THE INROAD OF CORONIAL INQUEST IN THE MALAYSIAN LEGAL SYSTEM

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ABSTRACT

This article describes the detail of how the coronial inquest system was established in Malaysia. An overview on the origin of laws, procedures and practice governing coronial inquest in Malaysia is also outlined. No one is entirely sure of the precise origins of the ancient office. However, the office of coroner is one of the oldest in the common law and that the earliest mention of the Coroner is actually pre-Norman, most likely between AD 871 and 910 from the reign of Alfred the Great. The adoption of English law gradually evolved and developed during the era of British colonization. The common law system of coronial inquiries (inquest) was introduced in Malaysia. The British introduced English law by way of Charters of Justices and legislations in Malaya (now Malaysia). Since then, many laws and procedures that are related to coronial inquest system were implemented, amended and replaced. And, finally, the procedures were outlined in the Chapter XXXII of the Criminal Procedure Code ('CPC'). The latest development on the coronial system in Malaysia is the establishment of fourteen (14) special courts called 'Coroner's Court' to handle death inquiries in every state.

Keywords: *Coronial inquest, coroner, death inquiries, coroner's court, proceeding*

Introduction

A 'coroner' is a public official charged with the duty to make inquiries into the cau\ses and circumstances of any death which occurs through violence or sudden or unnatural death (Campbell, 1990). It is one of the oldest institutions known to English law (Waller, 1994). According to *the American Heritage Dictionary of English Language*, the word 'coroner' is from the Latin word 'corona'. [2] Freckelton and Ranson pointed out that 'the Latin title was in time shortened to 'coronarius'

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2 Editors of the American Heritage Dictionaries (ed), *The American Heritage: Dictionary of the English Language* (Houghton Mifflin, 4th Edition ed, 2000) 410.

or 'coronator, anglicised to 'crowner' and then to 'coroner' (Freckelton and Ranson, 2006). Abernethy et al have suggested that the word 'coroner' is derived from Anglo French *coroune*, meaning 'crown', a *coroune* being an 'officer of the crown'. Coroner office is one of the oldest offices in England (Nadesan, 1997).

An 'inquest' is an inquisition or examination conducted by a coroner into the causes and circumstances of any violent, sudden, unnatural death. The term 'inquest' is well explained in the case of *Retnarasa a/l Annarasa v Public Prosecutor*.[3] Judge Mohamed Apandi Ali explained that an inquest is inquisitorial in nature, unlike a trial, which is adversarial in nature. In England, this approach was outlined in *R v South London Coroner, ex parte*,[4] when Thompson Lane CJ explained that:

> An inquest is an inquisitorial process, a process of investigation quite unlike a trial where the prosecutor accuses and the accused defends, the judge holding the balance or the ring, whichever metaphor one chooses to use.

Therefore, in short, the coronial inquest is an inquisitorial proceeding to determine how the deceased came by his or her death. The question of 'how' a person died is not limited to establishing merely the medical cause of death and may require a critical examination of the circumstances in which the death occurred.

No one is entirely sure of the precise origins of the ancient office (Abernethy et al, 2010). Abernethy et al suggest that the office of coroner is the oldest in the common law and that the earliest mention of the Coroner is actually pre-Norman, most likely between AD 871 and 910 from the reign of Alfred the Great (Abernethy et al, 2010), (Knight, 1999). However, Knight explains the origins in this way:

> However, we have no records of that period and we do not know what the Coroners' functions were at that time. By drawing parallels with other Saxon law officers, like the Bailiffs and the Sergeants, it seems probable that they carried out at least some of the duties which the later Norman Coroners undertook. But the Coroner as we know him today dates from September 1194. For it was instigated almost eight hundred years ago, during the reign of Richard the Lionheart.

Knight also claims that the keeping of the pleas of the Crown was the source of the term or title for coroner. The original Latin words were '*custos placitorum coronas*' from which the word coroner is derived. The word 'coroner' was referred

3 *Retnarasa a/l Annarasa v Public Prosecutor* [2008] 8 MLJ 608.
4 (1982)126S.J 625 D.C.

as 'Crowner' for hundreds of years, as stated in Shakespeare's Hamlet where it is said *'But, is this law?, Ay, marry, is't crowner's quest law!'*.[5]

Freckelton and Ranson observed that there is evidence of the existence of a coroner, at least in name, as early as the regime of King Alfred. It seems that the most accurate date of the true origins of the institution of 'coroner' is 1194 as recognised in the Council of Eyre. In 1200, it was the first borough coroners to be authorised by Royal charter. (Freckelton and Ranson, 2006).

On the other hand, some argues that it is debatable as to whether 1194 instituted a new office or merely declared existing practice. Fenwick also noted that some historians have placed the origin of the coroner even earlier (Fenwick, 1980). Either way the reason for the appointment of coroners at this time was almost certainly to check the increasing corruption practiced by the sheriffs who were royal bailiffs, the King's administrative officials at a local level (Harding, 1966).

Whatever the precise date of origin might be, office of the coroner certainly predated the signing of the Magna Carta. In AD 925, during King Aethelstan (924-40), St John of Beverly was given the title of 'the keeper of the pleas of the crown,' later 'crowner,' and then 'coroner'. The coroner was given high responsibility and was a very powerful judicial officer. The coroner: was empowered to collect money owed to the King; tried criminal (felony) cases; and controlled the treasure operations throughout the kingdom. These duties of the coroner can be found in Article 20 of the Article of Eyre 1194, which uses the term *'custodes placitorum coronae'* (the keeper of pleas of the crown). Article 20 reads *'Praeterea in quolibet comitatu eligantur tres milites et unus clericus custodes placitorum coronae'* (*'in every county of the king's realm shall be elected three knights and one clerk, to keep the pleas of the crown')* (Stubbs, 1888). This article provided for the election in every county of three knight and clerks to be 'the keeper of the crown'. The function of these officials was to keep the records of cases in which the King was interested (Abernethy et al, 2010).

The Introduction of Legal System in Malaysia: the Coronial Journey

In Malaysia, the adoption of English law gradually evolved and developed during the era of British colonisation (Noordin and LP Keng, 2011). Freckelton and Ranson pointed out that the original Code of Criminal Procedure (I861) India established by the British was the basis for the coronial inquest system in Singapore. Malaysia was formed under one Federation comprising Peninsula

5 William Shakespeare, *Hamlet* Act V, Scene 1 cited in Bernard Knight, *Crowner: Origins of the Office of Coroner* (2007) Britainnia History <http://www.britannia.com/history/coroner1.html>.

Malaya (West Malaysia), Singapore, North Borneo (now known as Sabah) and Sarawak. Singapore was part of the Malaysian legal system before it became an independent republic on 9 August 1965 (Hamzah and Bulan, 2003). In fact, the states in Peninsula Malaya at that time were divided into three groups, namely: the Straits Settlement comprising of Penang, Malacca, and Singapore; the Federated Malay States (FMS) comprising of Perak, Negeri Sembilan, Selangor and Pahang; and the Unfederated Malay States (UMS) comprising of Terengganu, Johor, Kedah, Perlis and Kelantan.

