

# Unheeded Governance Leads to Falling off Ecosystems: Critical Analysis on Human Interactions with Nonhuman Organisms

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**Abstract**— *Different arguments have been raised by various scholars in relation to maintaining biodiversity and assurance of animal welfare. At the mean time several threats were posted against the sustainable development of ecosystems due to unheeded governance of mankind. Certain individuals and various nongovernmental organizations have raised their voice on behalf of nonhuman organisms, to share the environment equally among all living beings amidst severe protests. Yet another threat prevails from harmful and dangerous species such as venomous snakes, communicative insects and uncontrollable species. However still the law has not demarcated any binary between conservable and destroyable species and any legal system has not pronounced appropriate rationale in terms of reserving proportionate portion for each species against human dominance. This paper intends to investigate appropriate demarcation for conservable species based on sustainable development of ecosystems excluding human factor. It strives to resolve the research problem, “Why certain nonhuman species are differently treated while others are legally protected? It covers up with following research questions. “Which are beneficial and which are dangerous? Why certain kind of species are protected while some are allowed to slaughter? Whether the sustainable development of ecosystems is the only factor to ensure the survival of nonhuman organisms. What is the rationale behind the law to implement rules and regulations on behalf of part of the species and whether the principle of equality before the law applicable for nonhumans? Primary objective of this research is to declare legal standing for nonhuman organisms in terms of assuring their wellbeing and to provide proportionately appropriate opportunities for all in spite of human factor. Mainly this research follows the black letter approach.*

**Keywords**— **Ecosystems, Nonhuman organisms, Human interactions**

## I. INTRODUCTION

Sri Lanka is a paradise having diverse range of fauna and flora and enormous deposits of natural resources. She also holds the highest endemic ratio per unit in the Asian region. There are twenty four percent endemic flora species in Sri Lanka out of nearly three thousand species of plants. Further she holds twenty endemic bird varieties out of approximately four hundred and thirty species and ten endemic mammal varieties out of eighty four species. (Guneratne, 1996) All these species are contained and interacted with community of living organisms in conjunction with the nonliving components of their environment, which is an ecosystem. (Chapin et al. (2002), et al., n.d.) The existence and survival of all these biotic and abiotic components which are linked with nutrient cycles and energy flows are endangered due to the merciless dominance and peculiar behavior of human beings. Human supremacy leads to ignore the existence of other nonhuman organisms exclusive of their avails. At the same time they pronounce that human beings are not the sole owners of the planet and planet should share with all. However the human beings have realized that nonhuman organisms should inevitably protected due to the overwhelming necessity of them for the existence of eco systems. This ambiguity reflects even in the animal conservation and preserving laws. It is very hard to identify stipulated demarcation of laws between conservable and destroyable animals and live stocks. As well as it is required to understand the legal personality of harmful organisms such as pest and vermin. This paper aims to investigate the rationale behind the laws for conserving, destroying and slaughtering of animals.

Sri Lanka has implemented various laws to preserve and conserve the environment and particularly the rich ecosystems. Approximately Sri Lanka is having eighty different laws to govern various environment aspects. Further several state institutions and departments have been allotted to administer these legislations. However many of the individual legislations are addressing same issues and institutional mandates are overlapping and come into conflict with each other. Current economic policy towards the industrialization, badly planned

agricultural settlements and massive hydropower projects have led to destruction of dense forest cover and massive environmental damage which may lead to collapse of ecosystems. Human intervention for the protection of other species will be required, when the human dominance extends up to the menace. They will not stop their ascendancy until it sirens their decadence. Hence now, it is high time to examine the legality of nonhuman organisms before this remarkable detriment, since already their existence have been challenged.

## II. SCIENTIFIC APPROACH OF THE STUDY

Legal standing and legal rights are two different folds that can be attributed the upright existence of nonhuman organisms. However among many individual efforts to establish a legal identity for nonhuman organisms as yet they are abandon before human dominance. Now it is high time to investigate any other possible means to establish or affirm the proportionate mechanism for endurance of each variety of nonhuman organisms. Since the human beings proceed towards the betterment of humankind, it is obvious that humans do not tolerate the sustainability of harmful species such as certain pests and vermin and they make every endeavour to eradicate such species from the earth. (caterpillar called "sena" which was a calamity for sorghum cultivation in south Asian countries recently) Further they make every effort to protect beneficial species for the existence of humankind in different manner. Accordingly it is clear that all the nonhuman organisms cannot be treated equally and a rational and legal demarcation should be identified to categorize nonhuman organisms. Their contribution for the existence of ecosystems also should be taken in to consideration in this categorization. This paper attempts to identify proper mechanism to categorize nonhuman organisms to uphold their legal standing and legal rights and the consequences of their undue abandonment.

