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Environmental Law and Legislation in Sri Lanka: Challenges and Future Directions

1. Introduction

Environmental law has become a cornerstone of modern governance, linking ecological protection with sustainable socio-economic development. In Sri Lanka, its importance is underscored by the island's exceptional biodiversity, fragile ecosystems, and reliance on natural resources such as agriculture, fisheries, tourism, and industry. As Weeramantry (1997) noted, environmental protection cannot be treated as peripheral but must form part of the constitutional and moral obligations of both the State and citizens. The roots of environmental regulation can be traced to colonial statutes such as the Forest Ordinance of 1907 which regulated forest exploitation and the Fauna and Flora Protection Ordinance of 1937 which provided for the protection of wildlife and laid the basis for national parks and sanctuaries. However comprehensive regulation only emerged with the National Environmental Act No. 47 of 1980 later amended by Acts No. 56 of 1988 and No. 53 of 2000 which established the Central Environmental Authority (CEA) as the apex institution. The CEA is tasked with policy formulation pollution control licensing of prescribed industries through Environmental Protection Licenses (EPLs) and overseeing Environmental Impact Assessments (EIAs) for major projects (Central Environmental Authority [CEA], 2019). At the constitutional level Sri Lanka guarantee an explicit right to a healthy environment yet Article 27(14) requires the State to protect and improve the environment, while Article 28(f) obliges citizens to conserve nature (Constitution of Sri Lanka, 1978). Though not directly enforceable these provisions have been judicially expanded, most notably in *Bulankulama Secretary Ministry of Industrial Development* (2000) where the Supreme Court invoked the public trust doctrine embedding environmental protection as a constitutional concern.

Sri Lanka's judiciary has been pivotal in advancing environmental principles despite the absence of an explicit constitutional right to a healthy environment. In the landmark *Bulankulama Secretary Ministry of Industrial Development* (2000) or *Eppawela* case the Supreme Court halted a phosphate mining project invoking the public trust doctrine and sustainable development to affirm the State's duty to safeguard resources for present and future generations. Similarly in *Environmental Foundation Ltd. Urban Development Authority* (1998) the Court stressed the need for rigorous environmental assessments before development approvals. These cases demonstrate how judicial activism has embedded global principles into domestic jurisprudence. Complementing this Sri Lanka has ratified over 40 multilateral environmental agreements (MEAs) including the

Convention on Biological Diversity (CBD) the UN Framework Convention on Climate Change (UNFCCC) and Paris Agreement and the Basel Convention on Hazardous Wastes all of which shape national policies on biodiversity conservation climate resilience, and pollution control (Gunawardena, 2015; Ministry of Environment 2016) Institutions such as the Biodiversity Secretariat coordinate compliance with these obligations illustrating how international commitments and judicial innovation together strengthen Sri Lanka's environmental governance framework.

International principles such as the precautionary principle the polluter pays principle and intergenerational equity have shaped Sri Lanka's environmental governance through judicial interpretation and administrative practice (Sands & Peel, 2018). The country operates within a dual framework of domestic statutes and international treaty commitments; however, enforcement is hindered by weak institutional capacity overlapping agency mandates political interference and limited public participation (Jayasundara, 2021). Persistent pressures from urbanisation deforestation and climate-related disasters further strain legal mechanisms Although sustainable development is widely endorsed its application is inconsistent often allowing economic growth to override ecological safeguards-a tension particularly evident in large-scale infrastructure projects (Redclift, 2005).

2. International Environmental Legal Framework and Sri Lanka's Obligations

Environmental issues such as climate change biodiversity loss desertification and transboundary pollution transcend national boundaries necessitating collective global action. The international legal framework for environmental protection provides states with principles norms and treaties to address these shared challenges. Sri Lanka as a developing island nation with high ecological vulnerability has played an active role in ratifying and implementing key international environmental agreements. These obligations have shaped both the content and direction of its domestic environmental law and policy.

