

## Constitutional Environmental Human Rights in SAARC Member States

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### **Abstract**

This study provides an analysis of the constitutional environmental human rights in the member states of South Asian Association for Regional Cooperation (SAARC). SAARC is home to eight member states namely Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Global environmental threats have forced the policy makers to frame targeted policies to cope with these environmental issues. The acceptability of environmental rights as a basic human right has considerably grown over the past four decades and the nations across the globe have accepted this new norm. This resulted in a wave of constitutionalization of environmental rights. Constitution, being the highest law of land and the foundation of all other laws, transforms international commitments of a nation into domestic sphere and becomes a driving force for the fulfilment of those international obligations. Resultantly, stronger subordinate legislation emanates from these constitutional commitments. SAARC being an important human abode is also facing these serious environmental threats. This study focused the constitutional protection available to the environmental rights in SAARC member states and the role of judiciary in deciding environmental claims. The level of constitutional treatment of environment shows that the Policy makers of SAARC states seem to be either oblivious of the nature of environmental challenges or they seem to be least interested in the welfare of their people. Only Maldives and Nepal grant a substantial environmental right in their constitution while no other member state recognizes even the procedural environmental rights in their constitutions. Pakistan even do not contain the word 'environment' in its constitution and it also does not recognize the duty of either government or citizens to protect environment. Other member states recognize differing level of environmental duties. We have yet to witness any effective breakthrough from the forum of SAARC, as an organization, for the protection of environment. However, the Judiciary of SAARC member states has proved to be a functional force in the protection of environment and environmental rights of the people. It has given new meanings to the fundamental human rights by enlarging their scope by

recognizing environment as an essential part of human rights. This judicial activism can only fill the legislative gaps and cannot be a reciprocal of legislative process.

**Keywords:** Constitution, Environmental Jurisprudence, Environmental Rights, Human Rights, Public Interest Litigation, SAARC