This research is mainly based on secondary data which is hunt out from the library resources. Further some eminent professionals and scholars engaged in the field were contributed a lot to investigate an appropriate solution to find out a binary between useful and harmful nonhuman organisms. However there is a lacuna in law in relation to the legal standing of nonhuman organisms and the identification of their legal rights. This research followed the qualitative research methodology and black letter approach. Main focus of this study is to identify an appropriate mechanism to categorize nonhuman organisms under proper legal standing and ensure their legal rights away from human factor. This will provide

indirect and constructive solution for falling off ecosystems .

## III. LAWS PERTAINING TO PRESERVING OF NONHUMAN ORGANISMS IN SRI LANKA

There is a distinction in law between two kinds of entities: persons and nonpersons. The former have rights, and the latter are mere things that can be owned and which don't have rights. (Anon., n.d.) However until resolving the dispute pertaining to the legal status of nonhuman organisms, they will not be secured before the law.

Sri Lankan legal system is enriched with various statutory laws, procedural mechanisms, action plans and institutional framework to preserve the environmental components precisely. First and foremost legal assurance have been granted through the Constitution of Sri Lanka by the Article 27 (14) under the directive principles of state policy and fundamental duties<sup>1</sup> and declaring to protect nature and conserve its riches as a duty for every person in Sri Lanka by the Article 28(f). Accordingly the state is obliged to protect, preserve and improve the environment for the benefit of the community as a duty bearer. In broad sense "community" may consist with all biotics; though they are legal entity or not. Hence Sri Lankan constitution is very broadly interpreted the rights of the nonhuman organisms even though they are nonlegal or nonperson entities. On the other hand if the "community" interprets as "civil community" it is wrong to violate the rights of any vulnerable group which would be deprived from such community. Accordingly one can argue that the rights of the nonhuman organisms are secured by the Sri Lankan constitution.

Among the other legislations the National Environment Act No 47 of 1980 has served a significant justice to the environment with two incorporated governing bodies; Central Environment Authority and Environmental Council. This piece of legislation has paid the full attention to preserve the environment and ensure the environmental quality rather than conserving biotic species.

The Fauna and flora protection Ordinance No. 2 of 1937 is the foremost legislation implemented to provide the protection and conservation of the fauna and flora of Sri Lanka and their habitats; for the prevention of commercial and other misuse of such fauna and flora and their habitats, for the conservation of the biodiversity. It has been covered the several areas of endangered species. The rationale behind the demarcation of protection of species

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<sup>1</sup> 27 (14) - The state shall protect, preserve and improve the environment for the benefit of the community.

is apparently vague and legal protection for the survival of the unprotected species is in danger. World order has very much concerned on the survival of the kinds of animals rather ensuring the existence of individual organisms under the biodiversity protection mechanisms.

Most of the Sri Lankan virgin forests have been declared as sanctuaries under Forest Department and Department of wildlife conservation. Thirty one forests have been designated as conservation forests up to now under previous governmental institutions. (Environment, 1998) Activities pertaining to these forests have been regularized by various statutory laws and initiatives. Section 7 of the Fauna and Flora Ordinance have regulated the acts of sanctuaries by prohibiting certain acts such as firing, wounding, injuring, hunting, destroying eggs or disturbing wild animals in any manner, even sale or purchase or keeping with the custody of any such item of wild animal. It reckon the animals under different categories such as elephants, boffolas, birds, amphibians, fishes and invertebrates and imposed specific protection for each category. Accordingly it is clear that Fauna and Flora Ordinance has precisely regularized the human activities against nonhuman animals. The rationale of this law is to preserve nonhuman animals which are helpless before undue human interactions and to ensure the prevalence of the natural nutrient cycles and energy flows embedded with ecosystems. Accordingly the overwhelming nonhuman organisms have become an silent vulnerable group of right holders and the state has obliged to protect their rights as duty bearer under the directive principles of state policy. However any of these laws have not precisely address the legal existence or the legal standing of nonhuman organisms.

Animals Act No. 20 of 1964 is another legislation implemented in relation to regulating matters concerned animals. It has provided provisions to regulate the slaughter of animals and connected matters, to provide for the seizure and detention of animals which commit trespass and to provide for measures for the improvement of the breed of animals. Apparently the animals Act has not addressed the ecological balance and human intervention to control the animal breeding. It is very clear that human intervention is highly required to maintain ecosystems due to undue influences which they have already committed. Following instance of Jamaica explains the danger of undue intervention of people to control ecosystems. Due to an unbearable increase in the populations of rats, their traditional nutrition and sugar plantations were fallen down. It was necessary to take immediate action against the rats, so an East Indian predatory cat was imported, the mongoose. These animals did take care of the rats in an impressive manner. But they

reproduced themselves so quickly that soon there were more mongooses than rats. Then, for hunger, in the absence of rats they pounced on fowls, lambs, land-bound birds, reptiles and similar animals. They all had nourished themselves from small animals, which now gained the upper hand. The entire previous eco-system had gone out of control. (Tonnie, 1992) Accordingly it is clear that legal controls should be introduced, following a comprehensive study on metamorphic changes of any ecosystem while conserving endemic species and strengthening economic strategies for sustainable development.

