. Lakhs of Unnecessary autopsies are carried out in our country. In medicolegal cases where patient dies during treatment, ample medical evidence is available to certify the the cause of death as per the provisions of Section 10 (3) of registration of births and deaths act. But, in such cases most of the times cause of death is not

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issued by the treating doctor due to ignorance of law or for any other unknown reasons. Due this practice, police are forced to request for post-mortem examination.

- f. In some medicolegal cases where cause of death is given by the treating doctor, police request for the post-mortem examination to know the cause of death ignoring the cause of death given by the treating doctor. This is due to ignorance of police officials regarding provision of 174 CrPC, which clearly asks for post-mortem (medical examination of dead body) examination when there is doubt in the cause of death.
- g. Poor quality of post-mortem examinations and services in country.
- h. There is no uniformity in the procedures carried out by the doctors for post-mortem examinations.
- i. Autopsy on female person is not carried out in presence of female attendant.
- j. Relatives face tremendous problems for getting the copy of post-mortem report.
- k. Illegible handwriting of doctors on post-mortem reports causes tremendous problems to police, prosecuting agency and judiciary.
- l. No rules for constitution of boards to carry out the post-mortem examination, no rules to carry out re-post-mortem and exhumation.
- m. No proper rules for video recording of autopsy procedure.

38. At various places, treating doctors from both government and private hospitals do not certify the cause of death (COD) in medical certificate of cause of death form (MCCD

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format) in all medicolegal cases (MLCs) that dies during treatment under his/her care.

Rather, they write “Cause of death to be decided after Post-mortem” even in those cases where the patient dies after so many days of taking treatment including operative procedures and/or where the ample and justifiable medical evidence is present to certify the COD. However, both central and state government including office of the Registrar General of India under RTI informed to one of the member of this IAFM committee, that, NO CIRCULAR or directions has been issued by them which prohibits treating doctors/ medical practitioners from issuing MCCD in all medicolegal cases.

39. The committee is of the view that most of the problems highlighted above can be streamlined by requisite legal amendments. However, some problems will require proper and periodic training of all concerned, regular assessment of the quality of services etc.
40. The committee after considering various problems highlighted above and the suggestions received from learned members has prepared a draft of the amendments that are needed in 174 CrPC. We have also received various suggestions regarding criteria for setting up of a forensic autopsy complex, NABH accreditation of Forensic Autopsy Complex, jurisdictions of police stations and autopsy centre, etc.,.These suggestions shall be considered while drafting the specific rules as prescribed in the suggested amendments.
41. The copy of the suggestions received from the various learned members is attached with this report.
42. The committee is thankful to the office bearers of IAFM for giving such an important opportunity to us.

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43. KEY SUGGESTIONS:

The draft of the suggested amendments (*Section and para-wise*) is annexed with this report as an **Annexure VI**.

Government may take following issues into consideration while drafting the provisions of law. Ideally law must:

- 1) Prescribe that preferably Forensic Medical expert services or services of the doctors who are specially trained in Forensic Medicine should be made available as a legal right (in a phase wise manner) to investigating officer so as to improve the quality of death investigation in the country.
- 2) Recognize that it is the legal and fundamental right of the relatives of the deceased to have postmortem conducted on their beloved ones preferably by the Forensic Medicine Expert⁵¹.
- 3) Define autopsy, preliminary postmortem examination, external postmortem examination, internal post-mortem examination, limited post-mortem examination.
- 4) Permit the extension of dissection of dead body only as far as the medical practitioner may think requisite to ascertain the cause of death and to answer the various other medico-legal questions raised by police.
- 5) Prohibit the full post-mortem examination when the medical practitioner who has attended the deceased in his last illness has issued or is able to issue medical

⁵¹ As the scope of Article 21 has been enormously expanded by the Apex Court, so as to include the right to know or right to have the correct information and this will also include the right to know the correct cause of death of any person.

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certificate of cause of death (MCCD) as per the provisions of section 10 (3) of

Registration of Births and Deaths Act when no one has raised doubt about it.

- 6) Make it mandatory for police and medical practitioner to take into account the past medical records and opinion of the medical practitioner who has attended the deceased in his last illness before deciding the extent of dissection of dead body.
- 7) Specifically prescribe that sample collection should be minimum to be sufficient to solve the purpose and should stop the present practice of collection of 1-2 kgs of viscera from body.
- 8) Prescribe authority to investigating police officer in consultation with medical expert to dispense with a full postmortem examination in certain circumstances.
- 9) If any committee is to be formed to formulate the guidelines or legal rules by the government then it should also have members nominated by the Indian Academy of Forensic Medicine.
- 10) Regarding admissibility of medicolegal documents made under section 174 and or 176 CrPC: The contents of documents without examining the author of such documents, shall be admissible and marked, without the concerned person being summoned to the Court.⁵²
- 11) Make provisions to give regard to the dignity of the deceased person while conducting the post mortem examination and during transportation of dead body to mortuary.

⁵² Please refer section 293 CrPC for reference.

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- 12) Make it mandatory for the person conducting the examination to endeavor to use the least invasive procedures that are appropriate in the circumstances if more than one procedure is available to establish the cause of a deceased person's death. Law should also describe what is less invasive procedure than a full post mortem examination i.e., an external examination of the remains, a radiological examination of the remains, blood and tissue sampling, a partial post mortem examination.
- 13) Make it mandatory for the medical examiner to provide the police with a written postmortem investigation report as soon as is reasonably practicable after the examination, test or review.
- 14) Prescribe the procedure for medical practitioner to collect the important medico-legal samples (even when the patient/ relatives don't give consent) when any case (other than the arrested/ accused person brought by the police) having medico-legal overtone is admitted under his/her treatment.
- 15) Make provision for remuneration of medical practitioner who carry out postmortem examination and technicians who assist the doctors for the same. Very few states like Karnataka, Maharashtra etc have made provision for the same. To bring uniformity in it, law should have special provision for it.
- 16) Make special provisions that protects the medical practitioner for anything done or omitted to be done from any action, liability, claim or demand if the act or omission was done or omitted to be done in good faith for the purposes of: (a) conducting a post mortem examination or other examination or test pursuant to a direction under

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this Act, or (b) conducting a review of the medical records of a deceased person pursuant to a direction under this Act. Or (c) collecting the samples of live medico-legal case.

17) Make it mandatory for the police to take reasonable steps to notify the senior next of kin of the deceased person about his direction to perform autopsy. It should also Prescribe the authority to senior next of kin (relatives of the deceased) to raise the objections about relevant post mortem investigative directions.

18) Prescribe the authority of local court to hear the application of next of kin for prohibiting the investigating officer and doctor from carrying out postmortem examination in certain circumstances.

19) Issue of night postmortem: The objections was raised in cases where night postmortem was conducted. Please refer Palammal vs Home Secretary⁵³ case for details. The committee is of the view that night postmortem should be permitted only when there is law and order situation and only on the orders of magistrate and magistrate should be present during the postmortem. To bring uniformity legal rules shall be developed.

20) Make provision about who can observe the autopsy and procedure to be followed.

⁵³Palammal vs Home Secretary. WMP (MD) No. 7570 Of 2020 in WP (MD) No. 8160 of 2020. D/d 30.07.20 Madras High Court. Madurai Bench.

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- 21) Make it mandatory to a person who has any medical records of the deceased person, or tissue samples from the deceased person, to give them to the doctor who is to conduct, or conducted the autopsy.
- 22) Prescribes the procedure to be followed by the doctor and forms to be used for autopsy report and the authorities to whom such form to be given including registrar under Births & Death Act.
- 23) Prescribe the procedure to be followed when the death was allegedly caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person.
- 24) Prescribe that it shall be in the sole discretion of the medical examiner to determine whether or not an autopsy or limited dissection is required; provided, however, that the medical examiner shall give due consideration to the opinions of the investigating officer in charge regarding the requirements of accepted investigation techniques and the rules of evidence applicable thereto.
- 25) Not permit autopsy routinely and prescribes that autopsy should only be performed when in the opinion of the examining physician and/ or the police the cause of death cannot be established definitely except by autopsy and when it is declared that the public interest requires that an autopsy be performed.
- 26) Prescribe specific examinations or test that has to be carried out necessary to determine the identity of the deceased person in case of unknown dead body.

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- 27) Make it mandatory for the police to obtain tissue and fluid samples suitable for DNA identification, typing, and testing while conducting Autopsy on unidentified body.
- 28) Ensure that funding for post mortem and mortuary facilities should be ring-fenced to ensure a planned program of improvements and upgrading is implemented and not affected by continuing resource pressures on general health expenditure. Law should emphasize that the death investigation service is a service for the living and resource allocation must be evaluated in that context.
- 29) Make it mandatory for upgradation of existing mortuary and post mortem facilities on a planned basis having regard to the need for the distribution of such facilities throughout the country. Upgrades should be carried out to the appropriate standards applying to the various types of facilities involved.
- 30) Prescribe the procedure to be followed for removal of organs and fetuses from dead body for mounting purpose in a museum as a specimen and research purpose.
- 31) 176 CrCP inquest shall be done by magistrate only. The existing practice of deputing power to police by magistrate to hold inquest should be prohibited.
- 32) Rules for re-postmortem, exhumation, constitution of board for postmortem services etc.

CONCLUSION:

The pivotal issue in any inquest is the initial visualization of the body and its surroundings at the scene of incident by a team of investigators and experts. This must be carried out meticulously, since the subsequent course of the case, and its success or failure in

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the court of justice, essentially depends upon its proper execution. Unfortunately, such an important step as the inquest is generally the most neglected part of any crime investigation process as it exists in India today. It is quite often left entirely to the inspired guesswork and seasoned experience of the lowest ranking police officers and more often than not to a Head Constable of a police station or substation. We have failed to find an solution to the growing challenge of scientific crime investigation in India, by involving the forensic pathologist in inquests held upon dead bodies, by including him in the first crime investigation. A strong case is made for adoption of the medical examiner's system of inquest, wherein the forensic pathologist plays the pivotal role and leads the "unnatural death investigation team."

Every suspicious death in India is investigated, with one of the objectives being determining the manner of death. The autopsy is an integral part of the death investigation. Death investigations are accomplished in the form of inquests, which are conducted and directed by the police or, in some cases, by a magistrate. In general, the autopsy physician opines only on the cause of death. In the Indian legal system, manner of death is determined by the police. Unlike in the United States, where the certifier of death must record a manner of death on the death certificate, in India the manner of death is largely a legal (rather than medical) determination⁵⁴.

There is no "system" of death investigation that covers the all jurisdictions in this country. No nationally accepted legal guidelines or standards of practice exist for individuals responsible for performing death-scene investigations. No professional degree, license,

⁵⁴ Medicolegal Death Investigation in India: An Overview. Acad Forensic Pathol. 2015 5(3): 443-446 Available from: <http://www.researchgate.net/publication/281783505>.

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certification, or minimum educational requirements exist, nor is there a commonly accepted training curriculum. Not even a common job title exists for the thousands of people who routinely perform death investigations in this country.

Death investigation is a multi-faceted system involving medical services, mortuary and post-mortem facilities, histology (tissue) and toxicology (fluid) testing, hospital administration, and many other related services including general practitioner and funeral undertaker services. The death investigation service is unable to function effectively (and indeed sometimes not at all) in the absence of many of these core support services such as medical practitioners, forensic medicine experts, tissue and fluid analysis and post mortem facilities. For example, doctors conducting the postmortem examination, though an obvious critical element of the death investigation system, no specific attentions and importance are given to their training in forensic medicine and qualification. This cannot be the basis on which the death investigation system of the future will operate.

The development and modernization of mortuary facilities has been sporadic and given the funding links between general post-mortem facilities and health budgets, it is not surprising that despite the best intentions, resources are distributed with an ante-mortem bias. While understandable, this bias will continually frustrate any attempt to bring the death investigation service to the standard envisaged by the experts.

Death investigations often involve complex medical issues and necessarily require the involvement of appropriately trained physicians. In other countries over the years, there has been a trend to replace the elected lay coroner systems with systems run by appointed,

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forensic medical examiners. But, in our country system of certification of most deaths by doctors and death investigation system by the police have been seriously neglected since 117 years. Therefore, century-old laws relating to inquest procedures, postmortem examinations & death certification in the country must undergo radical change if they are to become fit for the purposes of a modern society and capable of meeting future challenges. The need for reform is widely recognized and supported.

There is a lack of clear participation rights for bereaved families. They are largely excluded from the death investigation process. They are not systematically or reliably given information and help concerning autopsy decisions, other processes and inquests. There is no clear modern legal base for the conduct of most death investigations & there are no mechanisms encouraging the systems to adapt and to develop in accordance with emerging needs.

Medical Examiner systems, as in North America, are led by pathologists, most of whom specialize in forensic work. There is need to discuss whether it would be sensible or foreseeably practicable for our country to extend their role into the wider area of general death investigation.

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Annexure I

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Ref.No.GSIAFMGC-2019-2022/01

Date: 01.07.2019

Constitution of Committee for Amendment in Cr.P.C./LEA.:

Governing Council members during E.C. Meeting dated: 22.06.2019 discussed proposal submitted by Dr. Indrajeet Khandekar regarding amendment in Criminal Procedure Code to improve the medicolegal services and P.M. Examination.

It was decided unanimously to constitute a Committee comprising of one member from each zone for submission of draft for further communication with concerned government authorities. Name of following members approved:

Constitution of Committee

Sr. No.	Name	Designation	Mob. No.	E-mail
1	Dr. Pankaj Gupta (ECM, NZ)	Chairman	9888891390	pankajgupta06@rediffmail.com
2	Dr. Manish Kumath (J.S., CZ)	Member	9868984826	drkumath@gmail.com
3	Dr. R. Sudha (ECM, SZ)	Member	8008245991	dr.rambarapu.sudha@gmail.com
4	Dr. Gunajit Das (E.C.M., EZ)	Member	9435071798	drqd12@gmail.com , prof.gunajitdas@gov.in
5	Dr. Indrajeet Khandekar (W.Z.)	Co-coordinator		drindrajeetkhandekar@gmail.com

Dr. Indrajeet Khandekar requested to coordinate with all members in preparation of Draft for further submission. A time line up to Dec. 2019 was given for the preparation and submission of recommendation.

