

**AN ANALYSIS OF THE MEDICO-LEGAL PRINCIPLES, INVESTIGATIONS,
PROCEDURES AND PRACTICES RELATING TO THE DEATHS OF VICTIMS OF
THE EASTER SUNDAY TERRORIST ATTACK AT THE KOCHCHIKADE
CHURCH**

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Introduction

On 21st April 2019 (Easter Sunday), three churches in Sri Lanka and three luxury hotels in the capital of Sri Lanka, Colombo were targeted in a series of coordinated terrorist suicide bombings. These church bombings were carried out during Easter morning church services in Kochchikade, Negombo, and Batticaloa. The hotels that were bombed were the Shangri-la, Cinnamon Grand and Kingsbury. Later that day, there were smaller explosions at a house in Dematagoda and a guest house in Dehiwala.

The clock on the top front right-hand side of the St. Anthony's church stopped at 8.45am on the 21st of April 2019, marking the time of one of the most devastating terrorist explosions that has occurred in Sri Lanka. Subsequent detailed criminal investigations conducted by specialized agencies of the Sri Lankan Police headed by the Criminal Investigations Department has transpired that all these terrorist attacks had been carried out by an extremist Islamic terrorist group named akin to the ideology of the so-called Islamic State (IS). The attacks were perpetrated using a human suicide bomber per each site.

A disaster is a sudden calamitous event bringing great damage, loss or destruction¹. The World Health

Organization (WHO) has defined a disaster as "an event; natural or man-made, sudden or progressive, which impacts with such severity that the affected community has to respond by taking exceptional measures". Based on the cause of mass disasters, they can be broadly categorized into three forms. They are, (i) natural mass disasters, (ii) accidental mass disasters, and (iii) man-made (intentional) mass disasters. As opposed to natural and accidental mass disasters, 'man-made mass disasters' can be defined as events that are caused intentionally and purposefully by human beings, to bring about the consequences of severe destruction. Acts of violence such as 'terrorism', which results in the death of a large number of people and extensive damage being to property, can certainly be considered as a main type of man-made mass disaster. The terrorist attack at the Kochchikade St. Anthony's church resulted in the deaths of 52 persons and bodily injury to another 81. There was vast damage to the church. Thus, this incident can be categorized as a man-made mass disaster.

One of the most important tasks in the immediate aftermath of such a mass disaster, which has resulted in the death of a large number of victims, is to establish to a certainty the identity of the victims and the manner and cause of their deaths. This is a human, social and legal necessity. The

¹ Oxford Dictionary

Government of Sri Lanka has taken important steps towards strengthening legislative, institutional and organizational arrangements with regard to the management of disasters. As a result of which, in May 2005, the Disaster Management Act, No. 13 of 2005 was enacted. The primary objective of the new law is to prepare disaster management plans, to declare a state of disaster, mitigate harm, manage the aftermath of disasters and provide relief to victims including the award of compensation. However, this law does not contain specific provisions for the management of human remains of deceased disaster victims, including the identification of the deceased and the determination of the manner and cause of their deaths. However, Chapter XXX of the Code of Criminal Procedure Act (CCPA) No. 15 of 1979, provides for legal provisions for the conduct of Inquest into deaths. Unfortunately, these provisions also do not specifically relate to Inquests into Deaths of disaster victims, and the management of their remains.

In Sri Lanka, when a death occurs ostensibly in an unnatural manner, investigations and inquiries are conducted, primarily by State agencies, with the view to ascertaining the cause for the death, resulting in the ascertainment of and pronouncing the reason for the death and taking necessary action, including enforcement of the law against persons responsible for causing the death (in the event of a culpable homicide). One such process is referred to as 'Inquest of Death', and is generally considered as being a part of the Criminal Justice System of Sri Lanka.

