

## The future of the coroner's system in Hong Kong

Because of my interest in the history of the coroner, I have been asked to offer a few purely personal observations on the future of the coroner's system in Hong Kong. The English coroners celebrated their 800th anniversary last year, having been founded in 1194 AD, although coroners in some form, probably existed for 300 years before that.

The first coroner was appointed in Hong Kong in 1841, but the appointment was abolished for the 62 years between 1888 and 1950. Since its reinstatement in its present form, the coroner has always been a magistrate. As in England, there have been a series of government reviews of the office, including that of Mr. Justice Cons, the Hansen Report, and most recently, the Law Reform Commission, but no significant changes have been implemented. Again, as in England, reviews have recommended that lawyers, rather than doctors, be appointed as coroners—although in the United Kingdom, quite a number of medical men have been chosen for the posts.

I am not convinced that lawyers are invariably required, as the majority of coroner's cases are due to natural disease or are deaths associated with medical or surgical treatment, where a medical understanding of the issues involved may be more useful than an understanding of the rather circumscribed legal aspects involved. Even where accident, suicide, and suspicious deaths are concerned, the legal issues tend to be minimal, as criminal deaths are rapidly removed from the coroner's responsibility.

As a personal preference, the future of the coroner in Hong Kong—or the United Kingdom for that matter—would be finite, as I would much prefer to see a Medical Examiner (ME) system adopted, albeit modified from the American system.

In this system, the roles of coroner and pathologist are fused, so that the ME has the duty of investigating the death, carrying out an autopsy if indicated, and of officially categorising ("signing out") the case as either natural, an accident, a suicide, etc. If the death is suspicious or frankly criminal, then it is

immediately transferred to the jurisdiction of the Attorney General's office.

The only defect of the ME system in the United States is the absence of an inquest, which is a useful safety valve for public concern and acts as a safeguard against perceived abuse by the Establishment.

The ME system could easily be expanded to include inquests, perhaps by having a lawyer or magistrate associated with the ME Office, specifically for this purpose. In a model system—something akin to that in Sweden—the Chief Medical Examiner, who has Assistant Medical Examiners, could also hold a part-time academic appointment as a Professor or Reader in Forensic Pathology in one of the medical schools, thus fusing the teaching, research, and university back-up services to the benefit of both institutions.

It is unrealistic, however, to hope for such a radical change from a coroner system, either in the United Kingdom or in Hong Kong, and the existing structure needs to be modified to ensure optimum efficiency and maintain public confidence.

To an outside observer with many years' experience of medico-legal systems in a score of countries around the world, there are some internal aspects of the Hong Kong situation that could be improved with relatively little upheaval and hardly any new legislation.

Firstly, the present arrangements appear to be too dependent on the police, who appear to exercise too much authority in deciding when there is the need for an autopsy. Although nominally, the coroner has this power, there is insufficient central direction from his office in day-to-day procedures, other than in inquests.

The coroner's officers are not like their counterparts in the United Kingdom, who receive reports of death, organise histories from relatives and doctors, and generally run the practical procedures, under the supervision of the coroner. The term "Coroner's Officer" in Hong Kong seems to refer to lawyers in the Attorney General's department, who act as counsel in contentious cases.

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If the staffing of the coroner's office was strengthened, with district coroner's officers deputed to run daily routines and liaise with the relatives, police, pathologists, and medical practitioners, then the service would be—and appear to the public to be—much more self-sufficient and far less associated with the police force than it is at present. The added costs should not be great, as there would be less routine work for the police to do.

The decision about the need for an autopsy should be the prerogative of the coroner; the practice of putting the responsibility for “waiving” an autopsy on hospital pathologists should cease, as this decision should be accepted by the coroner himself, after considering the history obtained by the coroner's officer.

Especially in view of possible changes in 1997—or at least, the unlikelihood of powers being removed from the police after this time—consideration should urgently be given to making the coroner's office far more independent and less police-oriented than it is at present. In some types of incident—a number of which have occurred in Hong Kong in recent years—some distance between the coroner system and the law enforcement agencies would be a good thing. Even if in reality, the police force usually behaves with complete propriety, it is the public perception of a system that is too closely allied with the police that can cause suspicion and resentment, especially when deaths occur in

custody or due to police action. The inquest is a major safeguard in this respect, but that is often held a long time after an incident. The entire investigative process prior to inquest should be seen to be totally independent.

To make such a new system work effectively, the coroner(s) should be full-time in such a populous place as Hong Kong and should have a visible “hands-on” approach to the daily case-load. Whether or not they are magistrates seems irrelevant; if the government is against appointing experienced doctors, then presumably legally-qualified individuals must be appointed—although the amount of law required to run a coroner's office is not great and tends to be both circumscribed and repetitive, which is why a considerable number of British coroners are only medically qualified.

In summary, it seems desirable for the coroner's system in Hong Kong to become much more free-standing and self-sufficient and to distance itself much more from the police—which not infrequently, it is called on to investigate when there has been a death in custody or due to police action.

B Knight, MD, MRCP, FRCPath, DMJ(Path)  
Professor of Forensic Pathology  
Home Office Pathologist  
United Kingdom