



GOVERNMENT OF INDIA

**LAW COMMISSION
OF
INDIA**

**Proposal for enactment of new Coroners Act applicable to
the whole of India.**

Report No.206

JUNE 2008



THE LAW COMMISSION OF INDIA

(REPORT NO. 206)

Proposal for enactment of new Coroners Act applicable to the whole of India.

Presented to the Union Minister for Law and Justice, Ministry of Law and Justice, Government of India by Dr. Justice AR. Lakshmanan, Chairman, Law Commission of India, on the 10th day of June, 2008.

The 18th Law Commission was constituted for a period of three years from 1st September, 2006 by Order No. A.45012/1/2006-Admn.III(LA), dated the 16th October, 2006 of Government of India, Ministry of Law and Justice, Department of Legal Affairs, New Delhi.

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DO No.6 (3)/137/2007-LC(LS)

10th June, 2008

Dear Dr. Bhardwaj ji,

**Sub: Proposal for enactment of new Coroners Act
applicable to the whole of India.**

I am forwarding herewith the 206th Report of the Law Commission of India on “Proposal for enactment of new Coroners Act applicable to the whole of India”.

The Delhi High Court in Writ Petition (C) No.6179/2007 between Social Jurist, a Civil Rights Group Vs. Union of India had recommended to the Law Commission of India to examine whether a legislation like the Coroners Act, 1988 prevalent in the United Kingdom is needed in this country and whether a suitable proposal for this purpose could be made to the Parliament in this regard.

In view of this, the Commission undertook this study. It examined the Coroners Act, 1988 (UK), the existing Coroners Act, 1871 which was a Central Act but

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it has very narrow territorial limits in India, namely, the ordinary original civil jurisdiction of the High Courts of Calcutta and Bombay, along with the relevant provisions of the Code of Criminal Procedure, 1973 and the Indian Penal Code, 1860. The Commission is aware of the enormously expanded scope of Article 21 of the Constitution, viz., the right to know the correct cause of death of any person, especially when the death is unnatural or there are surrounding suspicious circumstances.

The Commission is of the view that there is a necessity of an independent authority to enquire into the true and real cause of death of a person, even if such person dies outside the territorial limits of the country.

Accordingly, a draft Bill has been appended and annexed to this Report as Annex.

The Commission places on record the able assistance rendered by Dr. R.G. Padia, Senior Advocate, Supreme Court, in preparing this Report.

With kind regards,

Yours sincerely,

(Dr. Justice AR. Lakshmanan)

**Dr. H.R. Bhardwaj,
Hon'ble Minister of Law and Justice,
Government of India,
Shastri Bhawan,
New Delhi-110 001.**

LAW COMMISSION OF INDIA

PROPOSAL FOR ENACTMENT OF NEW CORONERS ACT APPLICABLE TO THE WHOLE OF INDIA

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Introduction

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 cases.

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 person.

It is also clear that public interest will be greatly subserved 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 circumstances.

At present, in the entire country, the existing Coroners Act, 1871 applies 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 have not been covered under the said Act.

Suggestions have also been made from many quarters, including by way of judicial decisions that such an Act should be framed for the entire country. In Writ Petition No. (C) 6179/2007 between Social jurist, a Civil Rights Group & Anr. Vs Union of India & Ors. , a Division Bench of Delhi High Court by its order dated 12.10.2007 has recommended to the Law Commission to examine whether a Legislation like the Coroners Act, 1988 prevalent in

United Kingdom is needed in this country and whether a suitable proposal for this purpose should be made to the Parliament in this regard. However, the observations of the Hon'ble Delhi High Court in the aforesaid case in paragraph 25 that “ there is admittedly no comparable legislation in India nor has our attention been drawn to any by learned counsel for the parties” do not appear to be correct and it is clear that the learned counsel for either of the parties did not draw the attention of the Hon'ble Delhi High Court to the existing Coroners Act, 1871, which was a Central Act and it was already operating in India, although within very narrow territorial limits.

