

# 14<sup>TH</sup> INTERNATIONAL RESEARCH CONFERENCE

*“ Security, Stability and National Development in the New Normal ”*

09<sup>TH</sup> - 10<sup>TH</sup> SEPTEMBER 2021

LAW

**ABSTRACTS**







# **14<sup>TH</sup> INTERNATIONAL RESEARCH CONFERENCE**

**SECURITY, STABILITY AND NATIONAL DEVELOPMENT  
IN THE NEW NORMAL**

**LAW**

# **ABSTRACTS**



**General Sir John Kotelawala Defence University**

**Ratmalana, Sri Lanka**

This book contains the abstracts of papers presented at the Law Sessions of the 14<sup>th</sup> International Research Conference of General Sir John Kotelawala Defence University, Ratmalana, Sri Lanka held on 9<sup>th</sup> and 10<sup>th</sup> of September 2021. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form, without prior permission of General Sir John Kotelawala Defence University, Ratmalana, Sri Lanka.

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## Message from the Chief Guest



It is with great pleasure that I send this message to the publication of selected conference papers, under a theme that seems more relevant today than ever.

Throughout the history, security has always been the central notion of our existence as a nation. It will continue to be, as long as the geographical realities that define the country's location remains so. This centrality causes our development paradigm to always have a nexus with security, undeniably linking itself to the overall stability of the country.

As the world was compelled to enter into a 'new normal' with the COVID-19 pandemic, the traditional focus on maintaining the hard component of security was overshadowed by the need to replenish its soft component. The world has recently witnessed struggles of global powers with the highest military might, to maintain and uphold their health security. The less-talked about soft security has emerged to overshadow its counterpart, calling us to re-think and re-define the security-development nexus.

COVID-19 posed an unprecedented challenge to Sri Lanka and all developing economies, calling those States to experiment with new ways for achieving national development while managing the novel challenges to their security and stability. In this backdrop, I am delighted to see that the KDU has made allowance for this paradigm shift and hosted its International Research Conference - 2021 along the theme, 'Security, Stability and National development in the New Normal'.

I congratulate all scholars who have contributed to the conference, in particular, those who have shared their research and findings. My heartiest appreciation goes to the Vice Chancellor, Faculty and the staff of KDU whose undying commitment has made this event a reality, even during the pandemic situation.

Steering a country forward in turbulent times is a task that needs meticulous inputs from the country's intellectual body. I am certain that the KDU Research Conference - 2021 has made its mark in this endeavour.

**Mr Lalith Weeratunga**

Principal Advisor to His Excellency the President of Sri Lanka



## Message from the Secretary, Ministry of Defence



It gives me immense pleasure to forward this message on the occasion of the 14<sup>th</sup> International Research Conference of the General Sir John Kotelawala Defence University (KDU). At the outset, I must appreciate the leadership and guidance which the Vice Chancellor has rendered to maintain the continuity of this highest academic event of the University despite times of great national and international challenges due to the COVID-19 pandemic which has devastated the world.

This year's conference theme: 'Security, Stability and National Development in the New Normal' has taken the current realities of our time into the consideration and how to achieve security and development in times of instability. In this context, I strongly feel that this is an important and commendable approach with innovation demonstrated by the KDU in focussing the attention towards a timely pertinent theme.

The national developments reiterate the importance of a Defence University especially when our motherland is facing unprecedented challenges due to the pandemic. Therefore, I must highlight that our ministerial guidance and blessings, have given the potential for the KDU to actively dwell on a developmental approach to research with Security and Stability as core drivers. This approach will enable the KDU to reach a leading position to guide and influence policy decisions through the knowledge and insights gained from its expansive research programmes.

Furthermore, I believe that the great minds that will lead research deliberations at this conference should actively contribute to aid the great endeavour of steering our beloved motherland towards greater heights in the security and economic spheres, as it is the ultimate responsibility of all Sri Lankans at this time of concern. Finally, I wish that the KDU IRC 2021 will provide a sheer guidance and lead the way towards national development mitigating all current and emerging challenges posed by this devastating pandemic situation. As I extend my sincere well wishes towards the Vice Chancellor, his team and all the participants of this conference for its successful execution and for their future endeavours, I would like to assure that my blessings and support will be with KDU at all times.

**General Kamal Gunaratne (Retd)**  
WWV RWP RSP USP ndc psc MPhil  
Secretary  
Ministry of Defence

## Message from the Vice Chancellor



As the KDU celebrates its 40<sup>th</sup> anniversary, the International Research Conference is entering its 14<sup>th</sup> year and adapting to the new normal conditions and unprecedented challenges that have forced many programmes to be called off indefinitely. The evolution and continuity of the research conference into the successive 14<sup>th</sup> year adapting to challenges bears testimony for the success of the KDU as a seat of learning that can withstand any challenge national or international in nature.