The first inquest proceedings relating to the accidental deaths of a large number of persons had taken place in 15th November, 1978. This had been in relation to the

deaths of 183 (79 survivors) airline passengers and crew members of an Icelandic Airlines flight 001 which crash landed on a coconut estate in Minuangoda very close to the Bandaranayake International Airport. While documentation relating to those proceedings is presently inaccessible, according to reliable anecdotal evidence postmortem examinations into the bodies of all victims had been carried out in situ inside a makeshift hut. Scientific DVI processes had not been followed, due to lack of resources and the status of forensic sciences at that time. Since then, forensic pathological services of Sri Lanka had advance considerably. Inquests into mass deaths have been conducted in numerous occasions particularly associated with the era of the armed conflict cum terrorism which ended in may 2009. A high-water mark seems to be the 1999/2000 inquests into 15 human skeletal remains found in multiple graves in Chemmani, Jaffna. During these Inquests for the purpose of ascertaining of identifying the deceased victims, mitochondrial DNA analysis had been conducted. These professional standards of forensic pathological services seem to be rising significantly.

Inquest of Deaths

In terms of the prevailing Sri Lankan law, Inquirers who are also known as 'Coroners' should conduct Inquests into deaths. Further, a Magistrate too has the jurisdiction to conduct Inquests into deaths with regard to deaths that occurred suddenly². When one reads section 9(b)(iii) with section 370(1) of the CCPA, it becomes evident that both Magistrates and Inquirers shall have concurrent legal authority to conduct Inquest of Deaths into the following types of deaths:

- (i) Deaths due to accidents,
- (ii) Sudden deaths,

² Code of Criminal Procedure Act, Section 9(b)(iii), Chapter II

- (iii) Where the body of the dead person is found without the case of the death being known.

It is apparent that mass disasters (natural as well as man-made) occur suddenly. Therefore, in the aftermath of a mass disaster, Inquirers as well as Magistrates may conduct Inquests with regard to victims of such disaster. Both Magistrates and Inquires have been conferred with territorial jurisdiction. Thus, which Inquirers or Magistrates should conduct the Inquest can be determined based on the location where the dead person's body is found. For the purpose of conducting an Inquest in terms of chapter XXX of the CCPA, Magistrates and Inquirers have been conferred with several powers. In terms of such powers, they are entitled to call upon the government medical officer of the district (DMO) or any other medical practitioner, to hold a Post Mortem Examination (PME) into the death of the deceased and to report to the Magistrate or Inquirer as the case may be, regarding the cause of the death³. It is pertinent to note that the present law regarding Inquests into deaths envisages an Inquest being conducted into one death, being conducted by one Magistrate or an Inquirer and supported by a postmortem examination into that single body being conducted by one medical officer. The Easter Sunday bombings at the Kochchikade church would show that in the aftermath of that mass disaster, **there was a need to deviate from that “one body, one Inquest, one magistrate, one medical officer” model and implement a “macro” model, which had a “team” approach, with sub-teams conducting different aspects of the Inquest into the death of multiple victims.**

³ Code of Criminal Procedure Act, Chapter XXX, Section 373(1)

⁴ A terrorist attack may be defined as the use of organized or premeditated, intentionally indiscriminate violence as a means to create terror

Immediate aftermath of the terrorist attack⁴

“A big sound was heard and all the glass windows of the police station started to vibrate.”

Chief Inspector of Police (CI), Mr. Nuwan P. Danthanarayana designated as the Officer-in-Charge (OIC) of the Offshore Police Station explained⁵. Having received the first information, the OIC proceeded towards the scene in less than five minutes. When the OIC entered the church premises, there had been a thick black smoke inside the church and people inside had been screaming and crying in pain. As an initial measure, the OIC had taken steps to inform all appropriate higher officials. On instructions of the OIC, the injured were rushed to the Accident Service of the National Hospital of Sri Lanka with the assistance of the first responders and lay people who abundantly came forward to assist. Having concluded this process, the OIC informed the Chief Magistrate of Colombo (CMC) with regard to the explosion via a telephone call⁶. It is that telephone call that triggered off the subsequent Magisterial Inquests into the deaths of the deceased victims.

Commencement of the Inquest proceedings

As per the information provided by the OIC, the Chief Magistrate of Colombo (CMC) Hon. Lanka Jayaratne had arrived at the scene at 11.10am to conduct the Magisterial Inquest into the deaths of the victims. Many first Responders had been present at the scene at that time, including police officers, officers of the Special Task Force, armed force personnel Ambulance personnel and the Bomb Disposal Units of the armed forces. Initially, in keeping with the recognized protocol, scene safety

among masses and is generally associated with an intention to achieve a religious or a political aim.