-sd-

(Dr. Mukesh Yadav)
General Secretary

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Annexure II

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Suggestions Invited

Subject: IAFM invites suggestions for amendments in 174 CrPC to improve the quality of forensic medicine post-mortem services of the country.

Resolution passed in E.C. Meeting dated: 22.06.2019, and approved and suggested by General Body Meeting of Indian Academy of Forensic Medicine (IAFM) dated: 31.01.2020, it is desired to prepare the draft of suggestions for amendments in 174 Criminal Procedure Code (CrPC). The aim of this exercise is to suggest to government such amendments in 174 CrPC which will help to improve the quality of post-mortem services and morgues and to address the various other problems that are faced by the doctors including forensic medicine experts and forensic science personnel, other stakeholders and public in relation to post-mortem services.

Since 1860, police & doctors have been following the provision of Section 174 CrPC chalked out by the British government for forensic death investigation and post-mortems, which is now outdated. Even after over 160 years, there was not a single amendment in the law that would help to check the existing pitiable quality of medico-legal death investigation by police and the horrendous quality of post-mortem services in the country. This has resulted into travesty of justice. Existing law has allowed untrained doctors to do post-mortems and Safai Karmacharis to assist them and even resulted into carrying out lakhs of unnecessary post-mortems. Condition of the mortuaries is dilapidated and most of the time dignity of the dead bodies is not maintained. Therefore, IAFM feels that comprehensive amendment in law is needed that will help to solve the most of existing problems and improve the quality of post-mortem services in India.

A Committee has been constituted in this regard (**Annexure I**).

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So, IAFM request all concerned to forward their suggestions on email iafmlegalsection@gmail.com within **90 days** from the day of issue of this appeal. Suggestion may please be given on following issues:

- Who should carry out post-mortem examination at district and rural hospitals?
- What should be criteria for setting up of forensic autopsy complex?
- Who should assist the doctor conducting post-mortem exam?
- Who should do postmortem examination of dead body of female?
- Who should make rules for postmortem examination- whether Union Govt. or State or both?
- Any other matter pertaining to post-mortem services including problems that you might have observed in postmortem services.

Date: 05.02.2020

Mukesh Yadav

(Prof. (Dr.) Mukesh Yadav)
General Secretary, IAFM
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Annexure: III

Name of members who gave suggestions

1. Dr. Anu Sasidharan. Associate Professor & Unit Head of Forensic Pathology. Department of Forensic Medicine & Toxicology. MEU Coordinator & Head of Medical Education Department. AIMS, Kochi – 682041. Kerala.
2. Dr BH Tirpude. Director, Professor and Head. Department of Forensic Medicine & Toxicology. MGIMS Sewagram.
3. Dr K. Tamilmani. Associate professor, Institute of Forensic Medicine. Madras Medical College Chennai.3
4. Dr Kamal Singla. Assistant Professor. Department of Forensic Medicine & Toxicology. Faculty of Medicine & Health Sciences. SGT University. Gurugram. Haryana.
5. Dr Kumar M P. Professor of Forensic Medicine,. Mysore Medical College & Research Institute Mysore.
6. Dr Manish Nigam. MD PGDHM LLB LLM. Professor and Head. Forensic Medicine and Toxicology. Government Medical College Vidisha (MP). Jt. Editor- JIAFM.
7. Dr Manivasagam. M. MD(FM), Asst. Professor, Dept of FMT, Govt. Medical College, Karur, Tamilnadu.
8. Dr Milind Sonawane. IAMF member. Pune.

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9. DR Mohammed Ziyauddin G Saiyed. MBBS, MD (FORENSIC MEDICINE).

Associate Professor, Department of Forensic Medicine & Toxicology, GCS Medical College, Hospital & Research Centre, Opp. DRM Office, Naroda Road, Ahmedabad - 380025. Gujarat. INDIA.

10. Dr Parmod Goyal. Professor & Head (Forensic Medicine). Coordinator, Medical Education Unit. Member Secretary, Ethics Committee, Adesh University. Coordinator, Body Donation Programme. FAIMER 2013, ACME 2015. Editor in Chief, Journal of Punjab Academy of Forensic Medicine and Toxicology (JPAFMAT). Adesh Institute of Medical Sciences & Research, Bathinda.

11. Dr Pramod Tiwari.

12. Dr Raghavendra Babu YP. Principal/ prof and HOD. Dept of Forensic Medicine. KIMS Koppal Karnataka

13. Dr Rajesh Kude.

14. Dr Richa Gupta. Assistant Professor. Dept. Of Forensic Medicine and Toxicology. SN Medical College. Agra, Uttar Pradesh.

15. Dr S. V. Dhoble. Asst. Prof, FMT. GMC Chandrapur, MH

16. Dr Sachin Meena MBBS MD (FMT). PG CFMU (MGIMS Sewagram). Assistant Prof GMC Kota.

17. Dr Santhi. M. Assistant Professor. Dept. of FMT. SV Medical College, Tirupati, AP.

18. Dr Satish Kr. Verma. Director Professor,. Dept. of Forensic Medicine,. UCMS & GTBH, Delhi-110095.

I.A.F.M. Goa Office: c/o DrMadhuGhodkirekar
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19. Dr Satish KV. Prof & Head. Dept of FM . BMCRI BENGALURU

20. Dr Sukhdeep Sidhu.

21. Dr Utsav Parekh, MD (Associate Professor). Department of Forensic Medicine & Toxicology, Pramukhswami Medical College, Anand, Gujarat, INDIA.
utsavnp@charutarhealth.org; dr.utsav.parekh@gmail.com. +91-95868 55333.

22. Dr Vinod C Nayak. Prof and Head. KMC, Manipal.

23. Flt Lt (Dr) Janender Baghel. MBBS, MD. Command Hospital Airforce. Bangalore.

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Annexure: IV

Legal Provisions of other Countries pertaining to the inquest, postmortem examination of dead body and other relevant matters

- As per the Coroners Act 1960 of New South Wales, a coroner, justice or justices by order in writing direct⁵⁵—(a) any medical practitioner to perform a post mortem examination of the body of the deceased person concerned; and (b) to make a special examination or test, specified in the order, of any part of the body of the deceased person concerned or of the contents of the body or any part thereof. A coroner has also the power of directing the re-postmortem or a special examination or test under the circumstances explained in law⁵⁶.
- The act of New South Wales and Coroners Act 1988 of London also makes provision for remuneration of medical practitioner who carry out postmortem examination on the orders of coroner^{57,58}.
- As per the Coroners Act, 1999 of Saskatchewan & Coroners Act of Edward Island; apart from directing the postmortem examination, the Coroner has also the power to direct an analysis of the blood, urine or contents of the stomach or intestines or any other examination or analysis of the body that the coroner considers necessary^{59,60}.
- The coroner has power to request any legally qualified medical practitioner to make a post-mortem examination of the body or a special examination of the body or both such examinations; or request any person whom he considers to possess special qualifications for conducting a special examination of the body to make such an examination⁶¹. Law also describes what is mean by "special examination", in relation to a body, i.e, a special examination by way of analysis, test or otherwise of such parts or contents of the body or

⁵⁵ Subsection (1) of section 30. Coroners Act. Act No. 2, 1960. New South Wales

⁵⁶ Section 31. Coroners Act. Act No. 2, 1960. New South Wales

⁵⁷ Section 31. Coroners Act. Act No. 2, 1960. New South Wales

⁵⁸ Subsection (1) of Section 24 Coroners Act 1988. London

⁵⁹ Subsection (1) of Section 14. The Coroners Act, 1999. Saskatchewan

⁶⁰ Subsection (1) of Section 10. CORONERS ACT. Edward Island

⁶¹ Subsection (1) of Section 19 & 20 (1) Coroners Act 1988. London

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such other substances or things as ought in the opinion of the coroner to be submitted to analyses, tests or other examination with a view to ascertaining how the deceased came by his death⁶².

- As per the Coroners Act (Northern Ireland) when it appears to a coroner that the cause of death has not been satisfactorily explained to him, he may, employ a registered medical practitioner on the list mentioned in section twenty-six to perform a complete post-mortem examination⁶³ and duty to keep & furnish coroners with copies of such list of registered medical practitioners employed by the Secretary of State under Article 11 of the Criminal Justice (Northern Ireland) Order 1980 or with whom the Secretary of State has entered into an arrangement under that Article for the provision of the practitioner's services to conduct post-mortem examinations or analyses is given to Lord Chancellor⁶⁴. The said act also gives power to a coroner who considers an analysis of any matter or thing of or concerning any dead body to be necessary may direct that such analysis be made by or under the supervision of a registered medical practitioner on the list mentioned in section twenty-six or by or under the supervision of the Director of the Northern Ireland Forensic Science Laboratory and it shall be the duty of such registered medical practitioner or Director (as the case may be) to submit a report of such analysis to the coroner⁶⁵.
- In New South Wales, a coroner has a power to dispense with a postmortem examination if he is satisfied (after obtaining relevant advice from police officers and medical practitioners and consulting with a senior next of kin of the deceased person and any other person that the coroner considers appropriate) that: (a) the deceased person died of natural causes (whether or not the precise cause of death is known), and (b) a senior next of kin of the deceased person has indicated to the coroner that it is not the wish of the

⁶² Subsection (4) of Section 20 Coroners Act 1988. London

⁶³ Section 27. Coroners Act (Northern Ireland) 1959

⁶⁴ Section 26. Coroners Act (Northern Ireland) 1959

⁶⁵ Section 30. Coroners Act (Northern Ireland) 1959

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deceased person's family that a post mortem examination be conducted on the deceased to determine the precise cause of the deceased's death⁶⁶.

- The New South Wales law had prescribed following provisions for respecting the dignity of deceased person⁶⁷.
 - (1) When a post mortem examination or other examination or test is conducted on the remains of a deceased person under this Part, regard is to be had to the dignity of the deceased person.
 - (2) If more than one procedure is available to a person conducting a post mortem examination to establish the cause and manner of a deceased person's death, the person conducting the examination is to endeavor to use the least invasive procedures that are appropriate in the circumstances.
 - (3) Without limiting subsection (2), examples of procedures that are less invasive than a full post mortem examination of the remains of a deceased person include (but are not limited to) the following:
 - (a) an external examination of the remains,
 - (b) a radiological examination of the remains,
 - (c) blood and tissue sampling,
 - (d) a partial post mortem examination.
- The New South Wales law also gives power to a coroner to direct certain post mortem investigation if the coroner considers that it is necessary or desirable to do so for the purpose of assisting in the investigation of the death of a deceased person like to conduct a postmortem examination, a special examination or test specified in the direction, a review of the medical records of the deceased person, which may include consultations with medical practitioners involved in the treatment of the deceased person. If it appears to the coroner that the cause of death of the deceased person has not been satisfactorily

⁶⁶ Subsection (6) of Section 89 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁶⁷ Section 88 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

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explained by a report given pursuant to a previous post mortem investigation direction (whether given by the same investigator or another person)—a direction that the investigator conduct (or arrange for another person to conduct) another examination, test or review of the kind referred to in paragraph (a), (b) or (c) (whether or not it is of the same kind as that specified in the previous direction)⁶⁸. The said act also gives a power to give directions to conduct an examination of human remains for the purpose of determining whether the remains are those of a stillborn child⁶⁹. It also gives power to specify limitations in order for post mortem investigation⁷⁰. It also give power to an appropriate medical investigator to arrange for another person (selected person) to conduct an examination, test or review specified in the direction of coroner and also give the power, to rely on any report prepared by the selected person on the examination, test or review⁷¹.

- The New South Wales Law also make it mandatory for the medical examiner to provide the coroner with a written postmortem investigation report as soon as is reasonably practicable after the examination, test or review⁷². It also makes a provides that if a post mortem investigation report relates to a review of the medical records of a deceased person, the report is to contain a statement from the person who conducted the review about the person's opinion (if any) as to the probable cause of death based on that review⁷³.
- The New South Wales Law specifically authorize the concerned person for the removal and use of tissue from the body of the deceased person for any of the following purposes:

⁶⁸ Clause (a) (b) (c) (d) of subsection (1) of Section 88 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁶⁹ Subsection (2) of Section 88 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁷⁰ Subsection (4) of Section 88 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁷¹ Clause (a) (b) (c) (d) of subsection (5) of Section 89 of Coroners Act 2009 No 41. New South Wales. Available on the NSW legislation website.

⁷² Subsection (7) of Section 89 of Coroners Act 2009 No 41. New South Wales

⁷³ Subsection (8) of Section 89 of Coroners Act 2009 No 41. New South Wales

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(a) an investigation by a coroner of the person's death, (b) an investigation of any offence, (c) proceedings for any offence⁷⁴. It also authorizes the retention of small samples removed from the body of the deceased person (i) bodily fluid, (ii) skin, hair and nails, (iii) any other tissue retained in the form of a tissue slide or tissue block which enables microscopic examination of the tissue, (iv) such tissue as may be directed in writing by a coroner in any particular case⁷⁵. Section 53 (2) (b) enables a coroner to give directions to a person to provide any tissue taken from a deceased person before his or her death to a specified person for the purposes of investigating the deceased person's death⁷⁶. Section 89 (1) (b) (iii) enables a coroner to give a post mortem investigation direction that any such tissue be examined or tested⁷⁷. Clause (b) of subsection (3) of Section 90 also specifically authorizes the coroner to retain the tissue if the tissue is tissue that was taken from the deceased person before his or her death⁷⁸. The law also authorizes the concerned person to use the sample retained under paragraph (a) or (b)⁷⁹ for the following purposes: (i) the exercise by a coroner of his or her functions under this Act, (ii) an investigation of any offence, (iii) any legal proceedings (whether or not in connection with an offence), (iv) a purpose authorised by an authority given under the Human Tissue Act 1983 that is sufficient authority to use the tissue for that purpose, (v) in relation to a sample referred to in paragraph (a) (iii), any medical, therapeutic or scientific purpose, (vi) such other purposes as may be prescribed by the regulations.

- Provision regarding disposal of organs: The law does not authorize the retention of whole organs of a deceased person after a coroner makes an order authorizing the disposal of the deceased person's remains unless a coroner makes a further order under authorizing the retention of specified whole organs of a deceased person only in one

⁷⁴ Clause (a) (b) (c) of subsection (2) of Section 90 of Coroners Act 2009 No 41. New South Wales.

