

Delict law's response to police negligence: the Sri Lankan experience

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The incidents pertaining to abuse of police powers in Sri Lanka have led the legislative and judicial arms of the State to take progressive steps to ensure that the police powers are exercised in a manner to strike a balance between the interests of law enforcement and the rights of the people. Though, these steps have opened few avenues to the victims of abuse of police powers to seek redress at different forums, the pattern of cases presented before these forums reveal that only those victims who have met the criteria to access those forums to be successful in their claims. In this backdrop, the victims of police negligence have become the niche, vulnerable group whose interest have not been adequately addressed in the Sri Lankan legal system. The recent developments taken place in South Africa and England pertaining to the concept of duty of care have modelled up the police's common duty of care within delict/tort sphere. Compared to this, the status of the Sri Lankan law remains stagnant and thus, the litigants are unaware about the chance to try out this avenue for damages. In responding to this finding, this paper explores the idea as to how the recent developments of the selected jurisdictions could be used in the Sri Lankan context to uphold the rights of the victim to impose liability on the police for their negligence and omissions. For this purpose, the study makes reliance on the rights thesis, the concept of rule of law and proposes a legislative amendment to the *Police Ordinance No 16 of 1865* to incorporate clauses on common duty of care and the avenue to seek redress when it is breached.

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