The sheer number of papers that the conference received this year demonstrates the enthusiasm shown by presenters both locally and internationally even at a time of a grave crisis that has put educational institutions under severe stress, and it affirms the faith scholars have had on KDU. As the only defence university in Sri Lanka, KDU has been committed to research and knowledge production that will influence and shape the policy deliberations of security and development. These are core pillars of the stability and existence of any society, and it is our national responsibility to provide such insights through the organization of premier research dialogues.

This year's theme 'Security, Stability and National Development in the New Normal' bears witness to the civil military fusion that KDU has created and its commitment to achieving balance and resilience in times of global crises to safeguard and advance the security and developmental interests of the motherland.

KDU IRC is a platform of cooperation and diplomacy, and it encourages academic collaboration across Sri Lanka's higher education institutions. Research conferences are the ultimate networking events, and we are proud to provide these spaces of engagement where Sri Lankan and international scholars can present their findings and deliberate on the way forward for the nation and for the global community to thrive at a time humanity's resolve is tested by the pandemic. I wish all the very best for the academics, practitioners and policy makers who want to showcase their research and experience at our research conference.

Finally, I appreciate the dedication and hard work of all those who worked tirelessly over the last several months contributing in diverse ways to make the KDU IRC 2021 a reality under the trying circumstances, especially the IRC Chair, the Secretary, and the organizing committees headed by the Deputy Vice Chancellor (Defence and Administration).

**Major General Milinda Peiris**

RWP RSP VSV USP ndc psc MPhil (Ind)

Vice Chancellor

General Sir John Kotelawala Defence University

## Message from the Conference Chair



KDU International Research Conference in its 14<sup>th</sup> iteration is held amidst celebration of its 40<sup>th</sup> anniversary and situated in local and global environment that is challenged by a new form of microbial security threat in the form the Covid19 outbreak. KDU stands strong and unbowed to maintain the continuity of this apex academic event this year on the theme, Security, Stability and National Development in the New Normal.

Challenged with the most potent wave of the pandemic, we remain undeterred thanks to the leadership of the Vice Chancellor. The organizing committee has put their heart and soul into adapting and evolving the conference formats that could withstand and confront the new normal conditions in organizing the international research conference.

Academic communities in the world are beacons of hope and resilience and given the sheer number of research papers that were submitted to the conference this year is a testament that KDU remains a space of hope for such communities and a sacred ground where research is encouraged even at trying times.

The theme of this year was a conscious decision to confront the realities that Sri Lanka and the world had to encounter since March 2020, that Covid 19 was a harbinger for a new reality. Universities are centres of resistance and renaissance and the KDU in Sri Lanka sets an example to all other institutions to emphasize the will to confront any challenge.

In this context KDU research conference is nourished by the presentations and deliberations of esteemed plenary speakers and research presentations that will provide vital insights into the key themes of security, stability, and national development. I extend gratitude and best wishes to all presenters who believe in the research culture evolved by the KDU and may you be treated to the finest KDU hospitality that transcend from physical to the cyber space and may you all be contributors to a greater cause for the sake of all humanity.

**Dr Harinda Vidanage**  
PhD (Edin)  
Conference Chair

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## **ORAL PRESENTATIONS**

## **Scales of Natural Justice in a Military Summary Trial: A Critical Analysis with Special Reference to Sri Lanka**

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The military is considered as a society of its own with their codes of conduct and rules applying in a different manner from their civilian counterpart. It aims to maintain strict discipline in the military system itself, ready to fight a war when the country is facing a threat. When it comes to the military justice system, it is also built upon the notion of maintaining strict discipline within the military system, where swiftness and efficiency of justice is considered as a paramount concern. The military justice system consists of two main mechanisms which are introduced to achieve this end, which includes a Court Martial and a Summary Trial. While a Court Martial is more of an ordinary mechanism of delivering justice as we find within the civilian society, except for the fact that only persons subjected to military law are brought before them, a Military Summary Trial is something which is unique and distinctive as the commanding officer concern is given a wide variety of power and discretion in conducting and delivering an appropriate judgement in such a trial. By employing a doctrinal approach founded in the qualitative methodology, this research endeavours to critically comment on the applicability of natural justice in conducting such a trial and whether tilting the balance of those scales could be justified within the military justice system. The results revealed that, while the military justice system is both unique and distinct from what you would find in a civilian society, lowering down the scales of natural justice even within a Military Summary Trial cannot be entertained, and therefore, the existing procedures require a revision to maintain the scales of natural justice unstilted at whatever occasion.