The cause for recommending a legislation like Coroners Act in the country had arisen before the Delhi High Court on account of the fact that a child of a tender age of five months had died in England, but in spite of the various valiant efforts taken by the parents of the child in England, the exact cause of death of the child could not be ascertained in England in spite of the two reports submitted in England – one based on post-mortem examination and another by Department of Forensic Medicine & Science, University of Glasgow, England. The parents were not

satisfied with the said report, but they could not prove the medical negligence of the doctors in the United Kingdom, because, according to them, the true cause of death could not be found out and after a lapse of long seven years, the parents had brought the body of the unfortunate child in India in the year 2007 and after making several correspondence with the governmental authorities, a Public Interest Litigation was filed in the Delhi High Court. However, the Delhi High Court after analyzing the existing provisions of the Indian Penal Code and the Code of Criminal Procedure came to the conclusion that if the death had occurred in England, unless there was any request made by the Government in England or by any authority in that country, a post-mortem examination of the dead body of the unfortunate child could not be conducted de hors an investigation into criminal offence under Section 174 of the Code of Criminal Procedure. It has been further held by the Delhi High Court that in cases involving offences committed outside India by Non-Indian citizens, such jurisdiction is limited to and dependent on whether the country of the authority competent in the country where the offence is committed has requested the Central Government to have the matter investigated under 166B of the Code of Criminal Procedure. If there is no such request, a police

officer in India cannot register a case or investigate the commission of any offence that has taken place outside India.

With a view to have uniformity of the law applicable throughout India, it may be considered that the extant Coroners Act, 1871 should be repealed in order that the provisions of the Code of Criminal Procedure, viz., sections 174 to 176 govern the field in the aforesaid territorial jurisdictions of Calcutta and Bombay also, besides the rest of India. Further, enactment of a new Coroners Act applicable to the whole of India, in addition to the said provisions of the Code of Criminal Procedure, is felt to be the need of the hour.

In view of the aforesaid, it has been decided to suggest to the Government of India that a necessary independent authority may be constituted to inquire into the true and real cause of death of a person, even if such a person dies outside the territorial limits of the country. In order to attain this objective, we recommend a model Bill to the Government of India in the form given in the Annex.

(Dr. Justice AR. Lakshmanan)
Chairman

(Prof. Dr. Tahir Mahmood)
Member
Secretary

(Dr. D.P. Sharma)
Member-

Dated: June 10, 2008

ANNEX

THE CORONERS BILL, 2008

CHAPTER I

Preliminary

1. This Act may be called the Coroners Act, 2008.
2. It extends to the whole of India.

CHAPTER II

Appointment of Coroners

3. (1) Within the local limits of each district of a State and also for every Union Territory, there shall be a Coroner.

Provided that one Coroner may be appointed for more than one district by the concerned State Government.

4. Every such officer shall be appointed and may be suspended or removed by the State Government.
5. Every Coroner shall be deemed a public servant within the meaning of the Indian Penal Code.

6. There shall be a separate cadre of Coroners in each State. The Coroners shall be appointed by the State Government in accordance with the Rules laying down their qualifications, method of recruitment, terms and conditions of their service including their salaries and allowances payable by the concerned State and every such coroner will be a whole time employee of the State concerned. Services of the Coroners would be available during all times of a day throughout.

CHAPTER III

Duties and Powers of Coroners

7. (1) When the Coroner is informed that the dead body of a person is lying within his jurisdiction and there is reasonable cause to suspect that such person has died under any of the circumstances mentioned in section 11 or has died a sudden death of which the cause is unknown, the Coroner may proceed to hold a preliminary inquiry on the body.

Provided that if a Coroner is undertaking a journey outside his district and finds a dead body on the road or at

any other place lying unattended, and in his opinion immediate and urgent action is necessary to be taken, he will also have extra-territorial jurisdiction to take cognizance of that dead body.