Conservation of nonhuman organisms and make use of livestock are two different aspects should be taken into consideration by any utopian regime determining the ecological governance. Maintaining the balance between these two limbs is much difficult in the sense of animal rights. It is much unethical to distinguish animals based on their habitats for legalizing the slaughter of animals. These antagonistic laws clearly highlight that the rationale and the direction of laws are pointed towards the betterment or the sustainable development of the sole mankind rather than all bona fide biotics. Further it pronounce that all the endeavors towards the conservation of nonhuman organisms are also pretend their mere betterment, rather affirming their bona fide existence.

#### IV. LEGAL STATUS AND CHALLENGES BEFORE NONHUMAN ORGANISMS

It is very important to understand the categorization of nonhuman organisms under the legal pronouncements. Both common and civil law systems categorize nonhuman organisms as properties while certain groups are trying to understand them as legal persons or right holders. However modern dialog regarding the moral standing of nonhuman organisms is highly debatable on rationality and autonomy of animals. Peter Singer asserts that the interests of humans and animals should receive equal moral consideration because both have the ability to suffer, feel pain and experience enjoyment. (Singer, 2002) Further Gary Francione extends this dialog up to the possibility of determining nonhuman organisms as right holders. He professes that "when the legal system mixes rights considerations with utilitarian considerations and only one of two affected parties has rights, then the outcome is almost certain to be determined in favour of the right holder". (Francione, 2007) At present even though certain groups are straggling to share the environment equally and harmony with nonhuman organisms human community has established perpetual classification against all the other biotic and abiotic things as their belongings. Affirming this argument in different aspects Epstein stresses that " The property status of

animals offers more advantages to animals than disadvantages, especially as it secures food, shelter and veterinary care for them. He further argues that animals benefit from more humane deaths in the care of humans than they would in the wild. (Epstein, 2004). Accordingly all the animals would be governed and controlled by the humans as their wish due to their less advancements. Though this egotistical argument is fair for live stocks, it is impossible to guard all the wild animals. Garner brings the dialog into different arena by arguing to maintaining the status quo. He argues that “ Animals having legal rights would not guarantee their protection, and gives the example of states that have proclaimed human rights, but failed to prevent human exploitation” (Garner, 2002). Further he distinguish legal rights and legal standing and recommends to grant legal standing to animals and strengthen the animal welfare legislations to uphold the animal welfare rather treated them equally.

Understanding of prevailing and upcoming challenges before nonhuman organisms will support to ensure the protection and strengthen the welfare of them. Several researches conducted through past 20 years by veteran scholars in the faunalytics sector on challenges before animal community have been revealed five basic challenges in relation to the animal protection. Awareness of animal protection rate is very low comparative to the other environmental and social issues. People resist on restrictions imposed on them for the protection of animals and to accomplish animal welfare mechanisms. Majority of the human community disagree with the notion of animals should have the same moral rights as humans. Further the majority believes that animal care takers are the best animal welfare providers and episodic cruelty and animal abuses are considerably minimal. Further the large segment of the population believes that position of the animal advocates are extreme. (Anon., n.d.) These reasons have been declared as the challenges before animal welfare in the social aspect. However the legislative and procedural protection supplied by the state parties and international instruments towards the nonhuman organisms are insufficient to ensure their sustainable wellbeing.

The respective legal authorities of Sri Lanka have identified foremost challenges before ecological biodiversity as encroachment, illegal extraction of natural resources, clearing for agriculture, forest fires, development projects and poaching. (Mario Gomaz, 2009) IUCN Red List has announced that some of the districts of Sri Lanka, belongs to lowland wet zone and central highlands harboring number of threatened species. (MENR, 2007) Sri Lankan government is abide by the international legal instruments to preserve all those endemic and threatened vulnerable species whatever the local mandate implemented thereof.

Accordingly it is clear that threatened vulnerabilities which included in the IUCN Red list are having legal standing and they should be preserved as per the international agenda.

Economic policies and political agendas of most of the states are the biggest challenge against the endurance of the ecosystems. Ecosystems provide "Natural Capital" that serves as the underpinnings for human welfare, although their value goes unrecognized in national capital accounts. (Salah El Serafy, 1997 ) Massive hydropower projects and asymmetric government plans to open up state lands for agricultural projects were badly affected to survival of the nonhuman organisms. Further the ecologically sensitive areas of state lands were encroached by landless growing population. Destruction of forests has been posed adverse impacts on environment and human health. Most of the climate changes and the global warming issue are the consequences of neglecting the both local and global standing of “Natural Capital”. Since the nonhuman organisms are one of the major component of the natural capital, they cannot be exempted in enumerating the national and global contribution for the betterment of the humankind.

