

**ANALYSING THE LIMITATION ON THE RIGHTS PRESCRIBED IN
ARTICLE 14(1)(A) OF THE SECOND REPUBLICAN
CONSTITUTION OF SRI LANKA IN LIGHT OF SECTION 03 OF
THE ICCPR ACT NO 56 OF 2007: A COMPARISON WITH INDIA**

Ambihai Gayandran

Attorney-at-Law

Freedom of Speech and Expression including publication is enshrined in Article 14(1) (a) subject to restrictions put on Article 15(2) of the same 1978 Constitution of Sri Lanka. However, section 3(1) of the ICCPR Act gives additional limitation that 'No person should propagate war or advocate national, racial, religious hatred that constitutes incitement to discrimination, hostility or violence' on Article 14(1)(a). Therefore, this study aims at a comparative study with Indian's Freedom of speech and its limitations, and intends to deal with these questions: what is Freedom of Speech and Expression including publication? , what are the constitutional limitations? What is the additional limitation on said rights? What is the purpose of the Act or intention of the Parliament to enact this ICCPR Act? What is the international Standard? And what are the lacunas in Sri Lanka? And this paper delves with the objectives of analysing legal frameworks available with regard that in Sri Lanka and India, unpacking the misuse of the application of section 3 of the ICCPR Act in Sri Lanka, importance of the RABAT plans in order to prevent the misuse, and suggesting recommendations. This comparative study employs a qualitative approach, it involves interpreting the legal rules, principles, and doctrines, study of legal literature, judicial pronouncements and regulations, and the scope of the study only deals with the ambit of section 3(1) of the ICCPR Act as well as Article 14(1)(a) of the Constitution. Even though there are number of significant studies available in this topic, those failed to deal with the comparative analysis with experience of other countries, in essence this research contributes to the unpacking of the fact that although this ICCPR Act was enacted to protect the rights of minorities, it is known that the minorities suffer by the wrong application of this act. While these limitations are necessary in certain circumstances, there must be carefully balanced with the protection of the fundamental rights.

Keywords: Freedom of Speech, Freedom of Expression, Constitution, Fundamental Rights, Sri Lanka, ICCPR