(2) For the purpose of an inquiry under subsection (1), [the Coroner may], as soon as practicable, after receipt of the information proceed to view and examine the body. Such view and examination shall be held in the presence of the police officer to whose jurisdiction the case belongs and, if possible, in the presence of the relations or friends, if any, of the deceased and the Coroner may reduce to writing such observations as the appearances of the body requires. 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 not necessary, the Coroner may authorize the body to be disposed of.

8. Where the Coroner has reason to believe that death has occurred within his jurisdiction in any of the circumstances mentioned in section 11 or 12 and that owing to the destruction of the body by fire or otherwise, or disposal thereof in contravention of any law for the time being in force, or to the fact that the body is lying in a place from

which it cannot be recovered, an inquest cannot be held except by virtue of the provisions of this section, he may report the facts to the State Government and the State Government may, if it considers desirable so to do, direct an inquest to be held touching the death. When such direction is given, an inquest shall be held accordingly by the Coroner and the provisions of this Act shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after view of the body.

9. “Exhumation of body for examination

23.- (1) A Coroner may order the exhumation of the body of a person buried within his district where it appears to him that it is necessary for the body to be examined –

- (a) for the purpose of his holding an inquest into that person’s death or discharging any other function of his in relation to the body or the death; or
- (b) for the purposes of any criminal proceedings which have been instituted or are

contemplated in respect of the death of that person or of some other person who came by his death in circumstances connected with the death of the person whose body is needed for examination.

(2) The power of a Coroner under this section shall be exercisable by warrant under his hand.

(3) No body shall be ordered by a Coroner to be exhumed except under this Section.”

10. A Coroner will have jurisdiction over a dead body found within his territorial jurisdiction whether the death has occurred in any part of the country or even abroad. The cause of action will not depend on the cause of the death which might be arisen at some other territorial jurisdiction like bullet injury or administration of poison in some other territory and the presence of the body will by itself determine the cause of action by a Coroner.

11. (1) If it appears to the Coroner either before or in the course of an inquiry under section 7 that there is reason to suspect –

- (a) that the deceased came by his death by homicide, suicide or infanticide; or
- (b) that the death was caused by an accident, or poison or machinery; or
- (c) that the death was caused by an occurrence arising out of the use of a vehicle in a street, public road or in a private place; or
- (d) that the death occurred in a prison in which the deceased was a prisoner or that it occurred whilst the deceased was in the custody of the police; or
- (e) that the death occurred –
 - in a leper asylum appointed under the Lepers Act, 1898;
- (f) in an asylum or mental hospital established or licensed under the Indian Lunacy Act, 1912;
- (g) in a Borstal School established under the Bombay Borstal Schools Act, 1929;
- (h) in a Receiving Centre or Certified Institution provided and maintained under the Bombay Beggars Act, 1945;
- (i) in any certified school, Remand Home or fit person institution or approved place, established, maintained, declared or recognized, as the case may be, under the Bombay Children Act, 1948;

in which the deceased was received, detained, committed to, confined or kept, as the case may be, under the orders of any authority competent to pass such orders under the said Acts; or

(j) that the death occurred in circumstances the continuance or possible recurrence of which is prejudicial to the health or safety of the public or any section of the public:

and in any other case, if it appears to the Coroner either before or in the course of the preliminary inquiry that there is reason for holding an inquest, he shall proceed to hold such inquest, whether or not the cause of death arose within his jurisdiction;

(k) that the death is caused in a hospital/nursing home, whether run by Government, a trust – public or private, or a purely private hospital or nursing home;

(l) death has occurred on the railways or tramways or airways or other vehicles, whether mechanically propelled or driven by hand;

(m) death has occurred in a police firing;

(n) death has occurred in a police encounter;

- (o) death has occurred in public parks or at places of public resort;
- (p) dowry deaths within the households where there is a complaint regarding the demand of dowry by any person;

Provided that a Coroner will have no jurisdiction in case of death of a person who is under detention or arrest of the defence forces under the command of an official of the defence forces.”

(2) Such inquest shall ordinarily be held in the Coroner’s Court house.

