

Rule of Law in the Essence of Common Good in Sri Lanka: A Sri Lankan Case Study

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Abstract: *Representative democracy arose as a result of the expansion of the population but in antiquity, there was direct democracy where every citizen participated in law-making for their Common Good. This study identifies the judicial body of the government that enforces the principles of the Rule of Law that has adopted direct democracy to a certain extent in the late 20th century, by allowing elected officials in society with real interest to represent another for the Common Good. A number of Case Studies in Sri Lanka and around the world support this thesis statement. With this study, it is evident that this concept primarily arises under Fundamental Right petitions and Writ cases that are called against the whims and fancies of the administrative authority in subjectively using their vested discretionary power disregarding the Common Good. These authorities are given power under the Rule of Law to fulfill the desires of the citizens for the betterment of the state. This qualitative research is primarily supplemented by case laws, and it successfully concludes that the Rule of Law has been a paramount factor and the essence of the concept of Common Good. It is evident with the decided cases where the court has considered the Common Good and the future public benefit of the people by compelling the administrative authorities even when the applicant was in lack of locus standi.*

Keywords: *Common Good, Rule of Law, Public Interest, Public Benefit*

1. Introduction

Through direct democracy, the early Greek city-states allowed every citizen of its state to engage in law-making for the Common Good. (Goonetilleke, n.d.). Likewise, under the present judicial system, it has given authority to public entities to be involved in matters which affect the public at large or to its considerable portion. This may be identified as Public Interest Litigation and it allows the state to uphold citizens' rights for the Common Good because the democratic governmental organs operate through a checks-and-balances system. The judiciary ensures that the powers delegated to the executive and legislative branches of government are used for the benefit of the people. In furtherance, to make the concept of the Common Good more meaningful, people must be able to participate somewhat directly in the administrative process and it could be argued that the Rule of Law lies in the essence of this concept.

Rule of Law was systematically introduced by Prof. A.V. Dicey in his exquisite work, 'An introduction to the study of the law of the Constitution' in 1885. However, Rule of Law has been recognized since the time of the Greek philosopher Aristotle. Rule of law is usually presumed to ensure impartial judiciary, efficiency, protection of Fundamental rights, objective decisions, rationality, and equal and fair hearing. Rule of Law is scattered through vast subjects under the modern developments of

law but in this situation, it will only be regarded from the perspective of Administrative law.

In the case of *Premachandra vs. Major Montague Jayawickrema and Another (Provincial Governors' Case)*(1994), G.P.S. De Silva, C.J. pointed out that discretion is given to public officials in trust for the benefit of the public, to be used for the Common Good, and the legitimacy of their use is determined by the specific purpose for which their powers were assigned. By this, it could be identified that the concept of Common Good should rely on Rule of Law in order to ensure the discretion of the public authorities is concerned to par with the Public Interest. Even though Prof. A.V. Dicey did not acknowledge discretionary power under the Rule of Law, Wade and Forsyth state that under the modern trends of law it is inevitable not to give discretionary power to public authorities (Wade & Forsyth, 2014). Therefore, it must be examined whether the Rule of Law has moulded the law for the Common Good under the prevailing standards. In addition, it must be noted that the Doctrine of Public Trust and *locus standi* are also used as tools in developing this concept through Public Interest Litigation.

When assessing this concept, it mainly relies on judicial decisions, and in this condition, it will be referred through the context of Sri Lanka by the decisions given for and against Fundamental rights petitions in the Supreme Court of Sri Lanka and by the Court of Appeal which uses its writ jurisdiction in deciding on Public Interest. Furthermore, the Indian precedents will be discussed as a reference, the neighbouring country of Sri Lanka which has many judicial precedents dealing with Public Interest Litigation. Indian laws have a major influence on Sri Lankan law, as evident in Sri Lankan case law.

2. Methodology

This qualitative research involves both primary and secondary sources, such as related cases, books, journal articles, and online sources, as well as an analysis of the current Sri Lankan context and observation of the Indian context. The focus of this research is to explore how the Rule of Law has been incorporated as a main principle in the concept of Common Good, particularly in protecting and upholding citizens' rights in Fundamental Right petitions and Writ jurisdiction. Since Public Interest case laws are mainly based on judge-made law, a deep evaluation of cases may aid in exploring the past and present state affairs effectively.

