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# EDITORIAL

## FORENSIC RESEARCH AND NEW KNOWLEDGE: ARE THEY REACHING THE TARGET AUDIENCE<sup>1</sup> IN SRI LANKA ?

*Induwara Goonerathne*

All sectors in Sri Lanka and abroad emphasise the need and the value of research. The situation regarding forensic disciplines is no different. Universities, ministries of health, governments and others encourage research and publications. Besides, merits of research and publication are grater for the researcher when the work is published in 'high impact factor journals'. High impact journals are usually published by developed countries. There are numerous reasons why most high impact factor journals are from the developed countries. The aim of this article is not to debate on why most high impact factor journals are from the developed countries. Nonetheless, the promotional schemes of all institutes in Sri Lanka recognise publications appear in high impact popular journals at a higher value than others with no regard to the work or its impact to the society. There are many reasons why certain high impact work is not published in high impact journals. This article is not to debate it either. There are times and reasons why high impact work should be published in local journals in local language disregarding the impact factor of the platform in which it is published.

With the above context, this paper attempts to explain that the outcomes of forensic research or new knowledge generated in forensic fields do not transcend to the target

audience in Sri Lanka. Further, I argue that, firstly, it is of utmost importance that such forensic research findings and new knowledge should reach the respective target audience in Sri Lanka and secondly that one approach to solving this salient issue would be to publish locally conducted forensic research in local journals such as Sri Lanka Journal of Forensic Medicine Science and Law (SLJFMSL). As it (SLJFMSL) is now an indexed journal and available in print and electronic media as an open access free e-journal to anyone it can be readily accessed by both local and foreign individuals alike.

The sources of information and evidence to substantiate the thesis that the new forensic research does not reach the target audience in Sri Lanka arises from three sources : informal class room discussions I had about the said particular issue with lawyers and judges at their post graduate diploma in forensic medicine and science course conducted by University of Peradeniya, then with post graduate students from the Post graduate Institute of Medicine (PGIM) who attend my classes at the department and finally from the police & prison officers I meet in their regular in house training workshops.

The lawyers and judges do not seem to retrieve scientific articles from foreign data bases. None of the lawyers in the class had

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<sup>1</sup> What I mean by target audience here include but not limited to judges, lawyers, forensic practitioners, researchers, suspects of crimes, victims, prison officers etc.

access to full papers from any accepted data bases. However, they claimed that they peruse Sri Lanka Journal of Forensic Medicine Science and Law as it is freely available online and that it seems more relevant and acceptable to them as it addresses local or regional forensic issues mainly. Further, the lawyers claimed that they read text books of forensic medicine, but the copies they have are out dated. None of the post graduates from the PGIM trainees even had access to full papers from high impact online relevant journals. As most journals have a subscription fee, many refrain from subscribing due to financial constraints. The HINARI access provided through university does not cover all important forensic articles therefore both post graduates from health ministry and university researchers suffer alike. The police and prison officers do not seem to access forensic journals. They claim they have a language difficulty to understand English. The respective departments neither have provided sufficient support for them to upgrade their English knowledge, nor have they attempted to translate forensic studies to suit the language needs. Neither the department of Police nor the prison department have provided access to any forensic or criminal journal data bases. University academics and forensic researchers find it difficult to retrieve full articles of current interest as most are not retrievable even via hinari which is available for some. I have enquired from a few victims and suspects of criminal cases during my routine interactions with them in regard to their accessibility to scientific information,

for which they have said they do not have any access.

This discussion provides ample evidence to construe that forensic research findings and the new knowledge generated does not reach the target audience in Sri Lanka. In order to improve quality of evidence in the court room, in order to deeply investigate a forensic or a legal issue, in order to cross examine, in order to make a rational judicial reasoning, in order for the lawyers and the parties to prepare for their cases, in order for the forensic research to advance in Sri Lanka, forensic research and new knowledge should reach the target audience afresh, fully and on time. Therefore, I strongly feel that the authorities should take steps to provide wider access to foreign journals and data bases where target parties can access full research articles, and then to promote publishing local research articles in Sri Lanka journal of forensic medicine science and law (or any other accessible local journal) so that it can readily reach the audience as it is available online free for anyone. It is also timely that authorities take steps to translate important and relevant new research findings and forensic knowledge to make them available to target audience as most of the court work is carried out in local languages.

I strongly believe that these approaches will not only improve quality of forensic evidence and court process of administration of justice, but also it will inform the general public and media about forensic breakthroughs and promote further research in the country.

# **‘CHASING OFF THE DEVIL’ : MEDICO-LEGAL ISSUES RELATED TO INDIGENOUS TREATMENT OF A CHILD.**

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## **ABSTRACT**

Indigenous remedies are often used as treatment for mental illnesses in Sri Lanka. This communication reports a case of a girl who underwent burn injuries to soles as a part of indigenous treatment.

A 14-year-old girl who developed sudden convulsions had her soles burnt by iron rods by an indigenous healer as a treatment. She was later admitted to a general hospital and treated for burn injuries on both soles and dissociative convulsions. She had to undergo skin graft, had a prolonged hospital stay, and was compelled to wear protective footwear for the rest of her life. Her burn injuries were initially categorized as first-grade, and non-grievous, by a medico-legal practitioner. However, a second medico-legal examination done under magistrate order by a Consultant Judicial Medical officer classified the injury as grievous as she had deep burns and a two-month hospital stay. Injuries were compatible with the history.

Review of the injury is necessary in burns of soles and palms due to the difficulty of recognizing the depth of the burn on initial examination. Request for a second medico-legal examination by a more competent medico-legal specialist or by a board of specialists is an alternative strategy available for victims and judiciary when the first medico-legal report is unsatisfactory.

**Key words :** *Indigenous treatment, burns, medico-legal issues*

## **INTRODUCTION**

Indigenous remedies are often used as treatment for mental illnesses in Sri Lanka. They are typically done at places termed as ‘Devalayas’ which are places of worship of Deities. This report is about a girl who underwent burn injuries to soles as a part of indigenous treatment.

### **Case history**

A 14 year old girl developed sudden unconsciousness at home. She was taken by family members to a nearby ‘Devalaya’. This particular Devalaya was run by an English school master, and it was believed that, when put into a trance, a god will take possession of his body. Upon seeing the subject, the school master had claimed that she was, in fact, ‘possessed by the devil’, and had gone on to burn the girl’s soles with an iron rod to chase off the devil. He had reassured her family that she will not come to any harm. The girl did not regain consciousness after having her soles burnt. Since this supposed remedy did not work she was admitted to a nearby general hospital. She was treated for burn injuries of both soles and dissociative convulsions.

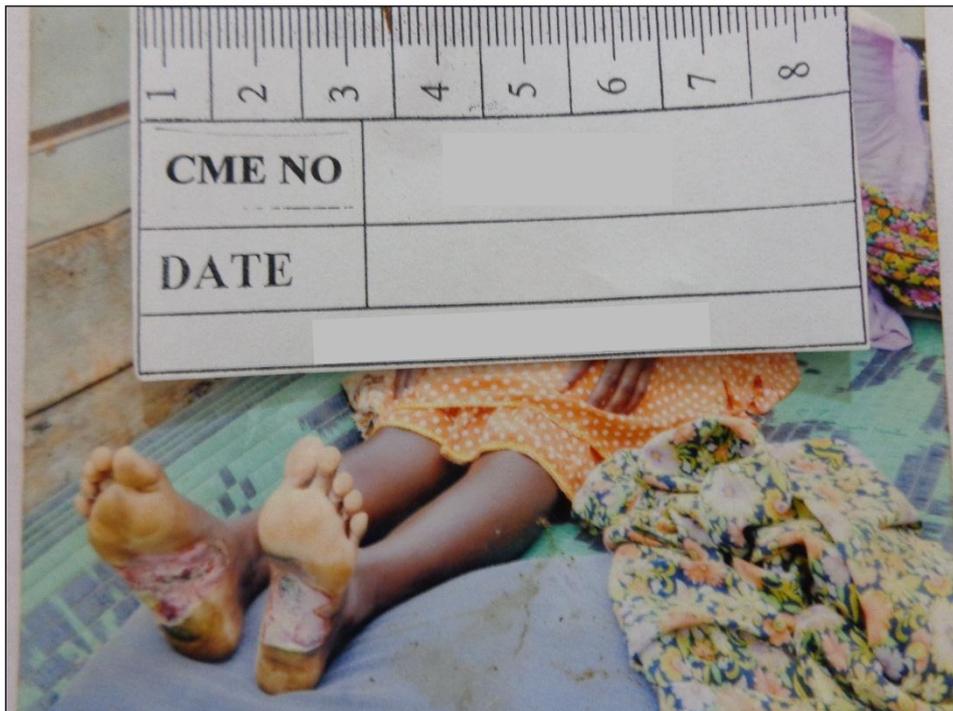
Medico-legal practitioner found burn injuries on both soles which were initially assumed to be first degree burns and categorized as non-grievous. The schoolmaster was arrested for physical child abuse and then released after discovering that harm is due to a form of treatments which is culturally accepted in the local area. The girl needed skin grafts for both feet and protective sole wears for rest of life to protect the grafted skin taken from thighs.

