

Environmental Law

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Foreword

It would not be incorrect if environment is defined as a great miracle. The environment existed before mankind came into being so much so that his shapes, formation and even behaviour were created by it.

With the advancement of modern science, specially rapid development of the latest equipment and activities, human beings gradually neglected their attachment towards the environment thereby depleting the environmental conditions. However by the time they realised damage they have caused and dug their own grave they had reduced the environment to its minimum level.

The damages caused to the environment by mankind resulted in the birth of various International Laws, Conventions and Declarations. It also became necessary to adhere to them locally. There exists more than 100 Environmental Acts and Laws within the Sri Lankan legal framework. Some of which are unfortunately outdated. People also have minimal understanding of the existing laws, thereby reducing their beneficial affects. Based on these facts we were instigated to publish this book to enable people to understand Environmental Laws and make an attempt to explain the laws to the people in simple language.

I express my heartfelt thanks to the staff of Centre for Environmental Justice for writing, editing, co-ordinating, designing the cover and assisted in various ways and to Sithru Graphics for printing the book.

Hemantha Withanage

Executive Director

Centre for Environmental Justice.

The Environment

Environment can be described in simple language as us and all that surrounds us.

Environmental Rights

Our Laws have bestowed on us a collection of rights empowering us to preserve the environment, to manage the environment in development activities for minimizing the damage to environment and to prevent pollution.

Main Acts relevant to Environmental Law

(01) Constitution of 1978

It is mentioned that Protection of the environment is a State Policy.

The status of the law in the Constitution in relation to the environment:

Although the right to environment is not directly specified as a Fundamental Right, it is stated that in implementing the basic State Principles the state has the responsibility to conduct activities to preserve a "hygienic environment" Viz: by protection of the environment is bound as a State Policy.

1(a) Section 27(14) of the Constitution
"The State should protect, preserve and develop the environment for the benefit of the people"

1(b) Section 28(F) of the Constitution
"Protection of nature and natural resources is the duty of every Sri Lankan"

1(c) Relevant parts Schedule ix
Provincial Council List
Section 37

Concurrent list
Section 8.2
Section 18
Section 33



02) National Environmental Act No.47 of 1980

This act enables the establishment of a Central Environmental Authority(CEA), make provisions to empowers to define the powers, duties and functions to protect and manage and enhance the

environment and matters related or incidental thereto.

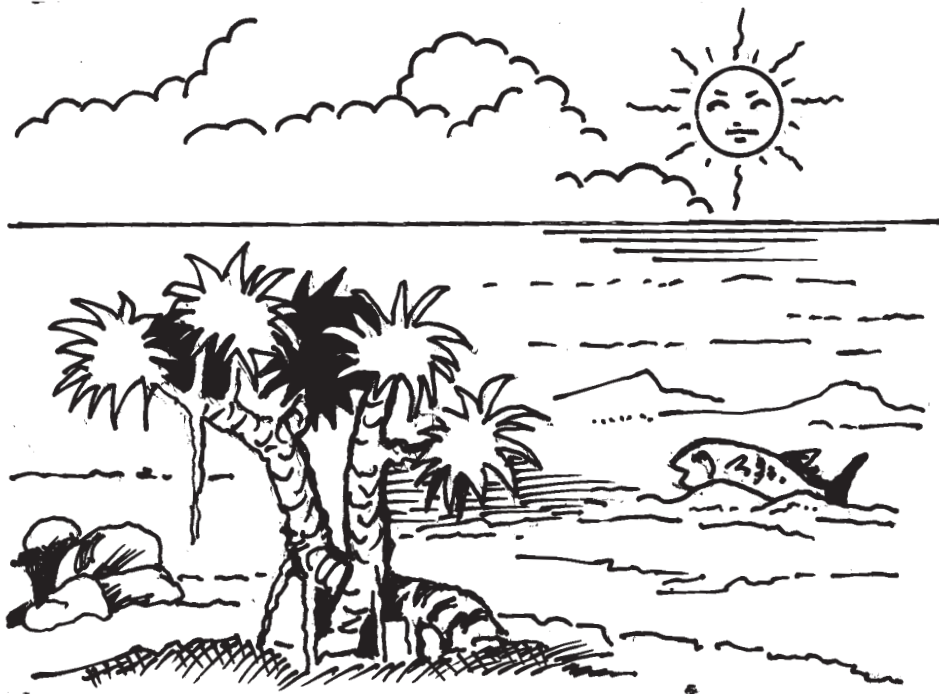
Under is the Environment Council is instituted, Members of which are Local Government, Finance, Plan Implementation, Lands, Health, Industries, Transport, Power and Energy, Highways, Agriculture, Fisheries, Tourism, Labour, Textile, Plantation, Foreign affairs, Education, Greater Colombo Economic Commission related ministerial nominees who should be a senior officer the current holder of the office of the General Manager of the Authority, 07 representatives of Voluntary Organizations of the environmental field.

Duties of the Environmental Council;

- (i) Advise the CEA regarding responsibilities, powers functions and its duties.
- (ii) Advise the CEA regarding any matters referred to the council by CEA

Duties of the CEA

- (i) Act to protect manage and maintain the status of the environment.
- (ii) Conduct evaluations and monitoring of pollution of the environment.
- (iii) Formulation of standards and guidelines for the beneficial use of the environment, protection and its sustainability.



