

# AN OUTLINE OF THE LEGAL FRAME WORK IN SRI LANKA & INQUEST PROCEDURE IN DEATH INVESTIGATION

# Objective & Aims

Outline the medico-legal framework and the relevant sections of the Penal Code, Criminal Procedure code, Transplantation of Human Tissue Act of Sri Lanka

To produce a medical graduate with knowledge on Criminal Procedure Code regarding inquest into a death of an individual

# Curriculum

- (a) Definition and relevant sections of Criminal Procedure Code-B
- (b) Types of death that need an inquest-A
- (c) Inquest procedure-A
- (d) Duties of inquirer into sudden death-A
- (e) Doctor's role in an inquest- A

# Legal System in Sri Lanka

- The legal system of Sri Lanka is a legacy of the colonial period
- Law
  - Criminal Law
  - Civil Law
- Our criminal law is based on Anglo-Saxon model called **Adversarial system**



# Adversarial system

we use the adversarial system to find the truth in a trial

An adversary is your opponent, someone going against you.

The government's lawyer [the prosecutor] against the defence attorney [defending the person accused of the crime]



The judge is impartial



Each lawyer tries to present evidence and witnesses that will prove his side of the case.

The opposing lawyer [his adversary] tries to show evidence produced by the other is no good and the witnesses cannot be trusted.

Each side is telling ONLY their version of events



The jury listens to both sides, and decide who is telling the truth

# Adversarial system

1

- Any criminal action against another human being is considered as an action against the state

2

- State prosecutor brings the accusations against the defendant

3

- The defendant is considered as an innocent person until proven otherwise

4

- The state has to prove the defendant guilty beyond reasonable doubt in a court of law (very high probability)

5

- The defendant does not have to prove any thing,
- but only to create a doubt on the accusations brought against him

# Civil law in Sri Lanka

- Deals with matters of personal interest
  - Land, divorce, compensation
- There is a plaintiff and a respondent
- The concept of “proving beyond reasonable doubt” is not present
- Both parties state their reasons
- The judgment is given on the basis of probability



# The Courts in Sri Lanka

- Lower Courts
  - District Court- Civil matters
  - Magistrate Court- Criminal matter
  - Traffic Court
- High Court- Criminal matters
- Appeal Court
- Supreme Courts



