

RIGHT TO BREATHE CLEAN AIR: A CRITICAL LEGAL ANALYSIS ON THE EFFECTIVENESS OF THE LAW IN ENHANCING AIR QUALITY IN SRI LANKA

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Abstract: The quality of the ambient air in many areas of the island has proven not conducive to a healthy environment for the people living in various areas of the island. Toxic emissions have or may have a significant detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions, and cultural heritage. This has an adverse effect on promoting and advancing the social, economic and cultural advancement of the people. The health impacts associated with polluted ambient air fall most heavily on the poor, the old, infants, and women. Pro-contra air pollution carries not only high social, and economic cost but also environmental cost, which is seldomly borne by the polluter. It is an indisputable fact that everyone has an inherent right to an environment that is not harmful to their health or well-being. The present generation also bears the responsibility to protect and preserve a pollution-free air for future generations. This research aimed to analyze the existing national legal framework in Sri Lanka in mitigating air pollution. The research employed the black letter of the law and international and comparative methodology. The Constitution, National Environment Act, Code of Criminal Procedure Act and Conventions, and decided cases constitute the primary sources whereas the scholarly articles constitute secondary sources. The research findings emphasize that despite the fact that there is no express constitutional provision which recognizes the right to a healthy environment nor right to breathe clean air, the provisions in the National Environment Act and Code of Criminal Procedure Act adequately deal with enhancing the ambient quality of air. The research concludes both the state and the citizens have an equal obligation to preserve the quality of air not only to safeguard the interest of the present generation but also to preserve the same for the future generation since there is an inextricable relationship between the quality of air and one's health.

Keywords: Air pollution; Ambient air quality; Environment; Health; Pollutants