**Keywords:** *justice, military law, summary trial*



# **Exploration on Principles of Uniformity, Impartiality and Relevancy Based on the Applicability of Law of Evidence within the Process of Administration of Justice in Sri Lanka**

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The system of administration of justice in Sri Lanka remains deeply problematic due to the complexity of issues which arise through the limited incorporation of the principles of uniformity, impartiality and relevance based on law of evidence. Further, it has been observed that the absence of incorporation of the aforementioned principles threaten the independence of judiciary creating room for arbitrary or discretionary judicial decisions. This results in the disappearance of impartiality paving way for biased decisions within the robe of justice. Here, the element of subjectivity hinder the public trust and loyalty towards the system of administration of justice leading the general public to question whether the treatment of judiciary is common for every citizen or not. Though the legal framework emphasizes on the spectrum of natural justice together with the concepts of “Audi Altrem Partem” and “Nemo Judex Causa Sua”, the discrepancy between the legal framework and its practical application remains steady. Thus, it is necessary to initiate a dialogue which envisages and explores the complexities of pursuing the system of justice. This research is entirely based on the considerations over the Evidence Ordinance No.14 of 1895 which is the primary legislative enactment which directly addresses the right of considering the existence or the non-existence of facts in issue based on the principle of relevancy. Furthermore, the entire research is blended with slight references towards foreign jurisdictions. Therefore, it is pertinent that the exploration of the incorporation of principles of uniformity, impartiality and relevance based on the applicability of law of evidence within the process of administration of justice is of extreme importance.

**Keywords:** *administration of justice, uniformity, impartiality, relevance*

## **Freedom of Expression in Cyber Space: Protecting Right to Privacy and Public Security in Sri Lanka**

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Cyber space has become the most prevalent medium to express ideas in this digital age. Freedom of expression is guaranteed and secured under the Sri Lankan Constitution as a fundamental right. Right to privacy and public security are conflicting with freedom of expression in most instances. Considering online media, this conflict is severe due to the unlimited opportunities available for public to express what they feel and share it throughout the world within a short time frame. Right to privacy has not been given sufficient attention under the Sri Lankan law whereas no specific definition provided for the term "privacy". Public security legislations contain vague terms which act as inappropriate to address the issues which connected with security of the state. In some occasions freedom of expression violates the individual privacy due to the less protection awarded to privacy rights. Public security laws are conflicting with liberty to express ideas in cyber space in most occasions where the government has to take immediate steps by strictly limiting freedom to express ideas. Right to privacy should be guaranteed as a fundamental right in Sri Lanka. Public security laws should be reasonable and special legal rules should be established to the protection of public security from the threats emerging from cyber space. This study attempts to discuss how to balance the conflict between expression, privacy and public security in cyber space as appropriate to Sri Lanka.

***Keywords:*** *freedom of expression, privacy, public security*

# **Criminal Proceedings of Drunk Driving Cases in Sri Lanka: An Analysis of Law and Practice**

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It is reported that, in Sri Lanka, there are almost 8000 road accidents take place per year and out of them a considerable number of accidents are occurred due to drunk driving. There are many rules and regulations presented as to how charges to be framed and the procedure of breathalyser tests shall be carried etc. in relation to drunk driving cases in Sri Lanka. Consequently, every person in the country reached into the attitude that the judicial system has failed to administration of justice over the parties of the drunk driving cases. This study follows the qualitative approach while analysing the existing legislative enactments, regulations, and case laws with the objective of evaluating the substantive and procedural aspects of the Sri Lankan legal framework relating to drunk driving, while inviting relevant stakeholders to revisit their approach towards drunk driving cases.

**Keywords:** *drunk driving, Breathalyzer test, criminal charges, penalties, admission of guilt*

## Statutory Commissions and Their Consequences in Sri Lanka: A Legal Perspective

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Comparative to the limited number of different organizational structures in the private sector, the Sri Lankan public sector has a diverse spectrum of organizational structures such as boards, authorities, commissions, departments, funds, bureau, corporations, institutes, agencies, councils, foundations, centers etc. Similarly, even within the same category of public entities, there are drastic dissimilarities than similarities in many perspectives including their legal characteristics. Thus, such diversifications within a common category of public entities resulted many economic, social, managerial and legal consequences. This study primarily aimed to examine the said issue by selecting statutory commissions in Sri Lanka and their legal repercussions as an example. This is a qualitative study based on primarily desk research supplemented with Black Letter law where necessary. This paper specifically aims to provide a substantive legal critic on the contemporary role and consequences of statutory commissions in Sri Lanka. The findings of the study highlighted the gap between the ideal and actual roles of statutory commissions and how such deviation caused consequence on due process of law as well as public. This study also shed light on necessary legal reforms in order to narrow the said gap and to make statutory commissions more trustworthy to the public and transform them as effective public entities. Also, the findings of this study revealed an absence of systematic and coherent legal framework pertaining to formation, continuation and winding up of such public entities, especially with reference to various commissions in Sri Lanka that have diluted the strength of such structures by curbing the anticipated outcomes. Further, such structures failed to gain public trust and confidence on their findings and recommendations. Hence, this study recommends to formulate comprehensive and systematic legal framework that is applicable to all public entities to streamline and restructure them based on their legal and functional characteristics in general to make the Sri Lankan Public sector more viable, productive and effective. Further, the recommendations were made to resolve the present loopholes in statutes related to formation and function of commissions in Sri Lanka.