- (iv) Publication of reports and information on certain matters regarding protection and management of the environment.
- (v) Ensuring that activities are in accordance with the Act and conducting monitoring and examination and conduct inquiries regarding complains of violations of the Act.
- (vi) Providing information and educating to the people regarding protection and enhance of the environment.
- (vii) Establishing and continuation of relations with other countries and international organizations protection and management of the environment.

Management of the Environment.

Entrusted with responsibilities regarding use of lands, management, management and preservation of natural resources , management of fisheries and aquatic resources ,careful use of fish resources ,management of wildlife, forestry management and conservation.

03. Coast Conservation Act No.57 of 1981

The Act consist of provisions regarding proposals for coastal conservation within the Coastal Zone for systematic management and control of development activities within the Coastal Zone.

- (i) Management of the Coastal Zone
- (ii) The procedure for permits.

Permit procedure

- # Notwithstanding the provisions of any other law, no person shall engage in any development activity other than a prescribed development activity within the Coastal Zone except under the authority of a permit issued on that behalf by the Director(14.1)

- # Having regard to the effect of those development activities in the long term stability, productivity and environmental quality of the Coastal Zone a permit may be obtained for development within the Coastal Zone from the Director.

- # An application for a permit for any development activity within the Coastal Zone should be forwarded to the Director.
- # Upon receipt of an application for a permit to engage in a development activity within the Coastal Zone , the director may require the applicant to furnish an Environmental Impact Assessment (EIA) relating to such development activity. It is the duty of the applicant to act accordingly.
- # No person shall construct an unauthorized house, create a building site, erect a shed within the Coastal Zone from the date the Act came into force.
- # The Director shall paste a notice in a visible part of an unauthorized building and according to circumstances notify the owner or resident to demolish and remove the unauthorized construction within a specified period mentioned therein.
- # If any person is dissatisfied with the Director's order he may submit an appeal to the Secretary to the Ministry under whose purview Coastal Conservation comes.
- # Where any unauthorized structure is not demolished the Director shall cause it to be demolished and removed and the expenses incurred, by the Director will be treated as a debt owed to the Government and recovered from the owners or residents.

04. Fauna and Flora Protection Ordinance

The main functions of this Act are the declaration of reservation and protection of Fauna and Flora.

The Minister may in accordance with Section 2 of the Act declare by Gazette Notification a specified area of land as a reserve.

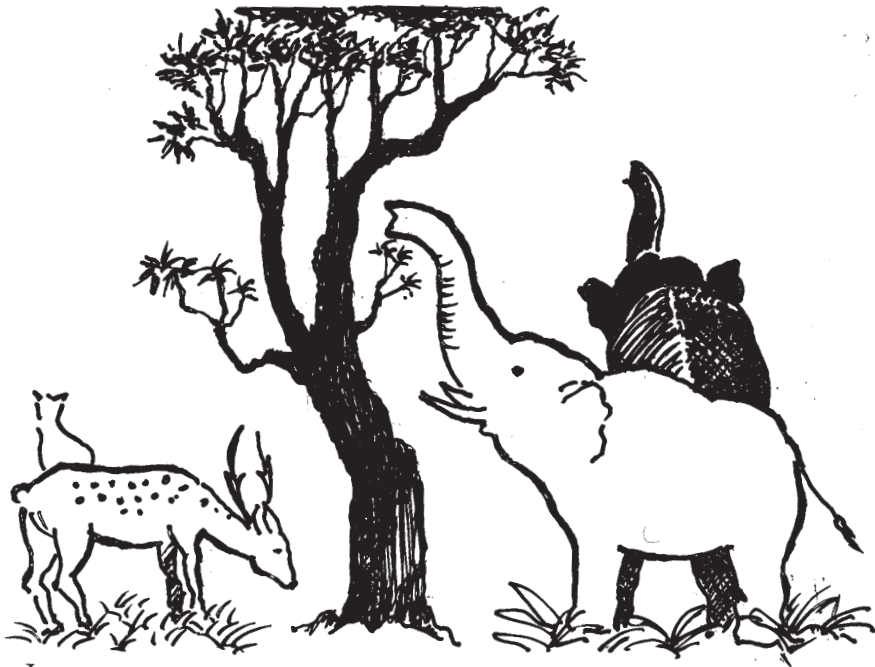
National Reserves (State lands only) under Section 2(1) and sanctuaries (State as well as private lands) under Section 2(2)

National Reserves come under the following according to their nature

1. Strict Natural Reserves Ex: Haggala, Ritigala
2. National Parks Ex: Yala, Wilpattu, Udawlawwa, Wasgamuwa, Horton Plains
3. Nature Reserves
4. Jungle Corridor Refuge
5. Limits of a Reserve
6. Marine Reserves
7. Intermediate Zones

Provisions have been made for the protection of Fauna and Flora under the act and elephants have been considered as a special category. Not only this animal but also those selling of tusks, teeth, body parts of articles made from them will be penalized and fined.

Also, Buffaloes are provided a special place, in addition to other animals (other mammals,



reptiles, birds, amphibians, fish, worms) are protected generally.

Under the said Act, export of animals and parts of plants are systematized. Almost equal protection is granted to animals and plants under this Act.

05. Nuisance Ordinance

06. Pradeshiya Sabas Act

07. Urban Councils Act

08. Municipal Councils Act No.16 of 1947

09. Police Ordinance

10. Penile Code

Chapter xiv and Sections 261 to 283 are important

11. Code of Criminal Procedure Act

Laws relating to Public Nuisance

In addition to the above environmental Laws Public nuisances are also considered as criminal offence that will lead to State Prosecution according to Sri Lankan law. Provisions have been made under Chapter IX of the Code of Criminal Procedure Act. Section 98 therein, specified what public nuisance are.