(3) The Coroner may hold one inquest on the bodies of several persons provided that they all are believed to have come by their deaths, in or in consequence of one and the same incident.

(4) Every such inquest shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code and for the purpose of any such inquest the Coroner shall have and may exercise all the powers of a Criminal Court under section 340 and section 345 of the Code of Criminal Procedure, 1973.

12. (1) Where a person dies –

- (a) in a prison situate within the local limits of the Coroner's jurisdiction, the Superintendent of the prison,
- (b) while in the custody of the police, the police officer in charge of the station concerned,
- (c) in any of the places referred to in clause (e) to (j) of subsection (1) of section 11, the Superintendent where there is a Superintendent appointed for such place and elsewhere, the person in charge of the place,
- (d) in respect of the cases covered under clauses (k) to (p) of section 11 by the concerned authority or the individual, shall report the death to the Coroner and await his orders before the body is disposed of.

(2) Any Superintendent of prison, or any such police officer or any Superintendent or person in charge of the place referred to in clause (e) to (j) of subsection (1) of section 11, concerned authority or the individual under clauses (k) to (p), who fails to comply with the requirements in subsection (1)

shall, on conviction before a Magistrate, be punished with fine which may extend to five hundred rupees.

13. (1) Any person who, with the intention of preventing the holding of an inquest on a dead body which the Coroner is bound to hold under section 11, buries, cremates or otherwise disposes of it, and any person who with such intention abets such burial, cremation or disposal of a dead body shall, on conviction before a Magistrate, be punished with fine which may extend to five hundred rupees.

(2) Such punishment shall be in addition to the punishment to which such person may be liable for any offence of which he may be found guilty in respect of the death of the deceased or under section 201 of the Indian Penal Code.

14. A Coroner may order a body to be disinterred within a reasonable time after the death of the deceased person, either for the purpose of taking an original inquisition where none has been taken, or a further inquisition is, in the opinion of the Coroner, necessary or desirable in the interests of justice.

15. The Coroner will conduct the inquest himself by calling such number of credible witnesses as he deems fit, but not less than three in number.

16. At or before the first sitting of an inquest on a body the Coroner shall view the body.

Provided that when a preliminary inquiry on the body has been held under section 7, 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 inquest.

17. The Coroner shall then make proclamation for the attendance of witnesses, or, where the inquiry is conducted in secret, shall call in separately such person who knows anything concerning the death.

18. (1) It shall be the duty of all persons acquainted with the circumstances attending the death to appear before the inquest as witnesses – The Coroner shall inquire of such circumstances and the cause of death, and if before or during the inquiry he is informed that any person, whether within or without the local limits of his jurisdiction, can give evidence

or produce any document material thereto, may issue a summon requiring him to attend and give evidence or produce such document on the inquest.

(2) When any person so summoned fails to appear and the summons has been proved to be duly served on him in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure, the Coroner may, after recording his reasons in writing, issue a warrant for his arrest. Such warrant shall be executed as if it were issued under section 87 of the Code of Criminal Procedure, 1973.

(3) Any person disobeying a summons issued under subsection (1) shall be deemed to have committed an offence under section 174, section 175 or section 176 of the Indian Penal Code, as the case may be.

(4) For the purpose of causing prisoners to be brought up to give evidence the Coroner shall be deemed a Criminal Court within the meaning of Part IX of the Prisoner's Act, 1900.

19. (1) If before proceeding to view a body under section 7 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 the civil surgeon or by a duly qualified registered medical practitioner invited to attend as a witness. The Coroner may also direct an analysis of any of the organs or parts of the body or of their contents. 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 fit. For the purpose of such post mortem examination the Coroner may order the removal of the body to any place within his jurisdiction which may be provided for that purpose.

(2) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination, or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquest under this Act and in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1973.

20. Notwithstanding anything contained in this Act, the Coroner may at any stage of the proceedings under this Act for the purposes of preservation of safe custody, order the removal of the body to any place within his jurisdiction which may have been provided for that purpose.

