

Environmental Justice For Sustainable Green Development : The Third South Asia Judicial Roundtable In Sri Lanka



The Third South Asian Judicial Roundtable on Environmental Justice took place in Colombo under the theme of Environmental Justice for Sustainable Green Development.

While President Mahinda Rajapaksa was the Chief Guest at the occasion the proceedings commenced with the welcome remarks by Chief Justice Mohan Pieris. Organised as a part of an initiative of the Asian Development Bank, the event saw the attendance of Chief Justices, senior judges and experts from a number of Asian countries who shared their views over a period of two days. Following the series of presentations that represented viewpoints of respective countries, the sessions drew to a close with the declaration formulated from the discussion points, culminating in the presentation of the Colombo Action Plan.

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Welcome address by Mohan Pieris P C , Chief Justice of Sri Lanka

It is indeed my great pleasure on this occasion of extreme significance to extend a warm welcome to all our distinguished invitees today among whom we have His Excellency the President honouring us by gracing this momentous event, the Third South Asia Judicial Roundtable On Environmental Justice For Sustainable Green Development.

This Roundtable of South Asian Judiciary on Environmental Justice marks a continuous commitment of Asian Development Bank's Strategic Framework (Strategy 2020), which recognizes environment and good governance as the cornerstones of economic growth and poverty reduction-two very important themes, which find expression in Mahinda Chintanaya-the blue print for sustainability of our people which was conceived and nurtured by His Excellency the President.

Towards this end of strategic priorities, environment and good governance, Asian Development Bank has consistently engaged with senior judiciary in Asia. Under their laudable Law, Justice and Development Programme (LJD), they have actively assisted SAARC Law countries to strengthen their legal, regulatory and enforcement capacities with regard to environmental justice.

Why Judges must be engaged?

You will agree that ADB possibly engages with the third arm of government-the judiciary because senior judiciary in Asia plays a key role in environmental enforcement. Their direct roles will be in the sphere of making environmental decisions, issuing rules and directions to lower courts, establishing green benches.

One cannot discount the influence of the Senior Judiciary on the legal system when one looks at their role of interpreting legal and regulatory frameworks on environment and enforcing them. This interpretational role could even affect private sector investment. I often cite the important case of *Bulankulama v Secretary of Industrial Development*-better known as the *Eppawela* case to illustrate how the Supreme Court of this country could use the fundamental rights jurisdiction to nullify an investor agreement between the government and a foreign company so that environmental protection could be ensured. In the same breath I also recall the famous *Southern Expressway* case-*Heather Mundy* which in a different jurisdiction-judicial review proceedings in the CA and later in the SC went into the question of environmental protection.

Recognising this all important role of the judiciary, ADB initiated two roundtables to engage with Asian Judges. One roundtable on environment is devoted to ASEAN Chief Justices, whilst the other Roundtable on Environment is the South Asian Chief Justices Roundtable to which category this third Roundtable belongs. The first ever South Asia Judicial Roundtable was launched in Bhurban, Pakistan in 2012, which resulted in the Bhurban declaration-a soft law that is today considered as a pioneering step in breaking ground on common issues in the region.

The Second Roundtable that took place in Thimpu, Nepal in 2013 recognised a series of environmental challenges and the Thimpu declaration-another soft law instrument speaks volumes for the synergies that have been built between the judiciaries in the SAARC countries.

The Third South Asia Judicial Roundtable which takes place in this paradise island brings together not only Chief Justices, and Senior Judges but also legal practitioners, the academe, members of civil society and experts.

Your Excellency,

This Roundtable for which you have constantly extended your support and encouragement provides a platform to confront key environmental challenges in the region, share experiences and discuss opportunities for further cooperation between judiciaries to enhance environmental adjudication and enforcement and the promotion of environmental justice.

“The Government Policy Is To Lend A Helping Hand For Development, But Protecting The Environment Is Equally Important.”

As I said before, sustainable development and environmental protection have been so dear to your heart that only a few days ago Your Excellency raised the clarion call for environmental protection when you addressed the District Development Committee in Kurunegala. The fact that Your Excellency has been echoing these sentiments ever so often only goes to demonstrate that you have been at the helm of achieving common grounds on a healthy and clean environment, which has been uppermost in your mind.