A second Medico-legal examination done under magistrate order by specialist forensic medicine practitioner stated that the injuries

were grievous because of the two month stay in hospital due to deep burns and skin graft.



**Figure 1 : Deep burns before skin graft**



**Figure 2 : Healed burns after skin graft**

## DISCUSSION

Burn injuries in the soles could be accidental, self-inflicted, or intentional. They can also occur due to prolonged walking with bare feet<sup>1</sup>. The depth of the burn varies according to the temperature, duration of the exposure and nature of the skin. The size of the burn, depth of burn, injury pattern and complications are relevant for the forensic medicine practitioner in order to address relevant medico legal issues.

The assailant in this case is a school master as well as an indigenous healer who treats patients probably under what is claimed to be a possession trance in his temple. A possession trance is characterized by a supposed transient replacement of a person by a spirit, ghost, deity, or other person<sup>2</sup>. The experience of being "possessed" by another entity, such as a person, god, demon, animal, or inanimate object, holds different meanings in different cultures. Lay people believe such healers have supernatural powers<sup>3</sup>. Therefore some healers 'pretend' to be in a trance in order to treat others, especially those with minor mental illnesses.

The following medico-legal issues were found in this case.

The depth of burn injuries of palms and soles is difficult to distinguish as first degree, second degree or third degree due to the thickness of the skin. Review of the patient after a few days is necessary because when a burn is examined on the first few days all three zones<sup>5</sup> (zone of coagulation, zone of stasis and zone of hyperemia) of a burn injury will be seen as one patch with inflammation. After few days sloughing will take place and the real depth will be evident. In this case the first medicolegal practitioner recognized burns as first degree burns and medicolegally categorized it as a non-grievous injury. The second examiner who examined the patient after skin grafting categorized the burn injury as grievous injury because of

“unable to follow ordinary pursuits for a period of 20 days”.<sup>6</sup>

1. The conclusions of the second medico-legal report differed from the first. If any interested party is not happy with a medico-legal report in the court of law as in this case, a second Medico-Legal examination can be ordered by magistrate. In a complex case even a medical board can be appointed by the court.
2. Pattern of burn injury was important to determine the compatibility with the clinical history. In this case burns were not confined only to weight bearing sites of soles but involved the center of feet which are elevated. Therefore this injury was not due to an accidental walk on fire but more likely due to an intentional direct contact with a heated object as mentioned in the clinical history. Contact burns are usually seen in long duration barefoot walking, epilepsy, unconscious people and alcohol and drug abusers<sup>4</sup>.
3. Mild form of mental illnesses are treated by indigenous healers using various methods like beating, burning, chanting, dancing and drumming. There should be some form of mechanism to control harmful treatment / methods by unregistered healers, under possession trance or pretended possession trance. In this case action under criminal law was not taken because it was a form of treatment provided with the consent of the subject's mother.
4. Civil compensation case had been filed and sufficient amount of money was requested for the suffering of patient over several months, expenses for the treatments and skin graft, expenses for the protective soles which patient is supposed to wear throughout life to prevent injuries of grafted skin on soles.

## RECOMMENDATIONS

Review of the injury is necessary in burns of soles and palms due to the difficulty of recognizing the depth of the burn for categorizing the harm. Request for a second medico-legal examination by a more competent medico-legal specialist or by a board of specialists is an alternative strategy available for victims and judiciary when the first medico-legal report is unsatisfactory or disputed.

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# **-Opinion Article-**

## **THE CAUSE OF DEATH – SHOULD IT BE REVISITED IN SRI LANKA?**

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### **ABSTRACT**

The cause of death statement serves a legal record which has many implications. The determination of the cause of death should be considered not an end but a beginning. A fresh look at the subject should not be considered a waste of time at all. It is prudent to suggest a coordinated effort to rectify deficiencies in the determination, documentation and analysis of the cause of death statements in this country with the participation of all stake holders including clinical and forensic doctors, members of the judiciary including inquirers and magistrates and personnel from Registrar General's Department.

**Keywords :** *Cause of death, Mortality statistics, Medical audit, Descriptive form, Prescriptive form.*

### **INTRODUCTION**

The cause of death statement serves as a legal record of death which is essential for death registration, court procedures, inheritance of property and insurance matters etc. It is also a source of mortality statistics which have an important role to play in national health planning, medical research and medical auditing<sup>1,2,3</sup>. Therefore the accuracy and clarity of the cause of death appearing in the statement should not be underestimated<sup>1,2,3</sup>.

In Sri Lanka, the cause of death can be determined and the declaration of the cause death can be provided by a medical practitioner when a patient whom he has attended recently, dies due to a known natural cause<sup>1,4</sup>.

Further, a medical practitioner can give the cause of death when an autopsy is performed under an order from an inquirer into sudden death or a magistrate<sup>1,5</sup>.

In both these instances, the medical practitioner should exercise utmost care in arriving at the cause of death due to its legal, social and medical implications<sup>1,2,3</sup>.

According to the Birth and Death Registration Act non- medical personnel such as Inquirers into Sudden Deaths, Estate Superintendents and Grama Niladaris, are also empowered to formulate the cause of death statements in some instances<sup>4</sup>. Out of them, Inquirers into Sudden Deaths and magistrates have “the option “of getting assistance from medical personnel in arriving at the cause of death by ordering a postmortem examination. This option is at the discretion of the inquirer. Estate superintendents are supposed to report to the medical practitioners of the estate. Others, especially Grama Niladaris seem to be able to act in providing cause of death without medical assistance or guidance<sup>4,5</sup>.

### **DISCUSSION**

The necessity to review this situation will become clearer when the complexity associated with formulation of the cause of death is considered. A proportion of apparently natural deaths for which doctors have already given causes of death are subjected to autopsy either as pathological autopsies or for medico-legal purposes world over. Comparing the results of these cases,

discrepancies between the clinical cause of death and the autopsy cause of death have been recognized. At times there have been total disagreement even about the basic illness. It has also been pointed out that some medical practitioners are not clear about the formulation of the cause of death statements<sup>2,6,7</sup>.

Though it seems that there is no in depth study done in Sri Lanka on this subject, the situation must be the same considering the universality of this phenomenon<sup>6,7</sup>. If such discrepancies and misunderstanding exist even among medical personnel, the accuracy of the causes of death decided by non-medical personnel is questionable. Therefore correct understanding of the scientific basis and complexities in the determination of cause of death is a must for all concerned stake holders before embarking on the formulation of the cause of death statements or their interpretation.

The cause of death has been defined as “the injury, disease or the combination of the two responsible for initiating the train of physiological disturbances, brief or prolonged, which produced the fatal termination”<sup>8,9</sup>. It should not be a mechanism or mode of death such as heart failure, cardio-respiratory failure, coma, shock etc<sup>1,2,9</sup>.

In 1967 World Health Assembly under the auspices of the WHO, the Cause of Death was defined slightly differently as “all those diseases, morbid conditions or injuries which either resulted in or contributed to death and circumstances of the accident or violence which produced any such injury”<sup>9</sup>. It has gone a step ahead to accommodate the circumstances of injury in the cause of death opinion. This definition seems to be more suitable in forensic cases as it is necessary to determine the responsibility of the offender in violent deaths in legal proceedings. But when similar injuries can be caused by different circumstances and the case histories are doubtful, it is safe not to include the

circumstances as a definite fact in the cause of death statement itself but to give the opinion as to whether the circumstances suggested in the history is a probability<sup>3,10,11</sup>.