Public nuisances are...

Any person whose actions or omissions in the use of a human right cause hindrance or obstruction.

The steps which can be taken when received a report of such a nuisance by a Magistrate, are been described in this Act. If necessary, Magistrate has the power to lead ex parte evidence regarding this and

can issue a conditional order or an order of Injunction.

The person who subject to such an order should comply with the same or should come before the courts to show courses and make some alterations to the order.

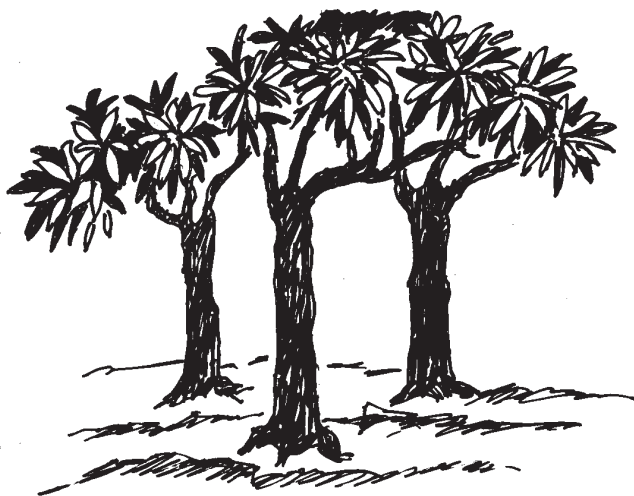
If not, he subjected to be penalized under section 185 of the Act of Criminal Procedure Code, and the Conditional Order will might be become absolute.

12. Antiquities Ordinance

13. Treasure Trove Ordinance

14. National Heritage Wilderness Areas Act No: 03 of 1988

This act was enacted in 1988 and its aim was to declare National Heritage Wilderness Areas, protect and develop them. This empower the Minister to declare any state land with one or more factors such



as physical and biological formation and precisely delineated areas while constitute the habitat of threatened species animals and plants of outstanding.

However for this purpose the Minister shall consult;

- # The Minister in charge of the subject of Environment.
- # The Minister in charge of Fisheries.
- # The Minister in charge of Agriculture
- # The Minister in charge of Cultural Affairs.
- # The Minister in charge of Indigenous Medicine.

There After a Natural Heritage Wilderness Area can be declared by a Gazette Notification. Provisions are made in Section 2.

No order under this section shall have effect until it is approved by the President and confirmed by parliament and notification of such approval and confirmation is published in the gazette.

Actions prohibited in a Natural Heritage Wilderness Area are specified in sub section 4(1) of the Act.

15. Forest Ordinance No 16 of 1907

The Forest Ordinance is also a Protection Act similar to the Fauna and Flora Protection Act individual above.

The Department of Forest Conservation was established under this Act. Unlike the wildlife

Conservation Department. this department controls the removal of timber from areas coming under their purview with the firm intention of making a profit. Planting activities are done on large scale by this department

Various categories of conserved forests come under this Act and Sinharaja and Knuckles are exclusively reserved for conservation. No timber or other products for obtained from such areas.

16. State Land Ordinance.

17. Soil Conservation Act.

18. Control of Pesticides Act No 33 of 1980.

This specifies the legal aspects of import, packing, labeling, storage, mixing, transport and use of pesticides. "Pesticides" are defined as chemicals used for the control of pests which harm people, household pests and wild animals, croos and forests.. Pesticides include insecticides, bacteria and pest controls and weedicides.



Act No 33 of 1980 specified as the control of Pesticides Act was enacted to control the issue of permits, import, packing, labeling, storing, transport, selling and using of pesticides. An Authority to issue licenses for pesticides was established under this Act.



Pesticides packing and storing should be done avoiding their contact with food products as provided for in the Act. Nobody is permitted to produce, pack, distribute, sell or invite to sell pesticides without permission or a license from the Authority. However, imports can be made for research with the approval of the Authority. This section does not apply to Research Organizations.

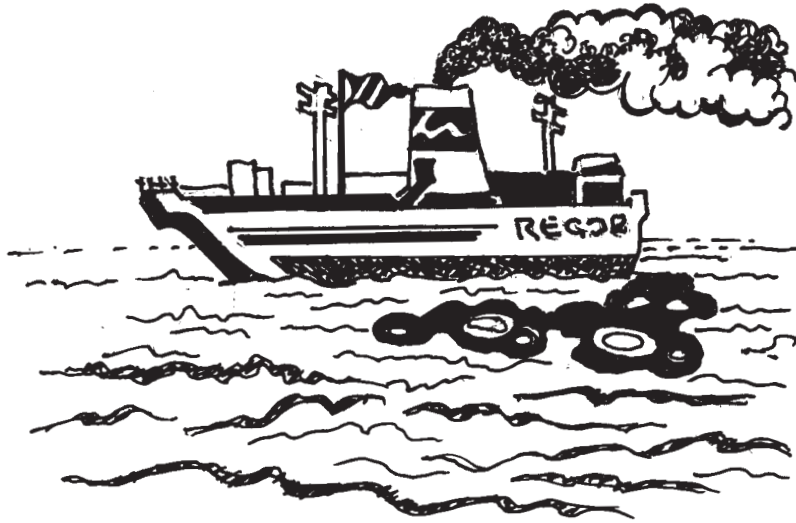
19. Mines and Minerals Act No 33 of 1992

20. Plants Protection Act No 35 of 1999

21. Land Acquisition Act.

22. Marine Pollution Prevention Act No.59 of 1981

This Act was enacted with the main intention of prevention, reduction, and control of marine pollution in the territorial water of Sri Lanka. The Marine Pollution Prevention Authority was established under this Act.



