

# **A Study of the importance of Introducing Sexual Assault Kits for Investigators in the field of Criminal Law in Sri Lanka**

**EMN Perera**

**LL.B (KDU), Final year Student of Sri Lanka Law College**

[naminip93@gmail.com](mailto:naminip93@gmail.com)

## **Abstract**

*Sexual Assault Kit is a sexual offence evidence collection kit. It is a package of items used by medical personnel for gathering and preserving physical evidence following an allegation of sexual assault. Most of the people in the society does not aware about the sexual assault kits which is also known as rape kits and is used by investigators to find out the real offenders with regard to sexual assaults. These kits used by many developed countries like USA, Canada and Australia. Presently it has been introduced to Sri Lanka but it is still in the preliminary stage. The objective of this research study is to identify the importance of providing sexual assault kits for investigators to assist law enforcement in preventing future rapes and other harmful sexual assaults in Sri Lanka and to justify sexual assault kits to identify the real offender. The qualitative research method has been used for this research study and*

*under this research method, data has been gathered from secondary sources such as books, journals and websites namely Academia edu and Research Gate etc. In this research study, it is expected to identify the importance of introducing sexual assault kits for investigators in the field of Criminal law in Sri Lanka.*

**Keywords – sexual assault kits, investigators, Criminal Law, real offenders**

## **Introduction**

The Sexual Assault Evidence Collection Kit, also known as the CT 100, is a thirteen step process involving of numerous samples taken from the victim's body. Biological steps include, swabbing of the oral and genital areas, pubic hair combing, and fingernail scrapping. Non-biological components include, clothing collection and debris analysis and photographs. Depending

upon the wait time, the needs of the victim and the expertise of the practitioner, a full exam and evidence collection can take 6-8 hours (CONNSACS, 2015).

CONNSACS further revealed that an analysis of a kit can establish if a sexual act occurred and can produce DNA evidence. DNA evidence can eliminate or identify a suspect, identify someone who may have prior convictions, and link cases based on evidence using the Combined DNA Index System.

Therefore, DNA in the backlogged kits has the potential to solve cases and identify repeat offenders even in cases dating back a decade or more. In this context, it is crystal clear the importance of introducing rape kits for investigators to prevent rape cases in Sri Lanka. This has been clearly described by Peterson, Johnson, Herz, Graziano, Oehler (2012) and according to them that sexual assault is one of the most serious crimes facing society and, over the past several decades, increasing attention has been paid to the proper collection of physical evidence from victims to document and reconstruct the crime, to identify the assailant, and to aid in the prosecution of the assailant. When victims report such offenses to the police

and are examined at hospitals, medical personnel employ sexual assault kits and accompanying protocols to guide the collection of evidence from the victim. They further expressed that sexual assault kit (SAK) report forms also record important information from the victim about activities prior to, during and after the assault.

### ***Research Problem***

Most of the public does not aware about the sexual assault kits and its importance. The main issue is, this kit was recently introduced to Sri Lanka and it's still in the preliminary stage. And also, it is observed that there is a lack of research in this field of study. Thus, it is long felt need to make awareness in this regard among the public.

### ***Objectives***

The objective of this research study is to identify the importance of providing sexual assault kits for investigators to assist law enforcement in preventing future rapes and other harmful sexual assaults in Sri Lanka. And also to justify sexual assault kits to identify the real offender.

## Literature review

Sexual assault kits or rape kits were created to aid the investigative and legal processing of such cases by standardizing the examination of the victim and the recovery of evidence from victims by specialized nurse physicians (DuMont & Parnis, 1999). According to Gaensslen & Lee (2002), the sexual assault or (rape kit) evidence has a twofold purpose; first, to corroborate the victim's account of the incident by demonstrating the presence of seminal fluid found in the victim; and, second, the analysis of the specimens in the kit to establish the identity of the person from which the evidence originated.

The next important steps are investigation and prosecution evidence found in a sexual assault evidence collection kits (SAKs) can establish if a sexual act occurred, can eliminate or identify a suspect, identify someone who may have prior convictions, and link cases based on evidence (Archambault & Lonsway, 2013).