To analyse how the common law system of coronial inquiries (inquest) were introduced in Malaysia, it requires an understanding of Malaysian history. Maxwell and Gibson explained that the British era in Malaysian history started during the eighteenth century when the British first came to Peninsular Malaya (first to Penang in 1786 then, to Singapore in 1819 and finally Malacca was exchanged by British for the island of Benkulen in Sumatra (Maxwell and William Sumner Gibson, 1924) with the Dutch under the Anglo-Dutch Treaty in 1824) for the purpose of trade and also to form bases to prevent French domination in the Indian Ocean. Penang, Singapore and Malacca were incorporated as British colonies known as the 'Straits Settlements' in 1826. (Hall, 1981) Subsequently, by entering into agreements with the Malay rulers of the respective states, the British also colonised the other Malay states which led to the formation of the Federated and Unfederated Malay States. Later, the Federation of Malaya was formed in 1948 combining the Straits Settlements and the Federated and Unfederated Malay States.

Hamzah and Bulan noted that the British introduced English law by way of Charters of Justices and legislation in Malaya (now Malaysia). This British colonial policy was consistent with the policies applied to other colonies. The British introduced: i) English statutes enacted before 1 April 1867 were applicable in India and Straits Settlements; and ii) Indian statutes enacted before 1 April 1867 were enforced in the Straits Settlements.

The introduction of the English legal system created some arguments about the application of common law in Malaysia.[6] This problem started during the introduction of the First Charter on 25 March 1807.[7] The first legally qualified Magistrate (called 'Recorder') in Penang was Sir Edward Stanley and he expressed the view that the local population should have freedom to exercise their religious, customs, usages and habits. Sir Ralph Rice (third Recorder) had the same view and assumed that the First Charter initiated English law in criminal and civil matters, while the locals were governed by their customs.

6 *Kamoo v. Basset* (1808) 1 Ky 1

7 The First Charter conferred jurisdiction upon the Court of Judicature in Penang.

Subsequently, the Second Charter of Justice, granted by King George IV of England, was introduced to the incorporated Straits Settlements and was the second statutory reception of English law for Penang, Malacca and Singapore.[8] However, *In the Goods of Abdullah,*[9] Sir Benjamin Malkin held that the religions and customs of the local people were recognised as exceptions to the general application of English law. Hamzah and Bulan cited Maxwell CJ's opinion in the case of *Choa Choon Neoh v Spottiswoode*[10] to support the reception and adaptation of English law to the situation and needs of the local population. They explained that the rationale for such modification was to avoid injustice and oppression in the application of the common law. Hamzah and Bulan described the present Malaysian legal system as an integration of the common law, *Syariah* (Muslim Law) and customary law traditions (Hamzah and Bulan, 2003).

The Second Charter of Justice was repealed by the Third Charter of Justice on 10 August 1855. The new charter confirmed its jurisdiction and powers over the Straits Settlements (Glos, 1965). This charter divided the court structure into two, namely one division for Penang and one for Malacca and Singapore each with their own Recorder and Registrar (Hamzah and Bulan, 2003). Thereafter, the court was reconstituted a number of times. In 1868, the Legislative Council, Colonial Office in London passed *Ordinance V of 1868* to abolish the court structure in the Straits Settlements and established the Supreme Court of the Straits Settlements. Under this new structure, the Supreme Court had three divisions, where every settlement has one division, separately. Further, in 1873, the Supreme Court of Straits Settlements was given appellate jurisdiction (Glos, 1965).

The First Coroner in Penang and Singapore

Ordinance V of 1868 was repealed and replaced with the *Courts Ordinance of 1878*.[11] The purpose of this ordinance was to amend the law relating to the establishment of the civil and criminal courts of the Straits Settlements (K. Tan, 1999). Under this ordinance, a new structure of courts was established in the Straits Settlements, namely: the Supreme Court of the Straits Settlements and Courts of Requests, Courts of two Magistrates, Magistrates' Courts, Coroners' Courts and Justice of Peace for each of the Settlements. This was the first time that the Coroner's Court was introduced in the legal system of Straits Settlements and, in 1878, a coroner was appointed for Penang and Singapore, respectively. The first coroner for Penang was **Mr W. J M Allan** and **Mr F Gordon Penney**

8 The Second Charter repealed the jurisdiction of the Court of Judicature in Penang
9 [1835] 2 Ky. Ecc. 8
10 [1869] 1 Ky. 216
11 Ordinance III of 1878

was appointed for Singapore.[12] During this time, the laws and procedures in England were applicable to the Straits Settlements and therefore the laws and procedures relating to coronial inquests in England were also applicable to the Straits Settlements.

The first law on criminal procedures introduced in the Straits Settlements was the *Criminal Procedure Act 1852* (India). Ibrahim observes that by virtue of statute 3 and 4 William IV c. 85, the *Criminal Procedure Act 1852* (India) was enforced in the Straits Settlements as part of India (Ibrahim, 2009). Therefore, the Indian Act XVI of 1852[13] was introduced into the Straits Settlements together with others laws, such as statutes on wills, slavery, merchant shipping, marriage and divorce, Supreme Court, judicial officers and so on (Ibrahim, 2009).

The Indian *Criminal Procedure Act XVI of 1852* was enforced to govern matters relating to the criminal procedures in the Straits Settlements until 1870. The Act was abolished and replaced by the *Criminal Procedure Ordinance V of 1870* (Ibrahim, 2009). This new ordinance was enacted based on the rules of criminal procedure in England (Othman, 1986). However, the criminal procedures under this ordinance were impracticable in the Straits Settlements and therefore this ordinance was replaced with the *Criminal Procedure Ordinance VI of 1873.* The *Criminal Procedure Ordinance VI of 1873* was enacted and passed on 9 September 1873. This ordinance was based on the criminal procedures in India and was in contrast to the earlier ordinance which was based on the criminal procedures in England. At that time, the Malay States (FMS and UMS) had no specific criminal law or procedures as had been established in the Straits Settlements; the *Criminal Procedure Ordinance VI of 1873* was not applied to the Malay States until 1900 (Ibrahim, 2009).

Procedures governing coronial inquests (referred to as 'death inquiries') were outlined in Chapter XXX under section 313 -318 of the *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)*[14] where the basic procedures for coronial inquests were described. The meaning of 'inquest' was defined as 'an investigation of any death held by a coroner with a jury, meanwhile 'inquiry' means an investigation held by a coroner without a jury.'[15] When a death was

12 'The Government Gazette, 6th December 1878', *The Straits Times Press* (Singapore), 19 December 1878 <http://newspapers.nl.sg/Digitised/Article/stoverland18781219.2.4.aspx> 1

13 *Criminal Procedure Act 1852* (India).

14 This ordinance has repealed the previous Criminal Procedure *Ordinance XII of 1905; The Laws of Straits Settlements (Volume III) 1908-1912* (Straits Settlements) iv, 279-89.

15 *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)* s 313; *The Laws of Straits Settlements (Volume III) 1908-1912* (Straits Settlements) iv, 279-89.

reported to the police station (including a sudden or unnatural death, or death by violence or where the cause of death was unknown), the Officer in Charge of a Police Station (OCS) was required to conduct an investigation as to the cause of such deaths and report to the Coroner of the Settlement.[16] The duties and role of the police were also specified under this code.