The prescriptive format for recording the cause of death is the same in most countries, and follows the WHO guidelines. Basically it has two parts;

- Part I for the documentation of the direct cause of death.
- Part II for the documentation of other serious conditions present that may have indirectly contributed to death.

The Part I is usually divided into three subsections (“a”, “b”, “c”), although as many more subsections as necessary may be added. These subsections are used to indicate the precise sequence of events, in which “a” is due to “b”, “b” is due to “c” etc. They should be given in a causative order. The cause documented on Part I, Subsection “a” is considered the immediate cause and it can be complications and sequelae of the underlying cause<sup>1,2,9</sup>.

The last line is *the underlying* or *the proximate cause*. In between there can be one or more intermediate causes. Obviously the exact number of subsections will depend on the particular case: however, the last condition cited must be the underlying or proximate cause of death. The primary pathological cause of death used for certification and statistical purpose will be the bottom line in Part I (i.e. the underlying cause)<sup>1,2,9</sup>.

Diseases and injuries which are competent enough to be listed as underlying or proximate causes of death should be etiologically specific. Most are found in the list of *International Classification of Diseases*<sup>2,9</sup>. But it should be remembered that the term “Cause of Death” means different things to different people. For example attorneys customarily reserve the term “proximate cause of death” for a

negligent act alleged to have caused or contributed to death. (Example – In a traffic fatality the underlying medical cause of death might be a laceration of the aorta, while proximate cause of death in the eyes of the plaintiff attorney is negligent engineering design of a mechanical system)<sup>12</sup>.

In a cause of death statement, vague terms and abbreviations must be avoided. Although old age/senility is a legally acceptable cause of death, it can be used only if the deceased is older than 70 years of age at the time of death, and should never be used if a more specific pathology is present<sup>13</sup>. If more than one potentially fatal pathological diseases or lesions are present either the one considered by the doctor to be the most likely cause of death should be used in the last line in Part I, and the others can be listed in Part II, or a joint cause of death should be used in Part I, and is perfectly acceptable<sup>13</sup>. But the pathologist must be extremely logical and scientific in this decision making process in medico-legal cases due to its far reaching legal and social implications when a natural fatal pathologies or senility coexist with fatal injuries and when medical negligence charge is a possibility. In those cases the vital question is whether the natural condition or the injury is responsible for the death. At times the combined effect may be responsible for the death<sup>12</sup>.

In Sri Lanka, instead of WHO format, the cause of death given as a phrase or in descriptive format is widely used and accepted. (Example – In a case of stab injury to the chest which penetrated the heart, resulting in bleeding the cause of death may be given as hemorrhage due to a penetrating injury to the heart)<sup>14</sup>. Such descriptive form rather than a prescriptive form is recommended for complicated cases by experts on forensic pathology<sup>3,11</sup>.

By analyzing the above mentioned facts it is clear when the phrase “Cause of Death” is used without any adjective such as proximate, underlying etc, it means the

Underlying or Proximate Cause of Death and it must confirm to the Definition of Cause of Death given above.

If available information is sparse but not meager that an undetermined cause of death is in order, the term “Probable” can be used before the Cause of Death opinion to convey the idea that the degree of certainty is not great, and the opinion can be changed by information made available in the future<sup>12</sup>.

Pathological findings encountered in an autopsy falls into five categories<sup>12</sup>. Some pathologies are not compatible life and in the absence of any other significant pathology it can be given as the cause of death with absolute certainty. Such pathological findings are categorized as Class I and constitute only about 5% of cases. (eg. Ruptured heart, brain stem bleeding, decapitation etc.)

Class II pathologies includes findings which are accepted by any competent pathologists as severe enough to cause deaths under normal circumstances. But in these cases the history, the circumstances and often toxicological data have to be considered before reaching conclusions (eg 70% obstructions to a main coronary artery, cervical compression etc.)

Class III includes pathologies which can be considered fatal taken with the circumstances of the death (eg. A person with a hypertrophic heart falling dead while lifting a weight etc). In these cases through analysis of the history and circumstances and toxicological evaluation becomes much more important before coming to a conclusion. Class IV includes cases with no significant anatomical findings but associated with witnesses or well documented histories of diseases which are known to causes deaths (eg. Epilepsy). But the conclusion must only be arrived after excluding all other possibilities including toxicological evaluation.

If no anatomical, chemical, biological or historical cause is found (Negative autopsy) it falls into Class V and may remain "undetermined"<sup>12</sup>. But it is not a waste of time and resources as it serves in excluding certain criminal causes. Other than in Class I cases, ancillary investigations especially toxicology to exclude poisoning is indicated depending on the circumstances before arriving at the cause of death<sup>12</sup>.

This point can further be clarified when the role of the autopsy in the formulation of cause of death opinion is considered. A pathologist who thinks only as an anatomist will limit his ability to formulate a cause of death opinion to a greater extent compared to a pathologist who thinks as a physician. Furthermore the pathologist must think as a detective in the autopsy room and as a pathologist or a physician in the scene of death for best results<sup>12</sup>.

In Sri Lanka under Sections of Chapter XXX of the Criminal Procedure Act No. 15 of 1979, deaths due to suicides, accidents, homicides and deaths in a mental hospital, a leprosy hospital, police custody and prisons and any suspicious death should be subjected to an inquest in spite the fact that the doctors concerned know the cause of death. In those circumstances, doctors are not supposed to fill the declaration of death form as specified under the Birth and Death Registration Act<sup>1,4,5</sup>.

In addition, as per the Ministry of Health Circular No. 01-25/2011 dated 19/09/2011, it is mandatory to refer maternal deaths for inquests. The same circular in combination with a circular instructing to Inquires of Sudden Deaths by the ministry of justice has made it compulsory to do postmortem examination for maternal deaths<sup>15</sup>. Any violation may have legal and disciplinary consequences.

At times especially if there is a delay between the initial incident and death as well as in deaths occurring due to late complications of

trauma or poisoning etc., some doctors fail to appreciate the scientific basis of cause of death formulation and fill the certificate of cause of death using the intermediate or immediate causes<sup>2</sup>. This is incorrect scientifically and may have adverse legal implications too. Another important issue to be addressed regarding the cause of death is whether what is stated in the cause of death statements by doctors is understandable to other stakeholders such as inquirer into sudden deaths, magistrates and the registrars of birth and deaths who are non-medical people in most instances and may not have formal training in appreciating the cause of death statements<sup>4,5</sup>.

It is especially so when the cause of death is given in descriptive form in complicated cases. This may result in final analysis of causes of deaths less accurate and thereby not achieving the desired purposes of painstaking efforts in determining the causes of death.

## CONCLUSION

Considering all these facts it can be concluded that arriving at a cause of death, penning it down and understanding it is not a simple task. Therefore it is prudent to suggest a coordinated effort to rectify deficiencies in the determination, documentation and analysis of the cause of death statements in Sri Lanka with the participation of all stakeholders including clinical and forensic doctors, members of the judiciary including inquirers and magistrates and personnel from registrar general's department<sup>2</sup>.

It should also be highlighted the necessity for a serious and well planned research on the clinical and autopsy causes of death in Sri Lanka. If these facts are neglected, at the end, medical statistics and records will not reflect the reality and decisions made based on it will not serve the purpose.

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# **AN ANALYTICAL STUDY ON SOCIO-DEMOGRAPHIC AND MEDICO - LEGAL FACTORS OF VICTIMS OF SEXUAL ASSAULT FROM THE CENTRAL AND SABARAGAMUWA PROVINCES IN SRI LANKA**

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## **ABSTRACT**

Sexual assaults that have shown an alarming rise are a serious public health problem with hazardous socioeconomic and health related consequences. International studies have shown that young girls from poor socioeconomic and low educational level are at highest risk. Though we experience the same in Sri Lanka only few studies are available in the literature.

The study objectives were to determine the socio-demographic factors and medico-legal aspects such as type of act, relationship to the assailant, place of the incident, economic group, time of the incident and examination in cases of sexual assault.

The study was conducted on sexually abused individuals who reported to hospitals in Central and Sabaragamuwa provinces for medico-legal examination during the period between April 2007 and June 2012. Data was collected using a questionnaire by specialists and trainees in Forensic Medicine, maintaining professional standards. Data was analyzed using Microsoft Excel software.

