

method of transitional justice will be the reforming of security systems of States. These efforts seek to transform the military, police, judiciary and related state institutions from instruments of repression and corruption into instruments of public service and integrity.

## **Conclusions**

As identified in this paper the avenues of achieving transitional justice can be varied, depending on the nature of violations, actual damages occurred, cultures and practices of societies etc. But the most significant factor is to bring justice to victims, with a view to rebuild war torn societies ending an era of distrust, despair and hatred due to huge violations of human rights and humanitarian law principles during the war.

In Sri Lanka too, prosecuting the perpetrators who have committed heinous violations of IHL during the conflicts should be done without delay. This should not be a form of 'victors' justice'. The type of transitional justice that is used to repair the damage should be agreed without political motivations and thorough public consensus, in order to win the hearts of all segments of the society.

## **Critical Review of Socio-Legal Impact of Death Penalty: A Sri Lankan Perspective**

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### **Background**

The sole objective of the criminal justice system of any State is to strike a balance between the duty to protect the society from violence and at the same time seeing the culprits are punished in proportionate to the degree of harm caused to the society by them. Many things should be taken into consideration by the State in striking this balance. The issue of death penalty still remains as a hotly debated subject pertaining to its suitability and proportionality in this regard. The issue is further complicated because of its social, religious and cultural implications. The debate over death penalty has been revived in Sri Lanka for some time now.

Although there were some discussions in this country over the social impact of death penalty, no such discussion has been undertaken in analyzing its legal implications coupling with other social dimensions.

### **Objectives**

This paper attempts to evaluate the effectiveness of the imposition of death penalty on convicted offenders from a particular perspective of its socio-economic impact on society. It becomes so necessary in the context of the imbalance in the justice system which marginalizes the poor and the oppressed.

It is also necessary to reassess the extent to which death penalty has contributed in reducing the crime rate in this country and, if this is not satisfactory, identifying the causes for such failure. Since the deterrence aspect of the sentence may operate varyingly from society to society, the cultural dimensions also become relevant and to be looked into.

Putting into legal perspective, considering the human rights obligations of the State, the issue has to be looked into from that angle as well.

### **Method**

This research is basically based on both library and fields research. The library research is based on reviewing of materials such as books ,journals and other publications on the topic by experts in the fields of law and sociology. Reports on the same area is also critically evaluated under litreture review. Further, the information gathered from the internet is used to complete this article.

Field research includes interviews/discussions with police and prison officials, judges, academics and experts in field of law and scholars in other disciplines such as sociology. It would be supplemented by the author's personal observations in the field and their analysis.

### **Results**

The findings of the study are that the capital punishment is not a fair and proportional punishment, it is unconstitutional and it is not a legitimate method of protecting the society, Instead, life imprisonment without parole would be more effective than death penalty. Further, capital punishment does not offer any opportunity to the offender to reform him/herself and therefore, there is no room for the concept of rehabilitation. The irreversible nature of this punishment reveals the horror of the death penalty. Moreover, as a matter of policy, the act of taking one's life should never be justified on flimsy grounds.

### **Conclusion**

The research arrives at the conclusion that there is no practical utility of re-implementing of death penalty or retaining it in the penal law in any country, including Sri Lanka. The deterrence effect is so minimal that no tangible benefit can be achieved by imposing this sentence. The high risk of innocent being punished because of the lack of proper means to defend him/herself also cannot be ruled out.

## **A CRITICAL ASSESSMENT OF PUBLIC INTEREST LITIGATION IN SRI LANKA**

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### **Background**

Public Interest Litigation (PIL) has been recognized and developed by the Sri Lankan Supreme Court under the 1978 Constitution. There was an explosion of PIL cases particularly in the last two years of the Sarath Silva Court. The latest cases in that line are the *SLIC* case, the *Water's Edge* case and the *LMSL* case. Those cases were entertained by the Court as cases brought "in the public interest." They were significant in terms of the orders made by Court on the basis of public interest and the Public Trust Doctrine. In the *SLIC* case, the Court held that that the privatization of Sri Lanka Insurance Corporation was null and void. In the *LMSL* case the transfer of land by the State to a private party was declared illegal and in the *Water's Edge* case the lease of land was held to be null and void. Each of those cases involved significant and high profile contracts that had been entered into between the State and private actors, the reversal of which was generally