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Report on

The Policies, Legislations and Regulations (PLR) Matrix

Sri Lanka UN-REDD Programme

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The Policies, Legislation and Regulations (PLR) Matrix

a. Background to the PLR matrix

a.1 Introduction

Development of the PLR matrix is a crucial step in the national approach to REDD+ safeguards. The outcome of the PLR analysis basically elucidates how far the country's existing policy and regulatory framework meets the Cancun safeguard principles of the UNFCCC, as interpreted by the national clarification process, what gaps exist and what steps the country needs to undertake before it can become fully Cancun safeguard compliant. The PLR analysis is the fourth step in the development of the national REDD+ safeguards approach (kindly refer to the main national approach to safeguards report).

a.2 Purpose

According to the [UNFCCC Decision 12/CP.17](#) paragraph 3, and [Decision 9/CP.19](#) paragraph 4, countries seeking to implement national REDD+ strategies/action plans are required by the UNFCCC to provide a summary of information on how all of the Cancun Safeguards are being 'addressed' and 'respected' throughout the implementation of REDD+ actions.

a.3 Methodology

The PLR analysis has essentially focused on two key aspects,

1. How Cancun safeguards are currently addressed through the country's existing PLR framework – termed the 'address' part
2. How effectively the PLRs that are 'addressed' are being implemented in the country – termed the 'respect' part

a.3.1 Safeguards addressed

This was achieved through a comprehensive analysis of the existing PLRs through a desk review of relevant policies, strategies, ordinances, acts, development plans and other strategic documents. The main task of the review was to assess whether a given PLR addresses the Cancun safeguards or not on paper, and if it does whether the safeguard is fully addressed or partially addressed. All references used in this exercise have been clearly footnoted in the matrix.

a.3.2 Safeguards respected

The degree to which Cancun safeguards that are fully or partially addressed within Sri Lanka's PLR framework are implemented was achieved through close consultation with key departments and agencies that are responsible in implementing the relevant PLRs. These consultations were supported with published information in the form of Departmental Reports and sector analysis papers.

A questionnaire was developed with key questions posed, as indicated below, to rapidly assess how Sri Lanka is 'respecting' safeguards, as elaborated through the national criteria.

- Is there one or more institutional agencies responsible for the PLR's implementation?
- If they exist, do these institutions have the appropriate mandate to implement the PLR?
- Do they have the appropriate procedures to execute their mandate?
- Do they have the adequate financial (i.e. operational budget), human (i.e. trained personnel), and technological (i.e. the right equipment) resources to perform the procedures properly?

Detail one to one consultations were carried out with the following agencies in order to clarify how different aspects of each relevant PLR are currently being implemented, current organizational capacities and what issues and challenges hampered the full and effective enforcement of the PLRs.

- Central Environmental Authority
- Forest Department
- Department of Wildlife Conservation
- Biodiversity Secretariat of the Ministry of Mahaweli Development and Environment
- Ministry of Lands

a.4 Presentation of the matrix

- The PLR matrix is presented as separate tables under the 7 Cancun safeguard principles.
- Under each safeguard, relevant nationally clarified criteria has been assessed based on the following and the outcome has been documented
 - i. Is the safeguard 'addressed' through existing policies, laws, or regulations (PLRs) on paper?
 - ii. Is the safeguard 'respected' through implementation of relevant PLRs in practice?
 - iii. What gaps, weaknesses, or inconsistencies are there for each of the PLRs on paper?
 - iv. What gaps, weaknesses, or inconsistencies are there in implementation of the relevant PLRs in practice?
 - v. What possible info sources are there that could demonstrate PLR implementation
- A symbol has been used on the left hand column, for ease of reference, to denote the following;



PLR Fully addressed/respected




PLR Partially addressed/respected





PLR Not addressed/respected

Template for PLR Analysis and Collection of Information Sources

Cancun Safeguard (a): REDD+ actions complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements	
a.1 Nationally Clarified Safeguard Requirements : Consistent with national environmental action plans, national forest programmes and relevant policy and legislative frameworks that cover environmental/ conservation management in the country	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>While there is <u>no specific PLR</u> that require programs to be consistent with the national forestry, biodiversity and environmental management framework, it is implicit within the constitution and NRM legal framework and non-compliance can amount to breach of national laws.</p> <p>PLR 1 – The Constitution of SL</p> <ul style="list-style-type: none"> At the national level, the constitution of Sri Lanka, in Chapter iv (under “fundamental duties”), specifies that it is the duty of every person in the country ‘to protect nature and conserve its riches’, thus setting out the strategic long-term vision, commitment and shared responsibility between the state and the people to ensure environmental protection at the foremost level. It sets out the objectives for all environmental management programs within the country, including forestry.¹ <p>PLR 2 – Natural Resource Management Framework in SL</p> <ul style="list-style-type: none"> At the sector level, the policy and legal framework for forestry, wildlife, environmental management, coast conservation etc defines the overall framework of the country’s commitment to biodiversity conservation and environmental management. These laws are generally complementary and are clear on how development is regulated within the respective jurisdictional areas.
<p>Safeguard “Respected” through implementation of PLR in practice?</p>	<p>PLR 1</p> <ul style="list-style-type: none"> The rampant environmental destruction that takes place in the country’s natural resources, by individuals, state agencies as well as the corporate sector in the name of ‘development’ clearly indicates that this vision of the constitution is not a foremost criteria when decisions are taken.