As practised in other Commonwealth jurisdictions, juries were also involved in inquest proceedings in the Settlement. In a case where the coroner had decided to hold an inquest, the coroner summoned the jurors to appear at a specific time and place. Sub-section 324 (1) of the *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)* provided for the selection of the jury; i.e. between three to five good and lawful men who resided within the Settlement were to be selected as jurors for the inquest proceeding. The selection of jurors could also be made from among the members of the police force. The coroner also had power to summon and compel any person as a witness, to attend and give evidence or to produce any document or thing (exhibit) under his or her custody in the death inquest. Under this ordinance, the coroner had a mandatory duty to conduct an inquest into all deaths that occurred in prison, lock-ups or lunatic asylums or deaths that resulted from capital punishment. [17]

A unique feature of this ordinance was that it provided that any person (accused person) who was criminally concerned in the cause of the death of the deceased, was allowed to attend and cross-examine each witness (including the medical officer who conducted the post mortem and prepared the post mortem examination report) during the inquest proceeding. The coroner's role was to record witness evidence in the form of a deposition and to obtain the juries' verdict in order to sum up his findings at the end of the inquest proceeding.

The coroner was obliged to record his findings in writing; which was signed by the jurors and countersigned by the coroner. Basically, the coroner's role was to determine when, where and how the deceased died and to ascertain whether any person was criminally concerned in the cause of the death. This deposition of inquest had to be transmitted to the Public Prosecutor and a copy of the deposition had to be sent to the Chief Police Officer. This ordinance provided that if a coroner conducted an inquest of an immigrant, the coroner must transmit the name, a description of the immigrant, and the date and cause of death to the Superintendent of Immigrants.[18]

16 *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)* ss 315(1)-(2).
17 *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)* s 324(1).
18 *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910).*

Another special provision relating to the exhumation of a deceased body was contained in this ordinance. If a coroner found that it was necessary to view the deceased body during the death inquest or inquiry, the coroner had power to make an order for the exhumation of the deceased body and also for a post mortem examination by a medical officer.

In 1936 the *Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910)* were repealed and replaced by another; the *Laws of Straits Settlements (Criminal Procedure Code – Cap. 21 of 1936)* (Shunmugan et al, 1966). The coronial inquest procedures were codified under Chapter XXX of the law.[199] Even though the earlier code was revised and replaced, it is noted that the provisions relating to procedures of the death inquests under Chapter XXX in the *Laws of Straits Settlements (Criminal Procedure Code – Cap. 21 of 1936)* were retained.

Laws Governing Death Inquiries in Malay States:

i) The Criminal Procedure Ordinance VI of 1873

Prior to 1900, the Malay States (FMS and UFMS) had no specific criminal law or procedures that were established in the Straits Settlements; the *Criminal Procedure Ordinance VI of 1873* was also applied and enforced in the Malay States. The application of the *Criminal Procedure Ordinance VI of 1873* was discontinued when a criminal procedure code was enacted specifically for the Malay States in 1900. The code was amended in 1902 and 1903. This amended code was called the *Criminal Procedure Code 1903* (Federated Malay States).

ii) The Criminal Procedure Code 1903 (Federated Malay States)

Chapter XXXI of the code established procedures (as special proceedings) for death inquests which were applicable in the Federated Malay States. It provided that the officer in Charge of the Police District (OCPD) had a responsibility to conduct death investigations under Chapter XXXI. Upon receiving information of death of a deceased person (death by suicide, or killed by another person or by animal or by machinery or by accident, or suspicious death), the OCPD was required to proceed to the place where the body of the deceased was found. At the scene of crime, the OCPD was required to draw up a report of the apparent cause of death, to describe the wounds, fractures, bruises or other marks of injuries found on the body. The report was to include an opinion as to the object, weapon or circumstances that caused the death of the deceased.[20]

19 *Laws of Straits Settlements (Criminal Procedure Code, Ordinance XXI of 1936)* s 325-365.
20 *Criminal Procedure Code 1903* (Federated Malay States) s 279(i)(c).

Upon completion of the death investigation, the OCPD was obligated to submit the investigation report to the Public Prosecutor and a copy to the nearest Magistrate. The duty of the Magistrate was to review the report submitted by the OCPD and if the Magistrate was not satisfied with the cause of death, the Magistrate had to hold an inquiry into the cause of the death. The Magistrate was also empowered to hold inquiries into a death that occurred while the deceased was in the custody of the police or in an asylum or a prison. When the Magistrate held an inquest under this provision (death in custody), the Magistrate had a duty to view the deceased body *in situ* and to summon two assessors (jury) in the district where the death occurred. The assessors were authorised to sit with the Magistrate during this inquest proceeding. However, the assessors were not required to view the deceased body. It was provided that when the assessors were duly summoned and failed to appear at the inquest, the Magistrate was empowered to impose a fine not exceeding $25. The notice of fine was to be posted to the usual residence of the assessors.

When the Magistrate had concluded the inquest proceeding, the Magistrate had a duty to transmit the findings and the evidence (either the original or a copy) of the inquest proceeding to the Senior Magistrate. Upon receiving the findings and evidence of the inquest proceeding, the Senior Magistrate had to file it in a Registry of the Senior Magistrate's Court.[21] It was provided that the findings and evidence of the inquest proceeding should be signed by the two assessors. The two assessors had liberty to record their dissent or disagreement as to the findings and evidence of the inquest proceeding. If the two assessors recorded their dissent or disagreement, the Magistrate was required to forward the findings and evidence of the inquest proceeding to the Public Prosecutor.

It was provided under Chapter XXXI that the inquest proceeding was open to the public. However, the Magistrate was empowered to exclude the public, or any person, at any stage of the inquest. The Magistrate had discretion to decide on exclusion on special grounds of public policy. A special power of Magistrates was also noted under Chapter XXXI; namely, when the Magistrate was not satisfied with the cause of death of the deceased, the Magistrate had the power to order exhumation of the body and post-mortem examination on the body.

The entire *Criminal Procedure Code 1903* was repealed in 1927 when a new *Code Criminal Procedure Code 1927(FMS Cap-6)* was enacted for enforcement in the FMS, including in the states of Perak, Selangor, Negeri Sembilan and Pahang (Othman, 1986). This *Criminal Procedure Code 1927* laid the foundation for the present *Criminal Procedure Code* in Malaysia.

21 *Criminal Procedure Code 1903* (Federated Malay States) s 281(i).

iii) The Criminal Procedure Code (FMS Cap-6) 1935

The *Criminal Procedure Code 1927* was repealed and replaced with a new code called the *Criminal Procedure Code (FMS Cap-6) 1935* (Gibson (ed), 1935). The procedures on death inquiries were provided under Chapter XXXII of the *Criminal Procedure Code (FMS Cap-6) 1935* as 'Special Proceedings'. In this chapter, the term 'cause of death' was defined.

