

“Will Poseidon Meet Artimes?” An Analysis of the Applicability of Eco-Feminism in Achieving Environmental Justice in Sri Lanka

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Abstract - This research aims at emphasising the need of women’s representation and the participation in resolving contemporary environmental related issues in Sri Lanka. The main objective of the research is to examine whether there is a link between the less participation of women in resolving the contemporary environmental issues and the gross violations on the environmental rights in the Sri Lankan environmental law. The secondary objective is to analyse the paradigms of the above concept theoretically in light of the branches of eco-feminism and applicable environmental law principles. The study is based on the legal research methodology, which is a library based-secondary data analysis. The expected outcome of the research is to seek the possibility of utilizing the theories of eco-feminism to achieve environmental justice in Sri Lanka.

Keywords— *environmental law, eco-feminism, female participation*

I. INTRODUCTION

Forestry, environment and the nature itself have been accepted universally through motherly divinity since ancient times. It is mainly due to the in-depth relationship between women and the nature. In the ancient Asian culture, the trees and the seas (basically the nature) considered as it related to divinity. In ancient Greek mythology, goddess Artemis was recognized as the goddess of nature and forestry and was also consisted of the feminine nature of those elements. God Poseidon represents the sea, wars and aggressive masculinity. (Riordan, 2015)

Feminist legal theory (hereinafter referred to as FLT) could be recognized as one of the main philosophical schools of thoughts in the contemporary legal philosophy. (Minow and Verchik, 2016) Feminist legal theories emphasize the role of law in describing

society and in prescribing change, while other types of feminist theory might de-emphasize or even question the role of law in these areas (Minow and Verchik, 2016), FLT has several sub-divisions such as the Equal Treatment Theory, Cultural Feminism, Eco-Feminism and the Dominance Theory. In this research, the most applicable Feminist Legal Theory is Eco-Feminism. Eco-Feminism describes the women’s rich and varied relationship with society and nature. (Minow and Verchick, 2016). Eco-feminism is a broad concept, eco-feminism has since flowered into a stunning array of variations, with emphases ranging from economics to spiritualism, from animal rights international Human Rights. The most recent and, perhaps, most promising version of ecofeminist emphasises the intersection of human oppression (sexism, racism, and so on) and environmental destruction (Minow and Verchick, 2016). Further, eco-feminism mainly has two divisions, namely, cultural eco-feminism and socialist eco-feminism. While both approaches reject the domination of those in power over the "other" (whether that other be woman or nature), they have distinctly different opinions about the best approach to take to subvert this power hierarchy and replace it with a new vision of social relationships (Hughes, 1995).

In framing their analysis, cultural ecofeminists place heavy emphasis on the historical links between women and nature (Hughes, 1995). In socialist ecofeminism, they link the exploitation of women is similar to the exploitation of the nature (forests, sea) as a result of capitalist economical system. Socialist ecofeminists, therefore, do not link the devaluation of women directly to the devaluation of nature; rather, they see these and other oppressions (such as class and race) as interlinked parts of a social system premised on construing difference as a basis for hierarchy (Hughes, 1995).

Environmental law (Herein after referred to as Env Law) looks at all the factors on an economy and its production and industry to assess its impact on the environment and propose regulations to reduce environmental harm. It is mainly considered with regulations and treaty agreements between countries, corporations, and public interest initiatives that promote the conservation of natural resources and enhance energy efficiency. Principle 1 of the Stockholm Declaration 1972 provided that “man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated”. Even though a man has a fundamental right to use the environment for the economic development processes, it is the duty of the people and the governments to protect the environment by providing necessary rules and regulation to secure the environment for the future generation, which known as the ‘sustainable development’ under the environmental law principles.

In this aspects, it is indicated that both the FLT based ecofeminism and Environmental Law are focusing on a common destination in parallel roads as sustainable development as its outcome. Considering all the above theories, the authors discuss on the Environmental Law and its relationship with the ecofeminism in order to achieve environmental justice in Sri Lanka.

II. GENERAL INTERPRETATIONS BETWEEN ENVIRONMENTAL LAW AND ECOFEMINISM

Historical discrimination between genders has been recognised as the spot-light issue in all the sub divisions of FLT. In this part of the research, the authors focus on the analysis of the applicable of theories in the Env Law and Eco-Feminism and its impact on each other. For example, there is a link between the oppression of women and destruction of Mother Nature is recognized in the Eco-Feminism. Not only it has recognized the above relationship, but also it recognized the historical development between two branches of law. Even though it is mainly focuses on the western culture, as indicated

above Minow and Verchick’s description on the same affirms its universal application beyond borders.