# INQUEST PROCEDURE IN DEATH INVESTIGATION



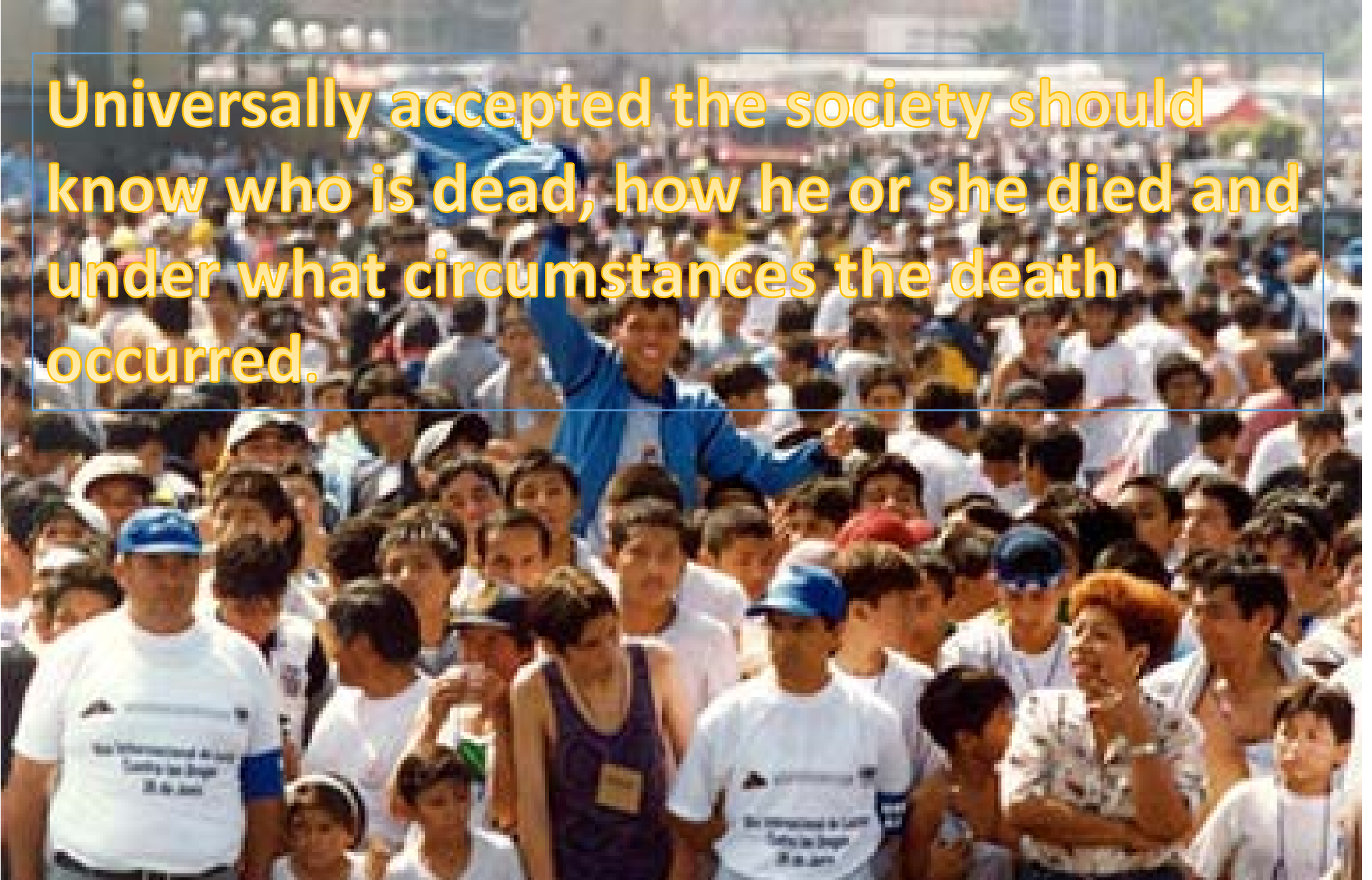
Death investigation is  
important to a country

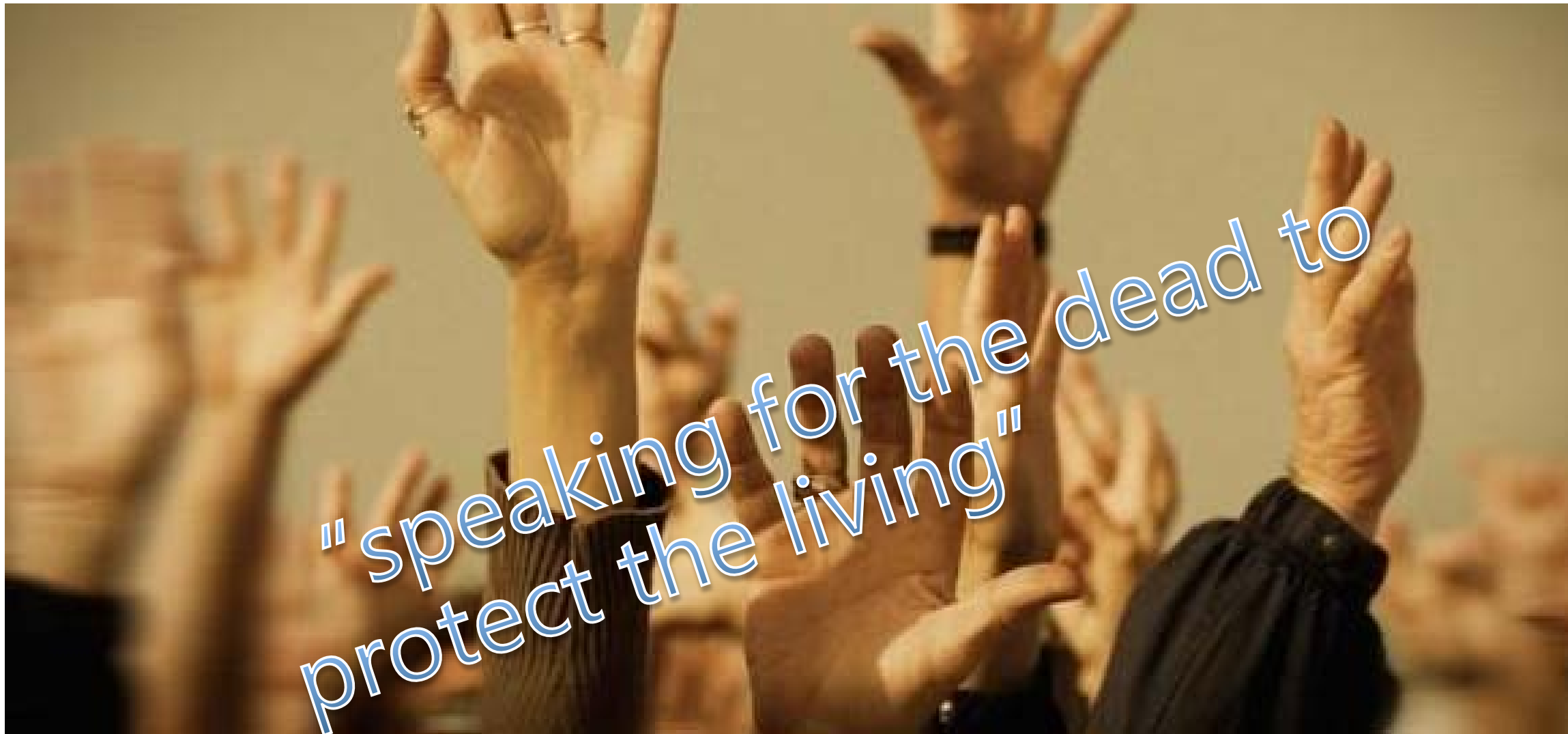
All living beings that are born shall die one day