2.1 Global Milestones in International Environmental Law

A series of pivotal global milestones have marked the development of international environmental law. The 1972 Stockholm Conference on the Human Environment was the first global event to recognise environmental protection as a fundamental component of development. The resulting Stockholm Declaration emphasised that states bear the sovereign right to exploit their natural resources but also the responsibility to ensure that activities within their jurisdiction do not cause environmental damage to other states (Kiss & Shelton, 2007). The 1992 Rio Earth Summit further consolidated the field by producing the Rio Declaration on Environment and Development the Agenda 21 action plan and

legally binding treaties such as the Convention on Biological Diversity (CBD) and the United Nations Framework Convention on Climate Change (UNFCCC). Principle 15 of the Rio Declaration also codified the precautionary principle which has since guided national environmental decisions including in Sri Lanka (Sands & Peel, 2018). The Paris Agreement (2015) under the UNFCCC has been the most recent milestone committing states to limit global warming to below 2°C while pursuing efforts to limit the increase to 1.5°C For island nations such as Sri Lanka which are particularly vulnerable to sea level rise extreme weather and climate-related disasters, the Paris Agreement carries existential significance (Bodansky, Brunnée, & Rajamani, 2017).

2.2 Sri Lanka's Participation in Multilateral Environmental Agreements

Sri Lanka has ratified more than 40 multilateral environmental agreements (MEAs) reflecting a strong commitment to international environmental cooperation and governance (Gunawardena, 2015). Among the most significant is the Convention on Biological Diversity (CBD, 1992), ratified in 1994 which obliges the country to conserve biodiversity promote sustainable use and ensure fair sharing of genetic resources with implementation coordinated by the Biodiversity Secretariat under the Ministry of Environment (Ministry of Environment, 2016). Under the United Nations Framework Convention on Climate Change (UNFCCC, 1992) and the Paris Agreement (2015) Sri Lanka submitted its Nationally Determined Contributions (NDCs) in 2016 committing to emission reductions in energy transport and industry while enhancing adaptation in agriculture water management and coastal sectors (Ministry of Environment, 2021). The country is also party to the Basel Convention (1989) ratified in 1992 which regulates hazardous waste movements notably, in 2019 Sri Lanka invoked its provisions to re-export containers of illegally imported waste back to the United Kingdom (Bandara, 2001). Through the Montreal Protocol (1987), Sri Lanka successfully phased out ozone-depleting substances such as chlorofluorocarbons (CFCs) achieving targets ahead of schedule and earning international recognition (UNEP, 2016). Furthermore, as a signatory to the Ramsar Convention on Wetlands (1971), Sri Lanka has designated six Ramsar sites underscoring its obligation to protect wetlands vital for biodiversity conservation and local livelihoods Collectively these commitments illustrate Sri Lanka's recognition of the critical role international cooperation plays in strengthening domestic environmental governance and achieving sustainability objectives.

2.3 Influence on Domestic Law and Policy

Sri Lanka's participation in MEAs has significantly influenced its domestic legal framework. For example, the Fauna and Flora Protection Ordinance (amended in 2009) incorporated obligations under the CBD by expanding protected areas and strengthening penalties for wildlife offences. Similarly, the National Climate Change Policy (2012) and

the establishment of the Climate Change Secretariat were direct outcomes of UNFCCC obligations. Judicial decisions also reflect international norms. In the Eppawela case (2000) the Supreme Court referred to the Stockholm and Rio Declarations in its reasoning embedding global principles such as intergenerational equity into Sri Lankan jurisprudence. Likewise courts have relied on the precautionary principle derived from international law in reviewing development projects. The international environmental legal framework has profoundly shaped Sri Lanka's approach to environmental governance. By ratifying and implementing key treaties such as the CBD UNFCCC Basel Convention and Ramsar Convention Sri Lanka has demonstrated a commitment to global norms. These obligations have not only influenced legislation and policy but have also empowered courts to interpret constitutional duties more expansively. However, the gap between ratification and implementation remains wide underscoring the need for stronger institutions political will and community engagement. For Sri Lanka, where environmental integrity is inseparable from economic well-being and cultural heritage fulfilling its international environmental obligations is both a legal responsibility and a moral imperative.

