

## **Recommendations to the Proposed National Policy on Environmentally Sensitive Areas in Sri Lanka**

### **1. Guiding principles**

Proposed policy framework should be based on and reflect the following guiding principles:

1. Purpose of the environmental policy should be to protect and enhance the regenerative capacities of environmental systems and other life forms for current and future generations. Financialization of environmental systems or commodification will defeat that purpose.

2. The right to a healthy and safe environment must be considered a basic human right. The proposed policy should adhere and give effect to the Directive Principles of State Policy of the Constitution of Sri Lanka, the international treaties where Sri Lanka is part of (especially the International Covenant of Economic, Social and Cultural Rights – ICESCR), Sustainable Development Goals other international agreements to which Sri Lanka is a party. These include, among others, the Convention on biological diversity, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Kyoto protocol, the Montreal protocol, the United Nations Convention on the Law of the Sea, and the United Nations Framework Convention on Climate Change

3. The definition of what constitutes “environmentally sensitive areas” should be drawn in the broadest sense. It must ensure, among others, the inclusion of the human-wildlife conflict in wildlife habitat areas, areas prone to natural disasters, watershed areas, inland and marine protected areas and sensitive areas with neglected environmental management mechanisms, and areas where indigenous and traditional community proprietorships exist and where the communities continue with traditional practices to sustain their livelihoods and culture. Defining these sensitive areas, identifying their management structures and bringing them under the purview of the new policy in a single map is essential to avoid harmful public/private/commercial initiatives that misuses the ambiguity of the policy definitions.

4. Environmentally sensitive areas should be identified as a part of a larger ecological system, ensuring the connectivity of these environmental systems with an integrated protection and management system.

5. Local communities whose livelihoods are based on environmental systems should be recognized as key stakeholders in developing and implementing the environmental policy. This policy should not lead to the dispossession of the communities from their habitats and natural resources, but support them in developing their livelihoods in environmentally sustainable manner. The voices of marginalized groups, such as women, ethnic minorities, and indigenous people should be ensured an equal space within the process of developing and implementing the policy.

6. The policy must give significant attention to accelerating the mitigation and resilience of the sensitive areas to climate change risk events and initiate rehabilitation programs to recover the ecosystems which are already damaged due to climate change impacts. The implementation of coral replanting programs to rehabilitate the bleached coral reef grounds in Hikkaduwa marine protect area are examples of climate mitigation and rehabilitation programs.

7. The proposed environmental policy should support policy and institutional cohesion. Thus the National Land Use Policy, Agriculture and Fisheries Policies and other economic and development policies should also be developed according to the above mentioned principles to ensure policy cohesion and a real impact.

## **2. Implementation mechanism**

Although the upcoming policy has highlighted the need for managing natural resources and has acknowledged the anthropogenic contributions to the depletion of natural resources, there are inadequate provisions in it to mitigate resource depletion.

To ensure that this policy does not become yet another paper-based, impractical and unimplemented policy, it should incorporate provisions for periodic reviews in line with other policies that impact the environment in Sri Lanka. This will enable the policy drafters and implementers to learn about the impact of social and economic factors, institutional inadequacies, and inappropriate policy environments and the factors that had led to the failures of previous policy initiatives.

Since this new policy is going to be area-based, with a distinct conservation and management approach, it should also give higher priority to the OTHER STATE FORESTS (OSFs) and consider them also as environmentally sensitive areas.

A problem associated with this lack of co-ordination and management is detailed below.

Circular No 5/2001 prevented the arbitrary use of the Other State Forests. (e.g.: Hambantota Proposed Managed Elephant Reserve, Gilimale Forest Reserve and the Kiribathgala mountain range). Other state forests are not declared under any enactments such as Forest Conservation Ordinance, Fauna and Flora Protection Ordinance or the National Heritage Wilderness Areas Act. But comes under the purview of the forest conservation department. Circular MWFC/1/2020 issued on November 4, 2020, by the Ministry of Wildlife and Forest Conservation has caused widespread concern. It revoked four previous circulars (5/2001, 02/2006, 02/02/03/301 and 05/98) and transferred the administration of Sri Lanka's other state forests (OSFs) from the Forest Department to district and divisional secretariats. Up until recently, these were called residual forests.

Before moving onto identifying the undiscovered sensitive areas outside the protected areas (both in-land and marine), it is required to monitor how the sensitive areas within the protected areas are managed. For instance, the Hikkaduwa national park which was the first marine protected area in Sri Lanka now has less than 13% of its live coral cover. This is not only due to coral bleaching events from natural phenomena but also surrounding industrial activities. *Only through comprehensive management of marine protected areas will there be economic benefits to the communities and one of the benefits of such management is increased fisheries resources.*

### **3. Specific recommendations on thematic areas**

The following suggestions are to improve the proposed National Policy on Environmentally Sensitive Areas in Sri Lanka.

#### **Thematic Area: Compliance and Adherence to the Policy.**

##### **Policy Statement (1):**

- How will land use planning activities comply with the set guidelines?
- How to ensure that public institutional regulations, guidelines, and procedures are complying with the set guidelines on sensitive areas, what would be the monitoring mechanism?
- What are the provisions to review the guidelines developed under each thematic area for Compliance and Adherence to the policy?

#### **Thematic Area: Identification of Environmentally Sensitive Areas.**

##### **Policy Statement (2):**

- Identification of the sensitive areas should also prioritise the number of endangered species within the selected area.
- Provisions should be there to develop a platform where communities shall update the identified sensitive areas and associated problems.
- The criteria in identifying and selecting the sensitive areas are ambiguity intact.

#### **Thematic Area: Management of Environmentally Sensitive Areas.**

##### **Policy Statement (6):**

The proposal has not made it clear how a rights-based approach will be included in natural resource management. Also, there should be provisions to review the existing rights for the communities in utilizing the natural resources.

**Thematic Area: Thematic Area: Sustainable Financing for Environmentally Sensitive Areas.**

**Policy Statement (10):**

**Thrust Area 10.2:**

All around the globe there are numerous examples which demonstrate that green financing, however well-intentioned, have not been directed in a strategic manner. There are issues of sustainability of the green funds and they have not directed capital to sustainable activities as compared to conventional funds that comply with targeted investment criteria. Therefore any form of green financing should be directed within a well-defined legal framework which is in line with Sri Lanka's international environmental and human rights obligations. The policy should include binding standards to fight green washing.

***General recommendations:***

- The national policy should also enable the enhancing the eco-system awareness of the authorities. The the lack of green awareness, is the key factor behind policy failures.
- There should be activities and strategies to familiarize children and the broader community about these sensitive areas. This awareness, knowledge and commitments will ensure the sustainability of the national policy.