Universally accepted the society should know who is dead, how he or she died and under what circumstances the death occurred.





# Goals of death investigation



prevention  
and control of  
intentional  
injuries

prevention  
and control of  
unintentional  
injuries



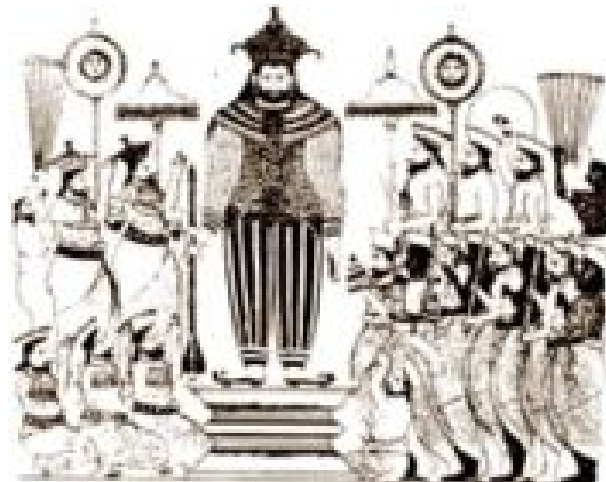
prevention  
and control of  
disease

monitoring of  
healthcare  
services



# Death investigation in Sri Lanka

- During Kings era a death investigating system similar to that of British Coroner in England was operating via king' s chief officers in a particular district. [Davy J 1821]
- Current system is legacy of the British colonial rulers.





- The Code of Criminal Procedure (CCP) of Sri Lanka was founded on the Indian CCP of 1882 modified with some amendments in 1979
- Laws regarding "INQUEST" in Sri Lanka is stated in Chapter 30 of the Code of Criminal Procedure Act No. 15 of 1979

# INQUEST

- Is a judicial inquiry or a judicial facts finding exercise conducted in public to ascertain the cause and the manner of death
- In Sri Lanka it can only be held by a Magistrate of the area or the Inquirer into sudden deaths (coroner)