⁷⁵ Clause (a) of subsection (3) of Section 90 of Coroners Act 2009 No 41. New South Wales

⁷⁶ Coroners Act 2009 No 41. New South Wales

⁷⁷ Coroners Act 2009 No 41. New South Wales

⁷⁸ Coroners Act 2009 No 41. New South Wales

⁷⁹ Clause (a) & (b) of subsection (3) of Section 90 of Coroners Act 2009 No 41. New South Wales

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condition i.e., if the coroner is satisfied that the retention is necessary or desirable to assist in the investigation of the manner or cause of the person's death. However, coroner has to cause notice of the making of the order to be given to a senior next of kin of the deceased person as soon as is reasonably practicable after the order of retention of human tissue is made⁸⁰.

- Law authorizes a coroner to issue order for the exhumation of the remains of a deceased person who has been buried if the coroner considers it desirable to do so for the purpose of directing any of the following: (a) a post mortem examination, or a further or more complete post mortem examination, of the remains (or part of the remains), (b) a special examination or test, or a further or more complete special examination or test, of the remains (or part of the remains)⁸¹. The law also defines what is Coronial Medical Officers and makes provision for remuneration of medical practitioners and other persons⁸².
- Protection of medical practitioner acting under coroner's direction: Law makes special provisions that protects the medical practitioner for anything done or omitted to be done from any action, liability, claim or demand if the act or omission was done or omitted to be done in good faith for the purposes of: (a) conducting a post mortem examination or other examination or test pursuant to a direction under this Act, or (b) conducting a review of the medical records of a deceased person pursuant to a direction under this Act⁸³.
- Law also defines the Meaning of "relevant post mortem investigative function" as (a) the function of issuing a post mortem investigation direction for the conduct of post mortem examinations on deceased persons, (b) the function of authorising the retention of whole organs of deceased persons under section 90⁸⁴.

⁸⁰ Subsection (4) (5) & (6) of Section 90 of Coroners Act 2009 No 41. New South Wales

⁸¹ Clause (a) & (b) of subsection (1) of Section 91 of Coroners Act 2009 No 41. New South Wales

⁸² Section 93 of Coroners Act 2009 No 41. New South Wales

⁸³ Section 94 of Coroners Act 2009 No 41. New South Wales

⁸⁴ Section 95 of Coroners Act 2009 No 41. New South Wales

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- The power of senior next of kin (relatives of the deceased) to raise the objections about relevant post mortem investigative directions- The law gives following powers to the senior next of kin⁸⁵:
 - request a coroner or an assistant coroner by notice in writing, not to exercise a relevant post mortem investigative function in relation to the deceased person.
 - to receive cause notice from coroners about his decision that the post mortem examination or whole organ retention concerned is necessary or is desirable, when the request about not to exercise a relevant post mortem investigative function in relation to the deceased person has been made by a next of kin.
 - to apply to the Court for an order that a post mortem examination not to be conducted or a whole organ not be retained (as the case requires).
- The law also prescribes the power of court to hear the application of next of kin for prohibiting the coroner from carrying out postmortem examination: On application of next of kin, the Court has following powers⁸⁶:
 - (a) in relation to the application concerning a post mortem examination: (i) order that the post mortem examination not be conducted, or (ii) order that a post mortem examination be conducted subject to such limitations as the Court may specify in the order, or (iii) order confirming the direction of the coroner,
 - (b) in the case of an application concerning the retention of a whole organ of a deceased person: (i) order that the whole organ not be retained, or (ii) order confirming the order of the coroner.
- The law also prohibits unauthorized disposal of human remains of a deceased person and remains of a stillborn child⁸⁷.
- The law applicable to Queensland authorizes the coroner to make, or arrange for, any examination, inspection, report or test that he considers is necessary for the investigation

⁸⁵ Section 96 & 97 of Coroners Act 2009 No 41. New South Wales

⁸⁶ Section 97 of Coroners Act 2009 No 41. New South Wales

⁸⁷ Section 100 of Coroners Act 2009 No 41. New South Wales

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of death⁸⁸. He may authorize a doctor or nurse to take a sample of the deceased person's blood for testing⁸⁹. Laws also prescribe the procedure to be followed for transferring the dead body to the mortuary on the orders of coroner so as to maintain the dignity and respect to be accorded to deceased person⁹⁰. Law also defines mortuary. The law also specifically authorizes the coroner to order for autopsy as a part of death investigation or to find out whether a body is that of a stillborn child⁹¹. The law also specifically authorizes a coroner to order autopsy after exhumation⁹². The law not only defines autopsy in following terms but also gives the example of partial internal examination⁹³.

- (i) an external examination of the body; or
 - (ii) an external and partial internal examination of the body; or
 - (iii) an external and full internal examination of the body.
- The law of the Queensland also makes it mandatory to the coroner to state in the order the type of examination to be conducted⁹⁴. It also directs to coroner before ordering an internal examination of the body, whenever practicable, consider at least the following⁹⁵:
(a) that in some cases a deceased person's family may be distressed by the making of this type of order, for example, because of cultural traditions or spiritual beliefs; (b) any concerns raised by a family member, or another person with a sufficient interest, in relation to the type of examination to be conducted during the autopsy. After considering any concern mentioned in subsection, the coroner decides it is still necessary to order the internal examination, the law makes it mandatory for the coroner to give a copy of the order to the person who raised the concern⁹⁶.

⁸⁸ Subsection (2) of Section 13. Coroners Act 2003. (Current as at 1 July 2014) Queensland.

⁸⁹ Subsection (3) of Section 13. Coroners Act 2003. (Current as at 1 July 2014) Queensland.

⁹⁰ Section 18. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹¹ Subsection (2) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹² Section 20. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹³ Subsection (3) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹⁴ Subsection (4) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹⁵ Subsection (5) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹⁶ Subsection (6) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

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- Power to select the doctor: The law of the Queensland gives power to coroner to select the doctor having necessary skills to conduct the autopsy having regard to the particular circumstances of the case and also gives the example for it as follows “Particular doctors may have the necessary skills to conduct autopsies on adults but not on children”⁹⁷.
- The law of the Queensland also makes provision about who can observe the autopsy and procedure to be followed⁹⁸:
 - (1) The coroner, or a police officer who is investigating a death under this or another Act, is entitled to observe and participate in the autopsy.
 - (2) If the coroner considers it appropriate, a person may observe and participate in an autopsy for his or her vocational or clinical education or training with the consent of the doctor who is conducting the autopsy. Examples— an attending doctor, medical students, mortuary staff, nurses and police officers
 - (3) The coroner may allow a person, or the person’s representative, to observe the autopsy if the coroner considers:
 - (a) the person has a sufficient interest in the autopsy; and
 - (b) the attendance of the person, or the person’s representative, at the autopsy would not compromise the integrity of the coronial investigation or any other investigation into the death; and (Example of other investigation— a criminal investigation, workplace health and safety investigation or disciplinary investigation
 - (c) the attendance of the person, or the person’s representative, at the autopsy is otherwise appropriate.
 - Before allowing a person to observe an autopsy under, the coroner:
 - (a) must, whenever practicable, consult with and consider the views of— (i) a family member of the deceased person; and (ii) the doctor who is to conduct the autopsy; and

⁹⁷ Subsection (7) of Section 19. Coroners Act 2003. (Current as at 1 July 2014) Queensland

⁹⁸ Section 21. Coroners Act 2003. (Current as at 1 July 2014) Queensland

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- (b) may consult with, and consider the views of, anyone else the coroner considers appropriate.
- The law also prescribes powers to coroner regarding Extra medical evidence for autopsy: If the coroner considers it necessary for the investigation of a death, the coroner may, by written notice, require
 - (a) an attending doctor: (i) to be present at the autopsy; or (ii) to give the coroner a written report to help the doctor who is to conduct, or conducted, the autopsy; or
 - (b) a person who has any medical records of the deceased person, or tissue samples from the deceased person, to give them to the doctor who is to conduct, or conducted, the autopsy. Example: The coroner may require the person in charge of the nursing home in which the deceased person died to release the deceased person's medical records.
- The law also prescribes specific powers to the coroner and doctor about autopsy testing⁹⁹:
 - ✓ A coroner may order that the doctor who has been ordered to conduct an autopsy also conduct a particular test.
 - ✓ Also, the doctor may conduct any test that is consistent with the type of autopsy ordered by the coroner if the doctor considers it necessary to investigate the death.
 - ✓ For a test, the doctor may remove tissue from the deceased person's body.
 - ✓ Regardless of the type of autopsy ordered, the doctor may take blood or urine samples for testing.
- The law also gives power to any person to apply to the coroner in writing for an order that the doctor who has been ordered to conduct an autopsy, or who conducted an autopsy, also conduct a test for any or all of the following as stated in the application¹⁰⁰: (a) an infectious condition; (b) a notifiable condition; (c) an emergency notifiable condition; (d) a controlled notifiable condition.

⁹⁹ Section 23. Coroners Act 2003. (Current as at 1 July 2014) Queensland

¹⁰⁰ Section 23A. Coroners Act 2003. (Current as at 1 July 2014) Queensland

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- The law makes following provisions about removing tissue for autopsy testing¹⁰¹:
 - ✓ If prescribed tissue is removed, the doctor must inform the coroner before the coroner orders the body's release.
 - ✓ The coroner, knowing that the tissue has been removed, may nevertheless order the release of the body.
 - ✓ If the coroner is not satisfied as mentioned in subsection (4)(a) and (b), the coroner must order the doctor to return the prescribed tissue to the body before the body is released.
 - ✓ If tissue kept for testing is prescribed tissue, the coroner must, at not more than 6-monthly intervals after the date of the order for the autopsy, decide whether the tissue
 - (a) still needs to be kept for: (i) the investigation of the death; or (ii) proceedings for an offence relating to the death; or
 - (b) may be disposed of.
- The law also prescribes procedure to be followed by the doctor and forms to be used for autopsy report and the authorities to whom such form to be given including registrar under Births & Death Act¹⁰².
- The law also prescribes when the coroner will have the control of the dead body and when not¹⁰³.
- The law applicable to Singapore defines investigation as¹⁰⁴: “investigation” means an investigation into a death conducted by a police officer, a Coroner or a forensic pathologist, and includes any post-mortem examination.
- Law also prescribes when post-mortem examination necessary: In a case of a death reported to a Coroner under section 11, the Coroner may, after consulting a pathologist, order a post-mortem examination to be conducted if the Coroner is of the opinion that a

¹⁰¹ Section 24. Coroners Act 2003. (Current as at 1 July 2014) Queensland

¹⁰² Section 24A & 25. Coroners Act 2003. (Current as at 1 July 2014) Queensland

¹⁰³ Section 26. Coroners Act 2003. (Current as at 1 July 2014) Queensland

¹⁰⁴ Section (2) (1) Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

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post-mortem examination is necessary in the circumstances to establish the manner and cause of death¹⁰⁵.

- Law also prescribes provision for conduct of postmortem examination: Section 19 (1)¹⁰⁶ prescribes that a post-mortem examination may only be performed by- (a) a pathologist; or (b) a medical practitioner under the supervision of a pathologist. Law also gives power to pathologist to perform any operation on the body that he thinks necessary, including causing any part or contents of the body or any other substance or thing to be retained for the purpose of determining the manner or cause of death¹⁰⁷.
- Law also gives power to the Coroner or the forensic pathologist investigating to direct the person performing a post-mortem examination to cause to be retained any part or contents of the body or any other substance or thing which appears to the Coroner or forensic pathologist to be relevant in establishing the manner or cause of death¹⁰⁸. Law also prescribes provision for Post-mortem examination report and special examination report¹⁰⁹ and power to order postmortem examination on exhumed body.
- Law of South Australia also gives power to coroner to direct a medical practitioner who is a pathologist, or some other person or body considered by the State Coroner or the Court to be suitably qualified, to perform or to cause to be performed, as the case may require¹¹⁰:
 - ✓ (i) a post-mortem examination of the body of a dead person; and
 - ✓ (ii) any other examinations or tests consequent on the post-mortem examination.
- Law of the UK prescribes following powers to coroner pertaining to post-mortem^{111,112}:
Request any legally qualified medical practitioner to make

¹⁰⁵ Section (18) (1) Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

¹⁰⁶ Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

¹⁰⁷ Section 19 (2) (a) Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

¹⁰⁸ Section 19 (3) Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

¹⁰⁹ Section 20 Coroners Act- The Statutes of The Republic Of Singapore. (Act 14 of 2010)

¹¹⁰ Clause (i) of Subsection 1 of Section 22 Coroners Act 2003. South Australia

¹¹¹ Section 22 (1) of Coroners Amendment Act, 1926 (CH.59) UK

¹¹² Also see Coroner Act- 1887- 50 & 51 VICT. CH. 71. London.

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- ✓ (a) post-mortem examination of the body of the deceased.
- ✓ (b) a special examination by way of analysis, test or otherwise of such parts or contents of the body or such other substances or things as ought in the opinion of the coroner to be submitted to analyses, test or other special examination with a view to ascertaining how the deceased came by his death.

or to make both such examination, or may request any person whom he considers to possess special qualification for conducting such a special examination as aforesaid to make the special examination.

- Section 23 deals with about fees payable to medical witness, and section 24 deals with the power of the coroner of removal of dead body for postmortem examination¹¹³.
- A coroners & Justice Act¹¹⁴ provides that a senior coroner may request a suitable practitioner to make a post-mortem examination of a body if: (b) a post-mortem examination is necessary to enable the coroner to decide whether the death is one into which the coroner has a duty under section 1(1) to conduct an investigation. In relation to alleged death due to negligence the act makes following provisions¹¹⁵: Where a person informs the senior coroner that, in the informant's opinion, death was caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person, that practitioner or other person— (a) must not make, or assist at, an examination under this section of the body, but (b) is entitled to be represented at such an examination.
- Regulations¹¹⁶ made in exercise of the powers conferred by section 43 of the Coroners and Justice Act 2009 makes following provisions:
- Regulation 11: Directs the coroner to take steps to avoid delay in post-mortem examination.

¹¹³ Coroners Amendment Act, 1926 (CH.59) UK

¹¹⁴ Section 14 Coroners and Justice Act 2009 (c. 25) London & Wales.

¹¹⁵ Subsection 4 of Section 14 Coroners and Justice Act 2009 (c. 25) London & Wales.

