



HARYANA STATE LAW COMMISSION

**Ist Floor, DHL Square, Plot No. 9, HSIIDC IT Park, Sector 22, Panchkula (HR)-134109,
Telephone No.0172-4004268**

THIRTEENTH REPORT

Recommendation to Enact The Haryana Honour of Dead Body Act, 2023.

Government of Haryana

HARYANA STATE LAW COMMISSION

**Justice H.S. Bhalla,
Chairperson**

**Mr. Mukesh Garg,
Member**

**Ms. Sangeeta Vardhan,
Part-time Member**

**Mr. Sandeep Kumar,
Member Secretary**

**Mr. Bhupinder Singh,
Registrar**

Government of Haryana

HARYANA STATE LAW COMMISSION**THIRTEENTH REPORT****27th September, 2023****Recommendation to Enact The Haryana Honour of Dead Body Act, 2023.**

The Hon'ble Supreme Court of India in writ petition (Civil) 143/2001 Ashray Adhikar Abhiyan V/s Union of India issued directions for decent burial or cremation of the unclaimed dead bodies. Human dignity with which living human being is expected to be treated, should also be extended to a person, who is dead and the right to accord decent burial or cremation to the dead body of a person, should be taken to be a part of the right to such dignity.

Undignified treatment and desecration of the dead body is strongly condemned by the Society. During Corona Virus (Covid-19) period death toll in India rose significantly, many disturbing facts about the undignified treatment desecration and disposal of dead bodies in inhuman ways came to light in the Country. Some dead bodies remained in the hospital and no one claimed the same, some were dumped in Ganga River and buried near its banks, transported in garbage vans and

abandoned on roads. All displaying the degraded, disrespectful handling and management of the dead. The major factor purportedly responsible for these occurrences included space- paucity in crematorium, exorbitant rate for performance of last rites, poverty, social stigma in the case of death due to Covid-19. Whatever the reason may be but this amounts to undignified treatment desecration of the body of the deceased. It becomes the duty of the State to provide decent burial or cremation to the dead body of a person which is not claimed by any person the whereabouts of person dead are not known to the authorities. In such condition, the disposal of the dead body shall be made in accordance with the provisions of the Haryana Anatomy Act 1974(Act No. 24 of 1974). However, there is no provision in the Haryana Anatomy Act 1974 to deal with the situation when the family members of the deceased refuse to take the body for cremation as per the religions/customs of the deceased. Therefore, the necessity arises to deal with such cases and for that purpose this bill the Haryana Honour of Dead Body Bill, 2023 has been drafted.

It came to the notice of the State that there were some incidents of remonstrations by the family member/members of the deceased for unjustified demands and this trend is increasing in the State. This proposed law, apart from providing dignity to the dead bodies, will also work as a deterrent against the rising trend of remonstrations.

The Haryana State Law Commission has kept in view all the aforesaid facts, drafted the Haryana Honour of Dead Body Bill, 2023 to be enacted by the Haryana State Legislature as follows :-

THE HARYANA HONOUR OF DEAD BODY BILL,
2023

(To be introduced in the Haryana Legislative Assembly)

A

Bill

to provide honour to dead body and uphold its basic human rights in the State of Haryana and matters connected therewith and incidental thereto.

Be it enacted by the Haryana State Legislature in the Seventy-fourth Year of the Republic of India, as follows: -

CHAPTER-I

Preliminary

1. Short title, extent and commencement. - (1) This Act may be called the Haryana Honour of Dead Body Act, 2023.

(2) It extends to the whole of the State of Haryana.

(3) It shall come into force on and from the date of its publication in the Official Gazette.

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

(a) “Code” means the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974);

(b) “dead body” means the body of a dead human being;

(c) “District Superintendent of Police” means the police officer in charge of a Police District and includes Deputy Commissioner of Police in a

Metropolitan Area;

- (d) “family members” means any member who is related to deceased which include wife or husband, sons and daughters, parents, brothers and sisters or any person related to the deceased by blood, marriage or adoption whether he/she is dependent on the deceased or not.
- (e) “last rites” means the disposal of dead body as per the tradition or custom of the community or religion to which the deceased belonged;
- (f) “prescribed” means prescribed by rules made under this Act;
- (g) “Public Authority” means an authority as may be prescribed by the State Government, from time to time, for performing the last rites of the dead body;
- (h) “remonstration” means raising demands or baiting for pursuing any demands to prevent the last rites of a dead body by way of any protest, disobedience, agitation, provocation etc.;
- (i) “rules” means the rules made under this Act; and
- (j) “State” means the State of Haryana.

(2) Words and expressions used herein and not defined but defined in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), Indian Penal Code, 1860 (Central Act No. 45 of 1860), The Haryana Police Act, 2007 (Act No. 25 of 2008) and The Haryana Anatomy Act, 1974 (Act No. 24 of 1974) shall have the meaning respectively assigned to them in

those Codes/Acts.

