

**PUNISHING THE INNOCENT VICTIM:
THE CONCEPT OF ILLEGITIMACY
A CASE FOR LAW REFORM**

*Rose Wijeyesekera **

ABSTRACT

Illegitimacy is a socio-legal concept, which has been the subject of many a debate. While some countries have abandoned the difference between children born in a lawful wedlock and outside of it, some jurisdictions still maintain the difference, severely affecting the rights of innocent children. The discrimination of illegitimate children is largely due to the law being seen through the lens of adults who make decisions for them. This article discusses the justifiability of looking at children on the basis of their parents' civil status.

By recognizing a difference between legitimate and illegitimate children, the law adopts a controlling mechanism on procreation outside marriage. The controlling mechanism of the law is based on punishment; but in this instance the punishment is on the innocent victim who had no intention or control over his birth.

This article emphasizes that the law should shift its focus on the real offenders rather than penalizing innocent victims. In the eyes of the law, children should just be children with regard to guaranteeing their rights. Therefore rights of children should be secured without discrimination inter alia on the grounds of birth or other status.

*Senior Lecturer, faculty of Law, university of Colombo, Sri Lanka.