3. Facts and Findings

For this study, the authors have chosen three Sri Lankan Landmark cases which will be comparatively analysed with the Indian jurisdiction. These cases have fundamentally acknowledged the Rule of Law in Public Interest by questioning the actions of the administrative authorities for the Common Good of the people and the essence of the Rule of Law is identified through Constitutional provisions.

A. Common Good for the Protection of Environment

Environment and its benefits are one of the main focuses under this concept and the case of *Heather Therese Mundy vs. Central Environmental Authority* (2003) is an explicit case that first emerged as a writ case under the Court of Appeal whereby it was dismissed under dissatisfaction but it was later appealed to the Supreme Court. The question was on the Final Trace of the project of Southern Expressway that must be evaluated through an Environmental Impact Assessment Report [EIAR] from the Road Development Authority [RDA] and the approval of the Central Environmental Authority [CEA] was a requisite as to Section 23Z of the National Environment Act No. 47 of 1980. Two alternative

routes were submitted to RDA through the EIAR as the Original Trace and Combined Trace. The RDA recommended the combined trace but the CEA approved it with certain conditions and adjustments which include,

- Minimize traveling through wetlands and the relocation of people
- Providing alternative lands and paying compensation for acquiring non-residential lands.
- In wetland areas the Final Trace must follow the Original Trace. (Condition IX)

Under Section 23EE of the National Environmental Act, every amendment or alteration must be approved by the project approving agency, and, in this instance, it is the CEA. The decisions taken by the CEA regarding the construction of the expressway were questioned under the case of *Public Interest Law Foundation vs. Ceylon Environmental Authority and Another* (1999) but was dismissed by U. De Z. Gunawardana, J.; even though the CEA granted approval under the aforesaid conditions and adjustments, the RDA followed the Final trace which caused three main issues, namely (1) Adopting the final trace to avoid harming the environment, but this was disputed (2) No EIAR and CEA approval on the adopted trace. (3) Appellants were adversely affected by the final trace. The question arose where the final trace adversely affects the appellants and this can be analyzed as a violation of the rights of equality guaranteed in the Constitution because they were not adversely affected previously by the original nor the combined trace. Fernando, J. pointed out that one of the appellants constructed her residence and completed it in 2001 whereby the residence is now affected by the expressway. This can be identified as an infringement of Fundamental Rights under Article 12[1] and 14[1] of the Constitution. In the Court of Appeal, the appellants had prayed for a

writ of *certiorari* and *mandamus* but the court did not consider the Public Interest of the appellants because this project was considered an absolute necessity for the development of the country. Further, it was held that under a project of this enormity, it is humanly impossible and inevitable to commence with perfection. It could be observed that since this project benefits the public at large the Court of Appeal did not consider the Common Good of the appellants.

Fernando, J. expressed that the violation of Fundamental Rights was clear before the Court of Appeal but it was disregarded. In consideration of the final trace, condition IX was made to give effect to the original trace and not just near the original trace which made it contrary to the given approval by CEA. Finally, the Supreme Court held that only the farmer knows about the real value of his land and the smaller the land is the compensation must be greater. The court recognized the violation of Fundamental Rights of the appellants and ordered them to pay compensation to the appellants while handing over the possession of the land in respect of the quantum of damages. It could be identified that even though the RDA had discretionary power on executing the final trace, it must be approved by the CEA because it acted as the project approving agency under Section 23Y of the National Environmental Act. Therefore, it should be pointed out that the actions of the RDA were *ultra vires* because it had taken decisions arbitrarily which could be identified as a clear violation of the Fundamental Rights of the appellants. Moreover, the Supreme Court upheld the Rule of Law by recognizing arbitrary action of the respondents while stating that the discretion must be used for the Common Good and in Trust for the people by granting necessary reliefs.