¹Judges and Environmental Law; A Handbook for the Sri Lankan Judiciary 2009


	<p>PLR 2</p> <ul style="list-style-type: none"> • Within the environment sector, national environmental strategies, action plans and conservation plans that are prepared periodically, are consistent with and complementary to the objectives of the national forest program and the PLR framework, and set out the detailed vision of the sector for a specified period of time. REDD+ initiatives will fall in this category. • The proposed REDD+ strategy is prepared using an extensively consultative process with the conservation, land use planning and environmental regulatory agencies as well as with a thorough scientific understanding of the challenges in the forestry sector. It takes into consideration the national forestry program and aims to address Sri Lanka’s current challenges in forestry resource management based on a comprehensive analysis of the drivers of deforestation and forest degradation. Hence, REDD+ will be fully consistent with this criteria.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>PLR 2</p> <ul style="list-style-type: none"> • Between the environment and development sectors, plans and policies are not always co-ordinated at an early and at an apex level, given the complex institutional set up and competing sector objectives which often results in the development sector taking precedence over the environment sector on nationally important projects. <u>This uncertainty can have a negative impact on REDD+ achievements and outcomes as infrastructure development is the foremost threat to forest and other natural areas in Sri Lanka.</u>
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • When a future REDD+ initiative is designed, it should be made clear how it has taken into account national environmental action plans, national forest programmes and relevant policy and legislative frameworks that cover environmental/ conservation management in the country.
<p>a.2 Nationally clarified safeguards requirement : Consistent with obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements</p>	
<p>Safeguard “Addressed” through existing PLRs on</p>	<p>PLR 1 – The Constitution of SL</p> <ul style="list-style-type: none"> • Article 4 of the Constitution, read with Article 3, says that sovereignty is with the People, the legislative power of the people shall be exercised by the Parliament, executive power of the people shall be exercised by the

<p>paper?</p> 	<p>President, and the judicial power of the People shall be exercised by the Parliament through courts. Accordingly Parliament is the supreme body that can pass laws in Sri Lanka. President of the Republic is empowered under Article 33(f) to represent Sri Lanka to enter into a treaty or accede to a Covenant, content of which are not inconsistent with the Constitution or written domestic law.</p> <ul style="list-style-type: none"> • Sri Lanka is considered as a ‘dualist state’ where international treaty laws do not automatically become law in the integral legal order of the country, unless such treaties are incorporated into domestic law. As such, international treaties do not automatically take precedence over domestic legislation. • However, during the proceedings of a well-known local case (<i>NallaratnamSingarasa vs. Sri Lanka</i>²) it was stated that ‘international treaties entered into by the President and the Government of Sri Lanka as permitted by and consistent with the Constitution and written law would bind the Republic <i>qua</i> State but have to be implemented by statute enacted under the Constitution to have internal effect.’ • Article 27(15) under directive principles of state policy and fundamental duties of Sri Lanka’s Constitution requires the State to ‘endeavour’ to foster respect for international law and treaty obligations in dealings among nations. In some judicial proceedings, state obligations of treaties that have been ratified by the government but not yet fully incorporated into domestic law has been used in the interpretation process(example: Human rights).³However, according to the Article 29 the Chapter on Directive Principles of the State Policy and Fundamental Duties does not impose legal rights or obligations that are not enforceable, thus no question of inconsistency with such provisions shall be raised in any court or tribunal.
	<p>PLR 2 – Legal precedence</p> <ul style="list-style-type: none"> • Activism of the Judiciary is another way of incorporating international law into the domestic law through creative interpretation. In the <i>Eppawala Case</i>⁴ it was stated that ‘[international conventions] are to be binding if they have been either expressly enacted or become a part of the domestic law by adoption by the superior Courts of record and by the Supreme Court in particular in their decisions.’ Accordingly the case gave a wide and creative interpretation to Article 12 of the Constitution using International Standards (‘Soft Law’) as set out in Stockholm and Rio De Janeiro Declarations. Since this is a decision given by the Supreme Court, later courts are bound to follow the precedent (under Common Law legal tradition).

²S.C. SpL (LA) No. 182/99, SCM15.09.2006.

³<http://www.island.lk/2006/10/27/features1.html>

⁴*Bulankulama and others v. Secretary, Minister of Industrial Development and others* (2000)3 Sri L.R. 243


	<p>PLR 3 – The National Forest Policy</p> <ul style="list-style-type: none"> The policy statement in the National Forest Policy 1995 on international forest-related conventions advises that “The state will observe international forest related conventions and principles that have been agreed to by Sri Lanka”. <p>PLR 4 – National Environmental Policy and Strategies 2003</p> <ul style="list-style-type: none"> The policy statement in the National Environmental Policy and Strategies 2003 advises that ‘International commitments will be honoured as part of our responsibility to the national and global communities’.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> Sri Lanka has actively participated in the global environmental partnership. The country is party to 41 international treaties, conventions and protocols some of which are relevant and applicable to REDD+ safeguards. The government generally accords high priority to adherence to international conventions and initiatives. They set out non-legally binding principles, (i) which the country respects when considering actions, (ii) which affect a particular environmental issue, or “hard-law”, (iii) which specify legally-binding actions to be taken toward an environmental objective.⁵ <p>PLR 2</p> <ul style="list-style-type: none"> The case in point set a legal precedence which was referred to by many judges afterwards <p>PLR 3 & 4</p> <ul style="list-style-type: none"> International treaties and conventions have progressively influenced a number of policies, action plans and programs in the forestry and environmental sector in Sri Lanka in order to meet our national commitments. Among these key policies are the National Forest Policy (1995) and the National Wildlife Policy (1999). The National Forest Policy is related directly to the MAB Programme, the World Heritage Convention, Forest Principles, Conservation of Biodiversity and Convention to Combat Desertification; whereas the National Wildlife Policy leans towards CITES, the Bonn Convention, the Ramsar Convention, the Forest Principles and the


⁵Handbook on Multi-lateral Environmental Agreements, Ministry of Environment and Natural Resources, 2008

	<p>Convention on Biological Diversity.</p> <ul style="list-style-type: none"> • Some treaties are being implemented through relevant provisions in the existing national legislation such as the (i) Convention on Biological Diversity, Convention on International Trade in Endangered Species of Wild Fauna and Flora etc through the Forest Ordinance, Fauna and Flora Protection Ordinance and National Wilderness Heritage Areas Act. • The Forestry Sector Master Plan (1995), the Biodiversity Action Plan (1998), the Forest Resources Management Project (1999) and the Biodiversity Conservation and Protected Areas Management Project also cover action programs of forestry-related conventions. • New PLRs have also been developed (or are being developed) for some conventions for which domestic PLR framework is inadequate. Ex Cartagena Protocol under the Convention of Biological Diversity. • For each treaty/convention, the Government has designated national focal points and set up dedicated institutional units under the relevant ministries to prepare, implement and co-ordinate action plans to meet relevant country obligations and to carry out national reporting, as required, to the Conventions.
Gap, weakness, inconsistencies in existing PLRs on paper	<p>PLR 3 & 4</p> <ul style="list-style-type: none"> • Since Sri Lanka is a dualist country, treaties and conventions become legally enforceable only when they are incorporated into domestic law. As such, full implementations of the conventions are at times hampered for lack of supporting provisions in the country's PLR framework.
Gap, weakness, inconsistencies in implementation of PLRs in practice	<p>PLR 3 & 4</p> <ul style="list-style-type: none"> • While legal amendments have been enacted from time to time in order to facilitate implementation of some conventions, these take a long time to come into force.
Possible info sources that could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> • When a future PaMis designed, it should be made clear how it has taken into account national obligations under relevant international treaties and agreements.


