



**Right to be a Parent: A Comparative Study of Sri Lanka,
India and South Africa**

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The privilege of forming a family is universally acknowledged and supported through various conventions. Nevertheless, Sri Lanka's constitution fails to recognize the right to family, limiting legal recognition solely to heterosexual marriages. Consequently, adoption and surrogacy are options only available to legally married couples. However, these avenues remain relatively unexplored due to a lack of awareness and inadequate legal provisions. This research investigates the reasons behind Sri Lanka's struggle to harmonize the rights to parenthood through adoption and surrogacy with the child's best interests. This challenge persists despite evolving family structures and the precedent set by countries like South Africa, which acknowledge parenthood rights irrespective of marital status. Employing qualitative comparative analysis methods, this qualitative research collects secondary data from sources such as journal articles, books, newspapers, and the internet. Primary data is drawn from legislation and conventions. A comparative examination of Sri Lankan, Indian, and South African adoption and surrogacy laws is conducted to evaluate parental options and the balance struck between children's interests and legal provisions. In Sri Lanka, the Adoption of Children Ordinance allows both married couples and single individuals to adopt, yet governmental policies suggested only married couples are eligible. India restricts adoption to married couples, barring same-sex marriages and live-in relationships. Conversely, South Africa's progressive legal framework, exemplified by the Du Toit case and the Children's Act of 2005, ensures parenthood rights without marital constraints. In Sri Lanka, surrogacy lacks specific regulation, limited to married couples unable to conceive. India's surrogacy is confined to infertile married couples with five years of marriage. South Africa extends these rights to heterosexual married couples, LGBTQ couples, cohabiting couples, and single parents. Societal conservatism and governmental regulations discourage adoption applications in Sri Lanka. Similarly, surrogacy for legally married couples faces obstacles due to ambiguous legal provisions. Thus, the right to parenthood is challenging to attain both legally and socially. Addressing these issues and drawing from established legal systems are essential for Sri Lanka to reform and amend its laws. While child welfare is paramount, the entitlement of adults to parenthood must also be acknowledged. Cultural barriers must be dismantled, considering parenthood as a right accessible to all, regardless of marital status. This research aims to identify gaps in Sri Lankan laws and propose solutions through a comparative analysis with India and South Africa.

Key Words: Right to be a parent in Sri Lanka, Adoption, Surrogacy, India, South Africa