B. Common Good for Foreign Institutions

When considering Common Good and the Rule of Law it must also be clarified under the intervention of foreign entities upon the local standards of law. The case of *Noble Resources International Pte Limited vs. Hon. Ranjith Siyambalapatiya, Minister of Power and Renewable Energy* (2015) could be shown as an example where the Petitioner, a Singaporean company, was held as not having *locus standi* to pray before the Supreme Court on violation of its Fundamental Rights. The petitioner had supplied coal to the third respondent (Lanka Coal Company Ltd) since 2010. In 2015 the Standing Cabinet Appointed Procurement Committee (SCAPC) submitted a bid on behalf of the said respondent concerning the Coal supplience in the Puttalam Coal Power Plant. The petitioner bid the lowest whereby the Technical Evaluation Committee (TEC) and the SCAPC must award the tender to the petitioner as to the procedure of the bid document but this never came to par with that expectation. This decision was *ex facie* contrary to the terms and conditions and it was held unlawful, unreasonable, violation of legitimate expectations, and Fundamental Rights under Article 12[1] and 14[1][g] of the Constitution. Conversely, Additional Solicitor General Mr. S. Rajaratnam pointed out two primary objections based on the standing of the petitioner under Article 126 of the Constitution, mainly because the petitioning company was registered under Singaporean laws.

K. Sripawan, C.J. held that relief should be granted as the court may deem it just and equitable and not by the objections drawn by the respondent. The reason to hold this position can also be identified as the checks system which upholds the Rule of Law. Likewise, the court cannot disregard taking precautions merely because the petitioner does not have standing before the court while it would supplement the government agencies to act contrary to the

Common Good and to uphold unlawful actions that oppose Rule of Law. This procedure of bidding must follow the Government Procurement Guidelines (2006) and the tender must be awarded to the lowest bidder whereby in this situation it was the Noble Resource International Pte Ltd as recommended; subsequent events occurred.

- 15.06.2015 A meeting was held by SCAPC with the petitioner to clarify the 'parcel size.'
- 17.06.2015 SCAPC requested the petitioner to submit a discount price.
- 18.06.2015 No discount was awarded by the petitioner.
- 06.07.2015 SCAPC awarded the tender to the 22nd respondent.

The SCAPC directed the TEC to re-evaluate the bids disregarding the evaluation procedure under the Government Procurement Guidelines which could be 'identified as a precaution taken to uphold the Common Good, transparency, justice, and equality in the evaluation and neither the state nor SCAPC cannot act discretionarily disregarding these guidelines. By this Sripawan, C.J. decided that the allocation of the tender to the 22nd respondent does not have any validity under the law. Furthermore, as to Mr. Romesh De Silva, P.C. it can be observed under Clause 5.5 of the Instruction to Bidders document, that no bidder can contact Lanka Coal Company or any person related to the bid until it is awarded and if contacted it may result in rejection. However, the 22nd respondent contacted the SCAPC by letter after the opening of the bids. Awarding the bid to the 22nd respondent ignoring the petitioner, can be identified as a violation of Fundamental Rights under Article 12[1], and even though Procurement Appeal Board invited for a hearing on this matter, no hearing was held. This is a

violation of *audi alteram partem* which is considered one of the paramount factors of Natural Justice that signifies the Rule of Law.

As to the final decision the court held that the petitioner could not be granted any remedy because after a deep consideration it was held that the petitioner did not have standing under the court's jurisdiction. But when considering the Public Interest the court has a solemn duty to protect the Rule of Law to safeguard the Common Good and faith of the people, whereby the court called for a new bid for the supplience of coal which must be fair, just, and equal for the bidder.

C. Common Good in Land Acquisition

When considering the matters relating to land acquisition, especially for the Common Good of the public, the case of *De Silva vs. Athukorale, Minister of Lands, Irrigation and Mahaweli Development and Another* (1993) is informative. This questioned the discretionary powers of the Minister under the Land Acquisition Act No. 09 of 1950 where seven allotments of land were acquired in Bibile under the ground of urgency. The appellant sought relief under a writ of *certiorari* arguing that the acquisition was not under urgency but under a political motive and was contrary to Section 16 of the Urban Development Authority Law No. 41 of 1989. However, the application was dismissed, and the land was handed over to the 2nd respondent, the Urban Development Authority (UDA). Under financial issues, the project was not implemented and because of this, the appellant sought to have the land back according to the available remedies under Section 39A of the Land Acquisition (Amendment) Act No. 8 of 1979.