#### V. INTERNATIONAL LEGAL STANDS ON NONHUMAN ORGANISMS

The United Nations Convention on Biological Diversity (CBD) came into operation on 29<sup>th</sup> December, 1993 with the intention of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Sri Lanka ratified the Convention on 23<sup>rd</sup> March 1994 with immediate effect. Mainly this convention has focused the acquisition of genetic resources and ensuring the benefits of such genetic materials rather than assuring the wellbeing of the nonhuman living organisms. It devoted to preserve the possession of the genetic resources rather preserving legal standing of the nonhuman organisms. States has empowered to exploit their natural resources pursuant to their own environmental policies, without damaging to the environment of other states by the Article 3 of the convention. It is evident that the convention per se has not intended to preserve individual protection of the species. However, Sri Lanka has not yet taken any progressive approach to implement specific law pertaining to access to genetic resources or to the conservation of biological diversity apart from the moderate approach entailed with Fauna and Flora Protection Ordinance, Forest Ordinance and The National Heritage Wilderness Areas Act.

Both U.N. Stockholm Declaration<sup>2</sup> and U.N. Rio De Janeiro Declaration<sup>3</sup> emphasize the entitlement of the state to exploit its own resources pursuant to its own environmental and development policies. However it is required to strike a balance between development and environment as per the principle 14 of the Stockholm Declaration to culminate the pinnacle of healthy and productive life in harmony with nature. This human endeavor would not be achievable until human beings get ready to share the environment equally with other nonhuman organisms, since both human and nonhuman organisms are part and partial to the environment and the sustainability of the environment will depend on all. Human may either utilize nonhuman organisms captiously for the betterment of mankind or recognize the legal standing of them and respect them as another shareholder of the environment. However it is clear that harmful organisms for the smooth functioning of the natural cycles and chains should be controlled by the powerful organs of the system.

Various international, regional and national legislations, regulations, directives and policies have been implemented to conserve, preserve and regulate nonhuman organisms related matters. Matters pertaining to animals have been regularized across several segments under different laws, such as Maintenance of biodiversity, Animal health requirements, Using animals for tests, Fisheries management, Welfare of livestock, Zoo directives, Forest conservation, Pet animals, Wild birds, Dangerous wild animals, Cruelty to animals, Welfare of domestic animals and etc. ICJ and European Court of Justice also have been involved with these matters with different footings. However though there is a wage binary to demarcate animal protection and destruction, rationale of demarcating has not clearly interpreted or declared in any statutory or case law.

## VI. DISCUSSION AND CONCLUSIONS

As per the findings of the study it is clear that declaring rights comes under right to life for the nonhuman organisms is not possible purely because, it is contradictory with the industries such as livestock and fisheries. Further slaughter of animals for consumption purposes and using animals for several tests and various activities has been authorized by many state laws. At present human beings have dominated and intervened with almost all the parts of nature and if the human control loses entire system is at a risk to be collapsed.

<sup>2</sup> Principle 21 of the U.N Stockholm Declaration (1972)

<sup>3</sup> Principle 2 of the U.N. Rio De Janeiro Declaration (1992)

Human beings are the sole decision makers and they are headed towards only the betterment of humankind. Even though it is impossible to stop slaughtering of animals, humankind is liable to protect other kinds of nonhuman organisms in the capacity of the ruler of the earth. Since most of the laws are hardly transparent with regard to demarcating boundaries of nonhuman organisms, most of the countries have been adopted common scheme to ensure the conservation of nonhuman organisms. Biodiversity protection measures implemented by many of the states is such kind of approach to preserve the animal kind, rather ensuring the wellbeing of all the individuals. Further conservation corridors, buffer zones and protected landscapes are new trends to implement biodiversity conservations. Certain states have imposed laws to control cruelty against animals. Even though these attempts demonstrated a sympathetic approach, actual contribution has been limited to the moderation of animal utilization. However recognition of legal standing of the nonhuman organisms is also would be a remarkable remedy to overcome unwarranted dominance against nonhuman organisms. Further most of the ecosystems are standing on the biological diversity holding with the heavy human interventions. Most of the human interventions leads to over extract the natural resources including nonhuman organisms and it has badly affected to the natural interactions among animals. When the certain elements missing in any natural chain, entire ecosystem may be exhausted. Hence as the trustee of the land, states are liable to implement proper mechanisms to control undue interventions against bio diversity in terms of protecting ecosystems. However it is clear that the ecosystem protection and individual preservation of nonhuman organisms are two different limbs standing on same platform. Even though the humankind is directly affected by falling off ecosystems, bad effects of mismanagement of individual nonhuman organisms are indirectly affected to collapse the same system.

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