The aim of this Act is also implementation of the International Conventions and related matters pertaining to Marine Pollution.

An Authority was established under Section 2 of this Act to implement, control and prevention of marine pollution as provided for in the Act. The provisions of this act enables legal action against marine polluters both under civil and criminal laws. According to Section 03 of the Act a polluter of territorial water is liable for a criminal offence if sufficient reasons for his actions are unavailable. If marine pollution occurs due to leaks while transporting oil through pipes from one ship to another ship or pipeline the individual responsible is guilty of an offence. The offender if found guilty, may be fined up to Rs.1,000,000.

Section 06 of the Act specifies Civil liability regarding Marine Pollution. In the event of anyone



polluting the territorial waters or sea coast, as indicated in Section 03, then the offender under civil liability has to pay for damages caused, cost of removing any damage or bringing back to the situation which existed, as compensation. When claiming compensation the damages caused to fisheries activities, tourism, aquatic life and health of the coastal population, the expenses incurred for protection and conservation of aquatic life will be taken into consideration.

In accordance with provisions of the Act to where due to some reasons if any oil or other pollutant is dumped in the Sri Lankan territorial waters, the captain representative, owner or operator has to submit a complete report to the Authority. If he fails to do so, he will be guilty of the offence.

If due to result of an accident it is evident that there is imminent marine pollution, the Authority is empowered to discuss with the relevant Minister and issue orders to take steps to reduce pollution caused thereby.

The Minister is empowered under Section 17 of the Act to implement provisions of International Conventions signed by Sri Lanka and take action accordingly.

23. Fisheries and Aquatic Resources Act No.02 of 1996

This Act was enacted to make provisions for management, formulation, conservation and development of the Fisheries Industry and Aquatic resources.

The Fisheries ordinance, acts relating to Moluscs, oysters, killing of whales were repealed by the Fisheries and Aquatic Resources Act. All the above now come within the purview of the said Fisheries and Aquatic Resources Act. The sole intention of this procedure was for the management of, formulation development and conservation of fisheries resources. The protection of the bio-diversity and conservation of marine life is ensured by the provisions of the Act. It is stated in Section 27 of the Act that certain activities can be banned.

Eg: Dumping of wastes, adding explosives, dumping poisonous materials.



The Minister has the power to ban the use of certain fishing implements equipments and methods of catching fish which destroy aquatic resources under Section 28 of the Act.

Under Section 29 of the Act, it is specified that catching, selling possessing etc. of certain categories of fish can be banned by the Minister. This Section is of significance regarding conservation of fish species under threat of extinction. In addition, Gazette No. 948/5 dated 07.11.1996 has banned catching, selling, buying or possessing aquatic mammals or turtles. Likewise similar provisions are made in the Section 30 of the Fauna and Flora Protection Act.

24. Agrarian Development Act No.46 Of 2000

25. Plant Protection Act

The new Act was enacted in 1999 after repealing the Plant Protection ordinance No.10 of 1924. This Act was introduced with the aim of providing more important provision for the prevention of the spread of pests in plants, spread of plant diseases damages, protection of plants, action against introduction of plants which are a danger to Sri Lankan plants, prevention spread of such plants, animals.

Section 15 describes pests and accordingly a "pest" is a living being that can injure or damage or destroy a plant. It covers animals, migratory animals as well.

A weed is described in that Section as a plant which is challenging, persistent, damaging and that which obstructs human life. Indigenous and external migratory plants are also included.

The Director General of Agriculture may carry out inspections of house holds and instruct them on ways of preventing the spread of pests in accordance with Section 04 of the act. If action is not taken as instructed the Director General may authorize an officer to take necessary action as indicated in Section 06 and all expenses incurred will have to be borne by the landowners.

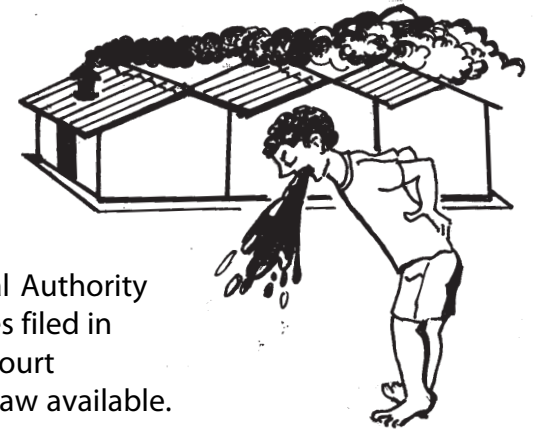
Additionally in accordance with Section 7, the Minister may declare, if any pest should be quarantined. If any pest is declared as a quarantined pest, import of such pest is banned except for scientific examination only by a Government Department or Corporation. If there is such a pest inside the country already, quick action has to be



taken to control it. The entry /import of pest is prevented under the provisions of this section.

Steps that can be taken regarding Environmental disputes / Environmental damaging projects;

- i) Writ Orders
- ii) Human Right cases
- iii) Nuisance Cases
- iv) 98 Cases
- v) Relief under Criminal Procedure Code and Code of Criminal Procedure Act and other Laws
- vi) Mediation
- vii) Assistance Obtained through the intervention of Government Institutions like the Central Environmental Authority and from cases filed in Magistrates Court according to law available.