In contrast to the earlier *Criminal Procedure Code 1903,* the responsibility to conduct death investigations was given to the Officer in-Charge of Police Station (OCS) upon receiving information of death of a deceased. The OCS was obligated to investigate deaths including deaths by suicide or where the deceased was killed by another person or by animal or by machinery or by an accident or a suspicious death or where the cause of death was unknown. Upon receiving the information, the OCS, or a police officer, not below the rank of sergeant acting under the direction of the OCS or the Investigating Officer of Sudden Death Report (IO SDR) has a duty to investigate the death. The OCS or IO SDR was required to proceed to the place where the body was found in order to conduct an investigation. The OCS or IO SDR was required to draw up a report of the apparent cause of death, to describe the bruises, wounds or fractures or any other marks of injury on the deceased body.[22]

Under this Code, the OCS or IO SDR was allowed to exercise all special powers to investigate as conferred under Chapter XIII; i.e. to utilise provisions under section 112, 113 and 114 of the CPC. The OCS or IO SDR was obliged to compile the report and forward it to the OCPD. The OCPD had an obligation to submit the report to the Magistrate, who had the jurisdiction over the place where the body was found. There were no significant changes over time in the law governing coronial inquests in the Federated Malay States.

Under section 330 of this Code, if it appeared to the OCS or IO SDR that the deceased died in a sudden or unnatural manner or by violence, the OCS or IO SDR was required to take or send the body to the nearest Government Hospital or other convenient place for holding a post-mortem examination. However, if the OCS or IO SDR was satisfied with the cause of death or that the death was caused by an accident, the OCS or IO SDR should make an order for the body to be buried immediately. If it appeared to the OCS or IO SDR that the body should be viewed by a Magistrate *in situ* (at the place where the deceased body

22 *Criminal Procedure Code (FMS Cap-6) 1935* (Federated Malay States) s 329(ii).

was found), the OCS or IO SDR was obligated to inform the Magistrate. At the Government hospital, the Government Medical Officer (GMO), upon receiving the deceased body, was required to conduct a post-mortem examination and the dissection of any part of the body for further analysis to determine the cause of death. If it was necessary, the GMO should transmit the dissected part of the body to the Institute for Medical Research (IMR) for analysis in order to ascertain the cause death. A Report prepared by the GMO or the officer of the Institute for Medical Research was admissible as *prima facie* evidence at any proceeding under Chapter XXXII or inquiry under Chapter XVII of the *Criminal Procedure Code.*

The Magistrate has the discretion whether to hold an inquest or not as provided under sub-section 333 (i)-(iii) of the *Criminal Procedure Code.* If the Magistrate decided to dispense with an inquest, the Magistrate had to record the reasons for his decision and transmit it to the Public Prosecutor, together with all reports and documents relating to the death. If any person had been committed for trial or criminal proceeding has been instituted, the Magistrate was not obligated to hold an inquest under Chapter XXXII of the *Criminal Procedure Code.* However, the Magistrate had a mandatory obligation to hold an inquest into all deaths in custody, as provided for under section 334 of this code. Inquest proceedings were open to the public and the Magistrate could exclude the public or any person at any stage on the special grounds of public policy.

The Magistrate was also empowered to exhume the buried body and make an order for a post-mortem examination to be conducted by a GMO as provided under sub-section 335(ii) of the code. The purpose of an inquest by a Magistrate was established by section 337: to find when, where, and how the deceased person died, what causes the deceased's death and to determine whether any person was criminally concerned in the cause of death.

The Magistrate had to record all evidence and findings in an inquest proceeding and transmit them (either the original or a copy of the evidence and findings) to the Public Prosecutor. Under sub-section 339 (ii) of the code, if the Public Prosecutor identified irregularities in the findings of the Magistrate, the Public Prosecutor was empowered to direct the Magistrate to reopen the inquest proceeding and make further investigation or to 'exhume the buried body'. The Magistrate was obligated to comply with all directions from the Public Prosecutor without unnecessary delay.

Under this Code, a post-mortem report of the deceased prepared by a Medical Officer which was used in a homicide or culpable homicide trial was admissible as to the cause of death and the appearances of the deceased body even though

the Medical Officer was absent from the Federated Malay States. However, the post-mortem report was subjected to deduction from its weight for the reason that the post-mortem report was not produced under an oath and the accused person did not have an opportunity of cross-examination during the proceeding. It was established under Chapter XXXII that the Public Prosecutor was required to deliver all proceedings transmitted to him to the Registrar of the Supreme Court and the Registrar was responsible for the records and was required to keep a proper index of the records.

Subsequently, in 1947, this *Criminal Procedure Code* was amended to extend the application to Unfederated Malays States (UFMS) i.e. Johor, Kedah, Perlis, Kelantan and Terengganu. However, the provisions governing inquiries of deaths (Chapter XXXII) were not amended.

The *Criminal Procedure Code* for Sabah[23] and Sarawak[24] were irrelevant to the current criminal procedures in Malaysia until these codes were repealed in 1976 to make the *Criminal Procedure Code (FMS Cap–6)* applicable to the whole of Malaysia including Sabah and Sarawak.[25] According to Majid, prior to 1976, the *Criminal Procedure Code* of the Straits Settlements, Sabah, and the Federated Malays States and the *Inquests Ordinance* for Sarawak provided for death inquiries and inquests in Malaysia. On 10 January 1976, the *Criminal Procedure Code (FMS Cap–6)* (Federated Malay States) was extended in its application to the Straits Settlements (Penang & Malacca only, as Singapore had already left the Federation of Malaya) and Sabah and Sarawak.[26] The *'Laws of the Straits Settlements (Criminal Procedure Code, Cap–21)'* for the Straits Settlements, the *Criminal Procedure Code* for Sabah, and *Criminal Procedure Code* for Sarawak were abolished by virtue of section 4 of *Criminal Procedure Code (Amendment and Extension) Act 1976* (Malaysia). Therefore, Part VIII - Special Proceedings: Chapter XXXII (Inquiries of Deaths) of the *Criminal Procedure Code (FMS Cap–6)* (Federated Malay States) contained procedures on coronial inquests applicable throughout Malaysia.

This extension of the application of the *Criminal Procedure Code (FMS Cap–6)* to the other states, through the enactment of the *Criminal Procedure Code (Amendment and Extension) Act 1976,* was the basis for the *Criminal Procedure*

23 *Criminal Procedure Code of Sabah 1959* (Sabah).
24 *Criminal Procedure Code of Sarawak Cap. 58.*
25 *Criminal Procedure Code (Amendment and Extension) Act 1976 (Malaysia) s 2(2), s 4.*
26 *Criminal Procedure Code (Amendment and Extension) Act 1976 (Malaysia) s 2(2) , s 4.*

Code (Malaysia) that operates today. The most recent revision of the CPC was in 1999; the statute is now referred to as *Criminal Procedure Code - Revised 1999* (Malaysia). The latest amendment to the CPC was made in 2010 by virtue of the *Criminal Procedure Code (Amendment) Act 2010* (Malaysia).[27] Even though the code governing criminal procedures was amended several times since 1976 and revised in 1999, the major provisions on death inquiries contained under Chapter XXXII remained unchanged. The word 'jury' was deleted in section 340 under Chapter XXXII of the CPC and came into force on 1 August 2002. From this time, and as part of a wider abolition of juries in the Malaysian legal system, juries no longer played a part in inquest proceedings in Malaysia.[28]

The current Chapter XXXII in the CPC has not been updated since 1935. Only some provisions under the CPC in relation to the coronial inquest procedures were amended in 1969, 1993 and 2002. But, this is not a major change to coronial inquest.