**Keywords:** *commissions, commission of inquiry, public, president, entities, structures, Sri Lanka*

## **The Role of Business in Achieving Sustainable Development Goals amid the COVID-19 Pandemic: The Legal Perspectives**

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Covid 19 pandemic has become a challenge to achieve sustainable development goals. The effects of the COVID-19 pandemic, particularly on the social and financial circles in low- and middle-income developing countries, including Sri Lanka, have been especially adverse, which cause interruption of supply chains, reduced foreign remittances and FDI, among others. The Sustainable Development Goals are the diagram to accomplish a superior and more sustainable future for all. They address the worldwide difficulties, including those identified with poverty, inequality, environmental change, natural degradation, peace and justice. Achieving SDGs in this pandemic has become a very difficult and challenging task. This study identifies whether the prevailing laws are sufficient and practicable in regulating businesses to achieve the SDGs in the Covid-19 pandemic. The objectives of this research are to identify the impact of Covid 19 on sustainable development goals, to discuss the role of business in the society in achieving such goals, to analyse whether Sri Lankan laws are sufficient in steering businesses in playing their role and to propose the necessary amendments. The methodology of this research is black letter (doctrinal) methodology. This research employs a qualitative analysis of primary data including the 1978 Constitution of Sri Lanka, Sustainable Development Act, National Development Act No.47 of 1980, Industrial Dispute Act, Consumer Affairs Authority Act No. 9 of 2003, Sales of Goods Ordinance, Fair Trading Commission Act No.01 of 1987 and secondary data including journal articles and web articles.

**Keywords:** *COVID- 19, sustainable development goals, Sri Lanka*

# Theoretical Foundation and Contemporary Application of the Concept of "Social Engineering" to Intellectual Property (Amendment) Act, No 08 of 2021

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Justice is a universal aspiration, and the feeling of injustice is a powerful human emotion. However, injustice is essentially a conflict, and a society without justice as a governing principle is an unstable society bound together by some form of coercion. Moreover, law and justice are subjected to different interpretations over time, but the common standard has not been changed. That is, the diversity of justice does not always coincide with the consensus of law and society. Alternatively, one person's request for legal justice may contradict another person's request. Intellectual Property plays a vital role in modern economies as a valuable intangible asset. Particularly, copyrights and related rights can be considered as one of the most viable intellectual property rights which can easily be acquired as well as unduly exploited. Digitization makes it easy to make unauthorized copies of copyrighted works in seconds. Inevitably, the misuse of property rights will challenge the skills and interests of dedicated owners to create that work with financial intent. The main purpose of this article is to explore the possibility of access to intellectual property in the face of the visually impaired community, and to identify and validate the changing nature of copyright and related rights challenges in the age of digitization. It discusses the involvement of the domestic law-making mechanism in recent developments in the protection of copyright and related rights in a digital environment to achieve these objectives. Finally, this article seeks to identify gaps in the Sri Lankan law and to develop copyright and related rights law to strike a balance between the rights of owners, the general public, and the visually impaired community. This research is a legal inquiry into the inextricable link between law and society throughout the theoretical foundation and contemporary application of the concept of "Social Engineering" to intellectual property (Amendment) Act, No 08 of 2021.

**Keyword:** *intellectual property rights, social engineering, sociological jurisprudence, copyright*

# **A Review of Tobacco Taxation and Packaging Laws in Sri Lanka: Suggestions for Development**

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Tobacco products are consumed in a large scale in Sri Lanka. Cigarettes and Beedis are the most consumed tobacco products by the Sri Lankans. Over 80 percent smokers use cigarettes and 10 percent use beedis in Sri Lanka. The Sri Lankan Government has imposed laws to govern the tobacco industry. Act No. 27 of 2006 on National Authority on Tobacco and Alcohol is the first legislation which regulates the industry and tobacco consumption. 80 percent of pictorial health warnings have been introduced under this Act. Tobacco Tax Act was imposed in 1999 and the tobacco tax was extended to include manufactured tobacco such as cigarettes, cigars, beedis and piped tobacco. Sri Lanka also imposed over 60 percent taxes on cigarettes. The Government earned Rs.32 billion as tax income from the tobacco industry in 2020. As a consequence, cigarette prices increased substantially too. High prices can benefit smokers who desire to quit, reduce the overall consumption of tobacco, and put smoking cessation on their radar for those who continue to smoke. Increased taxes also have a positive impact on non-smokers as it reduces the possibility of their being passive smokers, by reducing their exposure to second-hand smoke. High prices of cigarettes might influence the smokers to find some alternatives. The data on the increase of beedi consumption and illicit cigarette manufacturing provide sufficient evidence to support that assumption. Now it is time for the Government to identify lacunas in laws and develop Sri Lankan laws related to tobacco control.