Cancun Safeguard (b): Transparent, effective forest governance structures, taking into account national legislation and sovereignty


b.1 Nationally Clarified Safeguard Requirements : Effective law enforcement and compliance

<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>Sri Lanka’s legal framework facilitates forest law enforcement through the establishment of clear mandates and adequate authority for forest law enforcement within forest areas.</p> <p>PLR 1</p> <ul style="list-style-type: none"> • The Forest Ordinance no (FO) 16 of 1907 and amendments; • The FO is the country’s primary legislation for the protection of forests; it makes provisions for the conservation, protection and sustainable management of forest resources and utilization of forest produce. The act establishes a clear mandate for forest protection and adequate authority for forest law enforcement in the country. The FO specifies permitted and restricted activities within forest areas and defines what constitutes a forest offence and the corresponding penalties (administrative sanctions, penal sanctions and civil actions). <p>PLR 2</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance (FFPO) 1937 and amendments; • The FFPO is the country’s primary legislation for the protection of fauna/flora and their habitats within national reserves and sanctuaries. The act establishes (i) a clear mandate for the protection of wildlife and their habitats and (ii) adequate authority for law enforcement in the country. The FFPO specifies permitted and restricted activities within national reserves and sanctuaries and sets out wildlife offences and the corresponding penalties (administrative sanctions, penal sanctions and civil actions). <p>PLR 3</p> <ul style="list-style-type: none"> • National Wilderness Heritage Areas Act 1988; • This act provides for the preservation of unique ecosystems and genetic resources, physical land, biological formations and areas constituting the habitats of threatened plant and animal species of universal scientific or conservation value. The act establishes (i) a clear mandate for the protection of wilderness heritage areas and (ii) adequate authority for law enforcement in such areas.
<p>Safeguard “Respected” through implementation of</p>	<p>PLR 1</p> <ul style="list-style-type: none"> • The Forest Ordinance no (FO) 16 of 1907 and amendments • The Forest Department has a dedicated division for law enforcement and is primarily devoted to matters

<p>PLR in practice?</p> 	<p>relating to enforcement of the Natural Heritage Wilderness Areas Act and the Forest Ordinance. While administration is carried out by the division, enforcement of the forest law is carried out through the regional and field staff ⁶</p> <p>Effective enforcement of forest legislation is contingent upon the availability of adequate staff strength/capacity, financial resources, administrative and political will of the enforcement agency and the level of awareness of forest conservation laws. In practice, many weaknesses and shortcomings occur in these areas affecting full compliance with the FO and the NWHAA.</p>
	<p>PLR 2</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance (FFPO) 1937 and amendments; The Department of Wildlife Conservation has a dedicated division for law enforcement and is primarily devoted to matters relating to enforcement of the Fauna and Flora Protection Ordinance. While national level administration is carried out by the division, enforcement of wildlife law is carried out through the regional and field staff <p>Effective enforcement of legislation relating to wildlife conservation is contingent upon the availability of adequate staff strength/capacity, financial resources, administrative and political will of the enforcement agency and the level of awareness of wildlife conservation laws. In practice, many weaknesses and shortcomings occur in these areas affecting full compliance with the FFPO.</p>
	<p>PLR 3</p> <ul style="list-style-type: none"> • National Wilderness Heritage Areas Act 1988; Same as for PLR 1 above
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<ul style="list-style-type: none"> • The legal framework outlined by PLR 1, 2 and 3 are considered adequate for effective forest conservation.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>PLR 1, PLR 2 and PLR 3</p> <ul style="list-style-type: none"> • Gaps in implementation due to reasons stated above. • Strict enforcement of laws that overlook rural poverty and low levels of education among local communities are also leading causes for forest degradation in some areas.

⁶http://www.forestdept.gov.lk/web/index.php?option=com_content&view=article&id=108&Itemid=92&lang=en#Protection

<p>Possible info sources that could demonstrate PLR implementation</p>	<ul style="list-style-type: none"> • Annual Performance Report of the Department of Wildlife Conservation • Number of Wildlife Offences reported, Number of offences prosecuted in courts • New regulations issued • Number of capacity building programs conducted for enhancement of law enforcement • Detail information available with the Law Enforcement Division • Annual Performance Report of the Forest Department • Staff strength of law enforcement officers • Number of capacity building programs conducted for enhancement of law enforcement • Number of Forest Offences detected and prosecuted • Timber monitoring and permits issued, • New regulations issued • Detail information available with the Forest Protection and Law Enforcement Division
<p>Recommendations</p>	<ul style="list-style-type: none"> • Comprehensive assessment of institutional/law enforcement capacity in the forest sector.
<p>b.2 Nationally clarified safeguards requirement : Enhanced institutional capacity of relevant institutions at state and local levels for improved forest governance</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The Forest Ordinance no (FO) 16 of 1907 and amendments; • The FO provides the basis for an institutional set up for forest management in the country, and establishes a clear mandate for the Forest Department in managing natural forests and biodiversity within. It also provides the Department as well as the judicial agencies with clear authority, mandate and power under the law to prosecute forest crimes. <p>PLR 2</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance (FFPO) 1937 and amendments; • The FFPO creates institutional responsibilities for the protection and conservation of wildlife resources in the country. It provides the basis of the institutional mandate of the Department of Wildlife Conservation in managing declared wildlife areas and biodiversity inside protected areas. The FFPO also provides the department as well as the judicial agencies with clear authority, mandate and power under the law to prosecute wildlife crimes.