Among 282 sexually assaulted victims, 96% were females. 81% were less than 18 years of age and among them, 43% were in 12-16 years age group. 71.13% were from school going population. 71.63% were from low socioeconomic group. 96% knew the assailant and 36% were boyfriends. 34% occurred in victim's house. 56% claimed

vaginal penetration. 6% were examined within 24 hours of the incident and 52% after 1 week.

In our study, most victims are young, school going females belonging to low socioeconomic group. In majority of assaults, assailant was a known person and it has occurred in a place known to the victim. Common allegation was vaginal intercourse. There was a considerable delay in time between the incident and examination which would have led to the destruction of very important medical evidence.

According to this study, young school children and low socioeconomic group cannot be excluded in formulating effective preventive programs against sexual violence.

**Key words:** *Sexual assaults, socio-demographic factors, medico-legal aspects*

## **INTRODUCTION**

Sexual assaults which have shown an alarming rise are a serious public health problem with hazardous socioeconomic and health related consequences around the globe<sup>1</sup>. Once in every two minutes someone in the United States is sexually assaulted and 1 in 4 women and 1 in 6 men will be sexually assaulted at some point in their lifetime<sup>2</sup>. In Nigeria, four out of every ten women are victims of sexual assault<sup>3</sup>. The incidence of rape in South Africa is approximately 300

per 100,000 women<sup>3</sup>. Sri Lanka Police Bureau, "Grave Crime Abstract 2010" shows that 1854 cases of rape/incest, 519 cases of un natural offence/grave sex abuse, 334 cases of cruelty to children and sexual exploitation and 897 cases of abduction have been reported to them all over the country from 1st of January to 31st of December 2010. According to international criteria, sexual assault is defined as "acts in which an individual is forced to engage in sexual activity by use of threats or other fear tactics, or instances in which an individual is physically unable to decline" and when an "unlawful sexual intercourse by a man with a woman, by force, fear or fraud and with or without her consent in an underage girl occurs, it is defined as rape<sup>5</sup>. Article 363 of the Penal Code of Sri Lanka defines rape as sexual intercourse with a woman in five specific scenarios: (1)sexual intercourse without consent; (2)sexual intercourse even with consent where the woman is in lawful or unlawful detention or where consent is obtained through intimidation, threat, or force; (3)sexual intercourse where consent has been obtained when the woman is of unsound mind or in a state of intoxication administered to her by the man or some other person; (4)sexual intercourse where the woman has consented because she believes she is married to the man; (5)sexual intercourse with or without consent if the woman is under 16 years of age unless the woman is the accused man's wife, she is over 12 years of age, and she is not judicially separated from the accused<sup>6</sup>.

The impacts of sexual violence can occur at many levels. There are individual impacts that can be physical and psychological<sup>12,13</sup>. The immediate consequences may include injuries caused during the sexual act, such as bruises, scrapes, broken bones. Though not very common, genital trauma, particularly genital tearing can cause hazardous consequences. Longer ranging physical symptoms and illnesses associated with rape and sexual abuse of children are gastrointestinal disorders, irritable bowel

syndrome, chronic back, pain, sexually transmitted diseases, irregular vaginal bleeding, painful menstrual periods, urinary tract infections and premenstrual syndrome. Emotional reactions to rape include shock, denial, fear, confusion, anxiety, eating disorders, sleep disorders, depression, and post traumatic stress disorder. There can be impacts on a survivor's social behavior such that the survivors may have difficulty relating to others after victimization. Pregnancy, abortions and related consequences are the other significant problems. Finally, sexual violence has a broader impact in terms of its costs to society, many of which are health related. Sexual assaults are amenable to prevention which requires a multidisciplinary public health approach.

The available literature consistently indicates that sexual violence victimization begins early in the lifespan. Several American surveys which studied rape, including the NVAWS, the National Women's Study (NWS), the ICARIS-2, and the National College Health Risk Behavior Survey (NCHRBS), revealed that most rape victims are aged 18 years and younger<sup>7,8,9,10,14,17</sup>. Victims were mostly females<sup>13,14,15,16,17</sup>. For both males and females, the perpetrator and victim knew each other in the majority of cases<sup>10,11</sup>.

The literature survey revealed only a few Sri Lankan studies which were conducted on the victims of sexual assault. Some results of those studies resembled the findings of international studies. Those socio-demographic details and other important information of sexually assaulted victims play a vital role in formulating effective preventive programs for target groups. Therefore the objective of our study was to determine the socio-demographic factors and other important information in cases of sexual assault.

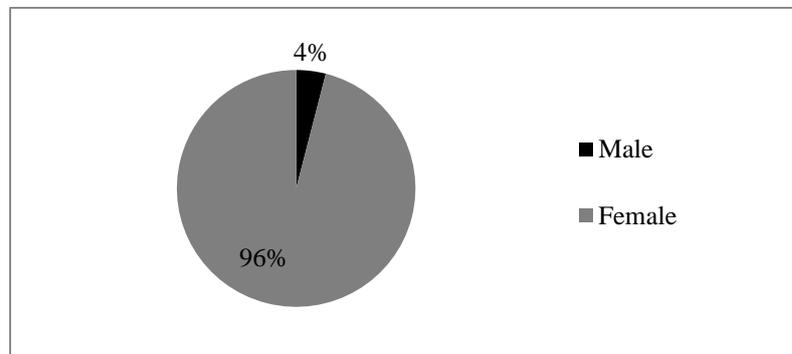
## METHODOLOGY

This study was conducted on sexually assaulted individuals who were admitted to hospitals in the Central and Sabaragamuwa provinces for medico-legal examination during the period of April 2007 to June 2012. Data was obtained from 282 sexually assaulted females and males were analyzed in the study. Prior to medical examination, informed written consent was taken from all the sexually assaulted victims who were at or above the age of 18 years and from the parents or guardians of under aged victims. Data was collected using a questionnaire by specialists and trainees in Forensic Medicine maintaining professional standards and ethics. Reference number, Medico-legal Examination Form (MLEF) number, Hospital, Date and time of incidence,

admission, examination and basic information regarding the victim was obtained. Details pertaining to the level of education, marital status, socioeconomic status, place of assault, type of alleged incident, number of incidents, relationship with the assailant, consequences after the incidence, time interval between the incidence and examination were also noted in the questionnaire. Data was analyzed using Microsoft Excel computer software.

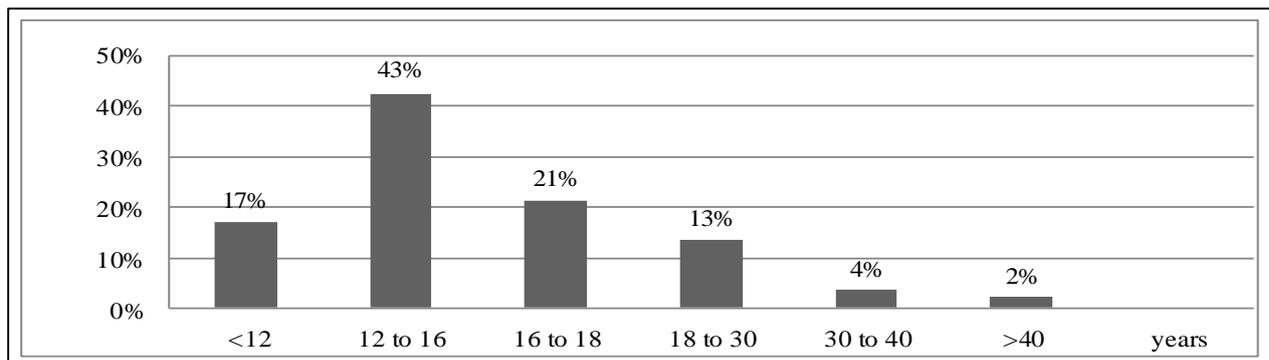
## RESULTS

The findings revealed that, out of 282 sexually assaulted victims, 96% were females. The males accounted only to 4%. (Figure 1).