⁵ In an interview given to the Author on 29th August, 2019

⁶ Code of Criminal Procedure Act, Section 22, Chapter III

measures had been taken in order to prevent any further and sympathetic explosions⁷. In order to prevent forensic evidence at the scene being destroyed, the CMC had informed the Colombo Judicial Medical Officers (JMOs) to commence the conduct of the forensic pathological investigations at the scene itself. This was following her having selected Consultant Chief Forensic Pathologist and the Head of the Institute of Forensic Medicine and Toxicology (IFMT) of the National Hospital of Sri Lanka (NHSL) Dr. Ajith Tennakoon to be the Head of the team of Forensic Pathologists to conduct the post mortem examinations into the bodies of the deceased victims. Accordingly, the Consultant JMO Colombo Dr. Channa Perera (deputy of Dr. Ajith Tennakoon) and his team arrived at the scene at 11.45am. The CMC had also directed the Government Analyst to arrive at the scene to commence the conduct of other forensic investigations.

Before the initial scene inspection, CMC had taken steps to divide the scene into several geographical parts, in order to facilitate investigational purposes. Accordingly, St. Anthony's church was divided into 5 parts, and named A, B, C, D and E. Further, different areas in each part had been sub-divided into several sub-parts and numbered as A-1, A-2 etc. The CMC and her team, Consultant JMO and his team and the Police officers had simultaneously conducted the crime scene inspection. Later, Scene of Crime Officers (SOCO) of the Police had also conducted their crime scene investigations.

The location, collection and tagging of human bodies and body parts were conducted during the initial phase. This process resulted in human remains being classified and tagged at the scene itself. Complete bodies were tagged as 'CB' and

Body parts tagged as 'BP'. Initial tagging at the crime scene was conducted in the following manner; a complete body found in part B as mentioned above was tagged as B-CB/1 and a body part found in part B was tagged as B-BP/1.

As per the provisions of the CCPA, an Inquest of death should be held at an open place. However, on special grounds of public policy and due to expediency, the Magistrate (MC) or an Inquirer may use his discretion in excluding the public at any stage of the Inquiry from the place in which the Inquest is being held⁸. Thus, the CMC had initially made arrangements for the public to identify the dead at the scene itself. However, due to the trauma and other circumstances, which prevailed at that moment, it had been difficult for the public and the officials to participate in the relevant procedures relating to the identification of the dead. Therefore, the CMC had informed the public that the identification of the deceased would take place at the Institute of Forensic Medicine and Toxicology (IFMT). Afterwards, all dead bodies were transported immediately in body bags to the IFMT located at No. 111, Francis Road, Colombo 10.

Management of the remains of the deceased victims

The management of the dead is described under six procedural aspects⁹. It is as follows:

- I. Recovery of bodies/body parts (human remains) at the scene
- II. Management of bodies pronounced dead at the hospital.
- III. Initial management of bodies/body parts brought to the body holding area/mortuary.
- IV. Identification of the dead.
- V. Determination of the manner and cause of death.

⁷ College of Forensic Pathologists' Manual, Management of the Dead in Disasters and Catastrophes (2016)

⁸ Code of Criminal Procedure Act, Section 372(2), Chapter XXX

⁹ *Supra.*,5

- VI. Release of bodies/body parts and handing over of personal effects.
- VII. Debriefing and counseling.

The bodies that were transported to the IFMT were managed as per the procedural aspects mentioned above. The disaster victim identification process of the Easter Sunday attack had been conducted in two parts at the IFMT¹⁰. A primary identification had been initially done outside the IFMT. Photographs of the deceased were taken and displayed digitally on a screen with a new tag number. The particular relative who identifies the deceased were told to go inside the office and participate in a secondary, more intimate identification process. During this second stage of the identification process, the relative was given the opportunity to look at the deceased from the naked eye and attempt to identify. In most instances, identification of the dead through their external appearance had been difficult to even the immediate family members due to torn, burnt and absent clothing and existence of serious injuries particularly on the face. Where identification of the deceased was not possible by the external appearances, or was doubtful and in instances where only a body part was found, establishing the identity of the deceased was sought through DNA testing and Forensic Odontology.