	<ul style="list-style-type: none"> • Areas managed under PLR 1 and PLR 2 constitute about 55% of the natural forests in the country.
Safeguard “Respected” through implementation of PLR in practice? 	PLR 1 & PLR 2 <ul style="list-style-type: none"> • A dedicated institutional set up for the implementation of forest and environmental management has been long-established in the country. • Since 1989, a cabinet ranked Ministry has been created specifically to deal with environmental issues including forestry.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	PLR 1 & PLR 2 <ul style="list-style-type: none"> • Inadequate staff strength and capacity, availability of funds and facilities hamper performance of these institutions. For example, it has been reported that a significant number of staff days have to be spent in courts by forest/wildlife officers for hearing of forest/wildlife offences, limiting time available for enforcement of the law.
Possible info sources that could demonstrate PLR implementation	Annual Performance Reports of the Forest Department and Department of Wildlife Conservation <ul style="list-style-type: none"> • Existing staff strength viz a viz cadre strength identified for effective institutional performance • Professional capacity of staff members • Number of vacancies unfilled
Recommendations	<ul style="list-style-type: none"> • Comprehensive assessment of institutional/law enforcement capacity in the forest sector • More financial resources should be channelled towards institutional capacity building & strengthening for enhanced performance.

b.3: National clarified safeguard requirement: Transparent and accountable decision-making at all levels of government relating to forest activities

Safeguard “Addressed” through existing PLRs on paper?



b.3.1 Right of Access to Information (RTI)

PLR 1

- **Constitution of Sri Lanka:** The constitution contains provisions pertaining to freedom of speech, expression, and the mass media [Article 10 & Article 14(1)(a)] from which elements of disclosure and RTI may be derived, but there is no specific reference to a right to, or freedom of, information in the Constitution.

PLR 2

- **Right to Information Act 2016:** On the 22nd of June 2016, Sri Lankan parliament approved the Right to Information (RTI) Act that explicitly guarantees access to official information. According to the Act, Public Authorities shall maintain and preserve their records, and the public shall have the access to these preserved records, excepting under specified circumstances where access to information can be denied. The RTI Act will establish a Commission (Right to Information Commission), and the Commission will set up the institutional framework that is needed for the full implementation of the Act.

PLR 3

- **Local Government Laws:** Under local government laws, transparency provisions and RTI exists to a certain extent. The public can request for inspection documents such as minutes of Municipal Council (MC) meetings, revenue defaulters lists, Assessment books with annual values of each house within the municipality, bylaws, budget of the MC 7 days prior to date of submission etc

PLR 4

- **The Forest Ordinance Amendment Acts of 1995:** Section 4 (3B) of the act, requires that prior to the declaration of reserved forests and conservation forests, the significance of such a declaration be notified (*boundaries of the proposed reserve and the consequences which will ensue after the declaration*) to the surrounding villages and towns, in both Sinhala and Tamil languages, through the Divisional Secretariat⁷.

⁷ Law for the Conservation of Forests, Forest Resources Conservationists’ Organization, 2013


	<p>PLR 5</p> <ul style="list-style-type: none"> • National Environmental Act (NEA) no 56 of 1988: The environmental assessment procedure implemented in terms of the National Environmental Act has important elements that help ensure transparent and accountable decision-making in project approval. According to the NEA, the Project Approving Agency (PAA) must carry out media notices in all local languages to alert the public to the fact that an EIA report is open for public scrutiny. The EIA is open for public comment for a period of 30 days. The PAA is also required to notify through a gazette and media announcements their decision on the EIA/IEE. The IEE reports, which were earlier opened for similar public scrutiny, have been exempted from this requirement since of 2000⁸. However, an Initial Environmental Examination report shall be deemed to be a public document for the purposes of sections 74 and 76 of the Evidence Ordinance (Chapter 21) and can be open for inspection by the public.⁹ • The Forest Department is a designated Project Approving Agency under the National Environmental Act and manages the EIA/IEE process according to CEA’s regulations, including public review of EIAs.
	<p>PLR 6</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance: Section 14 of the FFPO Amendment Act of 2009 has similar provisions to that of the NEW with regard to EIA/IEE for any activity that takes place within a 1 mile boundary of a National Reserve (buffer zone). Section 14 (b) (3) stipulates that by notice published in the Gazette, the place and time at which such assessment or examination will be available will be notified for inspection by the public and invite the public to make comments, if any, thereon. Within a period of 30 days any member of the general public can forward comments to the Director General.
	<p>PLR 7</p> <ul style="list-style-type: none"> • Coast Conservation Act: This was the first law in Sri Lanka to have introduced EIA/IEE to the development planning process. Under this Act the public can review and comment on the final EIA and forward comments to the Director of the CCD.
	<p>PLR 8</p> <ul style="list-style-type: none"> • The Biodiversity Conservation Action Plan: Under Chapter 6 on Biodiversity Conservation & Proposal for

⁸National Environmental Act No 53 of 2000

⁹<http://www.cea.lk/web/index.php/component/content/article?id=92>

	<p>Action, sub-section 6.9 identifies issues that hamper access to information and recommends several actions, including the formulation of a national policy for information management and guidelines to assist custodial institutions to formulate individual information access policies for in-country and external would-be users.</p>
	<p>b.3.2 Raising awareness about RTI and proactive disclosure</p> <ul style="list-style-type: none"> • The legal framework of the country does not require institutions to promote awareness about their right to access information. Most government offices don't have a public information officer who will receive and respond to RTI applications. Even when they do, their mandate is not exactly to guarantee RTI. • Neither does it require institutions to provide information explaining the laws, regulations and procedures related to forest management in an easily understandable language for forest users.
	<p>b.3.3 Accountability of decisions</p> <p>PLR 9</p> <ul style="list-style-type: none"> • The Forest Ordinance contains no specific accountability mechanisms. Decisions pertaining to issuing licenses, management decisions in respect of State forests etc. are taken by the departments almost unilaterally.¹⁰
	<p>PLR 10</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance contains no specific accountability mechanisms. Decisions pertaining to issuing licenses, management decisions in respect of State forests etc. are taken by the departments almost unilaterally.
	<p>PLR 11</p> <ul style="list-style-type: none"> • Parliamentary standing orders: However, there are other mechanisms through which accountability can be enforced. All statutory authorities are accountable to the Parliament. The Parliamentary standing orders provide for questions relating to public affairs to be posed to a relevant Minister relating to matters which are their responsibility. As such, through a Member of Parliament questions can be raised to be answered by the Minister concerned. • For example, the Public Accounts Committee (PAC)/ Committee on Public Accounts (COPA) was established by a Parliamentary Standing Order (No 125) of which the duty is to examine the accounts showing the appropriation of the sums granted by parliament to meet the public expenditure. Also another parallel committee called the Committee on Public Enterprises (COPE) was established to probe the management of