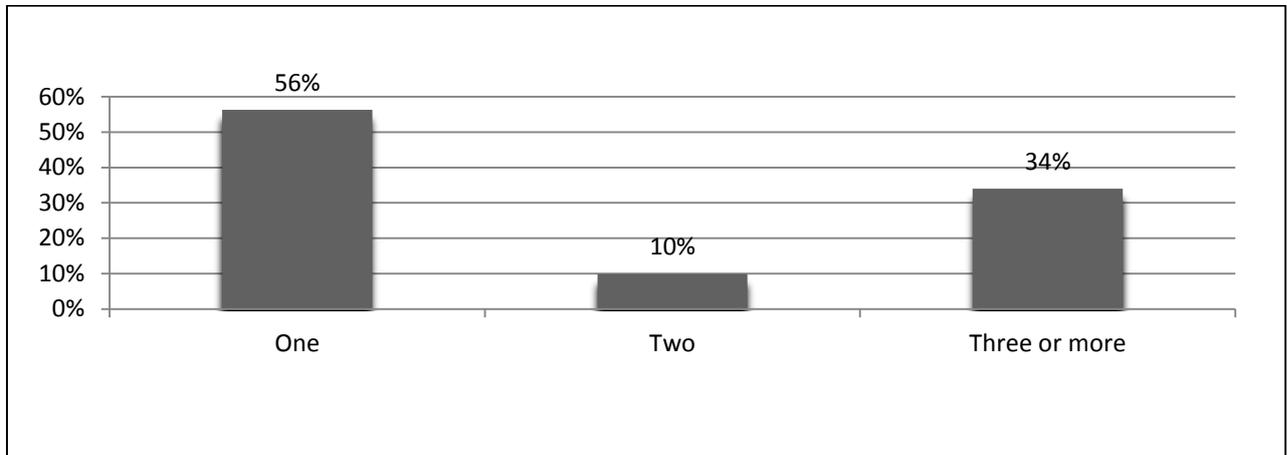
**Figure 1: Gender difference of sexually assaulted victims**

Eighty one percent were less than 18 years of age and among them 17% were less than 12 years of age, a majority 43% were in 12-16 years age group, 21 % in 16-18 years age group, Out of total 13 % are in 18-30 years age group. 4% in 30- 40 year group and only 2% were more than 60 years of age (Figure 2).



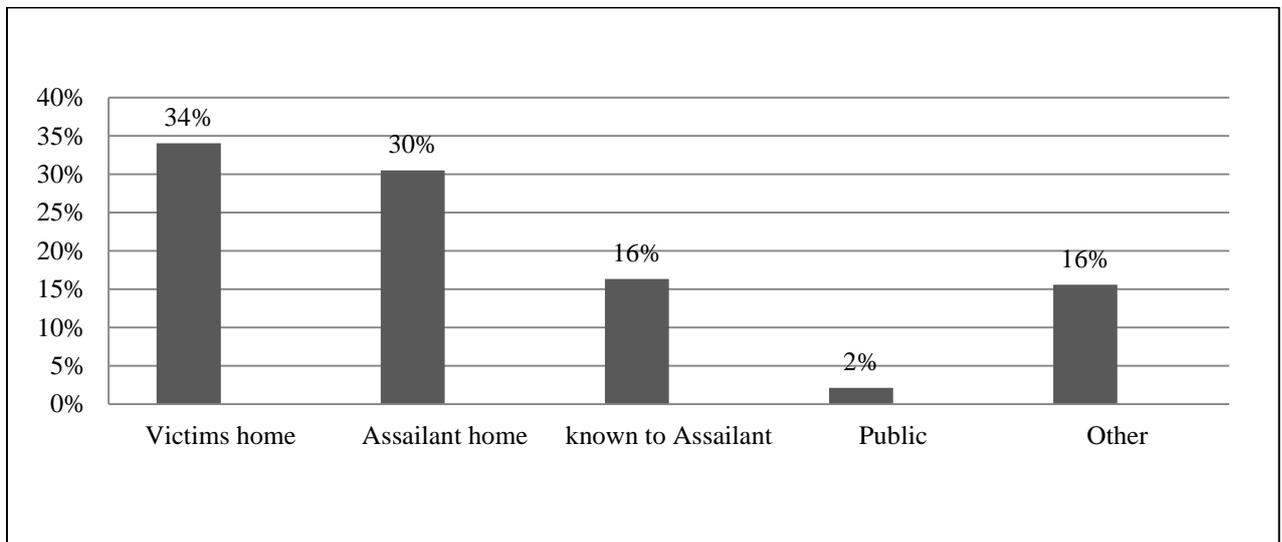
**Figure 2: Age groups of the victims**

Out of 282 of sexually assaulted incidents, we have found that a significant number of victims (86) (34%) were repeatedly assaulted. Among them, 79 were under the age group of 12 to 18 years. This underage school going females were assaulted three or more times until they were presented to medico-legal examination. Fifty six percent were presented with a single incidence of assault. (Figure3).



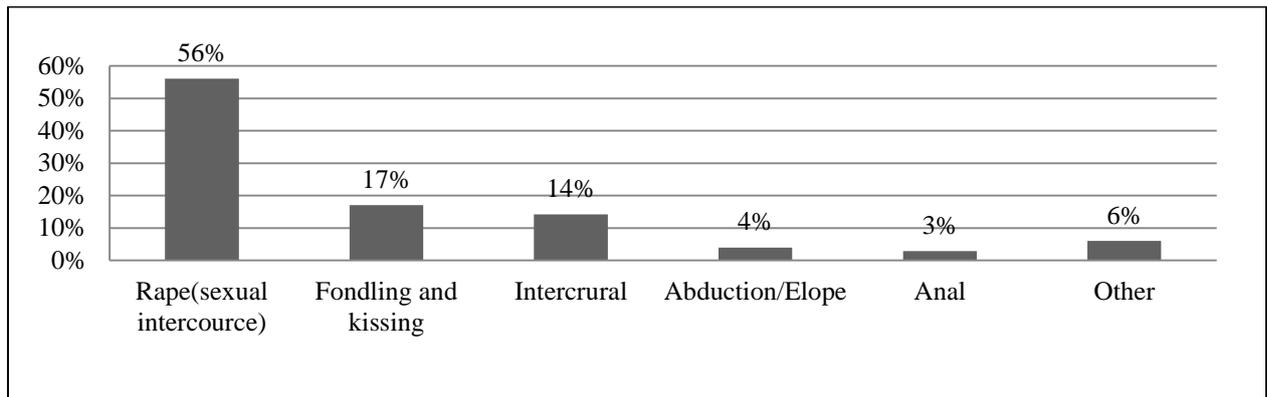
**Figure 3. Number of Incidents**

Eighty four percent of victims were unmarried. Approximately 71.13% of them were from the school going population. About 19% of victims were more than 18 years of age were educated only up to grade nine. Seventy one percent of guardians of sexually assaulted victims were laborers or estate workers. The findings also revealed that only 2.13% of victims were garment workers. The majority of the victims (96 %) knew the assailant and in 36% they were boyfriends and 21 % of cases they were family members. Most of the incidents (34 %) occurred in victim's house followed by the assailant's residence (30 %). (Figure 4).



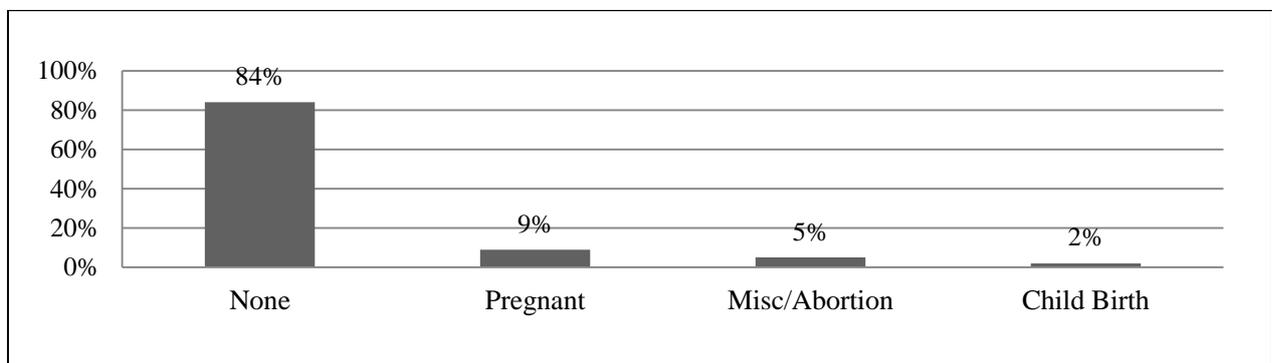
**Figure 4: Places of sexual assault**

Fifty-six percent of the victims claimed vaginal penetration had occurred and 39.57% of them were found with genital injuries. (Figure 5).