3. National Environmental Legislation and Policy in Sri Lanka

Sri Lanka has developed one of South Asia's most comprehensive environmental legal frameworks anchored in constitutional directives the National Environmental Act (NEA) sector-specific statutes and policy initiatives. While the 1978 Constitution does not guarantee a right to a healthy environment Articles 27(14) and 28(f) impose duties on the State and citizens which the Supreme Court has reinforced through judicial activism notably in *Bulankulama Secretary, Ministry of Industrial Development (2000)* where the public trust doctrine was applied (Constitution of Sri Lanka, 1978). The NEA (1980 as amended) remains the central legislation empowering the Central Environmental Authority (CEA) with tools such as Environmental Protection Licensing (EPL) Environmental Impact Assessments (EIA), and pollution control standards though enforcement faces political and institutional challenges (Gunawardena, 2015; Jayasundara 2019). Complementary laws such as the Fauna and Flora Protection Ordinance Forest Ordinance and Coast Conservation Act provide sectoral safeguards while institutions like the CEA, DW, Forest Department and MEPA manage ecosystems with limited coordination. Policy frameworks including the National Environmental Policy (2003) and Climate Change Policy (2012), aim to align environmental protection with development but implementation gaps persist (Redclift, 2005).

4. Challenges in the Implementation of Environmental Laws in Sri Lanka

While Sri Lanka has a relatively comprehensive set of environmental laws policies and judicial interventions their effective implementation remains a persistent challenge. The country's environmental governance faces structural institutional socio-

economic and political barriers that limit the enforcement of statutory provisions and undermine sustainable development objectives. Understanding these challenges is crucial for identifying strategies to strengthen environmental protection in Sri Lanka.

Table 1: Key Challenges in Implementing Environmental Laws in Sri Lanka

Category	Key Issues	Evidence	References
Institutional Challenges	<ul style="list-style-type: none"> Fragmented institutional framework with overlapping mandates. Limited technical/financial capacity of agencies. Poor inter-agency coordination. 	<ul style="list-style-type: none"> Overlaps between CEA, DWC, Forest Dept., CCD, and MEPA. Delays in coastal project approvals. Insufficient staff and monitoring for EPLs/EIAs. 	Gunawardena (2015); Jayasundara (2020)
Legal & Regulatory Challenges	<ul style="list-style-type: none"> Outdated statutes are not aligned with modern issues (climate change, plastic pollution). Conflicting/overlapping laws (e.g., forestry vs. land use). Weak enforcement of penalties; low deterrence. 	<ul style="list-style-type: none"> NEA penalties rarely deter violators. Ambiguities exploited by private developers. 	(Jayawardane, 2019)
Socio-Economic Challenges	<ul style="list-style-type: none"> Development vs. conservation dilemma. Poverty and dependence on natural resources. 	<ul style="list-style-type: none"> Urbanisation, ports, and tourism projects prioritised. Small farmers and fishermen engaged in unsustainable practices due to a lack of alternatives. 	Redclift (2005); Gunawardena (2015)

Political & Governance Challenges	<ul style="list-style-type: none"> Political interference in approvals (EPLs, EIAs). Corruption and lack of transparency. Weak public consultation processes. 	<ul style="list-style-type: none"> Superficial EIAs. Commercial interests override regulations. 	(Jayawardane, 2019)
Judicial & Awareness Challenges	<ul style="list-style-type: none"> Heavy reliance on PIL; marginalised groups lack access. Low public awareness of rights and processes. 	<ul style="list-style-type: none"> Limited knowledge of EIA/ public complaint mechanisms. Violations often go unchallenged. 	(Dissanayake, 2022)
Emerging Environmental Challenges	<ul style="list-style-type: none"> Climate change impacts (floods, droughts, coastal erosion). Biodiversity loss (habitat fragmentation, invasive species). Pollution and waste management issues. 	<ul style="list-style-type: none"> Inadequate adaptation measures. Deforestation despite the Fauna & Flora Protection Ordinance. Solid waste and marine pollution. 	Ministry of Environment (2021); Gunawardena (2015)

