

## Medico-Legal Death Investigation Systems – Sri Lanka

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### ABSTRACT

Sri Lanka's death investigation system has originated from the British coroner system and it is currently provisioned mainly by the Code of Criminal Procedure Act No. 15 of 1979. The death inquirers - magistrates and inquirers into sudden death - are empowered to carry out inquests in sudden and unnatural deaths to ascertain cause and manner of death. Autopsies are performed by qualified medical officers upon the request of death inquirers. Maternal deaths, although not specified in the Code of Criminal Procedure, undergo mandatory autopsies. In the face of mass disasters in recent history; including the 2004 tsunami, 2019 Easter bombing and COVID-19 pandemic, Sri Lanka adapted the regulations to overcome the medico-legal challenges in the management of the deceased.

**Keywords:** Autopsy; COVID-19; inquiry into sudden death; maternal deaths; Sri Lanka

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### INTRODUCTION

Sri Lanka inherits the death investigation system from its former colonial ruler, the British, who ruled the island nation from 1815 to 1948. As is the case with many other British colonies in Asia, Sri Lanka adapted and continued the British system with a few changes after independence.

### INQUIRY INTO SUDDEN DEATH

The Code of Criminal Procedure Act No. 15 of 1979 enforces the investigation of the death in Sri Lanka to certify the cause and manner of unnatural deaths. Before the enactment of this act, the death investigation of the country was performed under the provisions of the Criminal Procedure Code of 1883 and then the Administration of Justice Law of 1973. The provisions of Code of Criminal Procedure Act No. 15 of 1979 empower death inquirers - magistrates and inquirers into sudden death (ISD) - the latter of whom are colloquially called 'coroners' - to conduct the

inquiry into all unnatural deaths (accidents, suicides and homicides) and when the cause of death is not known. Magistrates are lawyers with magisterial powers within their jurisdiction who are appointed by the Judicial Service Commission. On the other hand, ISDs are appointed by the Ministry of Justice for a specified area and require a minimal educational qualification of passing the General Certificate of Education (Advanced Level) in any subject stream<sup>1,2</sup>.

When a death inquirer receives information of a person committing suicide, killed by animal, machinery or by accident, died suddenly or of unknown causes, they shall immediately proceed to the place where the body of the deceased is and conduct an inquiry. Then he or she shall draw up a report on apparent cause of death, describing injuries on the dead body, as in his or her opinion may relate to the cause of death and manner of how such injuries have been inflicted. This report is then signed and forwarded to the supervising magistrate. In cases of suspected homicide, deaths in custody (police, armed forces, detention homes, correctional facilities, prisons), mental hospitals and leprosy hospitals, the magistrate of the local magistrate court is required to hold the inquiry<sup>2</sup>. Apart from the above, hospital doctors request an inquest in deaths where cause of death is not ascertained, deaths due to medical, surgical or anaesthetic procedures or immediately afterwards, deaths following administration of vaccines, blood, blood products or a drug, alleged medical negligence, deaths due to animal bites, rabies or tetanus and deaths due to suspicious circumstances<sup>3</sup>. In addition to hospital doctors and administrators, Grama Niladhari officers (administrative officers of subdivisions of a district), police, security forces, emergency services and members of the public can report the deaths to inquirers<sup>4</sup>.

An inquiry is held at a place open to the public. However death inquirers hold the power to exclude the public from an inquiry on special grounds. An inquirer can summon any person, including medical personnel, to give evidence or produce any relevant document for the inquiry. They usually summon and record the evidence of the investigating police officer, relatives and other interested parties of the deceased and eyewitnesses to the incident. If such a summoned person fails to appear, refuses to give evidence or fails to produce any documents, they can be charged with contempt of court and fined and/or imprisoned up to 3 months<sup>2</sup>. Following the conclusion of the inquiry, the inquirer issues the inquirers certificate of death stating the cause and manner of death, or, if not ascertained, an open verdict. This certificate, which is required for the disposal of the body, is presented by the next-of-kin to the Registrar of deaths in the area within five days to register the death<sup>4</sup>.

## AUTOPSY

The death inquirer is empowered to call upon a medical officer to conduct an autopsy and submit a report as to the cause of death. The minimum legal requirement of such medical officers is the basic medical degree (MBBS) and to be registered with the Sri Lanka Medical Council. In the past, the majority of post mortem examinations were done by medical officers with only an undergraduate knowledge of forensic medicine. However, most autopsies in Sri Lanka are now conducted by medical officers with post graduate qualifications (Diploma in Legal Medicine, Master in Forensic Medicine or Doctorate in Forensic Medicine), those in the post graduate training or under the direct supervision of a board certified consultant. Post graduate training is conducted by, both, board certified specialists attached to departments of forensic medicine in universities (senior lecturers and professors) and the department of health (consultant judicial medical officers). If the dead body is already buried, the exhumation for the purpose of an autopsy should be authorized by a magistrate<sup>1,2</sup>.