In 1969, section 2 of the CPC was amended to include the 'University Hospital, University of Malaya' as a 'Government Hospital' and a registered medical practitioner employed by the University of Malaya to be employed at the University Hospital as a 'Government Medical Officer' or 'Medical Officer'. In 1993, the term of 'Government Medical Officer' or 'Medical Officer' was given broader meaning which includes any medical practitioner, who had been given an authorisation in writing by the Director General of Health Malaysia under section 34C of the *Medical Act 1971* (Malaysia). In 2002, the CPC was amended by virtue of the *Criminal Procedure Code (Amendment) Act 2002* (Malaysia). The amendments were: i) the phrase 'and also in any inquiry held under XVII' was deleted; ii) the word 'mental' was replaced with 'psychiatric' in section 334, in sub-section 342(2)-(5) and section 344 of the CPC; iii) the word 'jury' in section 340(2) was deleted; iv) the word 'Superintendent' was replaced with 'Director' in sub-section 342(4)-(5) and sub-section 343(1)-(3) of the CPC; and v) 'Mental Disorder Ordinance 1952' was replaced with 'Mental Health Act 2001' in sub-section 342(5) of the CPC.

The Current Criminal Procedure Code

Today, the relevant statutory provisions that deal with coronial inquests are provided as a 'Special Proceeding' under Chapter XXXII of the *Criminal Procedure Code, Revised-1999* (Malaysia) (CPC). Coronial inquests are conducted pursuant to

27 *Date of Royal Assent: was obtained on 2 June 2010 and date of publication in the Gazette was on 10 June 2010 however this amendment is not yet enforced.*

28 *Criminal Procedure Code (Amendment) Act 1995 (Malaysia) s 11.*

sections 328–341A of Chapter XXXII of the CPC (Nadesan, 1997). Section 328 describes the meaning of "cause of death" in broad terms:

> In this Chapter the words "cause of death" include not only the apparent cause of death as ascertainable by inspection or post-mortem examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his/her death and as to whether his/her death resulted in any way from, or was accelerated by any unlawful act or omission on the part of the any other person.

This provision defines the meaning of 'cause of death' which includes the death of a person derived or 'caused by any unlawful act or omission by someone.'

Malaysia's coronial system involves four major government agencies. The role of the police is to conduct death investigations. The pathologist conducts post-mortem examinations to establish the cause of death of the deceased person. The magistrate, who acts as coroner, conducts inquests to determine who, when, where, how and what caused the deceased's death.[29] The Public Prosecutor accesses the inquest findings or verdict of the Magistrate and decides whether: the findings are satisfactory; or an inquest is necessary; or whether to reopen the death investigation.[30]

Ali has characterised Chapter XXXII of the CPC as having four parts: i) the power of police to investigate, ii) the duty of the Government Medical Officer (GMO) to conduct autopsy examinations, iii) the power of a Magistrate to hold an inquiry into deaths, and iv) the power of the Public Prosecutor to request a death inquiry (Ali, 2009).

The Police Power of Investigation

Section 329 empowers a police officer to carry out an investigation into unnatural, suicide, violent or sudden deaths. However, the Officer in Charge of a Police Station[31] (OCS), upon receiving information shall transmit such information to the Officer in Charge of the Police District (OCPD) without unnecessary delay. The information referred to in this section could be a death by suicide or a person who

30 *Criminal Procedure Code, Revised -1999* (Malaysia) s 333-338.

31 *Vasanthi Perumal v Tan Sri Ghani Patail* [2009] 7 MLJ 391

32 OCS is the officer in charge of station is a police officer not below the rank of Sergeant and not higher than Chief Inspector. In Malaysia, Sergeant and Chief Inspector are ranks of police officer as provided under the Police Act 1967 (Act 344). In fact, the police sergeant or OCS also has special powers in relation to police investigation of all sizeable cases provided in Chapter Part V of XIII.

has been murdered or killed by an animal, machinery or accident. Suspicious or sudden deaths or death by unknown cause are also included under this provision as the primary concern and the main focus of coronial inquest.

In addition to the CPC, the Inspector General of Police (IGP) has issued a Standing Order in relation to Sudden Death Reports (SDRs)[32] which came into force on 7 July 2003. This Standing Order is referred to as IGSO D232.[33] This Standing Order was made pursuant to section 97 of the *Police Act 1967* (Malaysia) which allows the IGP to issue administrative orders (i.e. 'Standing Orders') for the general control, direction and formation of the police force and of all bodies established for police duties under the *Police Act 1967* (Malaysia). Standing orders must be consistent with the *Police Act 1967* (Malaysia), Rules and Police Regulations. The purpose of establishing IGSO D323 was to provide a Standard Operating Procedure (SOP) to describe the role of police and procedures in the process of death investigation as contained in Chapter XXXII of the CPC. However, the IGP has issued a latest order regarding procedure on sudden death investigation No: 101/2014.[34]

Section 331 of the CPC requires the GMO or pathologist to conduct the post-mortem examination on the deceased body as soon as practicable. Upon receiving the deceased body and the order from the OCS or IO SDR, the GMO or pathologist performs a post-mortem examination. Before performing the post-mortem, the GMO or pathologist will request the family members or next of kin to identify the deceased in the presence of the OCS or IO SDR. The GMO or pathologist will then record the particulars (such as name, identification number, address, contact details) of the family members or next of kin.

In Malaysia, because of religious or cultural sensitivities, the family members or next of kin may try to object to autopsies or they may request that the GMO or pathologist causes minimal damage to the deceased body. According to the Islam, a Muslim should be buried quickly without disturbing or torturing the dead body. Fiqh Sunnah that refers to the burial of a dead body in the Islamic religion as follows:

> There is a consensus that burying a dead body and covering it is a collective obligation (*fard kifayah*). If some Muslims bury the dead body, it would absolve the rest of them from this obligation. Qur'an 77.25-26 Allah, the Almighty, says: "Have we not caused the earth to hold within itself the living and the dead?" [35]

32 Pol. 60: Royal Malaysia Police: Request for post-mortem form

33 *Inspector General Standing Order: Criminal Investigation Department No: D232 (2003).*

34 *Arahan Ketua Polis Negara Bil: 101 Prosedur Kerja Siasatan Kes Mati Mengejut*

35 *Fiqh-us-Sunnah Volume 004, Funerals and Dikr, Fiqh 4.061* (January 2009) Hadith Collection <http://hadithcollection.com/fiqh-ussunnah/386-Fiqh-us%20Sunnah%20Section%2063.%20Burial/21502-fiqh-us-sunnah-volume-004-funerals-and-dhikr-fiqh-4061.html>

In some cases of interest (especially deaths in custody cases),[36] the family members or next of kin may *demand* that a proper and professional autopsy be undertaken by the GMO or pathologist to ensure the cause of death of the deceased is properly determined.