III. ENVIRONMENTAL LAW AND APPLICABLE PRINCIPLES OF FEMINIST LEGAL THEORY

The Env Law has its own conceptual apparatus, in the sense that there is a set of principles and concepts that can be said to exist across the range of issues covered. For example, the polluter pays principle has a status as a principle or tool of sound environmental management and has an exclusive link to environmental law. This principle generally described an approach to the protection of the environment or human health that is based around taking precautions even if there is no clear evidence of harm from an activity or substance. This principle suggests that we could ban a pollutant suspected of causing severe harm even in circumstances under which there is no conclusive scientific proof of a clear link between the substances and damage. The concept of sustainable development is central to the recent and future development of environmental law and policy. The idea of sustainability, which indicates the state of something being sustainable in the long term, has always been considered as part of the system of land use and planning within the context of development.

On the other hand, though it is not acknowledged widely, may be due to the reason that of unawareness, the inceptors of Green Movements in the world are generally females. Among the many examples, American Environmental Justice Movement also was initiated by group of grass root level females, those who got together and shared their notes on ailments on contaminated well water or landfills that leached toxins into the ground (Minow and Verchik, 2016). Especially when kids were sick of Asthma or on allergic-related issues as a result of polluted environment due to factory-emissions. Not only in America, but eco-feminism got its recognition more prominent after Wangari Mathai won the Nobel Prize for the Green Belt Movement in Africa (Mathai, 2015). The Nobel Peace Prize Committee indicated that through this positive interference to the environment by African women, the concept of peace has been upgraded to a different dimension (Minow and Verchik, 2016). For example, this movement achieved its momentum, through indicating African women’s unique attachment to the nature and especially to the forests and how the deforestation making a severe negative impact on the African women community.

Above indicated close relationship is applicable to Sri Lankan rural women as well. For example, traditional Sri Lankan village life was completely related to the nature, particularly to the forests and to rivers and streams. The way females handled the forestry resource were similar to contemporary criteria of sustainable environment. As indicated in the famous Sri Lankan lullaby:

ඉනට පළා-නෙලා ගෙනේ

අනට වෙරලු- ඇහිද ගෙනේ

බරටම දර-කඩා ගෙනේ

එයි අම්මා-විගසකිනේ

[Translation: “With herbs at her waist, wild berries plucked, and twigs for fuel, your mother shall come (from the jungles) to you soon] further note: it should not be misunderstood though it says that the load is heavy, as it is the amount an average woman could carry.

This is a clear indication from the folklore to affirm how much the Sri Lankan women’s lives were attached to the forestry and to the nature. Also, in the Sri Lankan culture, it was famous for the Ayurvedic medicine. It is also directly linked to the nature and to the plants, in which people in the village got together in finding relevant plants or parts of the plants to cure a villager. However, Ayurvedic doctors, may be due to the reason of femininity and its generational long, ancient relationship to the nature.

Further, it should also be acknowledged as well as it could be taken an example for the female’s interest in nature, though they are not rural women but highly educated academia. Female lecturers who specialized Environmental Law and teaching in the country’s youngest Faculty of Law has initiated the Green Movement in Sri Lanka’s only defence university under the guidance of the university authorities to bring a panacea to the infirmity of deforestation in Sri Lanka in their capacity. On the other hand, the rise of young female environmentalists in Sri Lanka against deforestation and destruction of nature symbolised by Ms Devani Jayatilake, the young woman Forest Officer, protesting against the destruction of very rare plant species on a development project for highways also a green light on female participation in protecting the nature.

Those examples are to indicate the in-depth relationship between females and the protection of nature. All the above illustrations indicate the in-

depth relationship between the nature and women in all levels and in many spheres.

Reviewing the theoretical framework on the above situation, Ecofeminism, a concept that links environmentalism and feminism, can help decision-makers better understand the distributional implications of many environmental policies. (Lee, 2018). Therefore, this extraordinary relationship could also be utilize to bring women into the circles on activism to decision-making on the protection of the environment. Therefore, understanding of these legal philosophical approaches also inculcate a culture which utilises the better understanding of the need of women’s unique relationship with the environmental related issues from grass-root level to the policy making levels in Sri Lanka.

Effective environmental policies must account for distributional inequity because the more resourceful party will more likely degrade the environment, and because the less resourceful party will disproportionately experience the harms (Lee, 2018). Ecofeminism can improve how we approach environmental problems, an area that deserves special attention because certain environmental harms might be irreversible on human timescales. (Lee, 2018) Therefore it is to be analysed the ways of incorporating the concepts introduced above as core-concepts of ecofeminism in the implementing process of the Environmental Laws in Sri Lanka.

As indicated at the onset, this research mainly utilises the doctrinal research methodology as it is the most suitable model to review existing legal literature on a library based secondary data analysis and to interpret the available data applicable to the relevant theories of the study. Further, due to this research’s intangible and philosophical nature, it is limited to the library based, secondary data analysis, except for few instances which utilize the ‘observation’ method, in order to draw relevant examples from Sri Lankan culture to enrich the research findings.