21. (1) All evidence given under this Act shall, except in the case provided in subsection (2), be on oath and the Coroner shall be bound to receive evidence on behalf of the person who is alleged to have caused or to be concerned in causing the death of the deceased person.

(2) If such person himself wishes to make a statement it shall be the duty of the Coroner to warn him that he is not bound to make any statement; but if such person persists, the Coroner shall, without administering him any oath, record his statement in full after duly warning him that any incriminating statement which he may make may be used in evidence in any subsequent inquiry, trial or other proceeding under the Code of Criminal Procedure, 1973.

(3) For the purpose of section 26 of Indian Evidence Act, 1872, a Coroner shall be deemed to be a Magistrate.

(4) Witnesses unacquainted with the English language shall be examined through the medium of an interpreter, who shall be sworn to interpret truly as well the oath as the question put to, and the answers given by each witness.

22. The Coroner may adjourn the inquest from time to time, and from place to place.

23. (1) If on an inquest touching a death, the Coroner is informed that criminal proceedings, have been instituted against some person before a Magistrate in respect of an offence touching the death of the deceased, he may adjourn the inquest and submit his proceedings to the Magistrate.

(2) For the purposes of this section, the expression “the criminal proceedings” means the proceedings before a Magistrate and before any court to which the accused person is committed for trial or before which an appeal from the conviction of that person is heard, and criminal proceedings shall not be deemed to be concluded until no further appeal can be made in the course thereof.

24. When all the witnesses have been examined, the Coroner shall sum up the evidence, the Coroner shall thereafter will submit his report with the necessary details and reasons to the Commissioner of Police. The report will be regarded as a material evidence in any Court or any other criminal proceedings.

25. The Coroner may also, where the report justifies him in taking the belief that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in India he may issue his warrant for the apprehension of the person who is found to have caused the death of the deceased person, and send him forthwith to a Magistrate empowered to commit him for trial.

26. When the proceedings are closed, or before, if it be necessary to adjourn the inquest, the Coroner shall give his warrant for the [disposal] of the body on which the inquest has been taken.

27. No inquest shall be quashed for any technical defect.

In any case of technical defect, a Judge of the High court may, if he thinks fit, order the inquest to be amended, and the same shall forthwith be amended accordingly.

Provided that any person who is not satisfied with the report of the Coroner may approach the High Court by moving an application for appointment of another Coroner and for the submission of his report, and if the High Court is satisfied, it may direct accordingly. The High Court may also direct an inquest by a Coroner of a different district within its own jurisdiction.

28. It shall no longer be the duty of the Coroner to inquire whether any person dying by his own act was or was not *felo de se*, to inquire of treasure trove or wrecks to seize any fugitive's goods, to execute process or to exercise as Coroner has no jurisdiction conferred by this Act.

CHAPTER IV

Rights and Liabilities of Coroners

29. All disbursements duly made by a Coroner for fees to medical witnesses and the like, shall be repaid to him by the State Government.

30. Every Coroner may from time to time, with the previous sanction of the State Government, appoint, by writing under his hand, a proper person to act for him as his deputy in the holding of inquests.

All inquests taken and other acts done by any such deputy, under or by virtue of any such appointment, shall be deemed to be the acts of the Coroner appointing him:

Provided that no such deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause.

Every such appointment may at any time be cancelled and revoked by the Coroner by whom it was made.

31. Coroners and Deputy Coroners shall be privileged from arrest while engaged in the discharge of their official duty.

32. Any Coroner or Deputy Coroner failing to comply with the provisions of this Act, or otherwise misconducting himself in the execution of his office, shall be liable to such fine or simple imprisonment for a period not exceeding three months as the Chief Justice of the High Court, upon summary examination and proof of the failure or misconduct, thinks fit to impose.

33. The Chief Justice of the High Court may act *suo motu* or on the complaint of any person. However, no criminal proceedings would be initiated against any Coroner by any person or authority by reason of his failure to perform any part of his duty or for any misconduct.

34. The State Government shall have the power to make Rules in order to implement the provisions of the Act.