**Keywords:** *tobacco taxes, cigarette, Beedi*

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## **Do Companies Commit Felonies? A Legal Analysis on Corporate Criminal Liability**

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The Corporate Social Responsibility (CSR) is a guiding light to the companies in the process of protecting human rights. Although the concept CSR is supportive in the maximization of profits while addressing the societal expectations, the companies are often involved in the infringement of rights of the people and the surrounding environment. Such infringements have brought forth the idea of Corporate Criminal Liability. The acts committed by companies which become detrimental to the society can be identified as crimes, but controversies exist regarding the imposition of criminal liability on such acts. The author's attempt in this study is to analyse the contexts in jurisdictions namely United States of America (USA), United Kingdom (UK) and India in relation to the recognition of corporate criminal liability. This study identified that the Sri Lanka's company law does not provide adequate remedies to the injustice caused by the company operations. This has been considered as a loophole in the domestic legal framework. The study further recommends the enactment of a separate legislation on corporate crimes by taking Corporate Manslaughter and Corporate Homicide Act 2007 (CMCHA) as an example. CMCHA is of significance since it imposes criminal liability on companies for causing death of people. The methodology of this study is normative and qualitative in nature. The use of primary and secondary sources of law in the research has resulted in a comprehensive comparative analysis.

**Keywords:** *company, corporate criminal liability, human rights, infringement*



# Challenges of Law Related to Indigenous Medical Research for Drug Innovation in Sri Lanka in the Context of the New Normal: A Critical Analysis

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With the prevailing condition of the world, the World Health Organization (WHO) activated a blueprint for research and development for accelerating diagnostic, improving coordination between scientists and global health professionals, research and development process, and therapeutics for severe acute respiratory syndrome Coronavirus 2 (Covid-19). The humans who have been infected and are suffering from chronic illnesses and elders are at a high risk of fatality. Therefore, human immunity power boosting is the best solution to fight Covid-19. With this atmosphere, the world's attention was drawn to indigenous medicine to innovate a cure. In Sri Lanka, a controversial situation has arisen on the traditional treatment for enhancing immunity, questioning uniformity, and transparency. Considering the medicine production procedure, there should be adapted standards unless neither the doctors will recommend, nor people will trust and consume the medicine. The objective of this study is to find the reasons for the controversial issues that occurred when the traditional cures were introduced in Sri Lanka. This study explored the relevant laws and their defects and how to adapt all indigenous medical practices to one formula regarding drug innovation of indigenous medicine and the authorities who are responsible for drug innovation of indigenous medicine. The researcher followed a systematic literature review method to analyze the provisions of Ayurveda Act No. 31 of 1961 (hereinafter referred to as "Act") and regulations as well as other relevant documents.

**Keywords:** *indigenous medicine, research, responsibility, authorized bodies, Ayurveda Act*

## **Development and Rights of Indigenous Communities: A Comparative Analysis of Sri Lankan Law and International Standards**

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With the increasing emphasis placed upon the necessity of carrying out developmental activities, the states have a duty to take necessary measures to minimize the harmful effects on the environment as well as the indigenous communities. Indigenous people are recognized as distinct social and cultural groups that share ancestral ties to the land and natural resources which they live in. With the rapid development, indigenous people have become vulnerable of losing their habitats and cultures. Therefore, it is important that rights of these communities are protected. This research aims to ascertain whether the prevailing legal system in Sri Lanka is adequate to protect rights of the indigenous community when compared to international standards regarding development. The study further recognized the loopholes within the Sri Lankan legal framework regarding violation of rights of indigenous people due to developmental activities. The research was carried out using the Black Letter approach and relevant primary and secondary sources and as a comparative analysis between Sri Lankan and International standards. The study concludes that the Sri Lankan legal system is inadequate to address the issues faced by indigenous communities due to developmental activities which violate their rights, and thereby recognizes the importance of adapting from international standards to the Sri Lankan legal system to protect rights of the indigenous community while adhering to sustainable developmental measures.

***Keywords:*** indigenous people's rights, sustainable development, Rambakan Oya land acquisition project

## **Personal Data Protection in the Context of Employment: A Discussion of Law in Sri Lanka in the Light of the GDPR**

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The right to privacy is recognized as a fundamental right in various legal instruments including international conventions. Personal data consists of a major part of privacy. Employees are a vulnerable category whose personal data may easily be misused by the employer due to the unequal power between the parties. Employee surveillances are done for many purposes such as improving employee productivity, selecting and retaining honest employees, evaluating employee performance, and maintaining workplace discipline. Under the above context, this research explored the prevailing provisions in the law on individual privacy and data protection in the employment context in Sri Lanka, in the light of the General Data Protection Regulations (GDPR) passed by the European Parliament. Special attention has been given to the public sector employment. This research study utilized the qualitative methodology where the researcher studied, analysed and synthesized a variety of materials gathered from primary and secondary sources to formulate a conclusion and to come up with the study results. Finally, the research revealed that the prevailing laws and regulations in Sri Lanka are not adequate to protect the personal data of employees; however, once the draft Personal Data Protection Bill will become an Act of Parliament, there will be an added responsibility on the part of the employer. This study fills the lacuna of having a comprehensive legal analysis pertaining to the area of employee personal data protection in Sri Lanka by suggesting how the laws should be amended to fill the gaps in the existing law.

