

Livelihood Environmentalism and Judicial Activism: A Critical Review of Sri Lankan Experience

K.A A.N. Thilakarathna^{1*} and M.A.D. Madushanka²

¹*Institute of Human Resource Advancement, University of Colombo, Sri Lanka*

²*Department of Sociology, Faculty of Arts, University of Colombo*

*Corresponding Author E-mail: akalanka@ihra.cmb.ac.lk, TP: +94702768174

Environmentalism refers to the methods and tools used for the protection of the environment from the adverse effects caused upon it by the humankind. While the concern is common, the approaches utilized under environmentalism has differed across the rich and the poor where the poor have advocated for a livelihood approach for the protection of environment where the environment protection is advocated as a means of protecting their livelihood. When one considers this situation from a Sri Lankan perspective, the livelihood approach has been utilized and is responsible for invoking the judicial activism of the courts in acting as a protector of the environment through its adjudication process. Using a qualitative method by employing the doctrinal approach, this article looks at the intersection of the livelihood approach and the judicial activism in advancing a right to a clean and healthy environment. The results have shown that, the courts have played an active role when it has been called to adjudicate on environmental matters that involves a livelihood aspect and this has led the judiciary to take a conscious effort in getting itself involved in the protection and preservation of the environment in the absence of Constitutional provisions which specifically grants a justiciable right to a clean and healthy environment. The judiciary has been bold enough to declare that a meaningful interpretation of Article 12(1) of the Constitution should include a right to a clean and healthy environment. However, it is concluded that, while the livelihood approach has made a significant impact on the judicial law making in the country when it comes to advocating for a right to a clean and healthy environment, having a specific right to a clean and healthy environment under the fundamental rights chapter of the Constitution itself must be the final endeavour in helping those who to vindicate their right to a clean and healthy environment through fundamental right adjudication.

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