Your Excellency made the pertinent observation in Kurunegala “the government policy is to lend a helping hand for development, but protecting the environment is equally important.” In fact Your Excellency not only gave vent to the Directive

Principles of State Policy on Environment as constitutionally decreed but also articulated the golden thread that runs through our Roundtables namely sustainable green development. We see around us evidence of the fulfilment of economic and social rights as decreed in the Constitution. The boom on high rises serving the needs of the disadvantaged and the modernised transportation that has been facilitated with highways are but a few of the accomplishments of the duties imposed by the Constitution in the Chapter on Directive Principles of State Policy and it redounds to the credit of Your Excellency that You have steered Sri Lanka and skippered its fortunes so effectually to ensure the common good.

We are honoured that Your Excellency is with us today gracing this occasion as the Chief Guest and it gives us inspiration to launch this Roundtable with a firm resolve to reach consensus at the end of our deliberations on a Colombo Declaration.

I acknowledge today the presence of Honourable Minister of External Affairs Professor G L Peiris-a law professor of international repute and Honourable Minister of Justice Mr Rauff Hakeem an attorney-at-law himself for being with us today at the inaugural session.

I welcome my old friend and colleague Honourable Attorney General Mr Palitha Fernando PC to the sessions, not forgetting the Solicitor General who is also present today.

As I look around I see a host of Supreme Court and Appellate Judges who have come from far and wide to share matters of mutually beneficial jurisprudence and I feel delighted to welcome all of them to our interactive Roundtable.

We are today having in our midst some of the best civil servants of the Nation including the Secretary to the President, the Governor of the Central Bank and the Secretary to the Ministry of Defence and Urban Development who has turned no stone unturned in creating an eye catching and bewitching ambience around us-Colombo has become a lookalike paradise-thanks to his indefatigable work on reconstruction and redesigning of the City to render Colombo iconic in terms of environmental cleanliness and development. He deserves to be congratulated for his sustained interest in development and environment and while welcoming him, I also extend a welcome to Judge Weeramanthry-whose life as a Supreme Court Judge, a Professor of Law and later as the Vice President of ICJ makes a

compelling story of inspiration. In fact we recall his bold dissents and advisory opinions that stand as hallmarks of judicial response to possible degradations on environment.

We are so proud to host the Third Roundtable in our beautiful country, which is so rich in its biodiversity, greenery and eco systems. But we do share our common travails and it is this bridging of common bonds and resolution of environmental challenges that this two day long Roundtable will engage our attention and in this common journey I must gratefully acknowledge here today the sustained and constant efforts of the ADB in sponsoring and nurturing the Roundtables-a service to humanity to preserve our riches and conserve our common heritage. ADB is here today at our invitation hosting this Roundtable, which is bound to provide two days of vibrant and robust deliberations in our constant quest to develop a consensual document that will signify in the annals of Environmental Justice that Sri Lanka played its role in developing further principles of environmental law.

While I welcome you so wholeheartedly I solicit your cooperation to make the Roundtable a resounding success.

[Opening Remarks by Bruce L Davis, Vice President - ADB,](#)

[Speech by President Mahinda Rajapaksa](#)

[Chief Justice Mohan Pieris on the commencement of sessions](#)

[Keynote Address by Elizabeth Mrema, Director, Division of Environmental Law and Conventions \(DELIC\) United Nations Environment Programme\(UNEP\)](#)

[Irum Ahsan, Project Leader and Counsel, ADB](#)

[Dr Abdul Malik Kamawi Country report - Afghanistan](#)

[Chief Justice Muzammel Hossain Country report - Bangladesh](#)

[Drangpon Tshering Wangchuk Senior Judge of Supreme Court Country Report - Bhutan](#)

[Justice Adam Abdulla Country Report - Maldives](#)

[Om Prakash Mishra Judge of the supreme court of Nepal Country report - Nepal](#)

[Justice Sarmad Jalal Osmany judge of supreme court of Pakistan Country Report - Pakistan](#)

[Justice Saleem Marsoof President's Council, Judge of the Supreme Court Country Report - Sri Lanka](#)

[Sanjay Upadhyay, Managing Partner of Enviro Legal Defence Firm of India](#)

[Dr Bharat Desai International Law and Jawaharlal Nehru Chair in International Environmental Law, Jawaharlal Nehru University of India](#)

[Chetan Agarwal Forest and Environmental Services analyst, India](#)

[Saima Amin Khawaja, Partner, Progressive Advocates and Legal Consultants, Lahore Pakistan](#)

[Nayana Mawilmada Urban Development Specialist, Founder and Managing Director, Total Management Solutions](#)

[Justice Ananda Mohan Bhatarai Acting Chief Justice, Court of Appeal Nepal](#)

[Colombo Action Plan for Judicial Cooperation, for the Enhancement of Environmental Justice for Sustainable Green Development in South Asia](#)