

Recognition of right to environment in Sri Lanka: A comparative analysis

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Abstract

The anthropocentric approach to environmental rights elucidates that human beings are not themselves independent and self-sustaining, but merely a part of the environment and, as a result, are subject to the fundamental 'inter-dependent' principle of the law of nature. Therefore, any disturbance to the basic elements of the environment (i.e. air, water, and soil) would, in turn, have an adverse impact on their lives, thereby amounting to a violation of one or many of their human rights. This approach, also known as 'greening of human rights', is mainly given effect through the doctrine of judicial activism and can successfully be seen in countries such as India in relation to the expansion of right to life in a way that it would also include environmental rights in its scope. Moreover, as it appears, some other countries in the world, such as Ethiopia, and South Africa have taken a step further and made necessary amendments to the respective human rights regimes in order to give express constitutional recognition to right to environment. This could even be viewed as an approach towards eco-centrism. However, the legal system of Sri Lanka which is generally considered as a hub of biodiversity in the Indian Ocean, does not seem to be favorable in protecting its gifts of nature. Although, the Constitution, which is the supreme law of the country, expressly recognizes it as a duty of the State and the citizens to protect and preserve the environment under Articles 27(14) and 28(f), the Article 29 makes those provisions unenforceable. Despite several noteworthy attempts made by the judiciary to impliedly recognize environmental rights in the human rights jurisdiction, it is to be remorsefully mentioned that Sri Lanka does not appear to recognize right to environment expressly. Thus, this research is conducted, as a doctrinal legal research, to analyze the existing fundamental rights regime in Sri Lanka and to propose the recognition of right to environment through a comparative analysis whilst highlighting its importance to protect the environment.

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