During the inquest procedure, the body of the deceased belongs to the state and the relatives of the deceased cannot object to the inquest procedure. The relatives are handed over the custody of the dead body only after the inquirer releases the body following the conclusion of the inquest. The method of disposal and to whom the body is released are decided by the inquirer. Autopsied bodies are usually buried, in case the need of a second autopsy arises. However relatives can opt for requesting for a cremation where any suspicions related to the circumstances of the death are excluded.

Consent from the next of kin is not required for obtaining biological samples during the autopsy to ascertain the cause of death. However, for the preservation of specimens for academic purposes and in non-forensic autopsies conducted for disease diagnosis and research purposes, the consent of the next of kin is required<sup>5</sup>. In Sri Lanka, a country of Buddhist majority, many people consider it a meritorious act to donate the organs of their loved ones. Therefore, faculties of medicine in Sri Lankan universities house many museums of human specimens received from the generous relatives of the deceased, which is rarely seen in other countries. In the Faculty of Medicine, University of Peradeniya, the departments of Forensic Medicine, Pathology and Anatomy house four museums with over 1250 specimens.

## SPECIAL SITUATIONS

1. Deaths that occurred during combat between the armed forces of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) terrorists were not subject to an inquest or post mortem examination. However, it was necessary if deaths occurred due to accident, suicide or homicide.
2. Maternal deaths – even though maternal deaths are not specified as requiring an inquest in the Code of Criminal Procedure, since 2008 it is mandatory to conduct a post-mortem examination in all maternal deaths. A representative of the hospital unit where the maternal death had occurred should participate in the post-mortem. In addition to the inquiring magistrate, copies of the post-mortem report are forwarded to, and used at the confidential maternal death enquiry<sup>6</sup>.
3. Mass disasters - The death investigation system in Sri Lanka was not suitable for mass disaster situations, which was made apparent following the tsunami disaster in December 2004 which killed over 40,000 people in Sri Lanka. During the acute phase or the first week following the disaster, the identification of the dead was of utmost importance. However, once hospital morgue facilities were saturated, the putrefying bodies of the dead were sent directly to mass burial grounds, bypassing hospitals, without proper record keeping or inquest procedure. There had been cases of some dead bodies being inquired more than once while the majority never underwent an inquiry. In the secondary phase or the second week and beyond, a local and international public outcry arose for the identification of the victims, which led to time consuming exhumation, identification and documentation of many victims<sup>7,8</sup>. The Tsunami (Special Provisions) Act No. 16 of 2005 was enacted in June 2006 to enable those who were missing for

six months since the Tsunami, to be presumed as dead and to be issued a death certificate<sup>9</sup>.

4. On Easter Sunday of 2019, Sri Lanka faced a series of coordinated terrorist attacks in the form of suicide bomb explosions in several churches, luxury hotels, and a guest house, killing 276 people. A team of consultant judicial medical officers, forensic odontologists, dental surgeons, post-graduate trainees in forensic medicine, photographers and technicians were mobilized for the management of the fatalities. This team undertook the laborious process of identifying and autopsying the deceased under a blanket magisterial order instead of the usual practice of one order for each death. The body fragments which were not identified underwent analysis at the Government Analyst's Department for DNA fingerprinting. The relatives of the deceased were issued death certificates following completion of the autopsies<sup>10</sup>.
5. The COVID-19 pandemic saw several regulations being implemented throughout its timeline for investigation and disposal of COVID deaths in Sri Lanka. Early in the pandemic, in April 2020, due to the uncertainty of transmission of the virus from dead bodies, it was decided that all diagnosed COVID 19 positive deaths should be disposed by early cremation. In suspected cases of criminality a full or partial autopsy to be conducted by the senior most forensic pathologist and disposed by cremation. If not previously diagnosed, post mortem sampling of tracheal aspirate and lung tissue was done, and if PCR was positive cremation was mandatory<sup>11</sup>.

In September 2020, in cases where an autopsy was done, the method of disposal was to be decided by the death inquirer following the consultation with a consultant forensic pathologist<sup>12</sup>. A letter issued by the Director General of Health Services to the Ministry of Justice in June 2021 instructed Judicial Medical Officers to determine the cause of death in COVID PCR-positive deaths occurring at homes, thus needing a post-mortem examination for such cases. The reason for this instruction was described as to streamline the processes of recording the cause of death and the notification of COVID-positive deaths occurring at homes<sup>13</sup>. Later in October 2021, only the dead bodies which were considered infective (PCR or Rapid Antigen Test for COVID-19 positive within 21 days) were disposed according to previous guidelines<sup>14</sup>.

With the evolving knowledge on post-mortem diagnosis of COVID-19, a circular was issued in February 2022 stating that post-mortem PCR were not mandatory in all deaths<sup>15</sup>. Following nation-wide vaccination and gradual

relaxation of social distancing regulations, the regulation on PCR tests prior to autopsies were further relaxed and to be performed at the discretion of the relevant judicial medical officer, as of March, 2022<sup>16</sup>. With a dwindling number of COVID-19 cases reported each day, Sri Lanka is soon expected to further relax the COVID-specific regulations on management of COVID deaths.

## CONCLUSION

Sri Lanka's death investigation system had evolved from its British ancestor and underwent several vital reforms in response to the practical issues encountered in mass disasters in the recent history.

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