

THE NEED TO EXPAND SRI LANKA'S FUNDAMENTAL RIGHTS JURISDICTION : A COMPARATIVE ANALYSIS OF THE USA, INDIA AND TRINIDAD AND TOBAGO

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ABSTRACT

An infringement of a fundamental right may be either an act of commission or omission on the part of the State. Even though the Sri Lankan Constitution of 1978, contains a comprehensive chapter on fundamental rights, according to the way an infringement of a fundamental right is defined there, such infringement can occur only through executive or administrative action, and not through judicial action. Judicial action as a cause of infringement of a fundamental right seems to have been purposely left out by the Constituent Assembly which enacted the 1978 Constitution. This article will discuss the lacuna in the existing fundamental rights legal framework in Sri Lanka, and the possible changes that can be brought about in the interest of the public in the event of a violation of a fundamental right by a judicial order. At the same time the article will also make a comparative analysis of the concept of State action in the USA, India and Trinidad and Tobago.

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