

Do we possess the healthy deck to make them confident to stand: The child and the Sri Lankan constitution

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Constitution is the *grund norm* of modern democracies. This has, in reality, led the United Nations Charter on the Rights of the Child (UNCRC) to obligate state parties to move to constitutionalize child rights for better manifestation alongside other supplementary measures. To achieve this, state parties around the globe have embraced two unique approaches referred in this paper as ‘explicit constitutionalization’ and ‘implicit constitutionalization’ of child rights. The paper argues that the Second Republican Sri Lankan Constitution has embraced implicit constitutionalization of child rights within the legal culture that has historically viewed the child as a passive object under parental authority. The study examines the decisions of the appellate courts on child – related issues and emphasize on the reasons why the judicial activism and legal resilience of the Sri Lankan system have thus far failed to provide adequate legal and institutional architecture to treat the child as an autonomous rights holder. The paper elucidates that the judicial activism that the country has witnessed is ad – hoc, despite the interventions being thoughtful and aimed at specific child issues. To strengthen the relationship between the child and Sri Lankan Constitution, the paper proposes for the recognition of cardinal principles of child rights – right to life, right to participation, right to survival and development and best interest of the child – into the Sri Lankan Constitution, thereby establishing all of them as the guiding tenets for child-related matters in the country by utilizing lessons from Indian and South African constitutional jurisprudence.

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