# The basics of an inquest

fact finding  
process

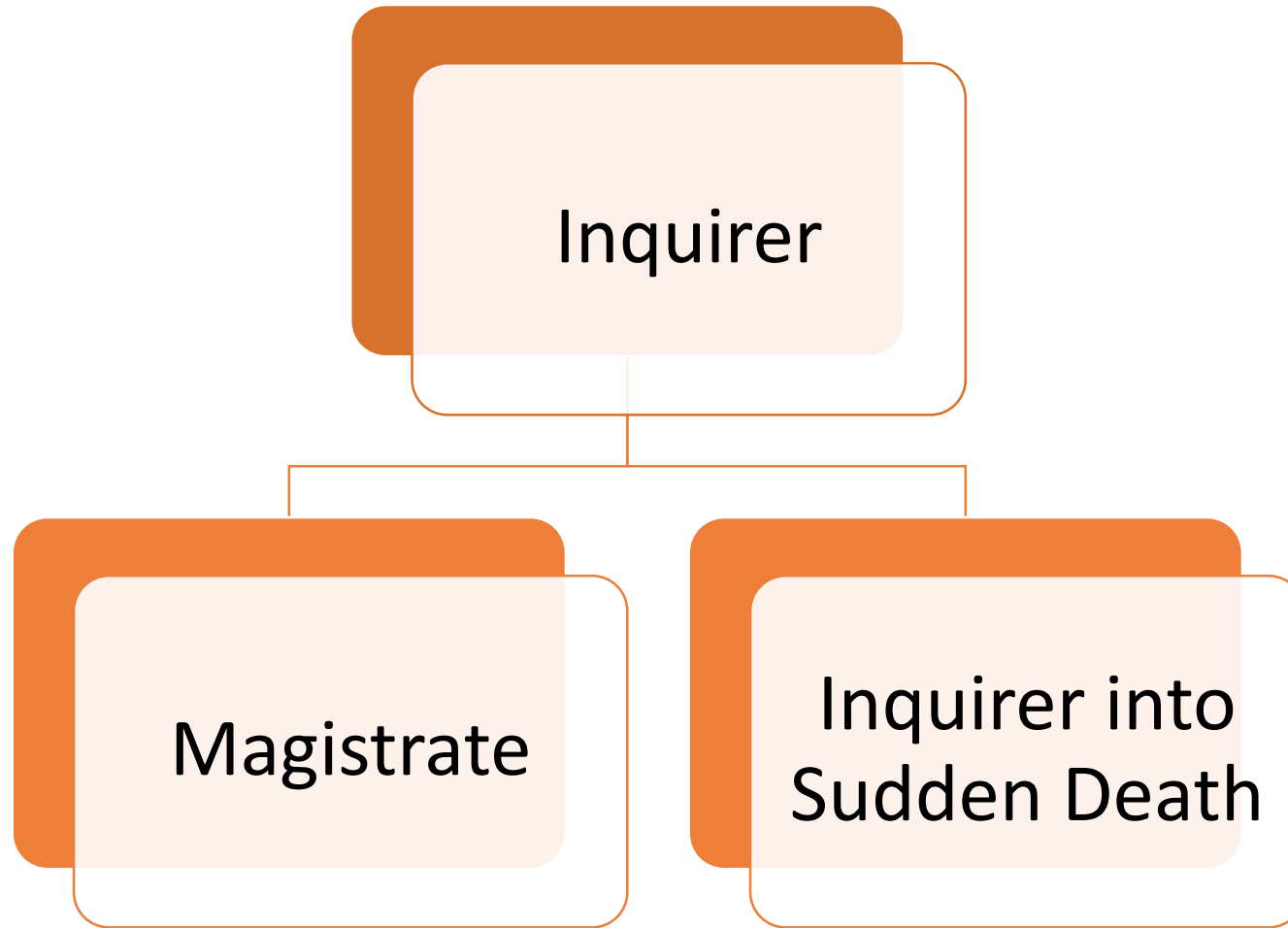
no prosecution/  
defense/trial

Establish cause  
& manner

Any lay person  
can make  
statements

Open to public

Inquire can call  
any person or  
document



Magistrate is a judicial officer (Lawyer) appointed to a Magistrate Court Judicial Service Commission

ISD is a lay person appointed by the Minister of Justice

# CCP chapter XXX 369-373

- 369- an inquest of death shall not be held except under the provision of the CCP
- 370- Duty and the powers of the inquirer
- 371- Death of a person in custody of police or in a mental or leprosy hospital
- 372- Evidence and finding to be recorded
- 373- Postmortem examinations