There was no question about the representation of the appellant and his *locus standi* but a problematic situation arose under the gazette

published according to Section 39A on divesting the first allotment of land. This was inquired by the appellant from the Minister of Land through the Secretary of the President where it was stated that the responsible authority was the UDA but the UDA was still conducting a study about the utilization of these lands in doubt. It must be noted that the land was not in use for nine years and the construction of the shopping complex was decided in the latter part of 1990. On a perusal of two documents, it was noticed that only the second lot was necessary for the project and the other allotments were not.

Again the appellant prayed for a writ of *certiorari* and *mandamus* on divesting the formerly stated allotments but the Court of Appeal dismissed the application holding the position that the appellant was not entitled to question the acquisition. As per Fernando, J., the applicant has satisfied Section 39A[2], nevertheless, the Court of Appeal has not reviewed the actions of the minister on refusing the divest of the land; how the other lands in addition to the second allotment will be used for the Common Good of the public. Furthermore, the Supreme Court based its argument on two main factors, (1) The Minister's discretion was not unfettered or absolute; (2) The unreasonableness of land retention without any public purpose. Nevertheless, according to the Deputy Solicitor General, the Minister's discretion was absolute under Section 39A[1] and only can be subjected to review if it was improper, illegal, or an abuse of power. Nevertheless, private land could only be acquired for the Common Good however, it cannot be used for personal benefit nor as revenge. The land could be restored to the former owner (Section 39 and 50) when the public purpose has faded. Nonetheless, as to Section 38[a], if the land was acquired under an urgency but later if it disappears, the land could not be restored. While disagreeing with that view, Fernando J., pointed out that if the acquired

land was not used for the public purpose, then insufficiency of justification arises that grows with the lapse of time. Furthermore, if a new public purpose arises the land which is acquired previously could be used for it but in this regard, the 1st respondent did not hold any reason to favor his actions.

Section 39A was implemented as a remedy to uphold the Rule of Law and all unaffected allotments must be divested on equal grounds (Article 12) but there was no allegation of violation of Fundamental Rights under Article 126 and the case solely proceeded as a Writ application under Article 126[3]. The amendment (1979) was brought to empower the Minister to restore lands to the original owner because the power of acquisition was given to act *bona fide* in Trust for the people whereby exercising rationally in the Common Good and not gaining personal benefit. The use of discretion by the Minister in this instance was seen as a wrongful refusal and was ignorant on acquiring 19 acres of land to build a shopping complex that only needed 3% of that proportion. Therefore, only the second allotment was needed to build this complex. Finally, the Supreme Court dismissed the order given by the Court of Appeal and the writ of *mandamus* was issued against the 1st respondent to make a divesting order on other allotments under Section 39A. Hence, it could be identified that no land could be acquired for personal benefit but the acquisition must only be done in Trust of the people for the Common Good.

D. Indian context

In this instance, Indian cases will be analysed, and it must be noted that Public Interest was introduced by Krishna Iyer J. in the case of *Mumbai Kamagar Sabha vs. Abdul Thai* (1976). In addition, the case of *Hussainara Khatoon vs. the State of Bihar* (1979) was the first reported case on Public Interest concerning barbarous

conditions in prisons. (Sen, 2012). A landmark position was held by the case of *People's Union for Democratic Rights and Others vs. Union of India & Others* (1982, 1983) which questioned the ill-treatment and living conditions of workmen who work under contractors employed by the Union of India, which was identified as a violation of Fundamental Rights and other Labour laws. The Supreme Court acted with urgency for the Common Good highlighting the violation of the Minimum Wages Act, unequal remuneration, and violation of Article 24 of the Indian Constitution dealing with child labouring. Yet, the respondent argued that the petitioner lacked *locus standi*.