¹¹⁶ The Coroners (Investigations) Regulations 2013- Statutory Instrument (2013 No. 1629) Coroners, England and Wales

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- Regulation 12: Post-mortem examination where homicide offence is suspected: the coroner must consult that chief officer of police about who should make the post-mortem examination.
- Regulation 13: Duty of coroner to give Notification of post-mortem examination to persons listed in regulation and also prescribes about the persons who may attend a post-mortem examination.
- Regulation 14 & 15: Procedure to be followed for preservation or retention of material from a post-mortem examination.
- Regulation 14 also prescribes the mandatory duty of coroner to notify the next of kin and any other relative, that material is being preserved or retained, the period or periods for which it is required to be preserved or retained.
- Regulation 14 also prescribes the mandatory duty of coroner to notify the next of kin and any other relative about the following options for dealing with the material once the period or periods of preservation or retention has or have expired: (a) disposal of the material by burial, cremation or other lawful disposal by the suitable practitioner; (b) return of the material to a person listed in sub-paragraph (a) or (b) of paragraph (5); or (c) retention of the material with the consent of a person (next of kin/ relative) for medical research or other purposes in accordance with the Human Tissue Act 2004(a).
- The law of London & Wales also makes provision for appointment of Medical Examiners, its qualification, terms of appointment, fees payable etc¹¹⁷. It also makes following provision regarding Medical certificate of cause of death¹¹⁸:
 - ✓ requiring a copy of an attending practitioner's certificate (certificate stating the cause of death) to be given to a medical examiner;
 - ✓ requiring a senior coroner to refer a case to a medical examiner;
 - ✓ provision requiring a medical examiner to make whatever enquiries appear to be necessary in order to confirm or establish the cause of death;

¹¹⁷ Section 19 Coroners and Justice Act 2009 (c. 25) London & Wales.

¹¹⁸ Section 20 Coroners and Justice Act 2009 (c. 25) London & Wales

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- ✓ provision requiring a medical examiner to whom a copy of an attending practitioner's certificate has been given: (i) to confirm the cause of death stated on the certificate and to notify a registrar that the cause of death has been confirmed, or (ii) where the examiner is unable to confirm the cause of death, to refer the case to a senior coroner.
- Even law of Australia, authorizes coroner to specifically direct a medical practitioner to perform an autopsy on the body of the deceased person¹¹⁹. It also authorizes a medical practitioner performing an autopsy may to preserve any material that appears to the coroner or the medical practitioner to bear on the cause of death¹²⁰. It also authorizes a person to ask a coroner to direct that an autopsy be performed on the body of the deceased person and if a coroner refuses a person's request then the person may apply to the Court for an order for an autopsy¹²¹. The law makes it mandatory for the coroner to take reasonable steps to notify the senior next of kin of the deceased person about his direction to perform autopsy¹²². Law also authorizes the senior next of kin of the deceased person to ask a coroner not to direct that an autopsy be performed and if coroner refuses persons request the senior next of kin of the deceased person may apply to the Court for an order that an autopsy not be performed and the Court, in its discretion, may make an order that no autopsy be performed¹²³.
- Victoria law defines various terms as: autopsy means: (a) the dissection of a body (including the removal of tissue); or (b) any other prescribed procedure in relation to a body- but does not include- (c) a preliminary examination; or (d) an identification procedure. *Medical examination* means a preliminary examination, an identification procedure or an autopsy. Medical procedure means a procedure performed on a person by or under the general supervision of a registered medical practitioner and includes imaging, internal examination and surgical procedure. **Preliminary examination** in

¹¹⁹ Section 20 (1) Coroners Act. Northern Territory of Australia (As in force at 9 September 2014)

¹²⁰ Section 20 (2) Coroners Act. Northern Territory of Australia (As in force at 9 September 2014)

¹²¹ Section 21 Coroners Act. Northern Territory of Australia (As in force at 9 September 2014)

¹²² Section 21 Coroners Act. Northern Territory of Australia (As in force at 9 September 2014)

¹²³ Section 23 Coroners Act. Northern Territory of Australia (As in force at 9 September 2014)

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relation to a body means any of the following procedures- (a) a visual examination of the body (including a dental examination); (b) the collection and review of information, including personal and health information relating to the deceased person or the death of the person; (c) the taking of samples of bodily fluid including blood, urine, saliva and mucus samples from the body (which may require an incision to be made) and the testing of those samples; (d) the imaging of the body including the use of computed tomography (CT scan), magnetic resonance imaging (MRI scan), x-rays, ultrasound and photography; (e) the taking of samples from the surface of the body including swabs from wounds and inner cheek, hair samples and samples from under fingernails and from the skin and the testing of those samples; (f) the fingerprinting of the body; (g) any other procedure that is not a dissection, the removal of tissue or prescribed to be an autopsy¹²⁴.

- Section 23¹²⁵ gives the power to coroner to provide a body to a medical investigator to enable a preliminary examination to be performed on the body.
- Section 24¹²⁶ authorizes the coroner to direct a medical investigator to perform any procedure on a body (including the removal of tissue but not including a preliminary examination) for the purposes of identifying the deceased person.
- Subsection (2) of Section 25 gives power to a coroner to direct a medical investigator to perform an autopsy on a body if the coroner believes that- (a) the autopsy is necessary for the investigation of the death; and (b) it is appropriate to give the direction¹²⁷.
- Subsection (3) of section 25 gives power to coroner (After consulting with, and seeking advice from, the Institute or a pathologist) to (a) impose conditions on the manner in which an autopsy on a body is to be performed; and (b) direct the medical investigator to perform certain tests on a body or on tissue or other material removed from the body. Example Conditions under subsection (3) could include the number of cavities to be

¹²⁴ Section 3. Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹²⁵ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹²⁶ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹²⁷ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

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explored or the organs to be removed¹²⁸. It also prescribes that nothing in this act prevents a preliminary examination or an identification procedure from being performed concurrently with an autopsy¹²⁹.

- The law makes it mandatory for the coroner to take reasonable steps to notify the senior next of kin of the deceased person about his direction to perform autopsy. Law also authorizes the senior next of kin of the deceased person to ask a coroner not to direct that an autopsy be performed and if coroner refuses persons request the senior next of kin of the deceased person may apply to the Court for an order that an autopsy not be performed and the Court, in its discretion, may make an order that no autopsy be performed¹³⁰. It also authorizes a person to ask a coroner to direct that an autopsy be performed on the body of the deceased person and if a coroner refuses a person's request then the person may apply to the Court for an order for an autopsy¹³¹.
- Subsection (1) of Section 28 provides that the following persons may remove or assist in the removal of tissue under the general supervision of a medical investigator- (a) a mortuary technician; (b) a forensic technician; (c) a scientist; (d) a prescribed person¹³².
- Subsection (2) of section 28 gives power to a coroner to direct a medical investigator undertaking a medical examination to preserved, for any period that the coroner directs, any tissue or material that appears to the medical investigator to bear on the cause or circumstances of the death or the identity of the deceased person¹³³.
- Subsection (2) of section 33 makes it mandatory under penalty to a registered medical practitioner- (a) who was responsible for a person's medical care immediately before that person's death; or (b) who was present at or after the person's death- to give the coroner

¹²⁸ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹²⁹ Subsection (4) of Section 25 Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹³⁰ Section 26 Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹³¹ Section 27 Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹³² Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹³³ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

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any information or assistance that the coroner requests for the purposes of the investigation¹³⁴.

- Act of Bermuda gives power to coroner to summon medical practitioner as a witness who had attended the deceased person at his death, or during his last illness and where the deceased person was not so attended, the act gives power to the Coroner to summon any registered medical practitioner in actual practice in Bermuda and such practitioner may be asked as to how in his opinion the deceased came to his death¹³⁵. It also gives power to coroner to direct medical witness to make a post-mortem examination of the body of the deceased person with or without an analysis of the stomach or intestines¹³⁶.
- British Columbia Act gives power to coroner to authorize a medical practitioner to do one or more of the following¹³⁷:
 - ✓ (a) a post-mortem examination, with or without dissection of the body;
 - ✓ (b) an analysis of the blood, urine or contents of the stomach and intestine;
 - ✓ (c) any other examination or analysis the coroner considers necessary for the purpose of the investigation.
- Law also makes it mandatory on a medical practitioner who performs post-mortem examination or analysis to promptly report his findings to coroner¹³⁸.
- Act of Jamaica¹³⁹ gives power to Coroner, Justice, or designated police officer, in his discretion to direct any duly qualified medical practitioner to make a post mortem examination of the dead body:
 - ✓ When there is reasonable cause to suspect that a person has died, either a violent, or an unnatural death, or has died a sudden death, of which the cause is unknown, or that a medical certificate of cause of death under the Registration (Births and Deaths) Act

¹³⁴ Coroners Act 2008. No. 77 of 2008. Victoria (1 July 2010)

¹³⁵ Section 15 (1) Coroners Act 1938 Bermuda (1989 Revision)

¹³⁶ Section 15 (2) Coroners Act 1938 Bermuda (1989 Revision)

¹³⁷ Section 13 (1) Coroners Act (SBC 2007) Chapter 15. British Columbia.

¹³⁸ Section 13 (3) (4) Coroners Act (SBC 2007) Chapter 15. British Columbia.

¹³⁹ Section 6. The Coroners Act- Jamaica

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in respect of such person will not be forthcoming or that such person has died in prison, or in such place, or under such circumstances, as to require an inquest in pursuance of any law.

- *Extension of Post-mortem to the dissection:* The act of Jamaica gives power to medical practitioner¹⁴⁰:
 - ✓ to make a post mortem examination not only with a view to determine the cause of the death but also to throw all the light upon the circumstances connected with the death that such an examination can supply and
 - ✓ to draw a report in writing (and sign) of the appearances of the body on such post-mortem examination, and of the conclusions which he draws therefrom touching the death.
 - ✓ to extend the post mortem examination to the dissection of the body only when it is considered by the medical practitioner necessary for the purpose of throwing light upon the circumstances connected with the death, but not otherwise.

The extension of dissection of dead body is permitted only as far as the medical practitioner may think requisite for the purpose of throwing light upon the circumstances connected with the death.

- The act¹⁴¹ also makes it mandatory for the medical practitioner to deliver his report to the appropriate Coroner or designated police, within forty-eight hours after making the examination and upon receipt of such report the coroner or designated police officer, may authorize the burial of the dead body, or may, at his discretion, prohibit such burial until the order of the appropriate Coroner shall be given respecting the same.
- Provision for re-postmortem: If a majority of the jury sitting on an inquest are of opinion that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses brought before them, they may require the appropriate Coroner in writing to summon as a witness a duly qualified forensic

¹⁴⁰ Section 8. The Coroners Act- Jamaica

¹⁴¹ Section 8. The Coroners Act- Jamaica

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pathologist named by them, and except where the body has been cremated further to direct a post mortem examination of the deceased, with or without an analysis of the contents of the stomach or intestines, to be made by that forensic pathologist, and that whether such examination has been previously made or not¹⁴².

- The law also authorizes the minister to make following regulations generally for giving effect to the provisions of this Act: (a) prescribing any form considered necessary or desirable for the purposes of this Act; (c) stipulating the persons entitled to attend or be represented at a post mortem examination conducted S. pursuant, the notice to be given to such persons and the procedure to be followed in connection with their attendance at the post mortem examination¹⁴³.
- Coroners Act 2006- New Zealand¹⁴⁴ prescribes role of coroner in relation to a death: to decide whether to direct a post-mortem and, if one is directed, to determine whether to authorise certain people (other than the pathologist) to attend; and to authorise the release of the body (including determining, if a post-mortem has been directed, whether the pathologist wishes and is permitted, on the release of the body, to retain body parts or bodily samples).
- It also give power to coroner give any directions whatever he thinks fit about removal of the body (for example, directions about the removal of the body to a mortuary or morgue) for the purposes of a post-mortem of a body directed under law¹⁴⁵. The law also gives power to relatives a right to object to a proposed post-mortem¹⁴⁶ and also prescribes procedure to deal with such objection¹⁴⁷. It also prescribes that the designated coroner has an exclusive right to custody of the body concerned: (a) from the time when a death has been reported to him or her under section 15(2)(a) or section 16(2)(b); and (b) until he or

¹⁴² Section 8. The Coroners Act- Jamaica.

¹⁴³ Section 34. The Coroners Act- Jamaica

¹⁴⁴ Section 4

¹⁴⁵ Section 20. Coroners Act 2006- New Zealand

¹⁴⁶ Section 23, 24, 33, 35. Coroners Act 2006- New Zealand

¹⁴⁷ Section 34. Coroners Act 2006- New Zealand

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she authorises the release of the body under section 42¹⁴⁸. It also has a provision about who can touch, or remain with or near the body which is in coroners custody, & also prescribes a procedure for a coroner about when to authorise a person under section 25(3) to view, touch, or remain with or near the body¹⁴⁹. It also gives a power to relatives to request pathologist's report on post-mortem and also prescribes a procedure for a coroner for the same¹⁵⁰.