5. Recommendations and Future Directions for Environmental Governance in Sri Lanka

Sri Lanka's environmental governance framework, though comprehensive, requires strengthening to address persistent implementation gaps and emerging ecological challenges. Priority areas include enhancing institutional capacity by increasing technical resources training officers on climate change and biodiversity improving inter-agency coordination, and establishing a centralised environmental data system (Gunawardena 2015; Jayasundara, 2019). Legal reforms are also essential with updates to outdated statutes harmonisation of overlapping laws and stricter penalties to reinforce the polluter pays principle while integrating international principles such as precaution and intergenerational equity (Dissanayake, 2022; Sands & Peel, 2018). Expanding public participation through mandatory consultations in Environmental Impact Assessments (EIAs) environmental education and legal aid for public interest litigation (PIL) can empower communities

to act as environmental stewards (Dissanayake, 2022). Judicial mechanisms should be strengthened by establishing specialised environmental courts and encouraging reliance on scientific evidence in rulings (Boyle, 2021). Moreover aligning domestic laws with multilateral environmental agreements like the UNFCCC and CBD and leveraging climate finance such as the Green Climate Fund, will improve international compliance and resource mobilisation (Ministry of Environment, 2021). Finally promoting sustainable development through renewable energy resilient agriculture circular economy practices and the use of technologies such as GIS remote sensing and pollution monitoring can enhance enforcement and long-term resilience (Redclift, 2005). Collectively, these measures can ensure that Sri Lanka not only strengthens its environmental governance but also safeguards biodiversity and ecosystem services for future generations.

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Environmental Related Act, Regulations Policies

Act and Regulations

- Coast Conservation Act No. 57 of 1981
- Coast Conservation (Amendment) Act, No. 49 of 2011
- Fauna and Flora Protection (Amendment) Act, No. 22 of 2009
- Forest (Amendment) Act, No. 65 of 2009
- Forest Ordinance
- Marine Pollution Prevention Act, No. 35 of 2008
- National Environmental (Amendment) Act, No. 53 of 2000
- National Environmental (Amendment) Act, No. 56 of 1988
- Central Environmental Authority Act, No. 47 of 1980

Related Link: env.gov.lk/web/index.php/en/downloads/acts

- Act-No-29-of-1964
- Act-No-42-of-1999
- Water-Resources-Board-Special-Gazzert-Notification-No-2010-23
- 01-2024 Circular

Related Link: wrb.lk/wrb-acts-gazettes

Policies

- National Policy on Green Procurement
- National Policy on Climate Change 2023
- National Policy on Management of Chemicals
- Nationally Determined Contributions Implementation Plan
- National Environment Policy
- National Framework on Eco Labeling in Sri Lanka
- National Policy on Environmentally Sensitive Areas in Sri Lanka
- The National Policy on Invasive Alien Species (IAS) in Sri Lanka, Strategies and Action plan
- National Environment Action Plan 2022-2030
- National Policy on Access to Biological Material and Fair and Equitable Benefit Sharing
- National Policy and Strategies on Traditional Knowledge and Practices related to Biodiversity
- National Action plan on Plastic Waste management 2021-2030
- National Policy on Waste Management
- Updated Nationally Determined Contributions Under the Paris Agreement on

- Climate Change Sri Lanka 2021
- National Policy on Conservation and Sustainable Utilization of Mangrove Ecosystems in Sri Lanka
 - National Policy and Strategy on Cleaner Production for Health Sector
 - The National Climate Change Policy of Sri Lanka
 - National Environmental Policy and Strategies 2023
 - National forestry Policy Executive Summary
 - National land use policy of Sri Lanka
 - National Policy and Strategy on Cleaner Production for Fisheries Sector
 - National Policy and Strategy on Cleaner Production for Tourism Sector
 - National Policy and Strategy on Cleaner Production for Agriculture Sector
 - National Policy on Protection and Conservation of Water Sources, their Catchments and Reservations in Sri Lanka
 - National Policy on Sand as a Resource for the Construction Industry
 - Policy on Siting of High Polluting Industries
 - National Wetland Policy and Strategy
 - National Watershed Management Policy 2004
 - National Wildlife Policy
 - National Policy on Sustainable Consumption & Production for Sri Lanka

Related Link: env.gov.lk/web/index.php/en/downloads/policies