CHAPTER-II Rights of Dead Person

3. Right to last rites.- Without prejudice of any other law for the time being in force, every dead person shall have the right to a decent and timely last rites according to the known and prevailing tradition or custom of the community or religion, as soon as possible.

CHAPTER-III Liabilities of Family Members of the Deceased

4. Family members to perform last rites of the deceased.- The family members of the deceased to ensure that the last rites are performed as soon as possible, unless the same is warranted for on account of delay in arrival of the next of kin, any medico-legal reasons or any other exceptional reason.

5. Family members to take possession of the dead body.- Family member shall take possession of the dead body when handed over by the police or any other public authority or hospital administration, after due compliance

of legal procedure provided under this Act or any other law for the time being in force.

6. Dead body not to be used for remonstrations.-

The Family member or members shall not to, use the dead body for remonstrations or give consent to any other person for the same.

CHAPTER-IV

Powers of Police Officer and Executive Magistrate

7. Power of Police officer to take possession of the dead body.- (1) Whenever an Officer-in-charge of the Police Station has reason to believe from personal knowledge or otherwise and taken down in writing that any dead body is being used or likely to be used by unlawful assembly or family members for remonstrations, he shall take possession of the dead body and information to this effect, shall be sent immediately to the concerned Executive Magistrate and District Superintendent of Police.

(2) After taking possession of the dead body, the Officer-in-charge of the Police Station shall send the body to the nearest Hospital authorized by the Government to

conduct post mortem examinations; if so warranted.

8. Power of Executive Magistrate.- (1) The concerned Executive Magistrate, after receiving the information under section 7 shall send the notice, in the manner as may be prescribed, to the family members of the deceased for the last rites of the dead body.

(2) Whenever an Executive Magistrate is satisfied on a report of a police officer that the family members are not willing to perform the last rites of the dead body, he shall make a conditional order to the family members to perform the last rites of the dead body within 24 hours:

Provided that the Executive Magistrate may extend the time if he is satisfied that family members have sufficient cause for not performing the last rites of the dead body:

Provided further that if the family members do not perform the last rites of the dead body, the last rites shall be performed by the Public Authority.

(3) Whenever the Executive Magistrate has reason to believe that, an unlawful assembly has gathered or is likely to be gathered for remonstrance, within his jurisdiction, he

may use the power prescribed under section 129 to 132 of the Code, by issuing an order in writing, stating the grounds of his opinion.

CHAPTER-V

Storage and Disposal of Unclaimed Dead Body

9. Storage of unclaimed dead bodies.- The hospital administration shall,-

- (a) store the unclaimed dead body under safe conditions in the deep freezer to prevent any decay or damage to the dead body; and
- (b) ensure that the bodies are segregated based on gender and are kept in a dignified manner by avoiding piling up as may be prescribed.

10. Videography and Photography of post-mortem examination.- In every case of custodial death or unclaimed dead body, photographs of the deceased shall be taken and post mortem examination of the deceased shall be videographed in the manner as may be prescribed.

11. Disposal of unclaimed dead body.- When a dead body remains unclaimed, the disposal shall be made in accordance with the provisions of the Haryana Anatomy Act, 1974(Act No.24 of 1974).

CHAPTER-VI
Offences and Punishments

12. Punishment for not taking possession of dead body.- Any family member, who does not take possession of the dead body as per the provisions of section 5, shall be punished with imprisonment for a term, which may extend to one year or with fine or with both.

13. Punishment for remonstrance by family member.- Any family member, who uses the dead body for remonstrance or gives consent to any other person for using the dead body for remonstrance, shall be punished with imprisonment for a term, which may extend to two years and with fine.

14. Punishment for remonstrance by any person, other than family member.- For any person, other than family members, who uses the dead body for remonstrance, shall be punished with imprisonment for a term, which shall not be less than six months, but which may extend to five years and with fine.

15. Punishment for abetment, attempt or conspiracy.- Whoever abets, attempts or conspires to commit an offence under this Act shall be punished in the same manner as if he had himself committed that offence.

CHAPTER-VII

Miscellaneous

16. Application of the Code of Criminal Procedure, 1973.- Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) shall apply to the proceeding under this Act.

17. Act to be in addition to any other law.- The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

18. Protection of persons acting in good faith.- No suit, prosecution or other legal proceedings shall be instituted against any person for anything which in good

faith is done or intended to be done under this Act or rules made thereunder the provisions of this Act.

19. Power to make rules.- (1) The State Government may make rules for carrying out the purpose of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session for a period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which they are so laid, or of the session immediately following, the House of the State Legislature makes any modifications in any of such rules, or resolves that any such rule should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(3) Every rule made under this Act shall be published by the State Government in the Official Gazette.

20. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order in the Official Gazette, make such provisions, not inconsistent with this Act, as it deems necessary or expedient for removing the difficulty:

Provided that no order under this section shall be made after expiry of three years from the date of the commencement of this Act.

(2) Every notification issued under this section shall, as soon as may be after it is issued, be laid before the House of State Legislature.