Writ Orders

If any project is not conducted by a Government or Government officer without complying specified action or acted malafide (in bad faith) a writ case can be filed requesting that specified action be taken or quashing the incorrect action.

Ex; Muthurajawela case

Human Rights Case

A case may be filed under Article 12 of the Constitution for depriving enjoyment of equal environmental rights and thereby violating equal rights

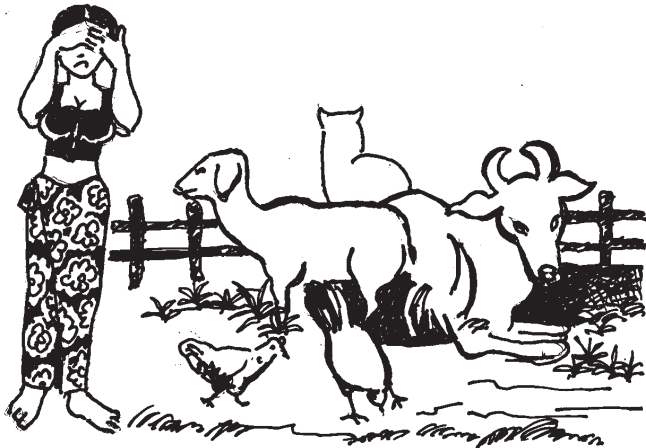
- EG. (1) protection of Eppawala Phosphate Deposit
- (2) Waters Edge Case(Sugathapala Mendis and Others Vs Chandrika Bandaranayake Kumaratunga)

Nuisance cases

(1) Statutory Nuisance

A nuisance defined in any statute as a Nuisance is considered as such .These nuisances can be penalized

1. Nuisance Ordinance No.15 of 1982
2. Urban Councils Act No.61 of 1939 (Relevant to public health)



3. Municipal Councils Act No.29 of 1947(Relevant to public health)

Punishments for offences are also included in these Acts.

(2) Private Nuisance

A case may be filed under this when an individual is deprived of his right to his property or land without obstructions.

(3) Public Nuisance (Case Under section 98 of the Act of Criminal Procedure Code)

Public nuisance is an act which is a danger to the general public or that done against them intentionally or an omission Under section 98 of the Code of Criminal Procedure Act the Magistrate may issue a conditional order for any such offence.

A Conditional Order is an initial order which the Magistrate issues without inquiring from the accused.

Accordingly,

- (a) any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river, or channel which is or may be lawfully used by the public or from any public place; or
- (b) that any trade or occupation or the keeping of any goods or merchandise should by reason of its being injurious to the health or physical comfort of the community be suppressed or removed or prohibited ; or

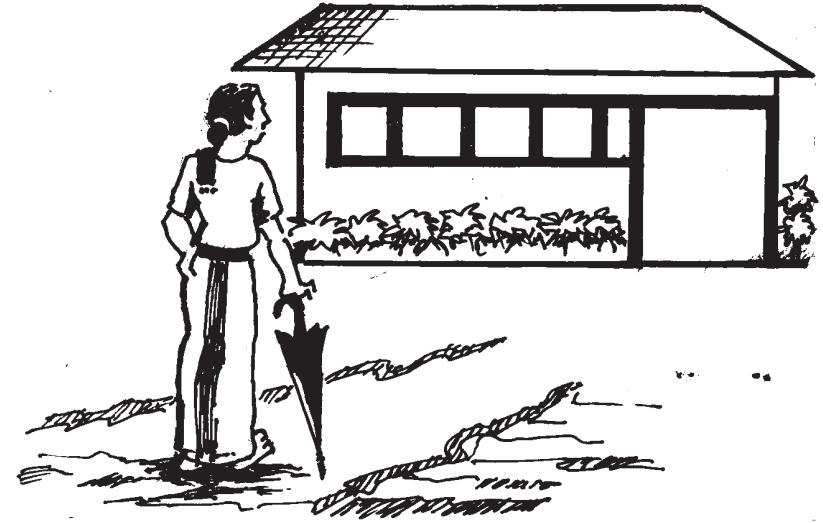
- (c) that the construction of any building or the disposal of any substance should as being likely to occasion conflagration or explosion be prevented or stopped ; or
- (d) that any building or tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by and that in consequence its removal, repair, or support is necessary; or
- (e) that any tank, well, or excavation adjacent to any such way or public place should be fenced in such a manner as to prevent danger arising to the public,

Any person on whom a conditional order is issued may appear before the Magistrate before expiring of the specified period and request for cancellation or review of the order.

The Magistrate under such conditions may call for witnesses and depending on the evidence and circumstances may issue a final order.

On the issue of a final order the defendant s to carry out the order issued by the courts within a specified period.

If the order is not carried out the, defendant may be penalized and the Magistrate’s order carried out for which expenses incurred has to be born by the defendant.



Powers and functions of Government institutions for the prevention of Nuisance Actions.

01. Powers and Functions of Local Authorities.

- 1.1 Action may be taken under Section 136(A) of the Municipal Councils Ordinance No.16 Of 1947 (as amended by No.42 of 1979 and No.39 of 1986)
- 1.2 Action may be taken under section 127(D) of the Urban Councils Act No.61 of 1939 (as amended by No.48 of 1984)
- 1.3 Action may taken under Section 106 of the Pradeshiya Sabha Ordinance No.15 of 1987

- 1.4 In addition the duties of conservation of the environment have been entrusted with the Local Government Institutions in accordance with power delegated under Section 26 of the National Environmental Act.
- 1.5 It is the duty of local government institutions to periodically carry out careful inspections in their authorized areas and ascertain the preventable offences under Section 100 of the Local Government Act No.15 of 1987.
- 1.6 Irregular activities conducted by owners of industries revealed during these inspections or by public complaints may be prosecuted under the National environmental Act in the Magistrate Courts.

