Legal Medicine and the Death Inquiry System in Japan; a comparative study

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Introduction

• Legal medicine has played an important role in the death inquiry system, which is to provide an official mechanism to investigate unnatural deaths.

• Since the dead is mostly cremated in Japan, the body is burnt to ashes. The examination of a corpse is important to preserve the evidence.

• In this work, the author focuses on recent problems in the Japanese death inquiry system, and compares it with the coroner’s system.
Agenda; Death Inquiry System & L.M.

- Introduction
- Two goals of Coroner’s system

- Japanese death inquiry system
- Actual data and topic in Japan

- Discussion: Problems in the Japanese system
- Conclusion
Two Goals of the Coroner’s System

Canadian Coroner’s system was studied in 1993.

- To clarify facts of all unexpected deaths and all unnatural deaths for public record.
- To prevent future loss of life in similar circumstances to those deaths investigated.

To attain the second purpose, coroner’s inquiry and coroner’s inquest (jury) are held.
The Coroners Service of British Columbia is responsible for the investigation of all unnatural, sudden and unexpected, unexplained or unattended deaths. It makes recommendations to improve public safety and prevent death in similar circumstances.

The Coroner is responsible for ascertaining the facts surrounding a death and must determine:

- The identity of the deceased
- How, when, where and by what means the deceased died.

The death is then classified as natural, accidental, suicide, homicide or undetermined.

The Coroners Service is a fact-finding, not a faultfinding agency that provides an independent service to the family, community, government agencies and other organizations.

The Coroners Act governs the coroner's scope of activity.
BC Coroners Service

**Goals**

To clarify facts of all unexpected deaths and all unnatural deaths for public record.

To prevent future loss of life in similar circumstances to those deaths investigated

**Programs**

Investigative

Judicial

Preventive

Administrative

**Activities**

Initial Investigation

Medical Investigation

Follow up Investigation

Inquiry

Inquest

Inquiry Recommendations

Jury Recommendations

Research

Staffing & Personnel

Forms & Records

Information Systems

Finance

Facilities & Supplies

Training
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In Prewar Days in Japan

- The Japanese system adopted the European continental type of death-investigation system.
- The Public Prosecutor is empowered to inspect and examine obvious or suspected criminal deaths under the Criminal Procedure Code. The Prosecutor has a right to command the police to investigate a death.
- The Japanese death investigation system was mainly a fault-finding service. This system has been barely reviewed from the perspective of publicity and independence from court process.
In the Initial Postwar Period

- The national police force was broken up, and local or prefectural police forces were established. Since then, the death investigation system has belonged mainly to the domain of the prefectural police.
- Prefectural police departments assign expert officers to investigate deaths. These “death investigators” have experience investigating all type of unnatural death.
- The role of the public prosecutor becomes just a formality. In suspicious criminal cases, police investigate as a proxy of the prosecutor, as ordained by the Code of Criminal Procedure.
Japanese Medical Examiner System

- The medical examiner system was established in Tokyo and some other large cities under the policy of the Supreme Commander for the Allied Powers.

- A Japanese medical examiner’s main concern is the medical and statistical investigation of noncriminal cases. However, the Japanese examiner has a greater chance of detecting occult criminal cases because of his or her decision-making power to order autopsies and because of the high autopsy rate.
Japanese type Medical Examiner System

Five cities have ME system.
Only three cities have office.
Local areas without ME System

* Most areas of Japan do not have a medical examiner system. In those areas, an administrative consent autopsy is done for noncriminal cases. This requires the consent of close relatives, as with a pathological autopsy.

* In practice, however, many noncriminal cases are examined as suspicious cases by judicial autopsy.

* Since autopsy rates are very low in these areas, the accuracy of inquiries into deaths is problematic.
Death Investigation Program in Japan

Unnatural death → Police

Three categories
- Criminal case
  - Police
    - Judicial inspection
  - Judicial autopsy
- Suspicious case
  - Prosecutor
    - Judicial inspection
  - Administrative or consent autopsy
- Noncriminal case
  - Police
    - Administrative inspection
    - No autopsy

Criminal Procedure Code, Inspection Rule → Corpus Handling Rule
Historical Change in Autopsy Systems

Europe

Influence of Anglo-American system post WW II

Judicial Autopsy

Criminal death

Suspicious death

Administrative Autopsy & Consent Autopsy

Non-criminal death

Suspicious death

Japan

5 big cities

Administrative Autopsy by Medical Examiner

Other prefectures

Consent Autopsy with Death Investigator

Forensic Autopsy

Non-criminal death

Criminal death

Unnatural death
Yamaguchi Pref. vs. Osaka Pref. & City (2007)