¹⁰ Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

	semi-governmental institutions.
	<p>PLR 12</p> <ul style="list-style-type: none"> Public Petitions can be initiated, which is a powerful tool for the public; whereby the attention of the relevant Department or the Parliament could be drawn to issues pertaining to administrative decisions.
	<p>PLR 13</p> <ul style="list-style-type: none"> Sri Lanka has established a Bribery Commission, to which matters relating to bribery and corruption can be referred to.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> The constitution of Sri Lanka: RTI is not very specific.
	<p>PLR 2</p> <ul style="list-style-type: none"> Right of Information Act: Many attempts to introduce a RTI bill have been made in the past with little success. The current government has met with its election pledge by finally passing the Act in Parliament in the 3rd week of June 2016. As such there is no implementation experience of the RTI law.
	<p>PLR 3</p> <ul style="list-style-type: none"> Local Government Laws: this right is not exercised in Sri Lanka, largely due to the ignorance of the people. These relate directly to local administration of town/urban and development activities and not to forest management.
	<p>PLR 4</p> <ul style="list-style-type: none"> Forest Ordinance: Notification of new declarations of reserved or conservation forests are generally made available to the local stakeholders through the Divisional Secretariat’s Office. This however, is far too limited and comes too late in the process to serve as a governance tool.¹¹
	<p>PLR 5</p> <ul style="list-style-type: none"> National Environmental Act: The NEA is an important piece of legislation in ensuring better governance and promoting active distribution of information to the public. The public commenting requirement and administrative steps involved for EIAs are generally well respected. However, the effectiveness of allowing public the access to information to influence public investments and to achieve the desired objectives in the EIA process, is far from satisfactory. There is a general lack of public interest and lack of awareness of disclosures. Only a few NGOs would comment, if any, on EIAs for projects that may have environmental impacts at a national level.


¹¹Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

	<ul style="list-style-type: none"> • IEEs were withdrawn from public scrutiny in 2000 on grounds of ‘lack of public interest’ and significant delays caused in the approval process. While it has sped up the administrative process of granting approval, it has had a negative impact on the transparency of the overall environmental assessment process. Under the current politicised climate, IEEs can be justified to replace EIAs in order to restrict information to the public and avoid public debate on project design and alternatives. • The NEA has limited impact on the forestry sector as the prescribed list coverage of forestry activities is limited.
	<p>PLR 6</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance: There are no regulations to specify procedures but they follow CEA regulations. EIA implementation experience on accountability matters is similar to the NEA described above.
	<p>PLR 7</p> <ul style="list-style-type: none"> • Coast Conservation Act: EIA implementation experience on accountability matters is similar to the NEA described above.
	<p>PLR 8</p> <ul style="list-style-type: none"> • Biodiversity Conservation Action Plan: These provisions relating to RTI has not been implemented.
	<ul style="list-style-type: none"> • Awareness of Right to Information – With the recent passing of the RTI bill in Sri Lanka parliament, changes in institutional arrangements and administrative procedures in the way information will be held and shared is expected to take place in the future. It is too soon to evaluate its effectiveness.
	<p>PLR 9</p> <ul style="list-style-type: none"> • Accountability under Forest Ordinance: Although there are no specific legal provisions, the annual performance report of the Department is published printed and shared with public sector agencies and are available to interested public through the Department’s library. The performance report contains information pertaining to activities implemented in the relevant budget year.
	<p>PLR 10</p> <ul style="list-style-type: none"> • Accountability under Fauna and Flora Protection Ordinance: Although there are no specific legal provisions, annual performance report of the Departments is published printed and shared with public sector agencies and are available to interested public through the Department’s library. The performance report contains information pertaining to activities implemented in the relevant budget year.

	<p>PLR 11</p> <ul style="list-style-type: none"> • Parliamentary Standing Orders: When PAC was introduced, its recommendations were considered as directions to the public service and were in fact implemented. PAC can recommend discontinuance of projects and it can question the public officials about their accountability. • However, when it comes to practice today any government considers PAC and COPE as a hindrance rather than a support. PAC and COPE have not gained the respect in SL that, usually public officials ignore queries by the PAC or COPE. <p>PLR 12</p> <ul style="list-style-type: none"> • Public Petitions: Petitions are minimally used. <p>PLR 13</p> <ul style="list-style-type: none"> • Bribery Act 1954: No forest related matters have been prosecuted by the Bribery Commission so far.¹²
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 1</p> <ul style="list-style-type: none"> • Constitutional provisions guaranteeing RTI are not enough, they need to be backed up by a legal framework in order to specify a process and clarify exceptions etc.¹³ The passing of the RTI bill in parliament recently is a major achievement that fills a vacuum in the PLR framework for transparent governance. <p>PLR 4</p> <ul style="list-style-type: none"> • The Forest Ordinance : Lack of a comprehensive information sharing policy for the Department <p>PLR 5</p> <ul style="list-style-type: none"> • The National Environmental Act (NEA) no 56 of 1988: Exclusion of IEEs from public review. <p>PLR 6</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance : Lack of a comprehensive information sharing policy for the Department <p>PLR 7</p> <ul style="list-style-type: none"> • Coast Conservation Act : Lack of a comprehensive information sharing policy for the Department
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>PLR 3, PLR 4, PLR 5, PLR 6, PLR 7</p> <ul style="list-style-type: none"> • People’s attitude towards obtaining information – ignorance and lethargy. • Publishing of information to merely meet a legal requirement and paying little attention in reaching out the target audience