The Supreme Court allowed the petition, and this could be identified under three contention points. Firstly, the court regarded the broader approach of justice for the Common Good where any member of the public could act on behalf of another who suffers from poverty, illiteracy, or any other disadvantage that makes that person unable to approach through court action. Secondly, the court took this decision in furtherance of the complaint brought under the violation of labour laws and Fundamental Rights. Thirdly, since these labour laws were implemented to protect the Common Good of the workmen, the actions of the contractors must meet those standards.

Concerning the concept of Common Good, this can also be focused on the environmental pollution that happens regarding the inappropriate disposal of waste. The case of *M.C. Mehta vs. Union of India (Ganga Pollution case)* (1988) is predominant whereby an acclaimed Public Interest Attorney M.C. Mehta pointed out the extensive water pollution in the Ganga river generated mainly by the Kanpur city effluent, that is directly released to the river without first treating them. To show the magnitude of this great pollution, a matchstick was thrown into the

river which burst into flames for almost 30 hours on the upper layer of water because of the deposited inflammable chemical waste. Therefore, for immediate action, the petitioner requested a writ of *mandamus* from the Supreme Court but the respondents argued that they had already installed primary treatment facilities but they could not afford secondary treatment plants as it was a large investment. It must be noted that every human has a right to enjoy a healthy as well as a safe environment. Thus, the court held that this contamination creates water-borne illnesses and it is essential to safeguard the river for its consumers. This case emphasizes the gravity of protecting the environment for the Common Good without merely focusing on compensating or mere economic losses.

4. Discussion

The concept of Common Good can be simply identified as a moral right enjoyed by the majority of the people in a state. Under a state of representational democracy, the representatives must always tend to act on behalf of the people and use the given power in Trust of the citizens. The Rule of Law must be assured to the people by guaranteed equal protection under Article 12[1] but this was in question under the case of *Sugathapala Mendis and Another vs. Chandrika Kumaratunga and Others (Waters Edge Case)* (2008) where the actions of the Ministers and the UDA in land transferring (lease) to Asia Pacific Golf Course Ltd. was not directed towards the Common Good even though it was said as so. Indeed, it could be seen by the events that took place that the Executive acted towards gaining profit from the land without any intention to act towards the public for their Common Good. This was seen as an irresponsible, subjective, and illegitimate use of power whereby the court made this transference null and void. It can be identified that the Executive and its branches must make decisions with utmost care for the Common Good of the people followed by

objective proceedings that tend to uphold the Rule of Law mainly by guaranteeing impartiality to all the citizens. As Abraham Lincoln, the 16th United States President stated, 'government of the people, by the people, for the people' (The Gettysburg Address, 1863), the government must act in Trust for the betterment of the citizens. The concept of Common Good is based on equality and equity that manipulate the government to always accord with the Rule of law as it is the essence of this concept.

As to the above-discussed case laws, acting in Trust will always attract the Rule of Law to protect the Common Good in action. Therefore, in this situation, it could be interpreted that the administrative branch of the government and its entities must always look toward the likes and dislikes of the public when implementing laws on all the matters which affect the public directly or indirectly. This can be identified in the landmark case of *Bulankulama and Others vs. Secretary, Ministry of Industrial Development and Others (Eppawela case)* (2000) where Amerasinghe, J. pointed out the statement that was made by Judge C. G. Weeramantry on ancient Sri Lankan irrigation work in the International Court of Justice case *Hungary vs. Slovakia* (1997). As an overview, His Lordship mentioned that the ancient Sri Lankans did not permit any water drop in the land to reach the sea without benefitting mankind. By this, it could be identified that from antiquity, the Common Good was upheld as paramount to mankind and the Eppawela case itself granted the standing to a resident at Eppawela to make representation through courts for the Common Good on their infringed rights. This infringement was based on Article 12[1], 14[1][g], and 14[1][h] under Fundamental Rights which could be identified as one of the main branches of the Rule of Law. This case can be compared to the Ganga Water Pollution case in India because both cases were concerned with protecting natural resources for

the Common Good of the people by using Rule of Law, but in the latter case, the Writ jurisdiction was used. Furthermore, this can be seen as evidence that the Rule of Law has followed the Common Good in its essence.