**Keywords:** *personal data, data subject, data controller, employee privacy, public sector employment*

## **Right to Internet Access for the Development of Online Education in Sri Lanka during Covid-19: A Comparative Analysis of Finland, France and India**

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At present it is evident that Covid-19 has created a significant negative impact on the education of children. This problem has caused a huge impact on undergraduates and Advanced Level students in rural areas. Therefore, this research identified whether there are sufficient laws to protect the right to online education of children in Sri Lanka during the COVID-19 pandemic. The research problem is whether the prevailing laws in Sri Lanka are sufficient to safeguard the right to online education of children during COVID-19 by ensuring the right to internet access. The objectives of this research are to identify the impact of COVID-19 on the education of children and whether the Sri Lankan legal framework is sufficient to address such issues, and to propose necessary amendments to the existing legal regime to fill the gaps. The methodology of this research is a blend of qualitative and quantitative methods. Further, the study is a combination of black letter methodology and comparative research methodology. Moreover, this research employed a qualitative analysis of primary data as well as secondary data where primary data was gathered using a questionnaire distributed among the undergraduates of University of Sri Jayewardenepura and Eastern University. Finally, the research concludes with a view that the existing domestic laws are insufficient to address the issues in online education of children during COVID-19 pandemic in order to achieve equal access to internet.

**Keywords:** *COVID-19, internet access, education*

## **Puzzling out the Issue of Obesity under the Human Rights-Based Approach**

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The COVID-19 pandemic has been the most devastating health catastrophe that humanity has faced recently, and recent research from several nations have clearly shown obesity as a prevalent attribute among persons who were seriously ill after getting the Corona virus. Obesity has become a global pandemic, causing many people to succumb to non-communicable diseases (NCD). The World Health Organization (WHO) has highlighted consuming an unhealthy diet, which mainly consists of high-fat, high-sugar, and high-salt foods, as a primary cause of obesity. In light of this background, the researcher in this work aims to provide an analysis for the obesity problem that is founded on human rights. The researchers aim is to examine the obesity problem through the lens of human rights, identifying potential human rights violations as well as state party obligations in this regard. In the meantime, the researchers attempt to give remedial options that are based on human rights and specific activities that different stakeholders might do to alleviate the obesity problem induced by eating unhealthy meals. This is a legal study, and the researchers used doctrinal analysis methods to accomplish it. Finally, it can be concluded that a human rights-based approach to addressing the health issue can be effective, and that individuals may be able to file a case under the broader definition of right to life against the state party for failing to take adequate steps to regulate the food industry, which causes obesity.

***Keywords:*** *food safety, obesity, HRBA*

## **Legislating the Principle of Best Interest of the Child: The Sri Lankan Standpoint**

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Children are the most precious group in every society and owe the responsibility of creating the future world. It is the utmost duty and the liability of a state to protect the rights of the children with special consideration towards resolving their concerns to secure their best interest. The principle of the best interest of the child shall be the paramount consideration towards achieving and securing their rights in different circumstances. This study intends to explore the legal adequateness of legislating the principle of the best interest of the child in Sri Lanka, in par with the international standards safeguarding the rights of the children. The methodology adopted in the study is a combination of black letter methodology and comparative research methodology along with an analysis of the international standards coupled with the comparative jurisdictions, as appropriate. Further, the qualitative approach was employed to analyse the primary and secondary data of the study. Finally, the study critically assesses the standards of relevant legislation attempts of legislating the principle of the best interest of the child in the domestic context.

***Keywords:*** *best interest, child, legislating, rights*

# **Environmental Damage Caused by Shipwrecks in Sri Lanka: A Legal Analysis**

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Sri Lanka which is geographically located at the centre of international shipping lanes has had to frequently deal with shipwrecks. The X-Press Pearl shipwreck can be identified as an irreversible damage caused to the territorial sea. This research is expected to ascertain the effectiveness of the domestic laws in addressing the impacts of shipwrecks on marine biodiversity, its compatibility and inter-relationship with international laws governing the same and to identify the loopholes in the domestic law in conserving marine environmental resources against the environmental disasters linked with shipwrecks. The research methodology includes the black letter approach based on international conventions and case laws as primary sources and journal articles, books, web articles as secondary sources. The Marine Pollution Prevention Act, which was enacted to protect the marine system, provides for criminal and civil liability for those who pollute the ocean. The Coastal Conservation and Coastal Management Act can be indirectly identified as a unique act that includes provisions on the ocean and criminal liability that can be imposed on an offense committed under the Act. The National Environment Act deals with the protection of the territorial sea. Sri Lanka has not ratified vital conventions on maritime security and has lost the protection that comes with them. The failure of domestic law to be strengthened by International Conventions is a serious weakness. The research recommends the need to ratify International Conventions and thereby to take steps to strengthen domestic law including in the Constitution of Sri Lanka for protection of the marine environment and to establish a special court or tribunal for matters related to shipwrecks.