¹² Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

¹³ Consultation report on securing the right to information legislation, 2010

<p>Possible info sources that could demonstrate PLR implementation</p>	<p>Annual Performance Report of the Forest Department</p> <ul style="list-style-type: none"> • Information available with the Environment Management Division • Number of EIA notices published, responses received and hearings held • Number of Public Notices issued for new declarations <p>Annual Performance Report of the Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Information available with the Natural Resources Division • Number of EIA notices published, responses received and hearings held (CEA handles EIA/IEEs, records are held with the DWLC) • Number of Public Notices issued for new declarations
<p>Recommendations</p>	<ul style="list-style-type: none"> • Implement the RTI Act. Until this comes properly into force, REDD+ should develop its information sharing strategy that is sensitive to the culture and needs of local forest stakeholders. • Initial Environmental Examination documents under the NEA, the Coast Conservation Act, and the Flora and Fauna Protection Ordinance should be open for public scrutiny. • The Forest Ordinance should be amended to allow public access to information relating to proposed REDD+ actions.
<p>b.4 Nationally clarified safeguards requirement : Effective cross-sectoral coordination and communication to ensure integration of forest and biodiversity conservation</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The National Forest Policy, under Section 6, focuses on inter-sectoral co-ordination. Section 6.1, in particular, stipulates that consistency will be maintained between the NFP and other relevant policies in the country. <p>PLR 2</p> <ul style="list-style-type: none"> • The National Wildlife Policy, under section 4 on policy and inter-sectoral linkages, promotes effective co-ordination among stakeholders at all levels and consistency between the wildlife policy and other sectoral and inter-sectoral policies. <p>PLR 3</p> <ul style="list-style-type: none"> • The National Wetland Policy 2006, under section 5.3, promotes inter-sectoral linkages by integrating principles of sound wetland eco-system management into sectoral plans at all levels. <p>PLR 4</p> <ul style="list-style-type: none"> • The National Environmental Policy and Strategies 2003 recognizes the need to integrate environmental management in other economic sectors that use and impact on natural resources. It identifies 6 economic

	<p>sectors and the environmental strategies they need to adopt and refer to Committees on Environmental Policy and Management (CEPOMs) set up for each sectoral group to oversee co-ordination and implementation of programs. ¹⁴</p>
	<p>PLR 5</p> <ul style="list-style-type: none"> • The National Environmental Act 1980 and subsequent amendments: The NEA has an umbrella approach to environmental management covering a broad range of areas, implementation of which is contingent upon sound multi-sectoral integration. • Part I Section 7 of the National Environmental Act of 1980 provides for the establishment of an Environmental Council, comprising of senior officers from Ministries in charge of various subjects, to advise the CEA on environmental matters. The council serves as a structural arrangement for representing and integrating sectoral environmental interests into the policy decision-making process and also as a coordinating body for the different ministries and agencies. • Part iv A, B and C of the NEA Amendment Act No 56 of 1988 relating to environmental protection, environmental quality and approval of projects, respectively, lay out some of the processes that promote cross-sectoral integration. • Among these is the EIA regulations which provide an institutional basis for inter-ministerial and inter-sectoral coordination where sectoral ministries, lead and manage the EIA process and its outcomes as Project Approving Agencies.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The Biodiversity Conservation Action Plan 1998: The BCAP proposed the establishment of an apex body in the form of a high-level steering committee to ensure highest level co-ordination, policy formulation and policy decisions on the overall implementation of the BCAP. The National Steering Committee, appointed by the Minister and chaired by the Secretary to the Ministry of Environment, was proposed with 14 members, including Secretaries of Ministries covering 8 key development sectors.
	<p>PLR 7</p> <ul style="list-style-type: none"> • Haritha Lanka Plan: Successive generations of National Environmental Action Plans have promoted sustainable development which essentially requires sound cross-sectoral co-ordination. • Most recently, under the Haritha Lanka Programme, the government established a National Council for

¹⁴ National Environmental Policy and Strategies (2003)

	<p>Sustainable Development (NCSD) chaired by His Excellency the President with 22 ministers in charge of major economic development sectors serving as members. The Ministry in charge of the subject of Environment is the convener of the council. The objective of the Council is to function as a national platform to launch and promote the process of sustainable development, and to oversee and guide the implementation of the Haritha Lanka Action Plan.¹⁵</p>
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The National Forest Policy: The National Forest Policy was approved for implementation by the Cabinet of Ministers in 1995. The National Forest Policy and policy objectives and statements have been referred to in many policies and action plans ensuring consistency, including the following. In terms of overall inter-sectoral co-ordination, outcomes have been limited. • National Land Use Policy (draft), 2002. Ministry of Lands. • National Status Report on Land Degradation, Implementation of the Convention to Combat Desertification in Sri Lanka, 2001. Natural Resources Management Division, Ministry of Forestry and Environment. • State of the Environment, Sri Lanka, 2001. Ministry of Forestry and Environment/UNEP.¹⁶ <p>PLR 2</p> <ul style="list-style-type: none"> • The National Wildlife Policy has been poorly implemented. <p>PLR 3</p> <ul style="list-style-type: none"> • The National Wetland Policy has been poorly implemented. <p>PLR 4</p> <ul style="list-style-type: none"> • The National Environmental Policy and Strategies • The Ministry of Forestry and Environment in 1999, to ensure that environmental concerns of sectoral agencies are incorporated into their sectoral policies, established a new institutional structure known as Committee on Environment Policy and Management (CEPOM). The CEPOMs were formed to facilitate the much-needed integration of biodiversity with other sectors, particularly within those agencies involved in development activities, which give low priority to biodiversity concerns. Eight CEPOMs were established as a pilot programme under the chairmanship of the Secretaries of sectoral ministries to consider environment and sustainable development issues relating to the respective sectors. The CEPOMs were fully owned by the

¹⁵National Action Plan for Haritha Lanka Program 2009

¹⁶National Forest Policy Review – Sri Lanka, Fernando S M P, Bandarathilake H.M

	<p>sectoral development agencies, chaired by Secretaries of the respective Ministries and co-chaired by the Secretary in charge of Environment. All major sectoral policy issues relating to environment and economic development were expected to be discussed at the CEPOMs. Environment and development issues that cannot be resolved at the CEPOMs were to be referred to the Committee on Integrating Environment and Development Policy (CIEDP), which comprised of Secretaries of development Ministries, Director General National Planning Department, Chairman National Development Council, Member of the Chambers and NGOs and was chaired by the Secretary, Ministry of Finance & Planning and co-chaired by the Secretary, Ministry of Environment.¹⁷</p> <ul style="list-style-type: none"> • The CEPOMs functioned for a period of time and then became defunct. The CEPOMs as a concept was promising, however, many are of the opinion that the CEPOMs were not effective in achieving what they were set up for.
	<p>PLR 5</p> <ul style="list-style-type: none"> • National Environmental Act: Despite the diversity of emphasis enunciated in the legislation, the focus of implementation of the act has been limited to EIA approval and pollution control. • The National Environmental Council –The council exists but doesn't play a role in cross-sectoral integration of environmental priorities. • While EIA can serve as a tool to guide policy choices and reconcile sectoral priorities, especially in large development projects, poor administration of the process and political interference with decision making, has rendered the objectivity of EIA outcomes weak. • The Project Approving Agency concept that allows sectoral ministries to lead the EIA process has largely failed, due to lack of expertise and institutional commitment, among other factors.
	<p>PLR 6</p> <ul style="list-style-type: none"> • Biodiversity Conservation Action Plan • With the preparation of the BCAP, Biodiversity Unit of the then Ministry of Environment was upgraded to a Biodiversity Secretariat, with a full-time director. The Secretariat's main functions include liaising with the relevant state agencies to develop mechanisms to incorporate BCAP's recommended actions into their