- The act gives specific power to Coroner to direct a pathologist to perform a post-mortem of a body¹⁵¹ but at the same time prescribes that following matters coroners must give regard to decide whether to direct a post-mortem or not¹⁵²:
 - ✓ (a) the extent to which the matters required by this Act to be established by an inquiry- (i) are not already disclosed in respect of the death concerned by information available directly to the coroner or from information arising from investigations or examinations the coroner has made or caused to be made; but (ii) are likely to be disclosed by a post-mortem; and
 - ✓ (b) whether the Director-General of Health has ordered or is likely to order a post-mortem of the body concerned under section 78 of the Health Act 1956; and
 - ✓ (c) whether the death appears to have been unnatural or violent; and
 - ✓ (d) if the death appears to have been unnatural or violent, whether it appears to have been due to the actions or inaction of other people; and
 - ✓ (e) the existence and extent of any allegations, rumours, suspicions, or public concern about the cause of the death; and
 - ✓ (f) the desirability of minimising the causing of distress to people who, by reason of their ethnic origins, social attitudes or customs, or spiritual beliefs, customarily require bodies to be available to family members as soon as possible after death; and

¹⁴⁸ Section 19. Coroners Act 2006- New Zealand

¹⁴⁹ Section 25,25, 38 Coroners Act 2006- New Zealand

¹⁵⁰ Section 27. Coroners Act 2006- New Zealand

¹⁵¹ Section 31. Coroners Act 2006- New Zealand

¹⁵² Section 32. Coroners Act 2006- New Zealand

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- ✓ (g) the desirability of minimizing the causing of offence to people who, by reason of their ethnic origins, social attitudes or customs, or spiritual beliefs, find post-mortems of bodies offensive; and
- ✓ (h) the desire of any member of the immediate family of the person concerned that a post-mortem should be performed; and
- ✓ (i) any other matters the coroner thinks relevant.
- The act also defines the nature of post-mortem examination and prescribes the procedure about how to order lesser post-mortem and also gives power to coroner to consult the pathologist whom the coroner proposes to direct to perform in the examination about whether the lesser examination proposed would or may limit that pathologist's ability to determine the cause of death¹⁵³.
- Coroner may also require person's doctor to report a coroner may, by written notice to a doctor who attended a person before death, require the doctor to give the coroner a written report (containing information specified in the notice) relating to the person¹⁵⁴.
- The act also prescribes following guidelines about receipt, removal, and taking of parts and samples from the body¹⁵⁵:
 - ✓ (1) A pathologist may, with no further authority than this section, receive or remove a body part, take a bodily sample, or both, if the pathologist believes on reasonable grounds that the receipt, removal, or taking concerned is necessary for the purposes of a post-mortem of a body directed by a coroner under section 31.
 - ✓ (2) A body part removed, or bodily sample taken, by a pathologist for the purposes of the post-mortem must be as small as possible for the kind of analysis or examination for which the part is removed or the sample is taken.
 - ✓ (3) The number of body parts received or removed, bodily samples taken, or both, must be no greater than is necessary for the purposes of the post-mortem.

¹⁵³ Section 32. Coroners Act 2006- New Zealand

¹⁵⁴ Section 40. Coroners Act 2006- New Zealand

¹⁵⁵ Section 47. Coroners Act 2006- New Zealand

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- ✓ (4) Nothing in this section prevents any other receipt, removal, or taking of a part or sample authorised by law.
- The act also prescribes when the pathologist is permitted to retain the body part or bodily sample. He can retain the samples only if¹⁵⁶:
 - ✓ (a) the part or sample is a minute one received, removed, or taken for microscopic analysis, or other analysis that requires only a minute part or sample, and is, in the pathologist's opinion, necessary for the purposes of the post-mortem; or
 - ✓ (b) the retention is, in the pathologist's opinion, necessary for the purposes of the post-mortem, and is authorized by the coroner in accordance with section 49; or
 - ✓ (c) the pathologist explained to the family members or other people to whom the body is to be released that the pathologist proposed to retain the part or sample for a specified purpose and none of those members or people objected to the pathologist's proposal.
- The law also prescribes when coroner can authorize the retention of a body part etc¹⁵⁷: A coroner may authorise the retention of a body part or bodily sample under section 48(2)(b) only in writing signed by the coroner, and only if the pathologist has first notified the coroner in writing of-
 - ✓ (a) the part or sample proposed to be retained; and
 - ✓ (b) the reasons for, and likely duration of, the proposed retention.
- The act also make it mandatory for coroner that he must notify family, etc, of retention, and of right to request return, of retained parts and samples¹⁵⁸:
 - ✓ (1) If a part or sample has been, or is to be, retained under section 48(2)(a) or (b), the coroner must, on or before releasing the body- (a) notify the family members or other people to whom the body is or is to be released of the retention or proposed retention of the part or sample; and (b) comply with section 23 (coroner must give family

¹⁵⁶ Subsection 2 of Section 48. Coroners Act 2006- New Zealand

¹⁵⁷ Section 49. Coroners Act 2006- New Zealand

¹⁵⁸ Section 50. Coroners Act 2006- New Zealand

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representative, immediate family, and certain others notice of significant matters) in relation to the retention or proposed retention of the part or sample.

- ✓ (2) The notice required by subsection (1) of the retention or proposed retention of the part or sample must: (a) identify the part or sample that is to be, or has been, retained: (b) explain the authority and reasons for the retention or proposed retention: (c) indicate how long the pathologist expects the part or sample to need to be retained for those reasons: (d) indicate (if known by the coroner) whether, and, if so, to what extent, the part or sample is likely to be destroyed in the course of being used for the purpose for which it is retained.
- ✓ (3) That notice must also advise that the family members or other people to whom the body is or is to be released- (a) have the right to request, under this section, the return (to the extent permitted by this Act) of the part or sample once it is no longer needed, and to the extent that it has not been destroyed in the course of use, for the purpose for which it is to be, or has been, retained; and (b) may exercise that right at any time within 5 working days after having been advised of it.
- The law also makes it mandatory for pathologist that he must notify family members that they- (a) have the right to request, under this section, the return (to the extent permitted by this Act) of the part or sample once it is no longer needed, and to the extent that it has not been destroyed in the course of use, for that purpose; and (b) may exercise that right at any time within 5 working days after having been advised of it¹⁵⁹. The act also prescribes about how family members can requests for return of retained parts and samples¹⁶⁰. The act also specifically deals with parts and samples whose retention is not permitted must generally be returned when body released, restrictions on return and disposal, return on request of retained parts and samples, use and disposal of retained parts or samples whose return is not requested¹⁶¹. The act also gives power to police to seize following things/

¹⁵⁹ Section 51. Coroners Act 2006- New Zealand

¹⁶⁰ Section 52. Coroners Act 2006- New Zealand

¹⁶¹ Section 53, 54, 55, 56. Coroners Act 2006- New Zealand

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evidence relevant to post-mortem and may use any force reasonably necessary in the circumstances for the same¹⁶²:

- ✓ (1) (a) on, or in the immediate vicinity of, the body as found in the place, craft, or vehicle from which it is being removed; and (b) that the member of the police believes on reasonable grounds is or may be relevant to the post-mortem of the body directed under section 31.
- ✓ (2) Within 5 working days after seizing a thing under subsection (1), the member of the police must take all reasonable steps to inform the owner or occupier of the place, person in charge of the craft, or driver or rider of the vehicle from which the body is removed, or the person from whose possession or control the thing was seized, of the fact that the thing was seized and of the place from where it was seized.
- ✓ (4) Anything seized under subsection (1) must be delivered to the coroner who directed under section 31 the post-mortem of the body and must if practicable be returned promptly once it is no longer needed for the purposes of that post-mortem.
- Act of Ontario, gives power to coroner to issue a warrant to take possession of the dead body if there is reason to believe that the person died in any of the circumstances mentioned in section 10¹⁶³. The act not only gives power to coroner to issue a warrant for a pathologist to perform a postmortem examination of the body but also gives power to conduct examinations and analysis that he considers appropriate in the circumstances and also to direct any person, other than the pathologist to conduct such examinations and analysis¹⁶⁴. The act also make it mandatory for pathologist to perform post-mortem examination after issue of warrant by coroner and at the same time it gives power to pathologist (a) to enter and inspect any place where the dead body is and examine the body; and enter and inspect any place from which the pathologist has reasonable grounds

¹⁶² Section 131. Coroners Act 2006- New Zealand

¹⁶³ Section 15 (1) Coroners Act 1990. Ontario.

¹⁶⁴ Section 28(1) & (2) Coroners Act 1990. Ontario.

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for believing the body was removed¹⁶⁵. The law also gives power to pathologist or chief Forensic Pathologist to conduct or direct any person other to conduct such examinations and analysis as he or she considers appropriate in the circumstances and also permits him to obtain the assistance of any person or persons in performing the postmortem examinations and in conducting any other examinations and analysis¹⁶⁶. The law also authorizes to issue warrant for second or further postmortem examination of the body if chief forensic pathologist is of the opinion that such examination is necessary¹⁶⁷.

- Law of the Bahamas gives power to the coroner, whenever it is practicable so to do, cause the body to be examined by a duly qualified medical practitioner, *with or without* a post mortem examination or analysis of the contents of the stomach and intestines, and a report thereof in writing to be made to him; and shall also cause the facts and circumstances attending the death to be carefully investigated under his direction by the police¹⁶⁸. The law also makes following provision about coroners power to use medical evidence¹⁶⁹: Whenever it appears necessary to the coroner etc that medical evidence should be given touching the death of the deceased, or that a post mortem examination or autopsy should be made with or without an analysis of the stomach and intestines or that any clothing, receptacle, weapon or any other article or thing suspected to be connected with the death of the deceased should be examined or analysed, the coroner may summon the duly qualified medical practitioner who attended the deceased during his last illness, or any other duly qualified medical practitioner or analyst as a witness at the inquest; and the coroner, in his summons for the attendance of such medical practitioner or analyst or at any time between the issuing of the summons and the termination of the inquest, may direct the performance by such medical practitioner of a post mortem examination autopsy or by such medical practitioner or analyst of an analysis of the contents of the

¹⁶⁵ Section 28(4) Coroners Act 1990. Ontario

¹⁶⁶ Section 28(6), (7), (8) Coroners Act 1990. Ontario

¹⁶⁷ Section 29 (3) Coroners Act 1990. Ontario

¹⁶⁸ Section 14. Coroners Act Statute Law of the Bahamas

¹⁶⁹ Section 20. Coroners Act Statute Law of the Bahamas

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stomach and intestines of the deceased, or of any clothing, receptacle, weapon or any other article or thing suspected to be connected with the death of the deceased: Provided that, if any person shall state on oath before the coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of any duly qualified medical practitioner or other person, such medical practitioner or other person shall not be allowed to perform or assist at the post mortem examination of the deceased. The law also prescribes punishment if any duly qualified medical practitioner or analyst, who being directed to make any post mortem examination or analysis, refuses or neglects to do so¹⁷⁰. The law also fees for duly qualified medical practitioners, analysts¹⁷¹.

- Section 4703 (a) of Delaware Code¹⁷² makes provision of appointment of Chief Medical Examiner and also prescribes that he shall be a board-certified pathologist, with preference given to applicants with training and experience in the field of forensic pathology. It also prescribes the procedure for appointments of Assistant Medical Examiners¹⁷³. The Section 4704¹⁷⁴ also prescribes the Duties of Medical Examiners as follows:- The Chief Medical Examiner, the Assistant Medical Examiners and the Deputy Medical Examiners shall perform all the medical and other functions formerly devolving upon the coroners, deputy coroners and coroners' physicians in the counties of this State and in the City of Wilmington and duties imposed upon them by this chapter. Section 4706(a)¹⁷⁵ makes it obligatory for the person having knowledge of following deaths or of the person issuing a permit for cremation to immediately to notify the Chief Medical Examiner, an Assistant Medical Examiner or a Deputy Medical Examiner, as the case

¹⁷⁰ Section 50. Coroners Act Statute Law of the Bahamas

¹⁷¹ Section 47 (FOURTH SCHEDULE). Coroners Act Statute Law of the Bahamas

¹⁷² Delaware Code. Legislative Council, General Assembly State of Delaware.

<http://www.delcode.delaware.gov/title29/title29.pdf>

¹⁷³ Section 4703 (b) Delaware Code. Legislative Council, General Assembly State of Delaware.

<http://www.delcode.delaware.gov/title29/title29.pdf>

¹⁷⁴ Delaware Code. Legislative Council, General Assembly State of Delaware.

<http://www.delcode.delaware.gov/title29/title29.pdf>

¹⁷⁵ Delaware Code. Legislative Council, General Assembly State of Delaware.

<http://www.delcode.delaware.gov/title29/title29.pdf>

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may be:- When any person shall die in this State, as a result of violence, by suicide or by casualty if such occurred not longer than 1 year and 1 day prior to death, while under anesthesia, by abortion or suspected abortion, by poison or suspicion of poison or suddenly when in apparent health or when unattended by a physician or in any prison or penal institution or when in police custody or from a disease resulting from employment including disease related to injury or from an undiagnosed cause which may be related to a disease constituting a threat to public health or in any suspicious or unusual manner or if there is any unclaimed body or if any body is to be cremated. It also prescribes punishment upon conviction be subject to imprisonment for not more than 1 year or pay a fine of not more than \$1,000, or both for the following acts:

- ✓ Any person who shall wilfully neglect or refuse to report such death or
 - ✓ Who shall refuse to make available prior medical or other information pertinent to the death investigation or
 - ✓ who, without an order from the Division of Forensic Science, shall willfully touch, remove or disturb the clothing or any article upon or near the body
- It also gives power to the Medical Examiner or the Attorney General to take charge of the dead body if they deem it necessary immediately upon receipt of the information. It further gives authority to the Medical Examiner to fully investigate the essential facts concerning the medical causes of death.¹⁷⁶ It also prescribes the procedure to take possession of personal property of the deceased in the absence of the next of kin¹⁷⁷. It also gives power to the Medical Examiner to take possession of any object or articles which, in the Medical Examiner's opinion, may be useful in establishing the identity of the deceased person or the cause of death and deliver them to the Attorney General. It

¹⁷⁶ Section 4706 (b) & (c) Delaware Code. Legislative Council, General Assembly State of Delaware.
<http://www.delcode.delaware.gov/title29/title29.pdf>

¹⁷⁷ Section 4706 (d) Delaware Code. The Medical Examiner or a duly authorized investigator, in the absence of the next of kin, shall take possession of the personal property found on the deceased and make an exact inventory thereof on the Medical Examiner's report. If necessary an attending police officer may take temporary possession of such property in behalf of the Medical Examiner or an authorized investigator.

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also prescribes that the balance of the personal property of the deceased remaining in the possession of the Medical Examiner shall be released to the next of kin of the deceased or the personal representative of the deceased¹⁷⁸.

- The law also gives authority not to order autopsy when the cause of death have been established within reasonable medical certainty by a Medical Examiner. Further, it prescribes that “If, however, in the opinion of the Medical Examiner an autopsy is necessary in the public interest or as shall be requested by the Attorney General, the same shall be performed by the Chief Medical Examiner, an Assistant Medical Examiner or by such other competent pathologists as may be designated by the Chief Medical Examiner”. It also exempts a person who authorizes or performs an autopsy from any civil action for damages¹⁷⁹.
- Fatality Inquiries Act Province of Alberta (Current as of December 17, 2014)¹⁸⁰ also makes provision of medical examiner system of death investigation and section 25 also gives power to medical examiner to order autopsy and makes it mandatory that autopsy to be carried out by pathologist. Section 25 (2) (b) of the said act also give power to the person who performs the autopsy to excise, remove and retain any part of the body or any object found in the body for the purpose of establishing the cause of death and the manner of death.
- It also defines autopsy as: “autopsy” means the dissection of a body for the purpose of examining organs and tissues to determine the cause of death or manner of death or the identity of the deceased and may include chemical, histological, microbiological or serological tests and other laboratory investigation¹⁸¹. It also defines examination as “examination” means the examination of an unclothed body with or without the removal of body tissue or fluids for the purpose of toxicological examinations¹⁸². Section 19 (1) of

¹⁷⁸ Section 4706 (e) Delaware Code.