- 2.3 The Police has been empowered to take action under provisions in sections 23A, 23AA, 23BB, 23H, 23K, 23N the National Environmental Act as per IGP's Circular No.1155/94
- 2.4 In addition, all police stations have been entrusted by IGP's Circular 1196/95 to take action against all forms of Environmental pollutions.
- 2.5 Provisions made under Section 56 of the Police Ordinance.

02. The Power and Responsibilities of Sri Lanka Police.



- 2.1 Actions may be taken under sections 98 to 106 of Chapter ix of the Act of Criminal Procedure Code No.15 of 1979.
- 2.2 Action may be taken to request the Magistrate's Courts to stop public nuisance under Section 261 of the Penal code No.02 of 1883

03. Actions that can be taken by the public if the Police and Local Government Authorities fail to execute their responsibilities

- 3.1 forwarding facts to the Environmental unit of the relevant Local Government Authorities
- 3.2 forwarding facts to the Divisional Forest Resources and Environmental Conservation Committee



- 3.3 Forwarding facts to the Environmental Committee in the district Secretariat.
- 3.4 Informing the Special Environment Unit under the Superintendent of Police (Criminal) at Police Head Quarters.
- 3.5 Complaining to the Courts under Section 136(1)(b) of the Code of Criminal Procedure Act No.15 of 1979
 - (i) Through an oral/written complaint to the Magistrate or
 - (ii) By a written report submitted to the Magistrate by Government law enforcement officers or by litigation for committing an offence under Public nuisance actions.
- 3.6 Obtaining a Writ against the Police and Local Authorities



- (3) Other Acts,
- (4) By Laws

Environmental management Powers and duties vested with Local Government Institutions by various Acts and Gazettes

Environmental management powers and duties are vested with Local Authorities by the following Acts,

- (1) National Environmental Act
- (2) Pradeshiya Sabha, Urban Councils, Municipal Councils Acts,

Provisions in these acts cover 04 fields

- (1) Systematic organization of the ground environment
- (2) Systematic organization of environment for favourable health
- (3) Prevention of nuisance acts
- (4) Conservation and management of the environment

Accordingly the grave responsibility of maintaining a health favourable environment for the residents

coming under their control is the responsibility of the Environmental Units established in the Local Authorities.

For fulfilling these aims the main duty of the Environmental Units should be the preparation of a suitable activity plan.

Duties entrusted with Local Authorities regarding the establishment and operation of an Environmental Units.

Organizing the institutional structure of the Environmental Unit

(1) Selection of office bearers

(i) Voluntary

(ii) By appointment

(2) Staff of the Environmental Unit

Environmental Officer, Public Health Inspectors, members, community Development Officers and Technical Officers will comprise this unit

(3) Training

A list of names of officers who require training should be forwarded to the Local Government Commissioner before the 31st of June annually.

(4) Assistance from office.



o Co-operation required and encouragement

o Providing of funds

o Providing stationery

o Creation of an environment suitable for maintaining of records and registers

o Implementation of proposals and decisions submitted by the Environmental Unit.



(2) Operation of the Environmental Unit

- (1) The officer nominated by the chairman of the Local Government Institution shall be appointed as the head of the Unit
- (2) An officer shall be appointed to co-ordinate with the Ministry of Environment and Central Environmental Authority.
- (3) The Environment Inspection Plan should be implemented
- (4) Issues and proposals should be discussed at the Divisional Forest Resources and Environment Protection Committee as applicable.
- (5) Proposals and decisions submitted by that committee should be implemented.
- (6) Good co-ordination with Environmental Development Officers should be maintained.

(3) Duties of the Environmental Unit.

- (1) An environment activity plan should be created for the area coming under its purview
- (2) Collection of information regarding the area
 - (a) Conducting surveys,
 - (b) Making records
 - (c) Updating such particulars every year and forwarding such copies to the following institutions.

Environmental Ministry of the Provincial Council

Central Environmental Authority

Power Devolution and Environment Development section The Ministry of Forest Resources and Environment

(3) Identifying environment issues.

Two methods can be followed to identify environmental problems within own administrative area and adjoining areas.

- (a) By implementing the Environmental Inspection Plan

A committee should be appointed with representatives from the following groups

Members of the Local Government Authorities

Members of the environmental unit

NGOs

- (b) Through public complaints

After observing environmental problems, the causes for them should be investigated .Investigations should be done to verify whether there have been any shortcomings when issuing Environmental Protection Licenses. If there are shortcomings ,the Ministry of Forest Resources and Environment

should be informed through a report once a year. A sub committee should be appointed for the purpose comprising of two individuals.