It can be noted that similar to the Mundy case, the Eppawela case and the Ganga Water Pollution case were also concerned about the environmental aspect and its use for the Common Good highlighting the Rule of Law. Prof. A.V. Dicey states that discretion on the governmental authority would create insecurity and always leave room for arbitrary action. (Dicey, 2003). However, Prominent legal writer Jefferey Jowell criticizes this view of Prof. Dicey by pointing out the welfare and regulatory tasks of discretion in the modern day. (Jowell, et al., 2015). It must be argued that with the current trends it is inevitable to fade arbitrary actions by merely refusing discretion, but it could be done by upholding the formal and substantive values of Rule of Law such as cohere and indeed overlap, the certainty of law, equality, legitimacy, and access to courts and rights. Therefore, discretion must be granted to the authorities contemplating the Common Good of the people but if it is not implemented under proper standards, the decisions could always be questioned under Fundamental Rights and Writ jurisdiction. Evidently, the case of *Environmental Foundation Ltd vs. Urban Development Authority of Sri Lanka and Others (Galle-face Green case)* (2009) could be shown. Whereas the UDA tried to lease out the Galle face green to a private company for their personal use. This action was questioned by a non-governmental organization pointing out that UDA did not have the discretion to do so disregarding its original purpose. The court upheld that this decision was *ultra vires* because the Galle-face green was dedicated to the 'ladies and children of Colombo' for the common benefit.

It must be further pointed out the role of *locus standi* which questions the restrictions imposed on the litigant and his interest in the matter at hand. Dr. Mario Gomez identifies the purpose of legal standing as 'a filter in cases of judicial review' and Prof. Peter Cane identifies the purpose as restricting access to judicial review. (Gomez, 1998). Article 126[2] of the Constitution refers to two preliminary restrictions. Namely: He may himself or by an Attorney-at-Law on his behalf and within one month thereof. At first, the literal meaning was followed whereby the case of *Somawathi vs. Weerasinghe and Others* (1990) did not allow the wife to question the violation of his husband's rights under the argument that she did not have standing with regard to Article 126[2] of the Constitution but this was changed in *Sriyani Silva vs. Iddamalgoda, Officer-In-Charge, Police Station Paiyagala and Others* (2003), where it made possible to question upon the real interest of the person on the ground that a person who is not directly affected could be more equipped and competent to present a legal issue than a person who is directly affected. Likewise, in the Indian case of *People's Union for Democratic Rights and Others vs. Union of India & Others* (1982, 1983) even though the real interest could not be expressly identified, the court established the broader approach by allowing any member of the public to represent the aggrieved party. Other than this limitation in the real interest, the previously mentioned *Noble Resources International* (2015) case explains the limitation on foreign entities. As far as the domestic laws are concerned no foreign entity could hold legal standing for the violation of their rights. This limitation is open to doubt because the violation of rights solely occurs through the illegitimate actions of the administrative authorities who are to act under the Rule of Law. Therefore, a mere disregard of the standing of a foreign entity must always be questioned through the actions of the administrative authority which is placed to carry out its duties

for the Common Good to uphold the Rule of Law. Nevertheless, as Wade and Forsyth explained, remedies could only be awarded only and if only the litigant has standing. (Wade & Forsyth, 2014).

It is clear that the vested power of public authorities must always direct toward the public in Trust. It is evident from the case of *Vasudewa Nanayakkara vs. K. N. Choksy* (2007) that if the public authorities acted beyond their vested power the courts have the power to make that decision null and void. (Samararatne, October, 2010). Furthermore, the public benefit was doubted in the case of *Benett Rathnayake vs. The Sri Lanka Corporation and Others* (1999), where the Supreme Court mentioned the high standards and efficient service expected from public officers. This case was about the refusal of a Sinhala telefilm to be telecasted during the 'prime time' where the petitioner argued that it was a violation of his Fundamental Rights. Finally, Fernando, J. held that the airwaves which are a limited resource, is public property; therefore it must be utilized in the interest of the public and for their Common Good. It must be highlighted that the litigant may not always bear *locus standi* to proceed with the case but the role of the judge is to look deep into the roots of the matter to identify the primary factor for the issue that does not par with the Rule of Law and address that matter in order for the Common Good and to eliminate future litigations that could arise from the same matter.

