

PROTECTION OF THE RELIGIOUS FREEDOM UNDER THE CONSTITUTION OF SRI LANKA: A COMPARATIVE ANALYSIS WITH INDIA AND THE UNITED STATES.

ABSTRACT

Article 10 of the Constitution of the Democratic Socialist Republic of Sri Lanka guarantees the freedom of thought, conscience and religion. It is framed as an absolute right that is not subject to any of the restrictions later enumerated in Article 15 of the Constitution. Article 14(1)(E) of the Constitution guarantees the right of every citizen to freely observe, practice and teach religion, and its limitations are set out in Article 15(7), which empower executive and administrative authorities to restrict this freedom on the grounds such as protecting the interests of national security, public order, public health or the public morality. Apart from that, Sri Lankan Constitution also limits the freedom of speech and expression including publication, and the freedom of association, if any of the enjoyment of such right confronts racial and religious harmony. Meanwhile, Article 12 of the Constitution further guarantees to all persons the right not to be discriminated against on the grounds of religion. However, it cannot be disregarded that all these fundamental rights and their limitations have to be read with much controversial Article 9: which keeps the Buddhism in the foremost place and it is the duty of the state to protect and foster the Buddha Sasana while assuring other religions the rights granted by the Constitution. In this context, the overarching Constitutional framework in Sri Lanka appears to uphold the freedom of religion while being somewhat ambivalent on the boundaries pertaining to the manifestation of that freedom for all the religions in equal basis.

In contrast, India and the United States uphold the spirit of secularism through the Constitution respectively. According to Article 25 of the Indian Constitution, every individual is "equally entitled to the freedom of conscience" and has the right "to profess, practice and propagate religion" of one's choice. Practicing religion or the act of propagating it should not, however affect the "public order, morality and health. In the United States, first amendment to the Constitution prevents the congress from implementing new laws that establish a religion and prohibiting the free exercise thereof. United States Supreme Court, in **Everson v. Board of Education**, declared that the said clause forbids not only practices that "aid one religion" and "prefer one religion over another," but those practices that "aid all religions, as well.

In this context, this research will answer the problem that whether the Sri Lankan Constitution contains adequate provisions to ensure protection for all religions observed by its citizens in an equal basis or not?

In order to answer the aforesaid research problem, this research aims to comparatively analyse the Constitutional framework that guarantees freedom of religion in Sri Lanka, India and the United States, in order to recommend possible Constitutional reforms, if any, for Sri

Lanka to further ensure the freedom of religion for all the religious groups and individuals in the country in an equal basis.

The research methodology of this work will be mainly a qualitative one and a number of books, journal articles and internet articles have been used to gather secondary data on this area. The relevant authorities at governmental and non-governmental organizations have also been contacted in order to enhance the credibility of the research findings.