<table>
<thead>
<tr>
<th>Population</th>
<th>Dead</th>
<th>Forensic Autopsy</th>
<th>Autopsy Rate(%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yamaguchi Pref. (Judicial &amp; Consent Autopsy)</td>
<td>1,462,000</td>
<td>16,736</td>
<td>162</td>
</tr>
<tr>
<td>Osaka Pref. (Judicial &amp; Consent Autopsy)</td>
<td>8,641,000</td>
<td>70,281</td>
<td>852</td>
</tr>
<tr>
<td>Osaka City (Med. Exam. Autopsy)</td>
<td>2,644,000</td>
<td>24,367</td>
<td>1,169</td>
</tr>
</tbody>
</table>

- Yamaguchi Prefecture and Osaka prefecture except Osaka city have not Medical Examiner system and their autopsy rate is around 1%. Osaka city have Medical Examiner system. Autopsy Rate is around 5% in Osaka city.
- The autopsy rate is very low in the areas without ME system.
Unnatural deaths in Yamaguchi Prefecture except deaths from traffic accidents

No-attended-doctor-cases are increasing.
In June 2007, a young sumo wrestler was found unconscious during a sumo training. He was taken to a hospital, where he died. Although there were many abrasions and bruises on his face and body, the Aichi prefectural police did not perform a judicial autopsy. They assumed that these injuries occurred during sumo training and that his death may have been due to heart failure.

When his family saw his corpse, they suspected that he may have been murdered. They asked the Niigata prefectural police to perform a consent autopsy, which revealed that the cause of death was traumatic shock.

Following the autopsy findings, the police started an investigation, and found that he had been abused by senior sumo wrestlers.

Taking this opportunity, the mass media began to point out the issues around the Japanese death investigation system. Now, the police is improving the inspection system.
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The major problem in the Japanese system is the absence of an official apparatus comparable to the coroner’s system to investigate all types of unnatural deaths.

The responsible office for the death inquiry is obscure. Which is responsible, National Police Agency, Public Prosecutors Offices, Ministry of Justice or Ministry of Health, Labor and Welfare?
Prevention Has not Been Considered

- The secondary aim of the death inquiry system, which is the prevention of future loss of life in similar circumstances, has not been taken into consideration. This second aim is important for the people to understand the significance of the death inquiry system.

- The independence of the official system from any other part of the judicial or executive apparatus is essential for effective prevention of the accidental death.
## Classical vs. New Concepts on Safety

<table>
<thead>
<tr>
<th>Classical Concepts</th>
<th>New Concepts</th>
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<tbody>
<tr>
<td>Death investigation</td>
<td>Death inquiry</td>
</tr>
<tr>
<td>Fault-finding</td>
<td>Fact-finding</td>
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<tr>
<td>Criminal responsibility</td>
<td>Prevention-oriented for public or patient safety</td>
</tr>
<tr>
<td>Civil liability</td>
<td>No-fault system</td>
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<tr>
<td>Administrative sanction</td>
<td>Independence from prosecution</td>
</tr>
<tr>
<td>Court process</td>
<td>Recommendation &amp; reporting system for improvement</td>
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<tr>
<td></td>
<td>Out-of-court process</td>
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The Japanese system is mainly a fault-finding and law-enforcement oriented one. Coroners system is a fact-finding and prevention oriented one.
The Information is Hardly Used.

- In investigations into unnatural deaths in Japan, very little of the information collected is disclosed to the victim’s family or to other citizens, because of the prosecution for a few criminal cases.
- The reporting system is poor comparing with the Anglo-European nations.
- The disclosure of this information is especially needed in cases of medical accidents, for the sake of patient safety, as well as in other noncriminal cases.
Reform of Death Inquiry System is needed

- Recently, the reform of death investigation system to exclude accidental medical cases has been attempted because of distrust of medical personnel under the present death investigation system.

- The Ministry of Health, Labor and Welfare started a "model project" on inquiry of medical accidents in 2005. The inquiry committee on medical accidents was made, which is a third party and have some coroners function with a consent autopsy.

- On this occasion, the reform of the overall death inquiry system should be pursued.
Conclusion

- The police should take responsibility of the death inquiry of all unnatural death in all area in Japan.
- The official mechanisms for the prevention of similar deaths should be made.
- The procedure of disclosure of the related information and its reporting system should be made.