(04) Solving of issues of the area

(a) Own solutions

By public co-operation and resolution by explanation of facts

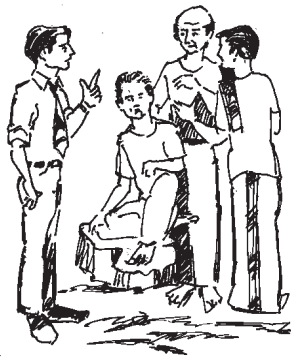
Issuing of restraining orders as relevant

By taking legal action or advising the public to take such action

(b) Solutions with the assistance of other institutions

Through Regional and District Forest Resources and Environment Protection Committee

Through the intervention of the Central Environmental Authority

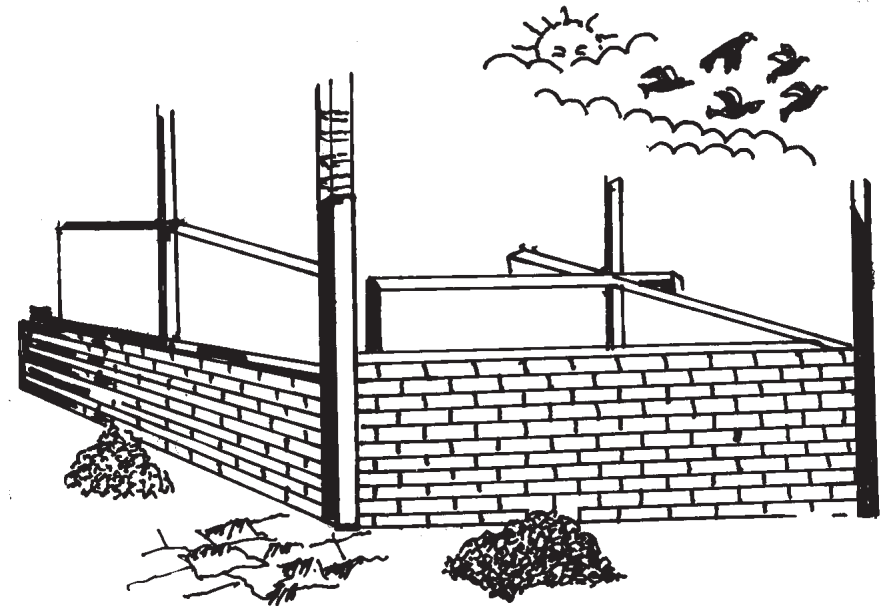


(05) Implementation of Environmental Protection activities entrusted by the Central Environmental Authority from time to time.

(06) Submitting of proposed Environment activities for the subsequent year to the Local government Commissioner by the 31st of November every year.

The importance of obtaining public Participation co-operation for Environmental Management.

As the day to day activities of the people happen through numerous environmental spheres obtaining public participation and co-operation for environmental management is very important.



Therefore all Local Government Authorities should obtain public co-operation for the management of the environment according to powers entrusted to them under the National Environmental Act.

For this purpose the public should be made aware of the way in which degradation of natural

resources at the area level. They should be made to clearly understand the situations under which environmental degradation occurs.

By obtaining public response to environmental problems in the area and degradation of natural resources a system can be formulated to obtain their maximum contribution to reduce the prevailing position.

In this instance practical programs will be very beneficial.

The Environmental Units of Local Government Authorities should take action to include sufficient programs to impart public understanding and knowledge in preparing the activity plan for the area coming under their purview and also plans to obtain participation in these programs.

An EIA (Environment Impact Assessment) or IEE (Initial Environment Examination) procedures should be followed before implementing any development project to ascertain whether or not that project is environment damaging.



Legal position regarding project approval

The procedure for obtaining licenses for construction of development projects within the coastal zone is described here. The rules and regulations on EIA are important.

Provisions under the Fauna and Flora Protection Ordinance.

The Act includes the EIA regulations regarding development activities within the area prescribed as protected areas.

Provisions under the National Environmental Act.

The regulations regarding IEE/EIA covers the whole island under this Act.



- o The Minister can specify the names of project approving under the National Environment Act to assess the IEE/EIA and which have the authority to grant or reject approval for the project in question.
- o Development projects done by both the state and private sectors have to obtain approval under this Act.
- o The project proponent may appeal to the Secretary of the Ministry against the rejection of approval for any project.
- o The Secretary's decision will be final.
- o If the project proponent has stopped its implementation or has made any alteration thereto PAA(Project Approving Agency) has to be duly informed.
- o Project Approving Agencies have to submit a report of all projects so approved to the Central Environmental Authority.
- o The activity is to pre-consider the damages that can be caused to the environment before construction of a proposed major project.
- o The affects to natural resources including the environment, affects to the people residing in the area, affects to their livelihood, affects to other development activities are studied by this procedure.

- o This procedure while enabling to identify methods to minimize adverse affects alternate proposals can also be made.

Gazettes issued in 1993 and 1995 specify in an environmentally valuable area. The CEA is vested with powers to nominate Project Approving Agencies with authority to approve individual projects.

Examples of Project Approving Agencies as amended by Gazette published No. 1995

- Coast Conservation Department
- Wildlife Conservation Department
- Urban Development Authority
- Central Environmental Authority and other specified institutions
- Ministries of Irrigation , Power and Energy, Agriculture, Lands, Construction and subject related Ministries

Duties of Project Approving Agencies

- 01 Directing for EIA and IEE
02. Specifying environment extent for which IEE / EIA is required.
03. Drafting terms of reference.
04. Obtaining technical evaluation and reviewing during EIA preparation and after.

05. Informing the public that IEE / EIA are open for review.
06. Responding and assessing comments consent of the made by the public and other institutions.
07. Inspecting whether the project is under careful supervision and whether conditions are conformed with.
08. Making arrangements to provide those preparing the report with information available with that institution with delegated authority and other sectors.
09. Obtaining CEA agreement concurrently at the time a decision is taken regarding the EIA report.