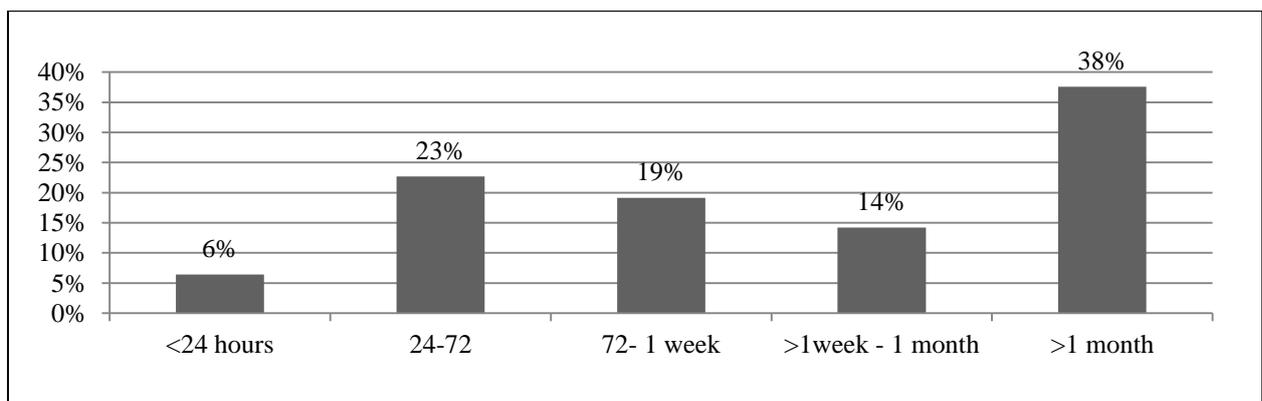
**Figure 5. Type of alleged incident**

After the sexual assault 9% of victims have got pregnant and there were 5% of miscarriages or abortions and 2% have proceeded to childbirth. (Figure 6).



**Figure 6 : Consequences of sexual assault**

More importantly only 6 % of victims were examined within 24h of the incident and 23% were examined within 24h-72h, 19% in 72h to 1 week and considerable number of (107) (38%) victims were examined after 1 month of the incident. (Figure 7).



**Figure7: Time gap between incidents and examination**

## DISCUSSION

It has been reported in many studies that most of the sexually assaulted victims were females<sup>13,14,15,16,17</sup> and our study also showed that 96% of victims were females.

It has been reported in the literature that the victims were usually in their teens<sup>7,8,9,10,14,17,18,19,20</sup>. NCHRBS found that for 71% of victims the first rape occurred before the age of 18 years. Similarly, ICARIS-2 revealed that 60% of female and 69% of male rape victims experienced their first rape before their 18<sup>th</sup> birthday. The NVAWS also found that the majority (54% for women and 71% for men) of all first rapes occurred before the age of 18 years, and for both sexes, almost half of these occurred before the age of 12 years. Comparable figures for women from the NWS were 62% (before 18 years) and 29% (before 12 years). In our study, we found that 81% were less than 18 years of age and among them 17% were less than 12 years of age, majority (43% of total) was in 12-16 years age group, 21 % in 16-18 years age group.

This similarity can be attributed to deficiency in knowledge and attitudes towards sexual acts and cultural characteristics between countries. The lack of knowledge regarding the minimal age to give consent for sexual intercourse and legal marriage has contributed greatly for the above recorded cases of eloping and rape, evidence by many young females below the age of 16 years have had sexual intercourse willingly with their boyfriends and some girls who were below the age of 18 years have eloped and attempted to register their marriages.

Out of 282 of sexually assaulted incidents, we have found that a significant number (86) (34%) were repeatedly assaulted. Among them 79 were under the age group of 12 to 18 years. This underage school going females were assaulted three or more times until they were presented to medico-legal examination.

Fifty six percent were presented with a single incidence of assault.

For both males and females, in majority of cases (>80% of cases)<sup>11</sup> the perpetrator and the victim knew each other. The NVAWS found that perpetrators of rape against adult women were most often intimate partners (62%), defined as a current or former spouse, cohabitating partner, boyfriend, or date. Twenty-one percent of rapists were acquaintances, 17% were strangers, and 7% were relatives<sup>11</sup>. However, in the earlier NWS, the largest percentage of perpetrators (29%) were nonrelatives, such as friends or acquaintances, 27% were family members, 22% were strangers, and 19% were intimate partners (defined as a current or former spouse or boyfriend- not including dates)<sup>10</sup>. When looking only at 12 to 17 year old rape victims, the NVAWS found that perpetrators were mostly intimate partners (35%) and acquaintances (33.3%) for females and acquaintances (47%) for males. For child victims (aged 12 years and younger), the perpetrator was most commonly a non-intimate family member for females (67.8%) and an acquaintance for males (50%)<sup>11</sup>. In our study we found that the majority of the victims (96%) knew the assailant and in 21% of cases they were family members and these findings are consistent with literature<sup>10,11,19,21,22</sup>.

The majority of the victims (84%) were unmarried. These findings are in agreement with the studies of Sarkar et al<sup>19</sup>, Mont et al<sup>20</sup>, Islam et al<sup>21</sup> and Fimate et al<sup>22</sup>.

A considerable proportion of the victims was poorly educated (19% of victims more than 18 years of age were educated only up to grade nine.) and 71.73% were from a low socioeconomic background where the victims were from families of labourers and estate workers. Similar findings were observed by Sarkar et al<sup>19</sup>. However Barek<sup>23</sup> in a study observed that 89.77% victims were educated. On the other hand Islam et al<sup>21</sup> reported that the majority of the victims were

illiterate. Ganguly et al<sup>24</sup> reported 60% of the victims were from poor families and 43% were illiterate.

Most of the incidents (34%) occurred in the victim's house followed by the assailant's residence (30%). Sarkaret al<sup>19</sup> reported 41.1% and Grossin et al<sup>25</sup> reported 41% of incidents which occurred at the victim's house.

After the sexual assault 9% of victims have got pregnant and there were 5% of miscarriages or abortions and 2% have proceeded to childbirth. Attempted abortions by nonmedical personnel may cause considerable morbidity and mortality as abortion is not legalized in the above circumstances by the Sri Lankan legal system.

More importantly only 6% of victims were examined within 24 hours of the incident and 23% were examined within 24 hours -72 hours, 19% in 72 hours to 1 week and considerable number of (107)(38%) victims were examined after 1 month of the incident. This is consistent with the study of Barek<sup>23</sup>, where the author found only 3.41% had undergone medico-legal examination within the first 24 hour. This delay in presentation may be attributed to the lack of awareness of victims, law enforcement authorities<sup>26</sup>, social stigma etc.

Health education targeted on vulnerable groups regarding sexual behavior, legal aspects of sexual and partner relationship in an organized system is important for primary prevention of sexual assaults. It may prevent incidents of sexual assault by improving knowledge of both victims and perpetrators. While at the same time assessing and addressing the needs of survivors when primary prevention is not possible is also very important for the social context.

## CONCLUSION

In our study, most of the victims were young, school going females who belonged to the low socio-economic group. In a majority of assaults, the assailant was a known person and the assault had occurred in a place known to the victim. Common allegation was the vaginal intercourse. There was a considerable delay between the time of incident and the time of examination which would have led to the destruction of very important medical evidence.

## SUGGESTIONS

We emphasize that young school children and low socio-economic group cannot be excluded in formulating effective preventive programs against the sexual violence as the most vulnerable group for sexual assault is school going young females and as it was found that their knowledge and attitude of sexual behavior is very poor in the author's previous studies<sup>27</sup>.

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# IMPLICATIONS OF SYMPATHY, EMPATHY AND APATHY IN MEDICO-LEGAL PRACTICE

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## ABSTRACT

The terms sympathy and empathy have subtly different meanings. Sympathy is the caring, concern and understanding for the suffering of others while empathy refers to being-putting oneself in the place of an aggrieved party. *Apathy* means lack of feeling, emotion, interest or concern which leads the individual to a state of indifference. This article is aimed at creating a dialogue among medico-legal practitioners as to what extent should empathy or sympathy be shown to their clients.