As per the provisions of the CCPA, the Magistrate or Inquirer holding an Inquest shall record the evidence and his findings thereon¹¹. Accordingly, having identified the deceased, the relative was informed to make a statement to one of the Magistrates who were present (6 Magistrates presiding in Colombo had assisted the CMC in the conduct of these Inquests). Having taken down the statement given by the relative

who identified the deceased, the Magistrate made an order to a JMO to conduct a postmortem examination (PME) into the body of the identified deceased in order to ascertain scientifically the manner and cause of death¹². Accordingly, the JMO had conducted the PME and had given an initial report to the Magistrate in a document captioned 'Cause of Death Form'. That enabled the Magistrate to primarily arrive at his finding on the 'apparent cause of death', which is the finding the Magistrate is required to arrive at in terms of the CCPA. The CMC had made provision for the Registrar Deaths of the relevant areas to be present at the IFMT in order to register the death and issue the 'death certificate'. This is a legal requirement pertaining to every death, in terms the Births and Deaths Registration Act 1954. Having concluded this process, the human remains had been released to the families or the next of kin. The bodies of foreign nationals, whose family members were not available, were released to their government's diplomatic representatives.

Following the conduct of detailed forensic medical examinations, proper 'Post Mortem Reports' (PMR) have been issued to replace the previous 'Cause of Death Forms'. The scientific manner and cause of death of all the deceased victims had been documented in various forms. Such as, multiple explosive injuries, shrapnel injuries, Hemorrhage due to shrapnel injuries etc.

The Suicide Bomber

On the day of the explosion, while the relevant authorities were tagging dead bodies and body parts at the scene, they found a human 'head' on the floor inside the church. At that time, considering the

¹⁰ In an Interview to the Author by Dr. Ajith Tennakoon, Consultant Judicial Medical Officer, Head, IFMT, Colombo

¹¹ Code of Criminal Procedure Act, Chapter XXX, Section 372(1)

¹² Code of Criminal Procedure Act, Chapter XXX, Section 373(1), pg II/161

surrounding circumstances and the evidence available, it was assumed that the head was that of the suicide bomber. However, later that day, another head was located stuck in a chimney on the roof of the church. This human remain was located right on top of the epicenter of the blast. Subsequently, the officials correctly identified this second head to be the correct human remain of the suicide bomber, and the earlier 'head' as that of another victim. This (the head of the suicide bomber) was tagged as T-200 and was transported to the IFMT by the CID. These human remains were visually identified and was further subjected to DNA identification on 08/05/2019. And accordingly, the suicide bomber of the Easter Sunday attack at the St. Anthony's church was identified as one Alwudeen Ahmed Muath. It is to be noted that an Inquest had been held into the death of the suicide bomber as well. The CMC made an order on 14/5/2019 to the Chief Consultant Judicial Medical Officer to conduct a PME on the identified human remain, of the suspected suicide bomber. The report of that post mortem examination is due to be received by court on the next day of the hearing of the Magistrates Inquest, which is on the 24th of October 2019¹³.

Conclusion

Deviating from the "one" model of Inquests into deaths referred to above (which is provided for in the CCPA), the Inquests into the deaths of 53 deceased victims of the Kotchchikade church

terrorist attack had been conducted jointly by 6 Magistrates headed by the CMC and 21 Forensic Pathologists headed by the CJMO Colombo. This is a significant departure from the provisions of Chapter XXX of the CCPA. This had been understandably due to valid and compelling reasons. Thus, what had in fact taken place was a single and comprehensive Inquest into 52 deaths by two teams of Magistrates and Judicial Medical Officers, supported by the Police and a host of other officials. The procedures adopted and followed by all personnel who participated in different aspects of the Inquest had been compatible with internationally recognized standards relating to Disaster Victim Identification and conduct of Inquests.

When considering the sequence of events that occurred after the Easter Sunday terrorist attacks, it is evident that the mass disaster management process had been mainly governed by Inquest proceedings regulated by the CCPA and associated general practices, as opposed to management of the human remains of the disaster under the Disaster Management Act. When contrasting with the provisions of the CCPA and the sequence of events that had actually taken place, it is commendable as to how the learned Magistrate and officials involved in the process of the Inquests had adhered to due process of the law to the best possible extent, while ensuring compliance with requisite professional standards¹⁴.

¹³ Case Record B/10193/01/19

¹⁴ This study focused only on the conduct of Inquests and associated procedures and not on the conduct of criminal investigations.