The GMO or pathologist conducts the post-mortem examination as requested by the OCS or IO SDR. While conducting the post-mortem, the GMO or pathologist dissects the human remains in order to send them to the Institute for Medical Research (IMR) for further analysis.

Upon completion of the post-mortem examination, in accordance with section 332 of the CPC, the GMO or pathologist determines the cause of death of the deceased and prepares a short report to confirm the cause of death and transmits this to the OCS or IO SDR. This report is completed on a standard form referred as the 'Certificate of Cause of Death'. A copy of this certificate is given to the OCS or IO SDR. The body will be given to the next of kin. A burial permit will be issued to bury or cremate the body of the deceased in accordance with their religious and cultural beliefs.

Later, the GMO or pathologist prepares a full post-mortem report referred to as the 'Autopsy Report'. This report is admissible as *prima facie* evidence as to the cause of the death. It describes the appearance of the body, bruises, wounds, fractures and any other marks of injury on the deceased's body. It is dated and signed by the GMO or pathologist. The GMO or pathologist transmits the post-mortem report to the OCPD via the OCS or IO SDR.

Hindus and Buddhists in Malaysia practice cremation of bodies as required by their religion. Therefore, in cases where the deceased person is a Hindu and a family member or next of kin cremates the body of the deceased, the Magistrate is unable to issue an order for exhumation of the body for further investigation or for a second post-mortem examination.

The availability of a second post-mortem examination has been a cause of public concern in Malaysia. Under the present law (i.e. the CPC) only the Magistrate is empowered to make an order that a GMO or pathologist should conduct a second post-mortem. There is no legal framework for the deceased's family members or other 'interested person' to request a second post-mortem if they are not satisfied with the findings (as to the cause of death) of the GMO or pathologist. The law is silent on this matter. An application made to High Court for a second post-mortem was turned down in the case of *Ho Kooi Sang v University of Malaya*

36 *N Indra P Nallathamby v PP* (2010) 1CLJ 521; *Re Teoh Beng Hock* (2010) 2 CLJ 192; *Sara Lily & Satu Lagi v PP* (2004) 7 CLJ 335.

[2004] 5 CLJ 445. The High Court dismissed the application on the basis that the application for a second post-mortem examination should have been made to a Magistrate, who has jurisdiction to make an order for a second post-mortem examination.

In Malaysia, there is a shortage of trained forensic pathologists. For example, in 2004, there were no forensic pathologists in Perlis, Kelantan, Terengganu, Sarawak and Negeri Sembilan. The state of Sabah has only one forensic pathologist. According to Professor Lai Meng Looi (former President of the Malaysian Academy of Medicine's College of Pathologists), the ratio or norm is at least one pathologist for every 75,000 people. Based on this ratio, Malaysia needs about 330 pathologists of all disciplines. There are only 217 forensic pathologists (most of the country's 217 pathologists are involved in diagnostics, and most of them were histopathologists who analyse tissue from living patients) working in government hospitals and teaching in Malaysia. Professor Looi LM adds that the forensic pathologists in Malaysia are overloaded with work because of the shortage. Aside from handling post-mortems, criminal investigations and court appearances, forensic pathologists serving in hospitals also teach in universities. [37]

The power of a Magistrate to hold an inquiry into deaths

A copy of the First Information Report (FIR), statements from the informant and witnesses, the investigation dairy (list of chronological events), sketch plan, photographs, list of exhibits, post-mortem report, chemist report, IMR report, a copy of the deceased's identification card, and other relevant documents (as evidence) are filed in the SDR. Upon completion of the investigation, the OCS or IO SDR sends the SDR to the OCPD and finally the OCPD is required to submit the report to the relevant Magistrate. There is no full-time coroner in Malaysia; therefore, a Magistrate is authorised to act as a coroner (Nadesan, 1997). Jurisdiction is based on where the body of the deceased was found.

The role of Magistrates in death inquiries is stated under section 333 of the CPC. In 2007, the Honourable Chief Justice of Malaya issued a direction ('*Practice Direction: Guidelines on Inquest*') to all Senior Session/Magistrate Court Judges and Magistrates in Peninsular Malaysia.[38] This practice direction came into force on 1 February 2007. This practice direction was replaced with new Practice Direction No: 2/2014 issued on 8 April 2014 by Chief Registrar of Malaysia and took effect from 15 April 2014.[39]

37 Materia Medica Malaysiana, *Critical shortage of forensic pathologists* (12 November 2004) New Straits Times dated 6/11/2004 <http://malaysianmedicine.blogspot.com.au/2004/11/critical-shortage-of-forensic.html>.

38 Letter from Tan Sri Dato' Siti Norma Binti Yaakob to All Session Court Judges and Magistrates in Peninsular Malaysia, 5 January 2007, Practice Direction No:1 of 2007 Guidelines on Inquest.

39 Letter from Azimah binti Omar to State Court Director, All Session Court Judges and Magistrates in Malaysia, 8 April 2014, Practice Direction No:2 of 2014 Death Inquiry and Coroner's Court Establishment

In 2004, the Public Prosecutor's office (the Attorney General Chambers, Putrajaya) sent a directive letter to the Director of Criminal Investigation Department in relation to SDRs (applicable especially custodial death cases). The directive required the police to forward SDRs to the state Deputy Public Prosecutor's office. The Deputy Public Prosecutor (DPP) scrutinises evidence relating to death investigations before the SDRs are sent to a Magistrate. The positive process in this is that the DPP is be able to monitor the weaknesses of the investigation (to avoid haphazard investigation) and advise the police to take necessary steps in order to overcome the weaknesses. The negative part is that it delays coronial processes because SDRs are often held-up in the DPP's office for a long period of time.

Upon receiving the SDR, the Magistrate will scrutinise the evidence (by reading the informant and witness statements, viewing the photographs and sketch plans, and reviewing expert's reports such as the post-mortem report or chemist report) in order to determine the cause of death of the deceased. If the Magistrate is satisfied as to the cause of death of the deceased, as clearly stated in the post-mortem report of a GMO or pathologist, and after consideration of all circumstances surrounding the deceased's death, the Magistrate can decide not to hold an inquest as provided under sub-section 333(1) of the CPC. When the Magistrate is satisfied as to the cause of death of the deceased, the Magistrate transmits this finding on the cause of death to the Public Prosecutor, along with all reports and documents contained in the SDR. If the Magistrate is not satisfied as to the cause of death of the deceased, the Magistrate is authorised to issue an order to a medical officer to conduct a post-mortem examination on the body. With the assistance of the police, the Magistrate is obligated to inform the family members or next of kin regarding the death and the post mortem examination of the deceased.

The Role of Public Prosecutor

Sub-section 338 (1) of the CPC compels the Magistrate holding a death inquiry under Chapter XXXII to record the evidence and the findings of the inquest. The Magistrate is responsible for immediately transmitting the findings and grounds of the verdict to the Public Prosecutor.[40]

The role and power of the Public Prosecutor is established by section 399 of the CPC. Sub-section 339(1) of the CPC empowers the Public Prosecutor to direct the Magistrate to hold an inquest into the death as outlined under section 329 and 334 of the Code. If the Public Prosecutor finds that the Magistrate has

40 *Criminal Procedure Code, Revised -1999* (Malaysia) s 338(1)

dispensed with an inquest in the case of a death in custody, or has failed to determine the identity of the deceased, or has failed to ascertain the manner or cause of the deceased's death, the Public Prosecutor may become involved (i.e. as the initiator of the inquest).