Expression of sympathy or empathy by medico-legal professionals in Sri Lanka may be limited because of several reasons. As the prime concern of a medico-legal professional is to gather information for a court of law, this may require him to be more factually oriented without taking emotions into account. Emotional involvement in a case may cloud the professional's judgement. Furthermore, as medico-legal professionals see many emotionally agonising cases on a daily basis, one might find it traumatising to become emotionally involved in each case. Unless the practicing doctors are appropriately trained in life skills such as the desired method of reacting in front of the patients, bereaved relatives and other concerned parties, the overwhelming reactions to emotions would make the practitioner trespass the professional boundaries. However if one reacts with apathy and indifference, the investigation process may be deficient and incomplete. It is important to strike a balance between 'caring too much' and 'caring too little'. However it is not easy to lay guidelines as to

how much to react in a given setting. It should be judged by the practicing doctor using common wisdom and past experience. Therefore it is important to address the matter from the very first stages of post-graduate training in Forensic Medicine.

**Key Words:** *sympathy, empathy, medico-legal practice, emotional lability*

## INTRODUCTION

The terms sympathy and empathy are often used similarly and interchangeably though their emotional meaning is subtly different. In simple terms, sympathy is the caring, concern and understanding for the suffering of others-the concern for the well-being of another. Empathy refers to the understanding and sharing of a specific emotional state with a fellow human being-putting oneself in the place of the aggrieved party. A person expresses sympathy while he shares empathy. When sympathising, one recognizes that another person is suffering while when empathising, the person's pain or suffering is felt. As such, empathy is a deeper feeling compared to sympathy<sup>1,2</sup>. The origin of the word *sympathy* comes from the old Greek terms *syn* (meaning together) and *pathos* (meaning to feel). The term *empathy* was coined by the British psychologist Edward Titchener in 1909 to translate the meaning of a German word which meant "shared feeling".

Sympathy and empathy are both complex feelings, which, though, are neither the same

nor are mutually exclusive. One may feel both together as the bases for both are the compassion blended with understanding and acceptance of others enhanced by knowledge and wisdom. Thus, the capacity to sympathize and empathize is considered as features of humanity.

On the other hand *apathy* means lack of feeling, emotion, interest or concern which leads the individual to a state of indifference. Such an individual may show lack of interest in emotional, social, cultural, spiritual and philosophical aspects of life as well as physical life and worldly events. Apathy may arise when the individual feels that he does not possess the level of skill required to confront and overcome a challenge. This type of transient feelings will be experienced by almost all individuals at some point in life and as such it is considered a natural response to disappointment, stress and dejection as it helps to forget these negative feelings. Long standing apathy may be a sign of more specific mental disorders such as schizophrenia or dementia. Extremely apathetic individuals (together with other behavioural abnormalities) will be classified as narcissistic, sociopathic or psychopathic<sup>3</sup>.

This article is aimed at creating a dialogue among medico-legal practitioners as to what extent should empathy or sympathy be shown to their clients.

## **DISCUSSION**

### **Sri Lankan practice**

The existent practice in the country is that the same medico-legal specialist deals with both autopsies and clinical cases. The prime concern of the medico-legal specialist is gathering information so as to provide evidence to courts of law in the form of documents and verbal evidence. There are legal as well as customary restrictions towards a wide array of other forms of communication and contacts with the

interested parties who may be the representatives of the clinical client (examinee), the senior next of kin of the deceased or certain other parties legally, socially and culturally interested about the case or the situation. Trends are positively changing. Yet, the “holistic” and “therapeutic” nature of the approach which is currently available in the developed countries is not yet fully established in Sri Lanka. Thus the medico-legal specialist may lack an opportunity to express sympathy or empathy and take further steps based on these emotions for the good will of his client (or other interested parties). Forensic Medical Specialists are in a way “forced” to be apathetic and show indifference in certain situations.

On the other hand the prime expectation from the medico-legal specialist is that he gives scientifically solid, unbiased, impartial, accurate and truthful evidence and opinion within his capacity. Certain emotions that they invariably encounter during clinical medico-legal work as well as death investigations might adversely affect this ideal expectation. In other words, the medico-legal specialist should not be emotionally biased.

### **Impact on personal and professional life**

Clinical Forensic Medicine and Forensic Pathology are the two topmost medical disciplines where the practitioners very commonly and frequently receive extremely emotionally agonizing and psychologically traumatizing first-hand information in the form of history, examination and investigative results. This, they receive not in an ad-hoc manner (like emergency department surgeons) but in a continuous daily basis as long as they are involved in active practice. The short-term and long-term impacts of this on the doctor’s psychological well-being as well as the defence mechanisms in operation in the mind-set of the doctor (such as dissociation) and the long-term personality and behavioural

implications upon the doctor are much under-researched.

Unless the practitioner employs his common human wisdom as well as the experience he has gained over the years to measure the right amount of human response that should be ideal for the occupational demands in relation to the challenging situation before him, he may be emotionally overwhelmed by sympathy and over react to the situation to the extent that his evidence and opinion will be biased and un impartial<sup>1,4</sup>. On the other hand, if he under-reacts in apathy and indifference, not only that his client -dead or alive- will not receive the bare minimum of his due but also the investigative process may become deficient and incomplete.

Being less sensitive to an incident may be due to varied reasons. Lacking in awareness, knowledge, experience or skills to overcome the situation would make one lethargic towards an incident. This does not imply an abnormal behaviour. However it is important to care for the people in front of you and do the needful without getting personally and emotionally attached or detached.

Boundaries in between empathy and sympathy at times may be blurred. Yet, the doctor must maintain the objectives of his professional duty consciously, rather than merging with the emotions under the “wrong impression” that he perceives the situation accurately. This emotional lability may drive a doctor into troublesome and unprofessional pathways. In extreme cases it might lead to personal sympathetic relationships with the patients or relatives, which is considered highly unethical. Co-dependency and professional burn-outs are other undesired consequences of being emotionally labile<sup>5,6</sup>.

## **Moulding of characters and developing life-skills**

All doctors deal with human life in different aspects, stages and forms. Forensic practitioners deal with legal aspects of human life mostly merged with the quality, freedom and dignity of life. Unless the practicing doctors are appropriately trained in life skills such as the desired method of reacting in front of the patients, bereaved relatives and other concerned parties, the overwhelming reactions to emotions (not only sympathy and empathy but also anger, disgust, passion and repulsion at times) would make the practitioner trespass the professional boundaries<sup>7</sup>. This experience should be gained during formal post-graduate training and it is the responsibility of the supervisors to assess the degree of acquisition of skills in this aspect.

## **CONCLUSION AND RECOMMENDATIONS**

Novice practitioners in the field of forensic medicine may encounter many cases where they are psychologically entangled with the emotions of the examinees and the kiths and kins of the deceased. Such encounters may tarnish professional image as well as lead to complexities in personal life. In the long run, over-reacting as well as under-reacting to patient’s emotions will have a negative impact upon the field. It is not easy to lay guidelines as to how much to react in a given setting. How much is too much and how much is too little has to be clearly judged by the practicing doctor using common wisdom and past experience. Only then will the client either alive or dead will be able to experience the broadest sense of real natural justice.

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# **CRIMINAL OR FORENSIC INVESTIGATIONS IN SRI LANKA AND THE MEDIA RESPONSIBILITY : THE NEED FOR SUBSTANTIVE MEDIA LAW AND ENFORCEABLE MEDIA ETHICS IN SRI LANKA.**

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## **ABSTRACT**

This paper seeks to discuss the involvement of media in the criminal or forensic investigation process in Sri Lanka and its possible adverse consequences. Further, this paper attempts to build an argument to establish and propagate media legislation in Sri Lanka especially in reference to crime investigations while emphasising the need for media professionalism, training and enforceable set of media ethics for media personnel and units.

The author upholds media freedom. Author reiterates media independence and pluralism in media. However, the right to express is not by any means above the rule of law or right to privacy.

The media law and media ethics in Sri Lanka especially in reference to crime investigations is in its infancy and require a rapid growth immediately to safe guard the rights of victims, suspects and to promote the rule of law.

**Keywords:** *Media Ethics, Medial Law, Forensic Investigation, Criminal Investigation*

## **INTRODUCTION**

Free, fair and a well developed media is a reflection of democracy. However, the freedom of media needs to be exercised with a sense of responsibility, accountability and transparency while upholding the rule of law.