***Keywords:*** *shipwrecks, domestic laws, international conventions*

## **“Will Poseidon Meet Artimes?” An Analysis of the Applicability of Eco-Feminism in Achieving Environmental Justice in Sri Lanka**

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This research aims at emphasising the need of women’s representation and the participation in resolving contemporary environmental related issues in Sri Lanka. The main objective of the research is to examine whether there is a link between the less participation of women in resolving the contemporary environmental issues and the gross violations on the environmental rights in the Sri Lankan environmental law. The secondary objective is to analyse the paradigms of the above concept theoretically in light of the branches of eco-feminism and applicable environmental law principles. The study is based on the legal research methodology, which is a library based-secondary data analysis. The expected outcome of the research is to seek the possibility of utilizing the theories of eco-feminism to achieve environmental justice in Sri Lanka.

***Keywords:*** *environmental law, eco-feminism, female participation*



# **For Reincarnation: An Analysis of the Application of the Polluter Pays Principle for Environmental Restoration in Sri Lanka**

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In May 2021, the Singaporean container ship 'MV Xpress Pearl' en route from India to Singapore caught fire and drowned in the sea around 9.5 nautical miles Northwest of Colombo with 1486 containers containing tonnes of hazardous and highly reactive chemicals and 325 metric tonnes of bunker oil aboard. The incident created an unprecedented and unimaginable environmental disaster with widespread spill over effects on the marine environment, species and resources. While some of these environmental damages could never be rectified, the most viable solution available to preserve the pollution ravaged oceans in Sri Lanka is making the polluter to restore the environment (at least to the most part possible) into its previous condition. Therefore, this paper seeks to analyse the application of the polluter pays principle in Sri Lanka to ascertain whether it can be used to impose a duty on the polluter for ocean environment restoration in the MV X-Press Pearl Disaster. This research is carried out using the Black Letter approach of research based on international conventions, legislations and judicial decisions as primary sources and books, journal articles, conference proceedings, theses and online resources as secondary sources. The paper concludes that the duty of the polluter for environmental restoration in Sri Lanka can be recognized by virtue of *Chunnakam* case and the *Wilpattu* case.

**Keywords:** *polluter pays principle, restoration of the environment, Mv Xpress Pearl disaster*

## **Striking a Balance between COVID-19 Regulatory Responses and the Fundamental Rights of Citizens in Sri Lanka within the New Normal**

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With the World Health Organization (WHO) declaring the Covid-19 outbreak a global pandemic, states have been compelled to take prompt actions to limit the spread of the virus. In response to the crisis and adhering to the global health standards, the Sri Lankan government has imposed a series of restrictions. The legal basis upon which these restrictions have been imposed is constantly debated and are viewed as unlawful restrictions upon the fundamental rights of citizens secured by virtue of the Constitution. Counter arguments support that these restrictions are imposed as prescribed by law in the interests of national security, public order, and public health. In such a background this paper will attempt to recognize the possible breaches of fundamental rights caused by the restrictions imposed while analysing the impact of such restrictions on the fundamental rights of citizens. In order to study the main research problem library research was carried out with the aid of relevant statutes and international instruments. The analysis of the present legal framework relating to the imposition of quarantine restrictions supports the view that the rule of law must be a fundamental principle in every government action whereby the states should collectively collaborate to curb the virus while respecting the basic norm of sovereignty of the people. It is understood that the imposition of quarantine restrictions is essential in present times, but they should be imposed in a manner that does not interfere with the fundamental rights of people while protecting the dignity of a democratic society.

***Keywords:*** *global crisis, fundamental rights, rule of law, collective action*

## **Apps: Driven Uncertainty of Welfare of Gig Workers**

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Most of the people have had to reluctantly engage in the gig economy through apps upended because of either the unemployment or layoff from their full-time jobs in the new normal. On the other hand, Covid-19 has impacted the gig workers' lives either by loss of gigs or the need to work in unsafe work conditions with low income. This research identified whether the welfare of gig workers can be protected under the domestic labour legislations in Sri Lanka. The aim of this study is to discuss whether the app based gig workers can be classified either under contract of service or contract for service to examine the legal position of app based gig workers under the UK, U.S.A. and Canadian jurisdictions in comparison to Sri Lanka and to propose suitable recommendations to uphold the welfare of the app based gig workers. The methodology of this research is a combination of black letter methodology and comparative research methodology with Sri Lanka, U.K., U.S.A and Canada. These different jurisdictions were analysed to provide a descriptive legal analysis related to the said area. Furthermore, this research employs a qualitative analysis of primary data such as constitutional provisions, labour legislations and judicial decisions and secondary data such as books and web articles. The study indicates the importance of recognizing the employment status of gig workers as employees with necessary amendments to the existing domestic legal framework to effectively address the issues of their welfare. Finally, the study concludes by providing effective recommendations to address the said issue while upholding the relevant human rights and the fundamental rights such as right to equality, freedom to engage in any lawful occupation while also upholding the principles of Natural Justice.