Upon receiving the direction, the Magistrate is obligated to hold an inquest and record the finding as to the cause of death and the manner or circumstance surrounding the death. Further, if it appears to the Public Prosecutor that further investigation is necessary or any irregularity in the finding or verdict of the Magistrate is found, the Public Prosecutor is empowered to direct the Magistrate to reopen the inquest proceedings and to make further investigation. However, the Magistrate is not obligated to reopen the inquest if a verdict or finding in cases of culpable homicide (amounting or not amounting to murder) has been returned against any person. This is because the Magistrate has no jurisdiction to hold an inquest if the deceased's death was caused by an unlawful act and a criminal proceeding has been instituted against any person.

The Public Prosecutor is also empowered to direct whether the deceased body needs to be exhumed or not. It is mandatory for the Magistrate to comply with all the directions given by the Public Prosecutor without unnecessary delay.

If the Magistrate finds (while examining the evidence in the SDR or during, or at the end of inquest proceedings) that the deceased's death was accelerated or caused by any unlawful act by any person, the Magistrate reports the findings to the Public Prosecutor to prosecute the alleged killer or perpetrator of the crime.

New Coroner's Court in Malaysia

Currently, the Government of Malaysia has established 14 special courts called 'Coroner's Court' to handle death inquiries in every state. This was announced by Minister in charge of law YB Puan Nancy Shukri that the current system will be replaced by Coroner's Court effective from 15 April 2014. Ten (10) coroners ranked JUSA C in the civil service ladder were appointed to 10 states, with the four remaining states getting a coroner ranking L54 each. A permanent court to handle death inquiries should be accompanied by legal reforms to grant it independence, if not this will only be superficial and the coronial system remains unchanged.

With this new establishment, the police will be able to enhance their investigation to collect evidence in order to determine the cause of death. The coroner is still dependent on the police to investigate, as the Criminal Procedure Code (CPC) does not provide the coroner with a more investigative or supervisory role following

the discovery of a death. The permanent new coroner would be primarily tasked to handle and lead such cases apart from carrying out other duties required of a judge. The coroner is tasked to independently inquire into how, when and where the person died, and subsequently deliver the findings and verdict. The permanent coroner's court was given the green light by the cabinet last year to handle inquests involving custodial deaths and have a central lock-up centre in every state. However, the Lawyers for Liberty (LFL) emphasized that the powers should include supervising all police investigations to ensure that all relevant evidence is collected ,so as to prevent collusion and careless investigation.[41]

Conclusion

The current coronial inquest system in Malaysia basically originated from the common law and over the years it has been followed without many major changes to the laws and procedures. However, at present, there are several perceived issues in respect of death inquiries in Malaysia. The Human Rights Commission of Malaysia (SUHAKAM), Non-Government Organizations (NGOs), Malaysian Bar Council, Members of Parliament Malaysia (MP) and the general public have expressed dissatisfaction with the entire process of death inquiries in Malaysia. The focal point of their complaints has been the numerous deaths in custody, especially deaths involving the police. The dearth of publically available data on death inquiries, coronial inquests and verdicts had raised suspicions as to whether the current law and procedures relating to death inquiries in Malaysia is sufficient.

Therefore, it is timely that the Government has set up 14 coroners' courts in order to enhance the coroner's inquest in the Malaysian legal system. This should be followed by repealing provision under Chapter XXXII of the current CPC and enact a new law called "Coroner's Act" in order to cover the lacuna in the CPC or at least amend the CPC to provide a detail coroner's inquest procedures in Malaysia.

References

A. B. Voules (ed) (1921), *The Laws of Federated Malay States1877-1920 (Volume I)* (Hazell, Watson & Viney).

A Harding (1966), A Social History of English Law.

41 http://www.themalaymailonline.com/malaysia/article/coroners-court-toothless-without-structural-reforms-says-lawyer-group accessed 10 June 2014.

Ahmad Ibrahim and Ahilema Joned (1995), *The Malaysian Legal System* (Dewan Bahasa dan Pustaka).

Allan Manson (1988), 'Standing in the Public Interest at Coroner's Inquest in Ontario' 20 *Ottawa Law Review* 637.

An Ordinance to Amend the Law Relating to Criminal Procedure: Ordinance No. VI. of 1873 (Straits Settlements).

Arahan Ketua Polis Negara Bil: 101 Prosedur Kerja Siasatan Kes Mati Mengejut.

Article 20 of Article Eyre.

Asean Law Association, *Tracing the Development of the Legal System*, <http://www.aseanlawassociation.org/papers/Malaysia_chp1.pdf>.

Bernard Knight (2007), *Crowner: Origins of the Office of Coroner* Britainnia History <http://www.britannia.com/history/coroner1.html>.

Coronial Service of New Zealand, *History* (<http://www.justice.govt.nz/courts/coroners-court/coronial-services-of-new-zealand/background-of-coronial-services/history>.

Clare Dyer, 'Coroners Will Deliver Fuller Verdicts After Inquests' (2003) 326(14 June) *British.*

Medical Journal 1284.

Criminal Procedure Act 1852 (India).

Code of Criminal Procedure 1861 (India).

Criminal Procedure Code 1903 (Federated Malay States).

Criminal Procedure *Ordinance XII of 1905.*

Criminal Procedure Code 1935 (FMS Cap 6).

Criminal Procedure (Amendment) Ordinance 13 of 1947 (Malayan Union).

Criminal Procedure Code of Sabah 1959 (Sabah).

Criminal Procedure Code of Sarawak Cap. 58.

Criminal Procedure Code (Amendment and Extension) Act 1976 (Malaysia).

Criminal Procedure Code (Amendment) Act 1993 (Malaysia).

Criminal Procedure Code (Amendment) Act 1995 (Malaysia).

Criminal Procedure Code, Revised -1999 (Malaysia).

Criminal Procedure Code (Amendment) Act 2002 (Malaysia).

D.G.E. Hall, *A History of South East Asia* (Macmillan, 4th ed, 1981).

Editors of the American Heritage Dictionaries (ed), *The American Heritage: Dictionary of the English Language* (Houghton Mifflin, 4th Edition ed, 2000).

Fatimah v Logan [1871] 1 Ky. 255.

Fiqh-us-Sunnah Volume 004, Funerals and Dikr, Fiqh 4.061 (January 2009) Hadith Collection <http://hadithcollection.com/fiqh-ussunnah/386-Fiqh-us%20Sunnah%20Section%2063.%20Burial/21502-fiqh-us-sunnah-volume-004-funerals-and-dhikr-fiqh-4061.html>.

Frances Gibson, 'Legal Aid for Coroners' Inquests' (2008) 15 *Journal of Law and Medicine* 587.

George E Glos, *The Administrative Structure and Legal System of Malaya* (1965) <www.zaoerv.de/25_1965/25_1965_1_b_100_122.pdf>.

