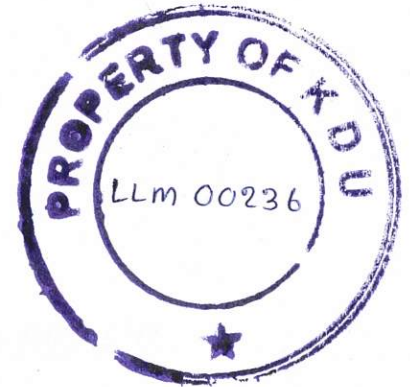


**THE IMPLEMENTATION OF THE
PUBLIC TRUST DOCTRINE TO
PROTECT PUBLIC PROPERTIES IN SRI
LANKA: A COMPARATIVE STUDY**

By

D.M. Yasasthri Priyangika Dissanayake

401LAW21026



Master of Laws

Faculty of Graduate studies

General Sir John Kotelawala Defense University

7th August 2024

ABSTRACT

Sri Lanka's low ranking of 115 out of 180 nations in the 2023 Transparency International Corruption Perceptions Index emphasizes how widespread mismanagement and corruption have destroyed the trust of the public. This paper investigates how the public trust doctrine can be used as a vital tool to protect public property and enhance governmental accountability. The Sri Lankan legal system currently bases its interpretation of the public trust concept mostly on environmental considerations, drawing its guidance from the principles of sovereignty found in Articles 3 and 4 of the Constitution. Its limited applicability has made it less useful for managing public property more broadly, indicating the necessity for broad legal interpretations. This research aims to fully comprehend the concept at its core, examine how it is implemented in Sri Lanka, investigate international best practices, and make recommendations for amending the current legal framework. This study uses a doctrinal research approach to examine Sri Lanka's legal and institutional frameworks in detail, using primary sources such as international and national law texts as well as secondary literature. The findings indicate even though some of these incidents which misused public property occurred more than ten years ago, those who committed them have not yet been brought to justice, and investigations are still underway. There are two primary issues that have been noted: actions filed negligently by the Attorney General with technical flaws and political intervention in investigations and case withdrawals. Moreover, a significant legal loophole identified is the absence of provisions to prosecute companies under the Offences Against Public Property Act No.12 of 1982. Therefore, this researcher highlights the unique features of public trust doctrine that protect public properties in Sri Lanka, such as the ability to perform a gap-filling function in the absence of positive law, empower people to question government decisions, empower courts to promote accountability and transparency in government, and serve as a ground for review. Researchers found out through investigation and analysis that those characteristics demonstrate that the public trust doctrine can be effectively implemented to protect public properties in Sri Lanka. Finally, for effective application of public trust doctrine for safeguarding public properties, researchers suggest new constitutional reforms, such as amending Article 17 and 126 of the Constitution to introduce private sector liability, expanding public interest Litigation, and also introducing social and economic rights. Through these recommendations, the government will be more responsive and accountable under this strategy, protecting the rights of the people to public properties and giving priority to their demands.

Key words - Public Trust Doctrine, Government Accountability, Public Properties, Judicial Interpretation