

ABSTRACT

Environment has become a common concern from being a common heritage of the mankind. Environmental degradation has become a pressing issue in the recent times and protecting the environment has become a *sine qua non*. While there are many policies and other related documents in this regard, the legal framework governing environmental protection of a country is of paramount importance. When one considers the situation in Sri Lanka, it is evident that while there are many legislations which concern about environmental protection, there seems to be an overlap between them resulting in confusion and ill-balance of power and responsibility. In the absence of a justiciable right to environment guaranteed under the constitution, and where the directive policy requiring the citizenry to protect and advance the environment being non-justiciable, this research focuses on judicial review as a mechanism of environmental protection with a comparative analysis of the selected jurisdictions of India and the United Kingdom. Using a qualitative method where the relevant legislative provisions and the decided case laws are critically analyzed in reaching a conclusion, it is found that while judicial review being a discretionary remedy not available as a right for any one who is seeking for redress has to some extent being utilized in a Sri Lankan context to fill in the gap of an absence of a justiciable right to environment, when compared with the selected jurisdictions of India and United Kingdom, the final effect of judicial review as a mechanism of environmental protection has not become the most viable solution and it is therefore, argued that having a constitutional provision for the protection and advancement of a right to a clean and healthy environment is the most appropriate method.

Key Words: Right to Environment, Judicial Review, Justiciable Rights, Constitutional Protection of Environment