¹⁷T. Hewage¹ and K. V. IndraniMallika, Current Trends in Forest and Environmental Policies in Sri Lanka, Paper Presented at Conference on Developments in Forestry and Environment Management in Sri Lanka



	<p>implementation plans, liaising with governmental organizations and the provincial administration in the preparation of project proposals under the BCAP and facilitating meetings of the National Steering Committee (NSC) on Biodiversity and Task Forces (TFs) that are comprised of key officials from multiple Ministries.¹⁸</p> <ul style="list-style-type: none"> • The Secretariat co-ordinates via the Biodiversity Expert Committee which has a permanent membership (and the ability to nominate others as and when required). This committee in function does not fully cover the scope of the National Steering Committee on Biodiversity as envisaged. According to the Biodiversity Secretariat, the National Steering Committee on Biodiversity is not active. • Sri Lanka’s fifth report to the Convention on Biological Diversity for 2014, claims that the country has made some important progress in integrating biodiversity concerns in to relevant sectoral and cross-sectoral planning in recent time.¹⁹
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 7</p> <ul style="list-style-type: none"> • Haritha Lanka Plan: Hasn’t been successful.
	<p>PLR 1</p> <ul style="list-style-type: none"> • National Forest Policy: Lack of provisions in the Forest Ordinance to support the policy and makes cross-sectoral integration of policies and plans mandatory.
	<p>PLR 5</p> <ul style="list-style-type: none"> • National Environment Act: • Lack of regulations to enforce the National Environmental Act in its full capacity. • Lack of regulations to make Strategic Environmental Assessments on policies, plans and programs mandatory. (this is currently being addressed through amendments to the NEA)
<p>PLR 6</p> <ul style="list-style-type: none"> • Biodiversity Conservation Action Plan <p>The BACP is a comprehensive document (along with many other comprehensive documents like the IUCN Red List) but is not legally binding and the Ministry that leads the implementation of the BCAP has no regulatory powers. As such, there is no mandatory PLR requirement to comply with the BCAP in the development process. This is an issue in the EIA clearance process where BCAP recommendations cannot be</p>	

¹⁸Biodiversity Planning in Asia. IUCN, Gland, Switzerland and Cambridge, UK

¹⁹Sri Lanka’s Fifth National Report to the Convention on Biological Diversity, 2014

	<p>held as legally binding clearance conditions.</p>
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>Other</p> <ul style="list-style-type: none"> • Lack of an overarching policy that links sectoral policies within the framework of national sustainable development. This is a major short-coming that often results in development plans not being reconciled with that of conservation plans. <p>PLR 5</p> <ul style="list-style-type: none"> • National Environment Act: • Weaknesses and inconsistencies in the administration of the EIA process <p>PLR 1, PLR 2, PLR 3, PLR 5, PLR 6</p> <ul style="list-style-type: none"> • Lack of targeted capacity building and institutionalization of appropriate mechanisms to effectively integrate actions to address biodiversity conservation, land use and climate change into (a) plans, policies and programmes of development sector agencies, and (b) sectoral plans at regional/national level.
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • The introduction of a Strategic Environmental Assessment article/provision into the National Environmental Act, would require line agencies to undertake cross-sectoral consultation as part of assessing the environmental implications of policies, plans, and programmes. • The next medium-term national development strategy should formally introduce environmental mainstreaming. • Institutionalization of appropriate mechanisms to integrate biodiversity conservation, land use and climate change into plans, policies, and programmes of development sector agencies. • Strengthening the EIA process that builds on strong centralized management, decentralized implementation,

	<p>and access to independent expertise.</p> <ul style="list-style-type: none"> Amend EIA regulations to mandatorily integrate ecological impact assessment and adhere to conservation plans such as the BCAP, and the IUCN Red List.
<p>b.5 Nationally clarified safeguards requirement : Legal recognition of strategic actors in forest management</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> The National Forest Policy 1995 recognizes a range of stakeholders in implementing the multiple policy directives. Reference is made to local people, rural communities, community based organizations, organized groups, cooperatives, industries and other private bodies, NGOs and other non-state actors in different sections of the policy. There is no legal definition of these terms provided.
	<p>PLR 2</p> <ul style="list-style-type: none"> The National Wildlife Policy defines ‘stakeholders’ as ‘someone with an interest in what happens to a resource, usually because there is something to be gained or lost in a dispute over it’
	<p>PLR 3</p> <ul style="list-style-type: none"> The FO Amendment Act of 2009 has the following references that recognize community and non-state sector stakeholders as strategic actors in implementing the ordinance. <ul style="list-style-type: none"> management partners or stakeholders for benefit sharing community and non-state sector participation for sustainable management of Reserved Forests local community for use of non-timber forest produce and dead or fallen sticks community and private sector participation for the conservation and development of degraded forest areas <p>The act does not contain any legal definitions or clearly define roles and responsibilities of different strategic actors in implementing the ordinance.</p>
	<p>PLR 4</p> <ul style="list-style-type: none"> The FFPO Amendment Act of 2009 does not make any reference to stakeholders such as community and other non-state sector actors. Definitions are provided only for ‘implementing authorities’ such as wildlife officer, authorized officer and competent authority.
<p>Safeguard “Respected” through implementation of</p>	<p>PLR 1 & PLR 3</p> <ul style="list-style-type: none"> The National Forest Policy and Forest Ordinance: Implementation of forest conservation programs has involved partnerships with community, CBOs, NGOs, private sector stakeholders to varying degrees and