¹⁷⁹ Section 4707 (a) & (b) Delaware Code

¹⁸⁰ Fatality Inquiries Act Province of Alberta <http://www.qp.alberta.ca/documents/Acts/F09.pdf>

¹⁸¹ Section 1 (a) Fatality Inquiries Act Province of Alberta.

¹⁸² Section 1 (f) Fatality Inquiries Act Province of Alberta

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the said act also gives power to medical examiner to investigate the death (referred in the said act) and establish where possible

- ✓ (a) the identity of the deceased,
 - ✓ (b) the date, time and place of death,
 - ✓ (c) the circumstances under which the death occurred,
 - ✓ (d) the cause of death, and
 - ✓ (e) the manner of death.
- Section 19 (4) of the act fix the duty of a medical examiner to mandatorily complete a medical certificate of death in accordance with the Vital Statistics Act after investigation of death¹⁸³. Section 21 (3) of the said act gives power to a medical examiner to inspect and make copies of any diagnosis, record or information relating to (a) a person receiving diagnostic and treatment services in a diagnostic and treatment centre under the Mental Health Act, or (b) a patient under the Hospitals Act. Section 27 also makes provision to use the autopsy report format prescribed by the regulations. The section 30 (1) provides guidelines for the release of reports, certificates etc. to any of the adult next of kin or the personal representative of the deceased. The section 39(1) makes a provision for admission of a report that purports to be made by the medical examiner by the Chief Medical Examiner in evidence without proof of the signature or appointment of the medical examiner or Chief Medical Examiner.
 - Georgia's Death Investigation act (Legislation title 45-16-20)^{184,185,186} makes the provision for external examination or limited examination of dead bodies and defines various terms as follows:
 - ✓ "Autopsy" means the dissection of a dead body and the examination of bone, tissue, organs, and foreign objects for the purpose of determining the cause of death and circumstances surrounding the same, which procedure shall include as a minimum an

¹⁸³ Fatality Inquiries Act Province of Alberta

¹⁸⁴ <http://georgiacoronersassoc.org/legislation-title-45>

¹⁸⁵ <http://law.justia.com/codes/georgia/2010/title-45/chapter-16/article-2/45-16-20>

¹⁸⁶ <https://gbi.georgia.gov/medical-examiners-office>

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external examination and the examination of the brain, neck and thoracic organs, and abdominal organs.

- ✓ “*External examination*” means an external examination of a dead body but shall not include dissection of the body for any purpose except dissection which is necessary for and limited to procurement of blood or body fluids for toxicological or other analysis.
- ✓ “*Limited dissection*” means the incision into or dissection of a dead body for diagnosis or evidence collection and the term includes without being limited to an external examination but does not include an individual examination of the:
 - (A) Brain;
 - (B) Neck organs;
 - (C) Thoracic organs; and
 - (D) Abdominal organs

but may include an examination of any but not all of the categories of organs specified in subparagraphs (A) through (D) of this paragraph.

- ✓ Also defines Medical examiner, Chief medical examiner, regional medical examiner, county medical examiner, local medical examiner, forensic consultant.
- ✓ “*Medical examiner’s inquiry*” means an inquiry made by a medical examiner into the circumstances surrounding a death which is required to be reported under the provisions of Code Section 45-16-24, which inquiry may include, but is not required to include, a scene investigation, an external examination, a limited dissection, an autopsy, or any combination thereof.
- Law also prescribes that it shall be in the sole discretion of the medical examiner to determine whether or not an autopsy or limited dissection is required; provided, however, that the medical examiner shall give due consideration to the opinions of the coroner and

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the peace officer in charge regarding the requirements of accepted investigation techniques and the rules of evidence applicable thereto¹⁸⁷.

- As per the information provided on the website of Georgia Bureau of Investigation says that Georgia law specifically provides that a complete autopsy may not be performed in cases of natural death in which an adequate medical history exists to document the illness, and in which no indications of foul play exist. Also, based upon the circumstances of the death and the judgment of the Medical Examiner, an external examination or a limited autopsy examination may be performed¹⁸⁸.
- As the same section i.e., 174 CrPC is applicable to Pakistan¹⁸⁹ & Bangladesh¹⁹⁰ it has no proper provision for authorizing a dissection of a dead body as well as collection of samples and large amount of viscera without consent of the relatives like India.
- Coroner's act of Illinois makes special provision about who should perform the autopsy. Sec. 3-3014 of the said act prescribes that any medical examination or autopsy shall be performed by a physician duly licensed to practice medicine in all of its branches, and wherever possible by one having special training in pathology. It also does not permit autopsy routinely and prescribes that autopsy should only be performed when in the opinion of the examining physician or the coroner the cause of death cannot be established definitely except by autopsy and when it is declared that the public interest requires that an autopsy be performed. It also gives power to coroner of taking of x-rays and the performance of other medical tests as he deems appropriate. It also prescribes that if a child dies from suspicious or unexplained circumstances, the coroner shall secure the

¹⁸⁷ Georgia's Death Investigation act (Legislation title 45-16-22 (c) <http://georgiacoronersassoc.org/legislation-title-45>

¹⁸⁸ https://gbi.georgia.gov/sites/gbi.georgia.gov/files/related_files/site_page/88332299Autopsy%20FAQs.pdf

¹⁸⁹ Code Of Criminal Procedure (Act V Of 1898) Pakistan http://www.lawsofpakistan.com/wp-content/uploads/2012/03/Code_of_criminal_procedure_1898.pdf

¹⁹⁰ Code Of Criminal Procedure (Act V Of 1898) Bangladesh
http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=75&

https://www.unodc.org/tldb/pdf/Bangladesh_Code_of_Criminal_Procedure_1898_Full_text.pdf

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services of a pathologist¹⁹¹. It also makes special provision for the autopsy for an infant less than 2 years of age who has died suddenly and unexpectedly and the circumstances concerning the death are unexplained¹⁹². Sec. 3-3034 of the act makes specific provision for the Disposition of body as follows: After the inquest the coroner may deliver the body or human remains of the deceased to the family of the deceased or, if there are no family members to accept the body or the remains, then to friends of the deceased, if there be any, but if not, the coroner shall cause the body or the remains to be decently buried, cremated, or donated for medical science purposes, the expenses to be paid from the property of the deceased. Sec. 3-3037 of the act prescribes punishment who embalms the dead body before obtaining permission from the coroner where such body is the subject of a coroner's inquest.

- In Scotland¹⁹³ there is scope for the Procurator Fiscal, in certain circumstances, to ask a pathologist to conduct a 'view and grant post mortem examination' rather than an invasive post mortem examination. This consists of a careful and detailed external examination of the body and consideration of the medical records by the pathologist. It is a matter for the individual pathologist to determine whether such an examination is appropriate as it is they who have the professional responsibility to certify the cause of death to 'the best of their knowledge and belief'. The decision they make must be defensible, not only to you as a nearest relative of the deceased and to COPFS (The Crown Office and Procurator Fiscal Service), but also to their professional colleagues and professional organizations including the General Medical Council. If no medical practitioner is able to certify the cause of death or, rarely, if the procurator fiscal is not prepared to accept a certificate which is offered, a post mortem examination will usually be required to ascertain the cause of death. This may be a full post mortem or an external

¹⁹¹Sec. 3-3015 (a) & (b). Coroner's act of Illinois.

¹⁹² Sec. 3-3016. Coroner's act of Illinois.

¹⁹³Death and the Procurator Fiscal. Information and Guidance for Medical Practitioners. Produced by Crown Office and Procurator Fiscal Service. October 2008& 2014. Developed as per the provisions of Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

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examination known as 'view and grant'. A 'view and grant' examination may be carried out where a pathologist examines the deceased's body, considers the medical history and the circumstances of death and is able to grant a death certificate certifying the cause of death without the need to undertake a full post mortem examination. Where a full post mortem examination is necessary for an effective investigation into the deceased's death, the procurator fiscal's right to instruct it may have to override any objection thereto. If no medical practitioner is able to certify the cause of death or, more rarely, if the Procurator Fiscal is not prepared to accept a certificate which is offered, a post mortem examination will usually be required to ascertain the cause of death. It is a matter for the Procurator Fiscal to decide whether there should be a post mortem examination, the nature and extent of that examination and the individual to conduct it. In some cases, however, it is possible for the cause of death to be confirmed by a doctor who has viewed the deceased and is able to grant a certificate certifying the cause of death without the need for a full post-mortem examination to be undertaken. This is described as 'view and grant'. However, where a post mortem examination is necessary for the full and proper investigation of the death, the Procurator Fiscal's right to instruct this may have to override religious or other objections. The provisions in Scotland also deal with Hospital post mortems. It says that if the deceased has died in hospital and the Procurator Fiscal decides that the death does not require any further action or investigation, the question of a post mortem examination to establish the cause of death is a matter for the hospital. Similarly, the Procurator Fiscal is sometimes asked by hospital doctors to permit a post mortem examination in the interest of medical research or for some other medical reason although the cause or primary cause of death is known. In cases where the cause of death has been ascertained without a dissection and the Procurator Fiscal does not otherwise require a post mortem examination to be held, it would not be appropriate for him or her to instruct one. In such cases the matter is between the hospital and the nearest relatives. It also prescribes that if a hospital post mortem examination reveals suspicious circumstances or other cause for concern, it should be halted immediately and the

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Procurator Fiscal informed. In any case where it will be necessary to prove the fact and cause of death in subsequent court proceedings, the Procurator Fiscal will instruct a post mortem examination by two pathologists. This may be two forensic pathologists or it may be a forensic pathologist and a specialized pathologist, for example a pediatric pathologist if the death is that of a child. In addition to the post mortem examination, the Procurator Fiscal may instruct further scientific investigation, for example by toxicology. The need for this may be self-evident or may be identified by the pathologists in the course of the autopsy.

- South Carolina Code of laws¹⁹⁴ also makes special provision for autopsy and also gives the power to coroner not to order autopsy under the circumstances mentioned in it. It also makes it mandatory for the coroner to obtain tissue and fluid samples suitable for DNA identification, typing, and testing while conducting Autopsy on unidentified body. It also fixes the duties of coroner investigating motor vehicle, swimming, or boating accident deaths to examine the body within eight hours of death of any driver and any pedestrian, sixteen years old or older, who dies within four hours of a motor vehicle accident or any swimmer or boat occupant who dies within four hours of a boating accident, and also make it mandatory to take by a qualified person such blood or other fluids of the victim as are necessary to a determination of the presence and percentages of alcohol or drugs.
- Section 7 Coroners Act- 1950 (Laws of Antigua And Barbuda) gives the power to the district medical officer to view the dead body and if he deems it necessary he can also make post-mortem examination of the said body. Section 2 of the said act also defines what is mean by “view” i.e., making of any necessary external examination¹⁹⁵. Section 16 (1) gives power to Coroner not only to request any registered medical practitioner for post-mortem examination of the body of the deceased but also to make a special examination by way of analysis, test or otherwise of such parts or contents of the body or

¹⁹⁴ South Carolina Code of Laws. Current through the end of the 2013 Session. Title 17 - Criminal Procedures. Chapter 7.

¹⁹⁵ Section 2 of The Coroner act of Trinidad And Tobago (Updated upto 2012) also defines the same.

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such other substances or things as ought in the opinion of the Coroner to be submitted to analyses, tests or other special examination with a view to ascertaining how the deceased came by his death. Section 16 (3) prescribes provision to deal with cases where death due to negligence is alleged. It says, if it shall appear to the Coroner that the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to perform or assist at any post-mortem or special examination made for the purposes of the inquest on the deceased, but such medical practitioner or other person shall have the right, if he so desires, to be represented at any such post-mortem examination. Section 39 prescribes when medical practitioner shall not issue the certificate of the cause of death. Section 48 makes provision about the fees for PM Examination¹⁹⁶.

- Section 5 (1) of the Coroner act of Trinidad And Tobago (Updated upto 2012) makes following provision: The District Medical Officer shall view, and, if he considers it necessary for the purposes of this Act, make an anatomical examination of the unburied body of any deceased person within his district-
 - ✓ (a) where he has grounds for believing that the person died an unnatural death;
 - ✓ (b) where such person died while confined as a prisoner in any prison;
 - ✓ (c) where he is directed by the Coroner, within whose district the body is, to view the body; or
 - ✓ (d) where an inquest is prescribed in respect of such death.

Section 5 (2) of the said act says: As soon as the District Medical Officer has completed his view and anatomical examination (if any), it shall be lawful to bury the body, unless the District Medical Officer otherwise directs, and the District Medical Officer may, if he sees fit, give order for the burial.

¹⁹⁶ Section 14 of The Coroner act of Trinidad And Tobago also deals with the same.

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- Section 7 of Coroners act of Barbados¹⁹⁷ (amended upto 2005) makes following provisions about postmortem examination:

- ✓ (1) Whenever the coroner considers it expedient that the dead body of a person should be examined by a medical practitioner, he shall forthwith issue his order to a medical practitioner to make a post mortem examination of that body.
- ✓ (2) A medical practitioner who is ordered under this Act to make a post mortem examination shall thereupon, unless he is unavoidably prevented from so doing, proceed to the place where the body is lying and make such examination of it as may enable him to ascertain the cause of death.
- ✓ (3) The medical practitioner, if he considers it necessary in order to ascertain the cause of death or if advised to do so by the coroner, shall extend the examination to the dissection of the body and an analysis of any portion thereof and its contents and may cause any portion thereof and its contents to be transmitted to a Government Bacteriologist and Pathologist or a Government Analyst or to such specially qualified person as the coroner may order to conduct a special examination under subsection (4).
- ✓ (4) The coroner may, if he thinks fit, order any person whom he considers to possess special qualifications to conduct a special examination by way of analysis, test or otherwise of such parts or contents of the dead body of any person or such other substances or things as ought in the opinion of the coroner to be submitted to such special examination with a view to ascertaining how that person came to his death.
- ✓ (5) Where a medical practitioner ordered under this Act to make a post mortem examination or a specially qualified person ordered under subsection (4) to conduct a special examination is unavoidably prevented from complying with the order, he shall forthwith give notice of the fact and of the reasons for his non-compliance to the coroner or to a member of the Police Force at a police station, and any member of the

¹⁹⁷<http://barbadosparliament-laws.com/en/showdoc/cs/113>

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Police Force so notified shall forthwith give to the coroner notice of the fact and of the reasons for the non-compliance.