Under the 1993 Environmental Regulations

1. The project proponent has to forward the preliminary particulars of the project call for by the institution with delegated authority as early as possible.
2. The institution Project Approving institution may, according to circumstances, with concurrence of the Authority and review them for the IEE or EIA. Preliminary particulars include location maps other particulars called for by the Project Approving institutions and nature ,subjects covered and locations of the project should also be included.
3. The EIA should be published in a daily national newspaper published in Sinhala, Tamil & English.

4. The public should be invited to forward their comments to the Project Approving institution within 30 days from the date of publication of the notice.
5. Arrangements should be made to furnish those who wish to obtain with a copy of the IEE / EIA with one.
6. After the lapse of the period for comments on the IEE/EIA ,the Project Approving institution should forward the comments to the project proponent within 66 days to obtain his response.
7. If the institution is of the opinion that the request, proposals, criticisms are justifiable the Project Approving institution shall request those who submitted the comments to provide proof of same.
8. The project proponent should submit his response in writing to the Project Approving institution.
9. In the case of an EIA, the Project Approving institution shall within a period of 30 days, with the concurrence of the CEA;
 - Grant approval for the proposed project subject to the specified conditions
 - If approval is refused for implementation of the project reasons should be attributed for same

Circulars issued in respect of Public Nuisances;

- i. Inspector General of Police Circular No.1196/95
- ii. Criminal Branches Circulation No.05 of 1995

My No.C4/199/95
Police Head Quarters,
Colombo 01.

30th March, 1995.

Area Deputy I.G.P.s
Superintendent of Police in charge of Divisions
Assistant . Superintendent of Police in charge of Districts
Officer in Charge of Police

Nuisance caused to the public

The following instructions have been issued for implementation by Police Officers and Police Stations in accordance with comprehensive agreement reached on behalf of the Police Department by the IGP and the Honourable Minister of Transport, Environmental and Women's Affairs Mrs. Srimani Athulathmudali.

01. Strong action has to be taken by Police Officers in respect of Public Complaints regarding Environment related offences.

02. Filing of court cases may be done by giving them some priority after recording by making entries and conducting inquiries.
03. A section to enforce environmental laws has been established at the Police Headquarters under the DIG (Criminal and Enforcement) with the assistance of SSP (Director/Criminal). Monitoring of implementation of the said circular is also done by this section.
04. Environmental Offences are included in two wide ranging categories as follows;
 - i. Public Offences
 - ii. Offences committed under the NEA (Ref. IGP's Circular No. 1155/94 of 09th July 1994 relating to offences under the NEA.
05. This Circular refers to nuisances caused to the public and are included in two categories. Public nuisances caused to the public and individuals and those which are caused to the neighbours or to the public giving rise to problems Noise, Vibration, Garbage Dumping, smoke and vapor emissions and dust are common public nuisances.

Ex: Causing materials which are a danger to human health to flow into waterways etc. using



explosives which are a danger to public, neighbours in mines and quarries.

06. The Police have to act according to one or both the following steps in taking action regarding public nuisances.

- a) Offenders can be prosecuted for public nuisances under Section 261 and subsequent Section provided in the Penile Code No.02 of 1883.
- b). The public can request the Magistrate's Court to intervene for reduction of public nuisance actions according to Section 98 of the Code of Criminal Procedure Act.

07. As punishments under Section 261 and subsequent Sections aforesaid are too lenient and those affected and the public do not have any alteration. Police are ordered to take steps requesting courts to intervene and reduce public nuisances, under Section 98 of the Criminal Procedure Code

08. Procedure for reduction of nuisances

- a) Indicating names of Petitioner and Offender
- b) Indicating clearly facts regarding public nuisances committed
- c) Requesting Courts to issue a Conditional Order forbidding causing of public nuisance acts.
- d) On receipt of a report Courts will order the police to produce evidence of causing Public Nuisance

Actions. As an important course of action, the Police have to inform the Petitioners, the Public Health Inspector or MOH or other relevant officers to appear in courts on the first instances.

- e) The Court being satisfied with the report/ or evidence a Conditional Order(if necessary on instructions) will be issued immediately forbidding the nuisance according to the circumstances. The Court should not issue and the Police should not request to issue of summons on the Respondents. These cases do not come under usual criminal cases and it is a special procedural Section



- f) On the issue of a Conditional Order, a public nuisance action has to be completely stopped within the period specified by the Courts and the period permitted should be informed to the offenders by the Police or fiscal.

On receipt of such an Order the recipient should present himself in Court within the specified period (normally 10-14 days) and may request for removal of the Order or alteration for same.

- g) Such person may submit reason against such Order or will have to abide by the Order under Section 100.if he fails to do either of the two, he

will be penalized in accordance with section 185 of the Penile Code.

- h) When such person appears in court under Section 101 and submits reasons the Magistrate may call for evidence and remove, alter or confirm such Order.
- i) When the Order is confirmed under Section 102 the Magistrate has to inform the relevant person and he will be further informed that he should comply with the terms specified in the Order. If such person disobeys the Order he will be liable for penalization under Section 185 of the Penile Code.
- j) In instances where immediate action is required to prevent imminent danger or tragedy or serious injury to the public a injunction Order can be issued under Section 104 to prevent the tragedy or injury.
- k) The offender (Respondent) may be an individual, a group, a company, regional authority or Government Institution. The law must be applied equally to all. All parties or owners should be Respondents in the case of a company. In the case of a government Corporation the case should be filed in the Corporation's name while it will be the Departmental Head in the area if it is a Government Department.