IV. LAWS ON MARINE POLLUTION AND FEMINIST LEGAL THOERY

‘Men, the aggressor of love and war’ (Williams, 1982), as recognize by the Feminist theorists’, men are the abusers of power. Eco-Feminists applies the same as a cause of massive environmental destruction, exploitation and pollution of the environment. Stereotypically, men are rated as aggressors, carriers of power and controllers of others through power of masculinity. This very nature of relative concepts seem to be applicable to the concepts of

environmental pollution and exploitation of resources without aiming at sustainability. On the other hand, as indicated in the introductory part, socialist ecofeminists emphasized the fact that as a result of Capitalist economical systems, both nature and women are being exploited. For example if it applies to the Oceans and Marine Pollution, the competitive capitalist countries are top the lists of dumping of waste into seas which results the imbalances of marine biology and destruction of the marine environment.

The closest practical application on the above theoretical framework could be shown from Sri Lanka. For example, Hikkaduwa Beach is well-reputed for vivid coral reefs which attract the local and foreign tourist, sight-seeing is carried out by glass bottomed boats in massive levels. These boats use Kerosene for fuel and emit the whole by product to the area of Coral reefs in the sea. As a result, Coral reefs which developed through centuries are now in danger. However, as indicated by eco-feminism, as a result of few aggressive competitive men, theoretical concepts on the need of preserving nature and resources for future generations and sustainable development goals are becoming an unachievable goals.

V. RECOMMENDATIONS AND CONCLUSIONS

Naturalism is often subjected to criticism by feminist legal theorists due to its utilitarianism on gender roles. For example, gender roles were assigned to mothers as home-makers and fathers as bread-winners, eminently with certain characteristics. Further, as mothers or as females, the assigned role is care-giving, tender and submissive. On the other hand, males were assigned the rough-tough characteristics such as aggressive, authoritative and assertive. On one hand, nature and the subjects of the Env L also recognized as of feminine nature since ancient times, therefore mankind understands it as exploitable.

Secondly, this very nature of assigned characteristics to women and nature are applicable in the same manner for destruction of nature, though it has subtle differences in naming, such as deforestation or marine pollution or illegal sand-mining which causes damages to river-beds or damaging wildlife. It is obvious that there has been a noble relationship between nature and human beings as it had been in the Red-Indian Era. However, in later stages, this noblest relationship was damaged to a certain extent, yet the relationship between women and nature

remains intact. In an in-depth review, firstly in light of the radical ecofeminism this concept could be analysed; as female's tenderness or care-taker characteristics are often utilized in male-dominated societies for their betterment in utilitarian aspects. Likewise, nature's care-taking and tenderness towards human-beings have been overused and exploited by masculinity. Therefore, policy makers should implement the policies on the participation of females in all spheres to join hand the collective efforts to improve the current situation with governmental and non-governmental organizations in Sri Lanka.

Secondly, if analysed the same in light of the theory of Socialist ecofeminism, it could be evaluated in a different yet in relative manner. Men are of the competitive and aggressor characteristics according to the stereotypical role assignment by the society, therefore, in Capitalism, they are competitive in the ground of limited resources, this entails exploitation of resources if there is a need. For example, during the internal armed conflicts occurred in African region, whether it was the Rwandese conflict or whether it was the Sierra Leon, in those of which rape and sexual violence against women was utilized as a weapon in armed conflicts. In such instances, it was observed that females of those villages usually go to the forests close-by to pluck fruits or to bring firewood were attacked regularly as the attackers knew the relationship between those females to the forest. Therefore, during the process of Capitalism, the competitive men are the resource handlers and policy makers. In this aspect, they do not hesitate to exploit nature as it is considered as the closest yet untapped resource to mankind. Therefore, like the unequal distribution of resources in Capitalism, the destruction of nature occurs by some men who are very capable and powerful as well as competitive. However, its results have a negative impact on humankind regardless of gender.

Whether it is evaluated under the radical ecofeminism or under the Socialist ecofeminism, Sri Lankan environmental law violations seem to occur in both ways. The gaps in economic policy making, gaps in resource management and gaps in certain policy implementation in national levels leads to another significant gap that is the lack of principled female policy makers in the process. Therefore, considering the noble relationship between females and nature, the above gap should be fulfilled at governmental level. Therefore, when fulfilling the sustainable development goals, legal policy makers

must be aware on the ecofeminist theories on the harmful practices against the environment through Capitalistic economic policies.

ACKNOWLEDGEMENT

Authors thank Dr Darshana Sumanadasa, Senior Lecturer, Faculty of Law, University of Colombo.

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