Section 18 of the said act also says that: Where at any inquest it appears to the coroner that the cause of death has not been satisfactorily explained, he may order any medical practitioner to make a post mortem examination of the body, with or without an analysis of any portion thereof or the contents thereof, whether or not a post mortem examination has already been performed upon the body.

- Article 49.01 of Code of Criminal Procedure of Texas defines autopsy as follows: Sub-article (1) "Autopsy" means a post mortem examination of the body of a person, including X-rays and an examination of the internal organs and structures after dissection, to determine the cause of death or the nature of any pathological changes that may have contributed to the death. Art. 49.10 of the said act makes following provisions about Autopsies and Tests:
 - ✓ (a) At his discretion, a justice of the peace may obtain the opinion of a county health officer or a physician concerning the necessity of obtaining an autopsy in order to determine or confirm the nature and cause of a death.
 - ✓ (b) The commissioners court of the county shall pay a reasonable fee for a consultation obtained by a justice of the peace under Subsection (a) of this article.
 - ✓ (c) Except as required by Section 264.514, Family Code, for each body that is the subject of an inquest by a justice of the peace, the justice, in the justice's discretion, shall:
 - (1) direct a physician to perform an autopsy; or
 - (2) certify that no autopsy is necessary.
 - ✓ (d) A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, or smallpox. A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

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- ✓ (e) A justice of the peace shall order an autopsy performed on a body if:
 - (1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death;
 - (2) the deceased was a child younger than six years of age and the death is determined under Section 264.514, Family Code, to be unexpected or the result of abuse or neglect; or
 - (3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.
- ✓ (f) A justice of the peace shall request a physician to perform the autopsy.
- ✓ (g) The commissioners court shall pay a reasonable fee to a physician performing an autopsy on the order of a justice of the peace, if a fee is assessed.
- ✓ (h) The commissioners court shall pay a reasonable fee for the transportation of a body to a place where an autopsy can be performed under this article if a justice of the peace orders the body to be transported to the place.
- ✓ (i) If a justice of the peace determines that a complete autopsy is unnecessary to confirm or determine the cause of death, the justice may order a physician to take or remove from a body a sample of body fluids, tissues, or organs in order to determine the nature and cause of death. Except as provided by Subsection (j) of this article, a justice may not order any person other than a physician to take samples from the body of a deceased person.
- ✓ (j) A justice of the peace may order a physician, qualified technician, paramedic, chemist, registered professional nurse, or licensed vocational nurse to take a specimen of blood from the body of a person who died as the result of a motor vehicle accident if the justice determines that circumstances indicate that the person may have been driving while intoxicated.
- ✓ (k) A justice of the peace may order an investigative or laboratory test to determine the identity of a deceased person. After proper removal of a sample from a body, a

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justice may order any person specially trained in identification work to complete any tests necessary to determine the identity of the deceased person.

- (1) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:
 - (1) all available fingerprints and palm prints;
 - (2) dental charts and radiographs (X-rays) of the person's teeth;
 - (3) frontal and lateral facial photographs with scale indicated;
 - (4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - (5) notation of antemortem medical conditions;
 - (6) notation of observations pertinent to the estimation of time of death; and
 - (7) precise documentation of the location of burial of the remains.
- ✓ (m) A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:
 - (1) full body radiographs (X-rays); and
 - (2) hair specimens with roots.
- ✓ (n) On discovering the body or body part of a deceased person in the circumstances described by Article 49.04(a)(3)(B), the justice of the peace may request the aid of a forensic anthropologist in the examination of the body or body part. The forensic anthropologist must hold a doctoral degree in anthropology with an emphasis in physical anthropology. The forensic anthropologist shall attempt to establish whether the body or body part is of a human or animal, whether evidence of childbirth, injury, or disease exists, and the sex, race, age, stature, and physical anomalies of the body or body part. The forensic anthropologist may also attempt to establish the cause, manner, and time of death.
- ✓ (o) If a person is injured in one county and dies as a result of those injuries, with the death occurring in another county, the attorney representing the state in the

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prosecution of felonies in the county in which the injury occurred may request a justice of the peace in the county in which the death occurred to order an autopsy be performed on the body of the deceased person. If the justice of the peace orders that the autopsy be performed, the county in which the injury occurred shall reimburse the county in which the death occurred.

Art. 49.11 of the said act make special provisions for chemical analysis as follows:

- ✓ (a) A justice of the peace may obtain a chemical analysis of a sample taken from a body in order to determine whether death was caused, in whole or in part, by the ingestion, injection, or introduction into the body of a poison or other chemical substance. A justice may obtain a chemical analysis under this article from a chemist, toxicologist, pathologist, or other medical expert.
- ✓ (b) A justice of the peace shall obtain a chemical analysis under Subsection (a) of this article if requested to do so by the physician who performed an autopsy on the body.
- ✓ (c) The commissioners court shall pay a reasonable fee to a person who conducts a chemical analysis at the request of a justice of the peace.

Art. 49.12 of the said act prescribe the provision about the Liability of Person Performing Autopsy or Test as: A person who performs an autopsy or makes a test on a body on the order of a justice of the peace in the good faith belief that the order is valid is not liable for damages if the order is invalid.

Art. 49.25 of the said act deals with Medical Examiners. Sec. 6 (a) of the said article deals with the power of medical examiners to hold Death Investigations as follows: Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:

- ✓ 1. When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;
- ✓ 2. When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;

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- ✓ 3. When the body or a body part of a person is found, the cause or circumstances of death are unknown, and:
 - (A) the person is identified; or
 - (B) the person is unidentified;
- ✓ 4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;
- ✓ 5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;
- ✓ 6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest;
- ✓ 7. When the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code; and
- ✓ 8. When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Section 193.004, Health and Safety Code. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.

Sec. 9 of Art. 49.25 of the said act deals with the Autopsy by a medical examiner as follows:

- ✓ (a) If the cause of death shall be determined beyond a reasonable doubt as a result of the investigation, the medical examiner shall file a report thereof setting forth

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specifically the cause of death with the district attorney or criminal district attorney, or in a county in which there is no district attorney or criminal district attorney with the county attorney, of the county in which the death occurred. If in the opinion of the medical examiner an autopsy is necessary, or if such is requested by the district attorney or criminal district attorney, or county attorney where there is no district attorney or criminal district attorney, the autopsy shall be immediately performed by the medical examiner or a duly authorized deputy. In those cases where a complete autopsy is deemed unnecessary by the medical examiner to ascertain the cause of death, the medical examiner may perform a limited autopsy involving the taking of blood samples or any other samples of body fluids, tissues or organs, in order to ascertain the cause of death or whether a crime has been committed. In the case of a body of a human being whose identity is unknown, the medical examiner may authorize such investigative and laboratory tests and processes as are required to determine its identity as well as the cause of death. In performing an autopsy the medical examiner or authorized deputy may use the facilities of any city or county hospital within the county or such other facilities as are made available. Upon completion of the autopsy, the medical examiner shall file a report setting forth the findings in detail with the office of the district attorney or criminal district attorney of the county, or if there is no district attorney or criminal district attorney, with the county attorney of the county.

- ✓ (b) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:
- (1) all available fingerprints and palm prints;
 - (2) dental charts and radiographs (X-rays) of the person's teeth;
 - (3) frontal and lateral facial photographs with scale indicated;
 - (4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
 - (5) notation of antemortem medical conditions;

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- (6) notation of observations pertinent to the estimation of time of death; and
- (7) precise documentation of the location of burial of the remains.
- ✓ (c) A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:
 - (1) full body radiographs (X-rays); and
 - (2) hair specimens with roots.

Subchapter C (Article 49.32 to 49.35) of the said act deals with the Informed Consent for Postmortem Examination or Autopsy (other than those required by a justice of the peace or medical examiner under this chapter or other law). Art. 49.32 of the said act deals with the Consent to Postmortem Examination. Art. 49.33 deals with the Persons who are authorized to give consent to post-mortem examination. Art. 49.34 prescribe guidelines for consent form for Postmortem examination.

- Section 10 of The Inquests Act, 1980 of The United Republic Of Tanzania gives the power to coroner to direct post-mortem examination by an order in the form B prescribed in the Schedule of the said Act. Section 11 of the said act deals with the power of medical practitioner to perform postmortem examination as follows: Upon receipt of an order under section 10 for a post-mortem examination, unless he procures the services of some other medical practitioner shall immediately make an examination of the body, with a view to determining from it Me cause of death, and to ascertaining the circumstances connected with it. The examination shall extend, when the medical practitioner considers it necessary but not otherwise, to such dissection of the body as he may think requisite. The report, to be in the form C prescribed in the Schedule, shall state the cause of death, and shall be signed by the medical practitioner, and, on being read at the inquest, shall be prima facie evidence of the facts stated m it, but the Coroner may call tie medical practitioner it he considers it necessary. Section 13.-(1) of the said act gives power to medical practitioner to perform only external examination as follows: Whenever a dead body is brought to a hospital, the medical practitioner in-charge or the hospital, or the medical practitioner authorized by the medical practitioner in-charge, shall make a

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preliminary external examination of the body and report in writing to a Coroner whom may, if he considers it necessary, order a post-mortem examination.

- Section 11 of Inquests Act 1935 of Uganda¹⁹⁸ deals with the power of coroner to direct examination as follows: If any coroner considers it necessary, with a view to investigating the circumstances of the death of any person, to obtain a medical report on the appearance of the body of that person, and as to the conclusions to be drawn from that appearance, he or she may, by written direction in Form C set out in the Schedule to this Act, require any government medical officer or, in the absence of such officer, any other medical practitioner within his or her jurisdiction to make an examination of the body and to report on it. Section 12 of the said act deals with provisions about Medical practitioner to make examination and report as follows: Every medical practitioner upon the receipt of such direction shall, unless he or she procures the services of some other medical practitioner to perform the duty, immediately make an examination of the body, with a view to determine from the examination the cause of death, and to ascertain the circumstances connected with the death, and shall make a report in writing to the coroner describing the appearance of the body and the conclusions which he or she draws from the appearance touching the death of the person. The examination shall extend, when the medical practitioner considers it necessary but not otherwise, to such dissection of the body as he or she may think requisite. The report shall be in Form D set out in the Schedule to this Act, and shall state the cause of death, and shall be signed and dated by the medical practitioner. The report on being read at the inquest by the coroner shall be prima facie evidence of the facts stated in it without further proof, unless it is proved that the medical practitioner purporting to sign the report did not in fact sign it.
- Section 4 of the Inquest act of Republic of Fiji¹⁹⁹ specifically deals with the duty of police officer to arrange for post-mortem examination in certain cases. Section 4 (1) prescribes that Every police officer making an investigation under the provisions of section 3 may

¹⁹⁸<http://www.ulii.org/ug/legislation/consolidated-act/11>

¹⁹⁹http://www3.paclii.org/fj/legis/consol_act_OK/ia137/

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take or send the body to a Government hospital or other convenient place for the performance of a post-mortem examination of the body by a medical officer. Section 4 (2) prescribes that where such police officer is of the opinion that no useful purpose would be served by a further examination, he shall make a written report to this effect in writing to a magistrate in the form prescribed. Section 5 of the said act makes following provisions about Post-mortem examination of body:

- ✓ (1) Upon receiving the information referred to in section 4, a medical officer shall, as soon as practicable, perform a post-mortem examination of the body of the deceased.
- ✓ (2) The medical officer, if it is necessary in order to ascertain the cause of death, shall extend the examination to the dissection of the body and an analysis of any portion thereof, and may cause any portion thereof to be transmitted to any investigating officer, analyst or other competent person.
- ✓ (3) If a post-mortem examination is held in pursuance of the provisions of this section or pursuant to an order made under the provisions of subsection, (2) of section 9 or if examination of a body is carried out in pursuance of this Act, the body or remains thereof shall not be buried or reburied, or cremated, as the case may be, except under and in accordance with the order of a magistrate: Provided that a police officer of or above the rank of Inspector may order burial of the body.
- ✓ (4) The provisions of subsection (3) shall not be interpreted as requiring an order of a magistrate or of a police officer of or above the rank of Inspector to dispose of any portion of a body which may have been sent for examination under this Act to a medical officer, analyst or other competent person, and such portion may, unless a magistrate otherwise orders, be disposed of in such manner as the Permanent Secretary for Health may, by any general or special direction, direct.

Section 6 of the said act deals with the Report of medical officer, analyst or other competent person as follows:

- ✓ (1) A medical officer, analyst or other competent person making a post-mortem examination under any of the provisions of this Act shall draw up a report in the

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Media Room, Dept. of Forensic Medicine (New Complex)
Goa Medical College, Bambolim, Goa-403202.

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prescribed form of the appearance of the body and of the conclusions which he draws therefrom, and shall certify his opinion as to the cause of death and shall date and sign the report and transmit it to the officer in charge of a police station who shall attach it to the report in the form prescribed under the provisions of section 3.

- ✓ (2) A medical officer shall without delay forward the original post-mortem cause of death certificate to the Registrar-General after making the post-mortem.

INQUESTS RULES- 1968 made under the Section 21 of the said Inquest act prescribes various formats like format for Register Of Deaths Reported Magistrates' Court, Register Of Inquests Magistrates' Court, Certificate Of Cause Of Death Issued Under The Inquests Act, Format For Report Of Sudden Or Unnatural Death, Format For Report Of Medical Officer Making Post-Mortem Examination.