## 370- Duty and powers of the inquirer

- An inquirer on receiving information that a person
  - Has committed suicide
  - Has been killed by an animal
  - Killed by machinery
  - Killed by an accident
  - Has died suddenly
  - Died from a cause which is not known
- has to go to the place where the body of the deceased is lying and make an inquiry

- Draw a report of the apparent cause of death
- Describing wounds, fractures, bruises and marks of injury found in the body
- his opinion regarding such marks appear to have been inflicted and their relationship to the death
- The signed report of the inquirer should be forwarded to the nearest Magistrate

- If facts disclose a reasonable suspicion that crime has been committed the magistrate will take over the proceeding and carry out the inquest
- That means when either police investigations or an inquiry by an inquirer reveals crime the inquest will be conducted as an alleged homicide inquiry



- The inquirer can issue orders to any witness to come in person and give evidence before him
- He also can give orders to produce any documents or other things before him
- If a person summoned fails or neglect to attend at time and place specified he can issue a warrant for apprehension and production before him

- If the person still fails to attend or refuse to take the oath of a witness, refuse to answer any questions, or refuses to produce any document or other thing will be guilty of the offence liable to a fine or imprisonment or both
- Fine Rs. 100
- Imprisonment 3 months

## 371- Death of a person in custody of police or in a mental or leprosy hospital

- The officer who had the custody or the officer in-charge of the mental or leprosy has to inform if a deaths occurs in their institution to the magistrate of the area.
- The magistrate should view the dead body and hold an inquiry

## 372- evidence and findings

- The inquirer has to record the evidence/ findings
- The place where an inquiry is held shall be a place open to the public
- However, in special grounds of public policy the magistrate can exclude the public at the inquest at any stage of the inquiry

# 373- postmortem examination

- The magistrate or the inquirer if considers that it is expedient to call upon the Government medical officer of the district or any other medical practitioner, to hold a postmortem examination of the dead body and report to him regarding the cause of death
- For the purpose of postmortem examination, the magistrate may, if the dead body has been already been buried, causes the body to be disinterred (exhumed)

# Types of deaths where an inquest should be held

- The cause of death is not known
- All unnatural deaths
  - Homicides
  - Suicides
  - RTA and other transport accidents
  - Other accidental deaths
- All suspicious deaths

- Deaths in Custody, prisons, Mental Hospital & Leprosy asylum
- Deaths directly due to medical, surgical and anesthetic procedures
- Deaths where medical negligence is alleged
- Tetanus and Rabies

# Medical officer and Inquest procedures

If a death occurs in the institution which works falls into the above categories

- inform the head of the institute- Director, MS regarding such death
- Request the hospital police post to arrange an inquest
- The relevant entries should be made in the BHT



- A death within 24 hours of admission to the ward is not a indication to ask for an inquest if the COD is known
- An inquest must be requested on all deaths either certified or brought dead to the OPD
- The declaration of death form(Registration B 33)should not be filled when an inquest has been requested

- Even though an inquest has been requested, the medical officer certifying the death may indicate the COD or probable COD in the BHT in natural and unnatural deaths. But he should not fill declaration of death
- if a Magistrate or ISD requests a medical officer to attend an inquest to give evidence or produce a document he should do so

# Transplantation of Human tissue Act of Sri Lanka 1987

- Donation of human bodies and tissues for therapeutic, scientific, educational and research purpose
- Provision for Donation after death
- Provision for donation during life
  - Age for consent for donation 21, consent during life
  - Next of kin also can give consent
  - Live donations

# Summary

- Legal system in Sri Lanka is Adversarial system
- Inquest is a fact finding process conducted by the Magistrate or ISD
- Magistrate inquire- Homicides, suspicious deaths of criminal nature, deaths following rash and negligent act, deaths in custody, mental or leprosy hospitals and bodies to be exhumed

# Summary

- ISD inquire into all the death other than the above (suicides, deaths due to animal attacks, accidents, sudden deaths or natural deaths where COD is not known)
- if a medical officer come across such death through the head of the institution a request to arrange an inquest should be noted in BHT
- If a request for a postmortem examination is made by the ISD or Magistrate he should do so to the best of his ability

# Further reading

- CCP of Sri Lanka
- Lecture Notes Dr. L.B.L. de Alwis



Thank  
you



Kelaniya  
Medicine