The National Institute of Justice says that "DNA from blood and semen stains more than 20 years old has been analyzed successfully." (National Institute of Justice.

(NIJ), 2012, August 9). In this context, it is clear that there is a possibility to find out a solution to rape cases or identify the real offenders with the help of collected DNA in these kits though the cases are dating back decade or more. At this juncture, it is very important to test all kits to obtain optimum result.

Kruttschnitt, Kalsbeek & House (2014) pointed out that it is a difficult process for victims to decide when or whether to disclose or report that they have been sexually assaulted. Rape remains one of the most underreported crimes. However, there are circumstances that victims do decide to come forward and participate in the criminal justice system. These victims face their fears that they will not be believed or that they will be blamed for the assault. They submit themselves to an invasive evidence collection process with the understanding that this evidence will be analyzed and used to bring the perpetrator to justice (CONNSACS, 2015).

Moreover, it is important to collect evidence from the victim's body soon after the assault to avoid deterioration. It is prudent that if exam and the evidence can be collected by a specialized sexual assault nurse examiner

(SANE), or sexual assault forensic examiner (SAFE). The sexual assault exam can be caused additional trauma to the victim. The sensitiveness of the practitioner and the proper collection of evidence are taking paramount importance to victims' as well as to evidence use in prosecution. Sexual Assault Evidence Collection Kit (SAKs) collected for victims who are undecided about reporting to the police but understand that their evidence could be lost if not collected are identified using a code, not a victim's name (CONNSACS, 2015).

When it comes to the Sri Lankan context, previous years this Sexual assault kit has been introduced as a tool kit to gather evidence in sexual violence cases in Sri Lanka. The items that can be identified using this kit are, the accused, the time period of the assault and the use of force. Judicial medical officer who is known as JMO has to fill the medical history and examination form, which are relevant to the incident. Rape kits are addressed as a prominent step in mainstreaming evidence collection and it's a complete or holistic way of collecting evidence. (Jayawardena & Jayawardena, 2016)

## ***Methodology***

Qualitative research method has been used for this research study and under the qualitative research method data has been gathered through secondary sources such as published books, journals, theses and online websites, e-databases, e-journals, e-thesis and e-books.

The published books, journals and other e-documents that have taken for this research study were given some important data such as definitions, explanations, history, importance, issues etc. Moreover, theses and dissertations have revealed the previous research work done by other researchers from other jurisdictions.

Validity of the data has been highly taken into consideration. In this context, secondary data has been selected from scholarly journals and books. Moreover, data has taken from e-data bases such as Academia.edu, Research gate etc. and validity is assessed in terms of the quality of data, techniques and strategies of data, interpretation, credibility and acceptability.

It is reviewed substantial amount of literature related to the present research study. Sufficient data has been found for this

research study in other jurisdictions while there was a lack of published data in Sri Lanka.

### ***Results and Discussions***

In the Sri Lankan Context, though we have a peaceful situation in the country after 30 years of civil war, still the physiological wounds of sexual violence are remaining. It is estimated a very few amount of cases regarding sexual assaults were successfully prosecuted because of the lack of forensic evidence, inadequate training of medico-legal officers, inappropriate treatment to victims and misleading of cases. Also, most of the cases were not reported because of the lack of the justice systems and social stigma.

By improving victim's treatment and collecting evidence by providing these kinds of sexual assault kits which are help to catch the real offender and improving the judicial system to reduce the sexual violence with regard to sexually based crimes.

Most of the people commit these kinds of sexual assault crimes because they think that they can get away with it and also they think that they can destroy the evidence. Thus, it is evident that such kinds of tools which have

an importance to catch the real offender, they can be easily convicted and also they will have to face the consequences and they think twice before committing the crime.

Recently it was revealed by an Article that 2500 SAFE kits were distributed to 39 hospitals in all 25 of Sri Lanka's Districts. And it was recognized that these sexual assault incidents as serious criminal offences. And also it was revealed the importance of the medico-legal care for sexual assault victims was recognized by the community. Moreover cases with regard to sexual assaults monitored by the Ministry of Health in a database developed by Sexual Assault Forensic Examination (SAFE) which is risen as a result of awareness campaigns and training.