- Inquests and Post-Mortem Examinations (Jersey) Law 1995 prescribes following provisions about postmortem examination:
 - ✓ Section 17 Post-mortem examination- (1) The Viscount may at any time before the termination of an inquest authorize a registered medical practitioner to perform a post-mortem examination of the body of the deceased person. (2) Any registered medical practitioner who has attended the deceased person immediately prior to his or her death shall be entitled to be present at the post-mortem examination and the Viscount may, if he or she thinks it necessary, have notice served on any such registered medical practitioner requiring him or her to attend the post-mortem examination or to submit a report for the assistance of the person holding the post-mortem examination. (3) On application being made to him or her, the Viscount may permit any other person to be represented by a registered medical practitioner as an observer at any such post-mortem examination.
 - ✓ Section 19- Viscount may require medical report: Whether or not an inquest is to be held, the Viscount may require any registered medical practitioner who has recently attended the person into whose death the Viscount is inquiring to supply him or her with a medical report relating to the deceased person.

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- ✓ Section 20 Viscount may order analysis: Where the Viscount considers an analysis of any thing necessary for the purposes of his or her duties under this Law, the Viscount may direct that such analysis be made, and the person who makes or supervises such analysis shall submit a report of the analysis to the Viscount.

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Annexure V

Comparative chart highlighting the issues, loopholes in existing 174 CrPC and amendments needed:

Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
1.	In India, around 80-90 % Post-mortems are carried out by untrained doctors. Mostly carried out by plain MBBS doctors, medical officers, gynaecologist, paediatricians, surgeons, etc without having any training in Forensic Medicine. This practice has resulted into horrendous quality of postmortem examination and mockery of administration of justice.	Law nowhere prescribes that the post-mortem examination shall be carried out by trained doctors in Forensic Medicine. Law says: Medical examination of dead body by the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the State Government. (Refer Subsection 3 (v) of 174 crPC. NOTE: this is the biggest loophole in the existing law that has resulted into the mockery and	1. Law must prescribe the minimum qualification and training in forensic medicine that a medical practitioner should have to carry out forensic post-mortem examination.	Please see Section 2 (d) of The Medical Termination Of Pregnancy Act, 1971 (Act No. 34 of 1971) and MTP regulations which clearly prescribes the qualification and training required for the medical practitioner to carry out MTP. Also see The Mental Health Care Act, 2017.

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Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
		horrendous quality of Post-mortem examination in the country.		
2.	Attendants/ Sweepers assist the doctors to carry out the post-mortem examinations, collections of viscera and other forensic evidence from the body, its sealing and labelling etc. They do not have any special training for such work.	The existing 174 CrPC nowhere prescribes that the trained staff in forensic procedures shall assist the doctors who carry out the post-mortem examination etc. In other acts for example The Mental Health Care (MHC) Act 2017, prescribes what is meant by other persons who assist the psychiatrist/ medical practitioner in relation to care of mentally ill persons. The MHC act not only defines "psychiatrist" but also defines all other persons (other than doctors) who are required in the care of mentally ill persons i.e, "mental health nurse", "psychiatric social worker",	Law must prescribe that trained staff in forensics shall assist the doctors in carrying out post-mortem examinations.	Please refer, The Mental Health Care Act, 2017 that prescribes qualification for all health care workers.

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Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
		“psychologist” etc.		
3.	Autopsies are carried out at any place, even in open place without having any basic facilities. So many incidences have been reported where dead bodies have been eaten by rats/ dogs due to improper storage facilities.	Existing law nowhere prescribes any rules for establishments of Forensic Autopsy Centers.	174 CrPC must make mandatory for the central governments to frame the rules/ regulations for establishments of Forensic Medical Autopsy Centers across the country.	MTP act, Mental health care act, PCPNDT act- all prescribes rules for establishment of respective health care facility.
4.	Lakhs of Unnecessary autopsies are carried out in our country. Autopsies are conducted even when the patient dies after taking treatment in the hospital and treating doctor is able to give cause of death as the per the Provision of Section 10 (3) of Registration of Births and Deaths Act.	<ol style="list-style-type: none"> 1. Law does not make it mandatory for the police officer to take into account the cause of death certificate issued by the treating doctor in form No. 4/4 A as per the provisions of Section 10 (3) of Registration of Births and Deaths Act. 2. Due to this legal loophole police department is sending the dead body for autopsy to know the cause of death even 	174 CrPC shall make it mandatory for the police officer while conducting inquest to take into account the cause of death certificate issued by the treating doctor in form No. 4/4 A as per the provisions of Section 10 (3) of Registration of Births and Deaths Act before forwarding the dead body for autopsy. When cause of death is not given by the	

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Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
		when the cause of death is issued by the treating doctors in cases where deceased was admitted in the hospital for considerable period of time even for more than 1 months and having adequate investigation report to know the cause of death.	treating doctor and there is doubt in the cause of death only then police shall forward the dead body for autopsy to know the cause of death.	
5.	There is no uniformity in the procedures carried out by the doctors for post-mortem examinations. Even the printed formats used for the autopsy are different from state to state and some are highly inadequate and does not conform to the minimum basic international standards. Due to which important forensic findings are missed	Law does not give power to central government to frame the regulations/ rules for conduction of Forensic Medical Post-mortem Examinations.	Law must give power to central government to prescribe the rules and format for forensic medical post-mortem examination. This will not only improve the standard but also bring uniformity all over the country.	The PCPNDT act and rules made therein has prescribed format for various procedures contemplated in the said law. That's why there is uniformity in country about the same.
6.	Autopsy on female person is not	Law nowhere prescribes that the	Law must make specific	

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Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
	carried out in presence of female attendant.	autopsy on female person shall be made in presence of female attendant. However, various other sections of CrPC prescribes that if live female person is to be examined it should be made in presence of female attendant. Please see Section 53 CrPC, 54 CrPC,	provisions regarding the presence of female attendant for the said purpose.	
7.	Relatives face tremendous problems for getting the copy of post-mortem report.	Law nowhere prescribes the procedure for handing over the copy to relatives. However, there are section in CrPC which specifically prescribe the procedure for handing over the report to arrested person about his medical examination. Please see section 54 CrPC.	Relevant amendments shall be made in 174 CrPC about the handing over of copy of post-mortem report to relatives of the deceased.	54 CrPC says: copy of the report of medical examination of arrested person shall be furnished to the arrested person by the medical practitioner.
8.	Illegible handwriting of doctors on post-mortem reports causes tremendous problems to police,	No mandatory provision for issuing computerised reports. Even Bombay High Court,	Law must make special provisions for the digital formatting of the	Please refers directions of Punjab and Haryana high court and Bombay High

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Sr No	Issue/ Existing Problem	Loopholes in existing 174 Criminal Procedure Code (CrPC)	Amendments needed.	Remarks:
	prosecuting agency and judiciary. This has been highlighted by the court in various instances.	Punjab and Haryana High court, Delhi Court has issued directions for the computerization of medicolegal report. ²⁰⁰	medicolegal reports.	court.
9.	No rules for constitution of boards to carry out the post-mortem examination, no rules to carry out re-post-mortem and exhumation.	Existing law does not bind the government to make rules for the said issues.	Law must make mandatory for the central government to make rules for constitution of boards, re-post-mortem examination, exhumation etc.	

²⁰⁰ One of the member of this IAFM committee had filed PIL in Bombay High Court- Nagpur bench for Computerization of medicolegal reports, wherein high court has directed the Maharashtra Govt to take steps to issue printed post mortem and medicolegal reports. PIL no. 03/2013 titled Dr Indrajit Khandekar vs State of Maharashtra.

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Annexure VI

Draft of the suggested amendments in 174 CrPC (Subsection and Para-wise)

Subject: Amendments to Criminal Procedure Code, 1973 – Provisions Relating to inquest and forensic medical post-mortem examination of dead body.

Amendment of section 174.- In the Code of Criminal Procedure, 1973 (2 of 1974) (hereinafter referred to as the Code of Criminal Procedure), in section 174,-

2. in title of the said section for the words, “Police to enquire and report on suicide, etc.”, the words, “Police to enquire and report on suicide, etc. and the procedure for Forensic Medical Examination of dead body” shall be substituted.
3. in sub-section (3), in clause (v) for the words “with a view to its being examined”, the words, “for forensic medical examination” shall be substituted.
4. in sub-section (3), in clause (v) for the words, “to the nearest Civil Surgeon, or other qualified medical man”, the words, “Forensic Medicine Specialist” shall be substituted.
5. in sub-section (3), in clause (iv), for the words, “there is any doubt regarding the cause of death; or”, the words, “there is any doubt regarding the cause of death; or if the cause of death is not issued by the medical practitioner as per the provisions of section 10 (3) of registration of births and deaths act; or there is any doubt regarding the cause of death in spite of cause of death issued by the treating or attending doctor; or” shall be substituted.
6. in sub-section (3), in clause (v) for the words, “subject to such rules as the State Government may prescribe”, the words “subject to such rules as the Central and State Government may prescribe” shall be substituted

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7. after sub-section (4), the following subsections shall be inserted, namely:-

- i. “(5) Place where “forensic medical examination” shall be conducted by the “Forensic Medicine Specialist”:- all forensic medical examinations shall be made in accordance with this section at a Forensic Medical Autopsy Center developed as per the rules/ regulations prescribed by the Central Government under this section/act and authorized by the State government for the purposes of this section”.
- ii. “(6) all ‘forensic medical examination’ for the purposes of this section shall be carried out by ‘forensic medicine specialist’ as per the regulations/ rules prescribed by the Central Government under this section/act and authorized by the State government for the purposes of this section”.
- iii. “(7) forensic technician shall assist the forensic medicine specialist in carrying out the forensic medical examination in accordance with this section”.
- iv. “(8) Whenever the person of a female is to be examined under this section, the examination shall be made by, female forensic medicine specialist or if such examination is made by male forensic medicine specialist then it should be done in presence of female forensic technician or any female attendant.
- v. “(9)
 - (1) Any medicolegal document purporting to be a report under the hand of a Forensic Medicine Specialist to whom this section applies, may be

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used as evidence in any inquiry, trial or other proceeding under this

Code.

- (2) The Court may, if it thinks fit, summon and examine any such expert as to the subject- matter of his report.
- (3) Where any such Forensic Medicine Specialist is summoned by a Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute any responsible officer working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on his behalf.
- (4) Where any such Forensic Medicine Specialist is summoned by a Court and he has left the hospital/ institute where he had prepared the report, then court may direct the head of the department or hospital to depute another forensic medicine specialist working with him to attend the Court, if such officer is conversant with the facts of the case and can satisfactorily depose in Court on the behalf forensic medicine specialist who has prepared the report.

vi. “(10) Power to make rules/regulations:

- I. The Central and State Government shall, by notification in the Official Gazette, make rules/regulations to carry out the provisions of this section/act.

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- II. In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (a) may provide for all or any of the following matters, namely:—
- a. the training in Forensic Medicine which a forensic medicine specialist shall have to carry out the forensic medical examination in accordance with this section;
 - b. the training in Forensic Medicine which a forensic technician shall have to assist the forensic medicine specialist in carrying out the forensic medical examination in accordance with this section;
 - c. the requirements for the facilities, infrastructure, manpower and operation of Forensic Medical Autopsy Center;
 - d. the Principles, Standard Operating Procedures and guidelines for forensic medical post mortem examination and other related works that are required to be carried out in accordance with this section;
 - e. the form for carrying out forensic medical examination and other works that are required to be carried out in accordance with this section;
 - f. for issuing forensic medical examination and other reports to the relatives/ or next of kin/ legal heirs of the deceased etc.;

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- g. the constitution of boards/panel of forensic medicine specialist for conduction of forensic medical examination and or review of post mortem / medicolegal reports if needed;
- h. the re-forensic medical examination/ re-post-mortem examination;
- i. the exhumation of dead body for the purposes of this section or any other section of this code;
- j. for forwarding the body by police officer for forensic medical examination in accordance with this section;
- k. the form and manner in which the forensic medical autopsy center and other authorities shall maintain all the reports, register, formats etc related to the work in accordance with this section in digital format;
- l. involvement of the Forensic Medicine Specialist in the Crime Investigating Team right from approaching the scene of incident (Inquest onwards) till disposal of case.
- m. Disposal of unknown/ unclaimed dead body and or skeletal remains.
- n. Timings of carrying out inquest and post mortem examination.
- o. the special allowances payable to, and the other terms and conditions of service (including the qualifications, experience and

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manner of appointment) of, the forensic medicine specialist, forensic nurse and other staff appointed in forensic medical autopsy center;

- III. All the rules/regulations in accordance with this section shall be made by the central and state government within one year from the date of publication of these amendments in official gazette.
- vii. Protection of action taken in good faith: - No suit, prosecution or other legal proceeding shall lie against the appropriate Government or against the forensic medicine specialist or forensic technician or any other person, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this section/Act or any rule or regulation made thereunder in the discharge of official duties.
- viii. Laying of rules and regulations: (Note under this clause- Procedure for the laying of rules rule made by the Central Government shall be prescribed so that the said rules get the legal binding all over the country).
- ix. Power to remove difficulties: If any difficulty arises in giving effect to the provisions of this section, the Central & State Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty.

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8. in section 174 of the CrPC, following explanation shall be inserted at appropriate place

namely:

- a. **“Explanation 1:** for this section "Forensic Medicine Specialist" means a registered medical practitioner possessing a post-graduate degree or diploma in Forensic Medicine awarded by an university recognised by the University Grants Commission established under the University Grants Commission Act, 1956, or awarded or recognised by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956, or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any registered medical practitioner who has training in Forensic Medicine for the minimum period of six months as per the rules prescribed by the central government under this Act and has been declared by the Government of that State to be a “Forensic Medicine Specialist” for the purposes of this section”;
- b. **“Explanation 2:** for this section "Registered Medical Practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in Cl.(h) of Sec. 2 of the Indian Medical Council Act, 1956 (102 of 1956), whose name has been entered in a State Medical Register”;
- c. **“Explanation 3:** for this section “Forensic Technician” means a person with a diploma or degree in forensic science or general nursing and having training in

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forensic medicine as per the rules prescribed by the central government under this section/act or with a diploma or degree in forensic science;

- d. “**Explanation 4:** if the cause of death is issued by the medical practitioner as per the provisions of section 10 (3) of registration of births and deaths act, 1969 and no doubt is raised about the said cause of death and for no other reasons police officer considers forensic medical examination expedient so to do then there is no need to send the dead body for forensic medical examination to know the cause of death”.