

EDITORIAL

IDENTIFYING VOIDS AND REMEDYING DEFECTS IN FORENSIC INVESTIGATIONS IN SRI LANKA

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The object and purpose of this article is to highlight some major defects in respect to forensic investigations in Sri Lanka and to propose remedial measures to those identified voids. The substances for this article are those that the author personally observed as a member of a forensic investigation team, as an academic in forensic medical science and as a lawyer.

Main stake holders in a forensic investigation are the police, forensic experts and the courts. The victim, accused and their families and the public in general also play a vital role in the forensic investigation. The police department plays the key role in a crime investigation and therefore plays a pivotal role in a forensic investigation. Scene visits, scene of crime management, collecting evidence, custody and transport of specimens, liaison with forensic experts, presenting evidence in courts are part and parcel of the responsibility of the police. Having worked with police in forensic investigations as a forensic expert and having involved in training police officers for many years in Sri Lanka, I have noticed that many police officers do not possess a clear objective idea as to what their role and purpose is in a crime investigation or in regard to forensic investigations. Due to this reason many a time the police prosecutions have failed at the trial level. One reason for this is their lack of training in handling forensic evidence and criminal investigations. Other than the initial in house training they had in the police training schools at the time of their recruitment, they are not exposed to formal continuous professional development training program in their service. Seldom, outside organizations will conduct some short term seminars or training sessions for the police. On the one hand those trained police officers will be internally transferred from one

department to another, for example a police officer who worked in a criminal unit can be transferred to an administration department or a welfare unit of the police station. Then the training he obtained while he was in the criminal unit on crime investigations or forensic investigations become in vain as such training will not be applicable in the unit he is currently attached after the transfer. Therefore, it may be worthwhile to look into possibilities of developing a carrier path for police in a respective area, for example criminal investigations. The new police officer who resumes duties will have to learn from the beginning if he had not worked in a criminal unit before. Another issue is the high politicization of police department and the undue influence and the pressure the politicians and the rich, place on the police officers. Often the police department is alleged to be non-independent, bias and corrupt. The other issue is the lack of understanding of police officers on forensic disciplines/experts other than the judicial medical officers. Not only the police but also the judges and the lawyers too are unaware that there are several other important specialities / disciplines in forensic investigations other than the judicial medical officer. They are aware of the Government analyst department, however the government analyst's unit in Sri Lanka does not have experts on DNA, odontology, anthropology or entomology, botany, archaeology etc. It is important that those who handle criminal matters be aware of police, scientific and legal fraternity) the locations of such other experts so that specimens can be referred whenever a need arises. It is also observed that the police who handle criminal matters lack the understanding of basic principles of criminal law and the procedural guidelines for investigating a crime.

Another issue that prevails is the lack of experts in certain areas of forensic investigations. For example there is no forensic entomologist nor there is a forensic psychiatrist or a forensic psychologist in Sri Lanka trained for legal purposes. The lack of modern equipment also is a hurdle for advanced forensic investigations. For example a DNA sequencer, facial profiling software or a confocal microscope can add to the research and service function in forensics.

The restrictions by statute, the practice of certain forensic specialities to certain units restrains diversity of opinion, defence opinions and research. For example fingerprint analysis is restricted by statute to the finger print analyst who is attached to the police department. Similarly the toxicological analysis is to be carried out by the government analyst, by statute. This has restricted the services of other trained personnel in these areas who are not attached to government analyst department. Forensic specialities other than forensic pathology or the government analyst are not recognised by the local system. This situation has created a power imbalance amongst practitioners. Also the private forensic laboratories are not duly recognised for medico-legal investigations. A defence medical practitioners presence is not welcome at an inquest or autopsy. These issues not only restrict a defence opinion but also due process entitlements of the accused and victim. This situation has even compelled world class local experts in forensic investigations such as forensic toxicologists, forensic entomologists, forensic scientists and forensic DNA analysts to migrate. The state attitude and structure impose utmost trust and honesty on the state forensic practitioner, however, ironically many a times there are bribery and corruption charges against several state officials in different state sectors. There is no established quality assurance in regard to forensic investigations in Sri Lanka. Mere appointment to a government position unduly assumes integrity quality competence and standards.

Inadequate number of forensic experts reduces the quality of service. Ordinary

medical graduates with no specialty training are performing major medico-legal functions. This situation leads to reduced quality of care and risks a fair trial. The legal fraternity assumes that all government medical officers are competent to perform medico-legal functions. There are medical officers who would be performing medico-legal duties in their first appointment having no previous stand alone experience.

Government analyst department is inundated with samples from all over the country and this leads to less quality of service, undue delay and false results. Decentralizing and opening up toxicological, ballistics and other forensic science services in universities will reduce the burden of the government analyst department. This can be in cooperated with opening up forensic science degrees in local universities

The delays in forensic reports have been an issue for many years for court as well as for victims in claiming insurance pensions etc.. The high workloads, lack of facilities as well as several other factors such as lack of support staff contribute to this. The lack of understanding of forensic sciences by lawyers lead to “no questions” in the court room often. This situation can be improved by their participation in forensic courses offered by universities, using internet and reading foreign cases.

These are some important issues to be addressed in order to improve the forensic service functions. Finally, adequate financial, resource and man power allocation to forensic units are important while capacity building of experts on modern analytical methods becomes pertinent. There are several key areas of forensic disciplines that need to be developed in the country. The authorities, practitioners courts and the general public should get together in order to establish unavailable services and experts and maintain the quality of service.

These concerns need urgent attention in order to move forwards with the rest of the world in the name of administration of justice.