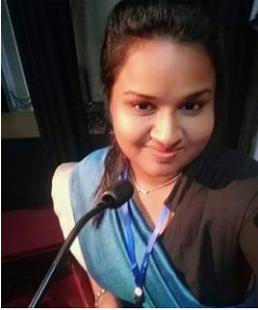
### **Conclusion**

In this research study it is identified what is meant by a sexual assault kit. Also the importance of it. Moreover the issues with regard to it. Further it pointed out how it help to catch the real offender. It has been also revealed the other scholars' statements with regard to sexual assault kits in other jurisdictions and the Sri Lankan situation by providing these kits for investigators, as in

these kits are still in the preliminary stage in Sri Lanka.

## Reference

- Archambault, J & Lonsway, K.K. (2013). Understanding the role of DNA evidence in sexual assault investigations: Alternative sources and potential purposes. End Violence against Women International. Retrieved from <http://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=48>
- Candace Kruttschnitt, William D. Kalsbeek, and Carol C. House (2014) Estimating the Incidence of Rape and Sexual Assault. National Academic Press. Retrieved from <http://www.nap.edu/catalog/18605/estimating-the-incidence-of-rape-and-sexual-assault>
- CONNSACS, 2015. Untested: Eliminating the Backlog of Sexual Assault Evidence Collection Kits in Connecticut. Connecticut Sexual Assault Crisis Services, Inc.
- DuMont, J., & Parnis, D. (1999). Rape laws and rape processing: the contradictory nature of corroboration. *Canadian Woman Studies*, 19, 74-79.
- Gaensslen, R. E., and Lee H. C. (2002). Sexual assault evidence: National assessment and guidebook. *National Institute of Justice*, National Criminal Justice Reference Service (NCJRS), Document # 191837.
- Hayden D. & Martins C. (2014). Developments evidence kits turning the tide of sexual violence <https://dai-global-developments.com/articles/evidence-kits-turning-the-tide-on-sexual-violence>
- Jayawardena K & Jayawardena k P, (2016), The search for justice; the Sri Lanka papers. Raj press, New Delhi. <https://books.google.lk/books?id=0krRDQAAQBAJ&pg=PT96&lpg=PT96&dq=importance+of+introducing+rape+kits+sri+lanka&source=bl&ots=w779C5QbQ0&sig=ACfU3U1co1QTy54w3vxmAD3o-fvICm7G7A&hl=en&sa=X&ved=2ahUKEwjLq5GkiZLnAhVbzDgGHfEaD0AQ6AEwA3oECAoQAQ#v=onepage&q=importance%20of%20introducing%20rape%20kits%20sri%20lanka&f=false>
- National Institute of Justice. (NIJ). (2012, August 9). DNA evidence: Basics of identifying, gathering, and transporting. Pg. 2. Retrieved from <http://nij.gov/topics/forensics/evidence/dna/basics/pages/identifying-to-transporting.aspx>
- Peterson, Joseph, Johnson, Donald, Herz, Denise, Graziano, Lisa, Oehler, Taly (2012). Sexual Assault Kit Backlog Study. National Institute of Justice, California State University, Los Angeles.



I EMN Perera is a LL.B Graduate at General Sir John Kotelawala Defence University, Sri Lanka and currently pursuing Attorney-at-Law examinations at the Sri Lanka Law College. I have conducted my legal internship under the President Counsel Mr.Upali Senaratne. I have presented several research papers both national and international conferences. My research interests include Wrongful Convictions special reference to USA mechanism and their organizations such as Arizona research project, innocent project of Florida and also I have keen interest on Criminology and Criminal Justice System, Forensic Medicine / Legal Medicine, Accomplice witness, Mass shootings special reference to parkland shooting, Florida, USA, Death penalty, Identification parades and Jury systems both in Sri Lanka and other countries.