

Adequacy of Constitutional Provisions in Sri Lanka to Recognize Custodial Death as a Violation of Right to Life: A Comparative Analysis with India

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Abstract

Custodial death is one of the worst crimes in civilized society which is governed by the rule of law. The deaths of accused/suspects remain a very controversial topic not only in a particular country or region but in the world and it has been happening for a quite long time in Sri Lanka. Sri Lankan Criminal Justice System sorely lacks substantial legislative provisions to regulate the right to life due to the fact that it is questioned whether any specific provision to address custodial deaths in the constitution. Many other nations have already recognized this right as fundamental and adopted comprehensive legislative provisions for custodial deaths. Both constitution and the Supreme Court of India have forbidden custodial torture in a progressive manner. But it is questioned whether Sri Lanka's constitutional provisions are adequate to address this issue. Hence, there is an urgent requirement to address this issue and fix this deficiency in the existing justice delivery framework in Sri Lanka to set legitimate principles for custodial deaths. This study aims to analyse the main theoretical debates within the academic field in order to identify the current lack of custodial deaths in Sri Lanka, analyse how custodial deaths cases are handled within the framework of the Indian jurisdiction and Sri Lankan jurisdiction and use the finding of the study to make proposals and recommendations to use it in the human rights field. The qualitative method, including primary data and secondary data, was used for this research. The study concludes that there are less and no adequate constitutional provisions available in the current constitution of Sri Lanka to address issues pertaining to custodial death compared to the Indian Constitution. Hence, an urgent constitutional amendment is required to address the issue.

Keywords: *Custodial Deaths, Human Rights, Protection, Right to Life, Torture*