Taking into consideration the current events that occurred, the X-Press Pearl ship disaster is fundamental. (Sirilal & Illmer, 2021) This ship contained containers filled with billions of plastic pellets and various chemicals that leaked after the ship hull sank into the ocean bed while the other part was in flames for several days. As a result, many marine creatures washed up on the shores because of being contaminated by the

leakage. Hence, this created a major environmental threat and made many lose their livelihood of the fishery. Public Interest Litigation on Fundamental Rights was filed for the Common Good by the Archbishop of Colombo, Environmental Scientist Ms. Ajantha Perera, and several others while the Centre for Environmental Justice sued the Government and the Ship company concerning the marine life and moreover, a criminal inquiry was heard by Sri Lanka's Criminal Investigation Department by questioning the Ship authorities on affairs that led to this disaster. (Weerathne, 2021), (The Maritime Executive, 2021). This could be seen as one of the contemporary events that occurred threatening the Common Good of the people. The Sri Lankan government claimed compensation and insurance money from the shipping company and a part of which was dedicated to the Common Good. This shows the importance of Rule of Law which was used in directing the claimed money towards the Common Good and benefit of the affected people.

Another example is the hazardous waste that was uncovered by the Sri Lankan Custom, whereby, 263 containers filled with plastic, electronic and medical waste were found. Sri Lanka is a signatory to the 'Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal' and the exporters are required to obtain consent before sending biohazardous waste; this made it an illegal shipment. The Centre for Environmental Justice has filed a petition regarding the re-export while highlighting the environmental and health threat to the general public and Sri Lanka also claimed compensation under the Basel Convention while CEA stood up in investigating those who are responsible for importing hazardous waste threatening the Common Good by it. In upholding the Rule of Law the Sri Lankan Government has improved the Imports and Exports Act No. 01 of 1969 and is yet to

introduce an enabling legislation on the Basel Convention for the Common Good. (Rodrigo, 2020).

5. Conclusion

In essence, it must be noted that discretion is given to the public authorities to be used for the benefit of the people and the purpose of Rule of Law is to treat people equally and have a checks and balances system among the organs of the government. When considering the current situation, judicial review is used to evaluate arbitrary decisions which are taken by administrative authorities. For this, the Courts have accepted direct democracy to a certain extent by enabling the public to act on behalf of another. This representation shall advantage the whole society in the present and in the near future. Moreover, the Rule of Law is considered as an essential element in its use for the Common Good, and therefore, it can be successfully concluded that Rule of Law is the essence of the concept of the Common Good. When analyzing the decided cases, it was evident that the Rule of Law has been a paramount factor in Public Interest Litigations, which mainly consider the Common Good of the people.

According to the Mundy Case, the powers of the administrative authorities must be used only and for only the Common Good of the people, and it could be seen that the government has a preliminary duty in protecting the environment for the Common Good of the people. In the case of Noble Resources International, even though the petitioner lacked *locus standi*, the court considered the future Common Good of the people and looked into the actions of public authorities while upholding the Rule of Law. In land acquisition, the authorities must always act objectively, and in the case of *De Silva vs. Atukorale*, it is evident that these authorities must acquire properties with an interest that benefits the public while upholding the Rule of

Law by agreeing with the laws implemented in relevant statutes enacted by the parliament for the Common Good of its citizens. Furthermore, this concept has been amplified by many case laws and incidents that took place in past decades on protecting the Public Interest which expanded the view of the judicial system in Sri Lanka as well as in other countries such as India. Finally, this study fortifies that this concept is preliminarily supplemented by Rule of Law and in other words, it is the essence of the concept of the Common Good.

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Abbreviations

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| EIAR | - Environmental Impact Assessment Report |
| RDA | - Road Development Authority |
| CEA | - Central Environmental Authority |
| SCAPC | - Standing Cabinet Appointed Procurement Committee |
| TEC | - Technical Evaluation Committee |
| UDA | - Urban Development Authority |

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