Hairuddin Othman, *Legal Study on Summary Trial Under Section 173 of The Criminal Procedure Code* (Diploma Thesis, MARA Instutitute of Technology, 1986) <http://eprints.ptar.uitm.edu.my/1282/1/HAIRUDDIN_BIN_OTHMAN_86_24.pdf>.

Hamid Ibrahim, *Imported Laws from India During the 19th Century* (28 March 2009) ALIRAN Justice Freedom Solidarity <http://aliran.com/954.html>.

Harun Mahmud Hashim (ed) (1999), *The Annotated Statutes of Malaysia; Crminal Procedure Code (Act 593)* (Butterworths Revised ed).

Henry Campbell Black (1990), *Black's Law Dictionary* (West Publishing 6th ed).

http://www.themalaymailonline.com/malaysia/article/coroners-court-toothless-without-structural-reforms-says-lawyer-group on 10 June 2014.

Ian Freckelton and David Ranson (2006), *Death Investigation and the Coroner's Inquest* (Oxford University Press).

Inspector General Standing Order: Criminal Investigation Department No: D232 (2003).

Irwin L. Langbein, 'The Jury of Presentment and the Coroner' (1933) 33 *Columbia Law Review* 1329.

J G Fogarty (1998), 'The Task of Coroners' (May) *New Zealand Law Journal* 161.

J. N. Price (1951), *The Penal Code of the Federated Malay States; The Criminal Procedure Code; The Evidence Ordinance; Notes and Commentaries from the Penal Code* (Government Press).

Jill McKeough (1983), 'Orgins of The Coronial Jurisdiction' 6 *UNSW Law Journal* 191.

John Abernethy et al (2010), *Waller's Coronial Law and Practice in New South Wales* (LexisNexis Butterworths, 4th ed).

John D. Wright (2008), *Criminal Investigation: Evidence, Clues and Forensic Science* (Parragon).

John Fenwick (1980), 'Misadventures of the Coroner's Inquest' *New Law Journal* 1164.

Kamoo v. Basset (1808) 1 Ky 1.

Kane County Coroner (2010), *Coroner: An Historical Perspective* <http://www.co.kane.il.us/coroner/history.htm>.

Kasinathan Nadesan, 'The Importance of the Medico-Legal Autopsy' (1997) 19(2) *Malaysian J Pathol* 105.

Kevin Tan (1999), *The Singapore Legal System* (NUS Press).

Kevin Waller (1994), *Coronial Law and Practice in New South Wales* (Butterworths, 3 ed).

Laws of Singapore, anyone? (4 February 2007) SGForums <http://sgforums.com/forums/8/topics/235557>.

Laws of Straits Settlements (Criminal Procedure Code, Ordinance X of 1910).

Laws of Straits Settlements (Criminal Procedure Code, Ordinance XXI of 1936).

Letter from Tan Sri Dato' Siti Norma Binti Yaakob to All Session Court Judges and Magistrates in Peninsular Malaysia, 5 January 2007, Practice Direction No:1 of 2007 Guidelines on Inquest.

Letter from Azimah binti Omar to State Court Director, All Session Court Judges and Magistrates in Malaysia, 8 April 2014, Practice Direction No:2 of 2014 Death Inquiry and Coroner's Court Establishment.

Materia Medica Malaysiana, *Critical shortage of forensic pathologists* (12 November 2004) New Straits Times dated 6/11/2004 <http://malaysianmedicine.

blogspot.com.au/2004/11/critical-shortage-of-forensic.html>.

Mimi Kamariah Majid (1996) 'Inquiries of Death' in Mimi Kamariah Majid (ed), *A Collection of Socio-Legal Essays* (University of Malaya Press) 241.

N Indra P Nallathamby v PP (2010) 1CLJ 521.

Nicholas Rheinberg (2006), 'Coronial Law- A Suitable Case for Treatment' 9(2) *Legal Ethics*.

Ong Cheng Neo v Yeap Cheah Neo [1872] 1 Ky. 326.

Prof. Bernard Knight (1999), *History of the Medieval English Coroner System, Part 1: The Origins of the Office of Coroner* Britainnia <http://www.britannia.com/history/articles/coroner1.html>.

R v Willians [1858] 3 Ky.16.

Raja Badrol Hisham Raja Mohd Ali (2008), 'Inquiries of Death Under Chapter XXXII of the Malaysia Criminal Procedure Code' (Paper presented at the Symposium of Experts in Criminal Law and Forensic Science in Malaysia Between Reality and Science Fiction, Kuala Lumpur, 10-12 July).

Re Teoh Beng Hock (2010) 2 CLJ 192.

Retnarasa a/l Annarasa v Public Prosecutor [2008] 8 MLJ 608.

Robert Turbull (2010), *The Coronial Process in Western Australia: A Handbook for Medical Practitioners and Medical Students* (June) State Coroner of Western Australia <http://www.coronerscourt.wa.gov.au/_files/Handbook_for_Doctors.pdf>.

Shaikh Mohamed Noordin and Lim Pui Keng (2011), *An Overview of Malaysian Legal System and Research* (June) Hauser Global Law School Program <http://www.nyulawglobal.org/Globalex/Malaysia1.htm>.

Sara Lily & Satu Lagi v PP (2004) 7 CLJ 33.

Shunmugan et al (1966), 'Introduction and Development of Trial by Jury in Malaysia and Singapore' 8(2) *Malaya Law Review* 270.

Singapore's Criminal Law and Justice System (2012) Lectric Law Library <http://www.lectlaw.com/files/int21.htm>.

S.M Cordner and B. Loff, '800 Years of Coroners: Have They a Future?' (1994) 344(17 September) *The Lancet* 799;.

The Authority of the Revision of Laws, *Laws of Malaysia: Criminal Procedure Code (Act 593)* (The Commissioner of Law Revision, Malaysia, 2006).

'The Government Gazette, 6th December 1878', *The Straits Times Press* (Singapore), 19 December 1878 <http://newspapers.nl.sg/Digitised/Article/stoverland18781219.2.4.aspx>.

The Laws of Straits Settlements (Volume III) 1908-1912 (Straits Settlements).

Tony Delamothe (2010), 'Good and Bad Coroner Stories' 340(27 February) *British Medical Journal* 454.

Vasanthi Perumal v Tan Sri Ghani Patail [2009] 7 MLJ 391.

Wan Arfah Hamzah and Ramy Bulan (2003), *An Introduction to Malaysian Legal System* (Fajar Bakti,).

WF Willmott (1989), 'The Singapore Legal System' in Kernial Singh Sandhu and Paul Wheatley (eds), *Management of Success: The Moulding of Modern Singapore* (Institute of Southeast Asian Studies) 601.

William George Maxwell and William Sumner Gibson (1924), *Treaties and Engagements Affecting the Malay States and Borneo* (Jas. Truscott & Son Ltd.).

William Shakespeare, *Hamlet* Act V, Scene 1.

William Sumner Gibson (ed) (1935), *The Laws of the Federated Malays States* (C.F. Rowoth, Revised ed).

William Stubbs (ed) (1888), *Select Charter and Other Ilustrations of English Constitutional History* (Oxford University, 6th ed).

Wu Min Aun (1999), *The Malaysian Legal System* (Longman, 2nd ed,).

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