The freedom of expression through the media does not entail a right to override rule of law or another's right to privacy. Rights have equal weights. The limits of one's rights are at the likely embarkation of infringing another's right: a known tenant in the contemporary human rights discourse.

This paper seeks to discuss the involvement of media in the criminal or forensic investigation process in Sri Lanka and its possible adverse consequences. Further, this paper attempts to build an argument to establish and propagate media legislation in Sri Lanka especially in reference to crime investigations while emphasising the need for media professionalism, training and enforceable set of media ethics for media personnel and units.

## **MATERIALS AND METHOD**

This paper critically analyses two contemporary cases<sup>1,2</sup>. The criminal and forensic investigation process and their media coverage are the point of analogy.

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<sup>1</sup> <http://www.sundaytimes.lk/150920/news/seyas-tragedy-the-search-the-discovery-and-heartache-164940.html> Sunday Times 20 September 2015 Last accessed 13.10.2015

<sup>2</sup> <http://www.sinhayanews.com/sri-lankan-girl-rescued-attempted-suicide> last accessed October 2015.

## RESULTS AND DISCUSSION

Publishing details of ongoing criminal or forensic investigations:

### The Suspects

The media both electronic and print media in Sri Lanka are in a consuetude of publishing full details of suspects under investigations. For example, in the recent past, the famous “Seya Sandewmi”’s rape and murder in Kotadeniyawa, Gampaha in September 2015, where a five year old girl was allegedly abducted and raped was fully covered by all local media competitively with all details, photographs, videos and audios. An event of this nature where a little girl is sexually abused and murdered becomes naturally very sensitive, provocative, sad and rageful. The media personnel taking an advantage of the sensitive nature of the event used the victim’s fate to advance their financial and media popularity benefit in the name of ‘media freedom’ and in the name of ‘informing the truth’ to the public, regrettably inconsiderate to the plight the victim, suspects and the family concerned had to go through posthumous. Not limiting to the victim, the media used its power and popularity to target the parents, neighbours and the family.

In a child abuse case, as the literature suggests, the perpetrators are more likely to be a family member, relative or a close associate of the child. I welcome the suspicion the investigators had on the parents or neighbours. However, we must not obliterate the fact that the issue is still under investigation (at the time of writing this article, October 2015) and that so far no one has been found guilty of, by a competent court. The way in which the media portrayed or rather dramatised this incident in the public media creatively made an environment not only for the public to “judge” and incriminate the parents and the rest of other suspects consecutively and perpetually, but also provoked the general

public to behave in an unlawful manner. Due to these attributes, the parents were not allowed by the general public to fully involved with the funeral functions. The media, in my opinion, created this irony where the general public became unruly and uncontrollable. Some public and groups may have looked for an opportunity to publicity!

Next in this case, was the arrest of a schoolboy who was in the neighbourhood of Seya, in connection to her rape and murder. He was under eighteen years of age and should have been considered a juvenile and protected by child rights and juvenile law that applies to children in conflict with the law. It is illegal to show identities of juveniles under criminal investigations. Unfortunately, not only that the media published the name, photographs, videos of arrest and whereabouts of this juvenile suspect accused but also published that he was in the possession of pornographic material in his private computer. This situation is unwarranted and the publicity of these facts of a juvenile suspect should have been avoided. Under both international law and local laws it is expected to keep identities of juvenile’s delinquents under strictly confidential and to uphold best interest of the juvenile concerned. The DNA test performed on this juvenile suspect came negative after such a ‘drama’ created by the media. As a result he was released from further investigations, accordingly.

However, it seems as if the investigators have been oblivious of the fact that a suspect can still have committed a forceful sexual intercourse in this case a statutory rape and/or commit homicide in the absence of a matching DNA profile at the crime scene or on the victim, due to numerous reasons.

The next event in this case was the arrest of “kondaya” a man from a nearby place. According to the media reports he had previous incidents of arrests for alleged sexual abuse of a child. Along with this history and the ‘peculiar behaviour’ of this

suspect in the eyes of the media, provided ample momentum for the media to write articles after articles incriminating and judging this suspect along with this man's face pictures and videos of his arrest. The 'looks' of this suspect was not 'ordinary' for some people in the media, while others said he definitely was responsible for the offense due to inter alia a confession made to the police. The media portrayed a prejudice, biased, judgmental opinion about this suspect which convinced many that he was the culprit. The DNA test from this suspect also came negative.

The injuries caused by these actions by the media for the suspects are manifold. Let alone the mental agony the suspects had to go through during the investigation process, the juvenile suspect had difficulties in attending schools, face bullying and insults from everywhere. The other two suspects too have issues in facing the families, facing the society, finding employment etc. As the names and the photographs of the suspects are published by the local media, the damages caused to the suspects are irreparable.

The actions by the media to publish full identifiable details of the suspect with the photographs and videos of them are not only unethical, but also illegal and unconstitutional. The fundamental rights chapter (chapter 111) of the constitution of the democratic socialist republic of Sri Lanka very clearly stipulates that 'every person should be presumed innocent until proven guilty'. The manner in which the media coverage dispensed the whole scenario of the "Seya" murder case was making a false, prejudicial impression in the public in regard to the criminality of the said accused taken into custody. The media created a platform for the people to judge these suspects given the sensitive nature of the case. The heavy involvement of the media in this case made the general public unrest, as a result the police were stressed and the entire criminal investigation was forced to execute hastily.

Due to the involvement of public agitation after humongous 'media cry' over this issue the suspects have been allegedly tortured and brutalised by police to provide with a confession to suit the media and the investigations. The fact that the media exposition hinted inefficiency of the police in apprehending wrong doers in this case triggered the police to clasp 'someone' to evade imminent embarrassment which inadvertently led the arrest of this juvenile with no justifiable suspicion.

### **The Victims**

It is regrettable that the media attempts to exhibit the face identity with the traumatic injuries and at times the photographs of the victim child (in this Seya) 'as it is' without clothes. Of course it is financially rewarding to the media as many will want to 'buy' their product to see the pictures or read the 'raw' story. The media deliberately ignores the plight the family and the victim will have to go through with these pictures and videos in public domain.

A few days ago in October 2015, a young adult female jumped into a river in Kandy area allegedly to commit suicide. A few villagers fortunately rescued her. However, the media rushed in to the scene and began to telecast the victim in full details including her face videos disregarding the fact that she attempted to commit suicide presumably undergoing severe mental health issues. The telecasting of this victim's identity will not by any means help the victim to cope with her issues. Such events can be taken to the general public if media so chooses, with more maturity, professionalism and ethics.

### **The officers involved**

The media categorically expresses the names of the experts who conduct the forensic investigation and the places where the investigations are done. As these are criminal cases, while acknowledging the fact that

some cases involve underworld and powerful individuals, the expert can be at risk of harm or the evidence collected can be at risk for possible vandalism which may directly affect the administration of justice process.

Furthermore, the jurors and judicial officers who watch or read the creative media stories may have some degree of prejudice or emotion that may be detrimental to administration of justice, hearing or seeing sensitive, traumatic pictures and videos prior to such evidence is presented in the court. The public unrest, public opinion created by the media on such issues in popular media may confound the objective assessment of the evidence. On the other hand certain investigators, institutes or forensic practitioners who crave for cheap media popularity may act or in act to surface his or her media image.

## CONCLUSION

The author upholds media freedom. Author reiterates media independence and pluralism in media. However, the right to express is not by any means above the rule of law or right to privacy. Right to information on the other hand does not entail any right to divulge personal information such as how one lives, eats etc to public which can infringe privacy of a suspect who is supposed to be presumed innocent until proven otherwise. Although media freedom advocates the freedom to consume whatever information or entertainment we want from whatever sources we choose, without government restricting our choices, the limit of freedom as said earlier is the personal rights of others to their privacy, against deformation, against one's dignity and the rule of law respecting the privacy and constitutional rights of an individual.

The media law and media ethics in Sri Lanka especially in reference to crime investigations is in its infancy and require a rapid growth immediately to safe guard the

rights of victims, suspects and to promote the rule of law.

Crime reporting can be important to society if and only if they are reported professionally, ethically while safe guarding human rights of victims and suspects upholding the rule of law.

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