**Keywords:** *welfare of app based gig worker, status of employment, labour rights*

## POSTER PRESENTATIONS



# **The Need of Blockchain Law in a Cryptocurrency-Based Future: Potential and Possibility of a Purely Blockchain Entity**

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Blockchain technology first surfaced before ten years ago and it has been the only gaining traction emerged for the last two to three years. Therefore, it is much needed to focus the attention of the governments to implement Blockchain Laws in the present highly digitalized environment. This paper aims to analyse the Blockchain Technology and examine the requirement of a particular legal regime, with its growing popularity among businesses and consumers, as it is a relatively new technology in terms of legislation. This study is largely based on a qualitative approach, a contemporary study on legislations of the countries which follow and do not follow blockchain technology with examining blockchain regulations and relevant scholarly works. The study reveals no consistent policy has yet emerged around the world, except United States. Rather, countries have been left to their own devices, with some, such as those in Europe, incorporating regulation into national legislation and others avoiding the technology altogether. The study concludes by emphasizing the need of a regulatory legal framework for the blockchain technology.

**Keywords:** *Blockchain law, Blockchain technology*

## **A Comparative Literature Review of the Contribution of Transgender Rights in the Legal Context of India and Sri Lanka**

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Discrimination against any condition that a person acquires on their birth goes beyond the criteria of equality. The society has long created different social conditions for these two parties based on gender difference that has been biologically available to both men and women. Transgender people have identities different from the gender that corresponds to the sex organs determined at birth. The study is based on evaluating the level of contribution to establishing transgender social rights within legal systems of India and Sri Lanka. In comparison, transgender people have a stronger historical presence in India than in Sri Lanka. It is observed that the international legal context of transgender rights makes a positive contribution to gender orientation and gender identity. The legitimacy of American realism, sociological and natural law schools can also emphasize the legitimacy of securing transitional social rights. Accordingly, the statutory authorities and the Sri Lanka community should contribute to the expeditious preparation of legal provisions to develop transgender social rights while upholding the Indian legal position.

***Keywords:*** *transgender rights, equality, third gender*

# **Child-Friendly Justice and the Best Interest of the Child: A Comparative Analysis of Sri Lanka, India, and International Standards**

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A child is generally regarded as a person below the age of eighteen years. Even though some diversions can be found from this general concept in special instances, it is an undoubtedly accepted principle that the best interest of the child is the paramount consideration in any disputed situation. This concept shall be regarded as the fundamental ground of a child-friendly justice system. This system intends to ensure a child to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others and seeks to guarantee the respect and the effective implementation of all children's rights. After a comprehensive study of the existing juvenile justice systems in Sri Lanka and India, it was discovered that Sri Lanka requires more measures to eliminate the practical difficulties a child faces during a court proceeding and to ensure the best interest of the child in a child-friendly juvenile justice system.

**Keywords:** *best interest of the child, child-friendly justice, Children and Young Persons Ordinance, Juvenile Justice (Care and Protection of Children) Act, Protection of Children from Sexual Offences Act*

## **A Comparative Analysis of Medical Negligence Compensation in Sri Lanka for the Protection of Patients**

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Sri Lanka provides free health service to all the persons in the country through establishing and maintaining nearly five hundred government hospitals in every province and district. Sri Lanka scored 76<sup>th</sup> place in World Health Organization statistics with higher regional life expectancy and lower maternal and infant death rate. This study analyzed the level of duty of care maintained by the trained medical staffs in Sri Lanka, in order to secure the betterment of the patients. The situations had reported where mistakes and errors of medical professionals' duties lead to physical, mental injuries or even a death of their patient. But, in practical a handful of medical negligence litigations are hardly to find out. In this research journey, both primary and secondary medico-legal sources were attracted to follow the qualitative research method. Finally, the study analysed the success stories of consumer protection, insurances, and strict liability in other jurisdictions with comparative jurisdictions.

***Keywords:*** *medical negligence, Sri Lanka, consumer protection*



## **Legal Spotlight for Resilience of COVID-19: Public Nuisance in Workplaces**

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The COVID-19 pandemic has already created reflective dreadful effects in each country diversely. Governments have taken strict measures to lessen the shocking consequences of the outbreak and with the intention of combating the deadly virus. Accordingly, litigations which relate with workplaces not complying with COVID-19 health guidelines have been increased as exposure of employees as well as their family members to the virus may fence in employers liable for their infection. The modern notion of the public nuisance cause of action is addressed in these lawsuits, and it has become a trend. Hence, this research follows a doctrinal methodology, which intends to study whether and to what extent new-fangled appearance of public nuisance is applied in the scenario of COVID-19 pandemic, and it discusses optimistic and pessimistic outcomes of such applications as well as the defences. The article concludes by having positioned the workplace policies and practices implemented and enforced in the prevailing legal framework that meet the recommended health guidelines and various existing defences to the focal theory, which can help to set aside public nuisance claims.

***Keywords:*** COVID-19, public nuisance, workplace



