

**A CRITICAL ANALYSIS OF THE PROTECTION OF
RIGHT TO EQUALITY AND SOVEREIGNTY OF PEOPLE
IN SRI LANKA**

BY



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ABSTRACT

Fundamental rights are one of the sovereign powers according to the 1978 Constitution of Sri Lanka. Right to equality as a fundamental right plays a major role in human existence apart from other rights. Equal rights can be identified as the base right among the other fundamental rights as well. However, equality is recognized as a sovereign power according to the 1978 Constitution, in practical scenario, equality has no much power as depicted in the Constitution. Therefore, right to equality has to be protected and preserved well to maintain a just and democratic nation. Profound protection of right to equality paves the way for the country to achieve unmeasurable development on every field of state engage. Another importance of the research is the objectives of the research, they were to understand the relationship between right to equality and sovereignty, to understand the existing mechanism of protecting equal rights, shortcoming of existing law enforcing mechanism. Lastly to recommend a new mechanism to preserve and promote equality as a sovereign right of people. To achieve those objectives researcher had to follow a particular research methodology, qualitative research method has been used and doctrinal approach has to be selected for the research. Accordingly, as this is a legal research doctrinal approach as black letter approach was suited for the exploration. Dealing with aforesaid methodology some specific findings were detected by the research such as, Confinement was specifically found upon the infringement of fundamental rights by the executive or administrative action. Right to equality, Article 12(1) has been restricted by the Article 15(7) against the public security and public order. In accordance with the Constitution, fundamental rights violation area does not represent all the fundamental violations of the country. Fundamental rights and Equality have been violated not only by the executive or administrative actions. Other than that, lots of actions do occur in the country which violates the equal rights and other fundamental rights. Constitutional coverage has excluded all other infringement actions wherein executive or administrative action does not exist such as any human background must not be a course to enter public places, Article 12(3). Moreover, the Supreme Court has the jurisdiction to hear the fundamental rights cases. Therefore, the aggrieved party has to come to Colombo, access to justice is poor on this field. On the other hand, the petition has to be submitted within one month of period to the Supreme Court. High rates of lawyers and the language barrier is also a considerable matter. Although the Constitution described those

fundamental rights cannot be abridged and advanced by all the organs of the government, same Constitution has restricted fundamental rights by the Article 15. Interpretation of fundamental rights in the Constitution has been stated even in full context brings no much value to the general public. Therefore, worth of the fundamental rights have been undermined by the present Constitution of Sri Lanka. This happens because of the poor law enforcing mechanism upon the fundamental rights. In accordance with the study, it is understandable that there was no specific mechanism to preserve or promote equal right and sovereignty to be enjoyed by the general public in Sri Lanka. Significance of this research reflects upon three segments. That is for the researcher, policy makers and for the people of Sri Lanka. The researcher obtained vast knowledge upon the equal rights and the sovereignty and observed its benefits to the society. The findings and the recommendations of this research can be used by policy makers to strengthen the equal rights and sovereignty of Sri Lankans. Research can compel People to get up for their rights as well.