<p>PLR in practice?</p> 	<p>collaboration with the academic community for scientific research.</p> <hr/> <p>PLR 2 & PLR 4</p> <ul style="list-style-type: none"> • The National Wildlife Policy: Implementation of wildlife conservation programs has involved partnerships with community, CBOs, private sector stakeholders to varying degrees and collaboration with the academic community for scientific research.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 1, PLR 2, PLR 3 & PLR 4</p> <ul style="list-style-type: none"> • While there is recognition of strategic partners in the policies and laws, there is no definition of different categories given.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	<ul style="list-style-type: none"> • Number of programs held with community, CBOs, Pvt Sector and NGOs by the Forest Department and the Department of Wildlife Conservation.
<p>Recommendations</p>	<ul style="list-style-type: none"> • Development of regulations that define the roles and responsibilities of different stakeholders in forest management.
<p>b.6 Nationally clarified safeguards requirement : Effective anti-corruption strategies and design mechanisms specifically for REDD+</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The 1978 Constitution:According to Article 156A (1) (c) of the Constitution, the Bribery Commission has the power to direct the holding of a preliminary inquiry or the making of an investigation into an allegation of bribery or corruption, whether of its own motion or on a complaint made to it, and it has the power to institute prosecutions for offences under the law in force relating to bribery or corruption. • The 18th Amendment to the Constitution granted power to the President in making appointments directly to the Commission (and hence threatening its independence). This was amended later by the 19th Amendment in 2015 which established that the President can appoint the members based on the recommendations given by the Constitutional Council. • Provisions within the 19th Amendment gives power to the Commission to take measures to implement the

	<p>UNCAC and other related international instruments. However, neither UN CAC nor any other instrument has yet been enshrined within domestic law.</p>
	<p>PLR 2</p> <ul style="list-style-type: none"> • The Penal Code No 2 of 1883: The Penal Code penalizes any act of bribery as an offence in Sri Lanka. According to the section 158 ‘public officer taking a gratification other than legal remuneration in respect of an official act’ constitutes an offence. It is an offence to take a gratification in order by corrupt or illegal means to influence a public officer under the section 159. ‘Taking a gratification for the exercise of personal influence with a public officer’ is an offence under section 160.
	<p>PLR 3</p> <ul style="list-style-type: none"> • Bribery Act 1954: • Provisions of the Penal Code were insufficient to address cases of bribery. It has no provisions that make corruption a crime. Bribery Act was meant to address all these key issues. • As per this Act a public official's offer or acceptance of a bribe constitutes a criminal offense and carries a maximum sentence of seven years imprisonment and a fine at the discretion of the courts. The authority of the bribery commission, which was established through a parliamentary act in 1958 to give effect to this act, was to be invoked by any individual writing to the commission as set out in section 4 of the Act. Bribery (Amendment) Act No 20 of 1994 made ‘corruption’ an offence (Section 70 of the Act) and established the Commission to Investigate Allegations of Bribery or Corruption. The first commission commenced activities in December 1994.²⁰ • With the takeover by a new government (in 2015) whose election manifesto was to eliminate corruption and bribery, the Commission has been reactivated and has been further supported by Constitutional provisions that are aimed at strengthening the independence of the Commission. • The Commission can initiate actions in two ways; firstly by receiving complaints from the general public and secondly by generating enquiries of its own. To date, only the first channel has been activated.
	<p>PLR 4</p> <ul style="list-style-type: none"> • Commission to Investigate Allegations of Bribery and Corruption Act No. 19 of 1994: This established a


²⁰<http://www.ciaboc.gov.lk/web/index.php?lang=en>

	<p>permanent Commission to investigate offences of bribery and corruption. The commission is empowered to investigate allegations brought to its attention and to institute proceedings against responsible individuals in the appropriate court. Sri Lanka has ratified the United Nations Convention against Corruption (UNCAC).²¹ After the enactment of the 19th Amendment to the Constitution, in its Article 156A (1) (c) requires the Bribery Commission to take measures to fully implement the UNCAC in Sri Lanka. Not only that, but also the Commission is empowered to take measures to implement any other international Convention relating to the prevention of corruption to which Sri Lanka is a party.²²</p>
	<p>PLR 5</p> <ul style="list-style-type: none"> • Declaration of Assets and Liabilities Law No 1 of 1975²³: This law was passed to compel certain specified categories of persons to make periodic declarations of their assets and liabilities in and outside Sri Lanka.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The Police Ordinance: The Fraud and Corruption Investigation Division (FCID) is established under section 55 of the Police Ordinance and is under the purview of the Sri Lankan Police. Also the Anti-Corruption Committee (ACC) was set up in 2015. ACC is supposed make recommendations to prevent future large scale corruptions. Accordingly ACC recommended establishing an Anti-Corruption Committee Secretariat to facilitate the coordination of the investigations of allegations of serious fraud, financial crimes and corruption. Presently, ACC accepts complaints from any individual about an act falls within the purview of the FCID. Then ACC identifies the allegations that require urgent attention of the FCID.
	<p>PLR 7</p> <ul style="list-style-type: none"> • The Forest Ordinance: Chapter IVA and chapter V of the principle enactment specify the rules and procedures governing (i) the control of timber production and its transport and (ii) obtaining a certificate of registration and a permit. The strict permit system that governs the felling and transport of timber is designed to protect natural forests from timber felling.
<p>Safeguard “Respected” through implementation of</p>	<p>PLR 1</p> <ul style="list-style-type: none"> • 1978 Constitution: 19th Amendment to the Constitution has strengthened the independence of the Bribery Commission to act without any political influence.

²¹Sri Lanka is one the first countries to ratify the Convention.


²² Article 156A (1)(c) of the 1978 Constitution.

²³ As amended by Act No 29 of 1985 and Act No 74 of 1988.

<p>PLR in practice?</p> 	<ul style="list-style-type: none"> • While laws are enough to eradicate, it is well known that corruption is rampant and that those who are responsible for upholding the law are the most corrupt. • Also, it is evident that people who get caught for alleged cases of bribery and corruption are powerless (at the bottom layer of the society/authority) while powerful people never (or very less) get caught. • Even though 19th Amendment empowers Bribery Commission to enact UN CAC and other related instruments, neither has been enacted.
	<p>PLR 2</p> <ul style="list-style-type: none"> • Penal Code: Bribery is made a criminal offence by the Penal Code which is punishable by law. However, with the enactment of new Bribery Act provisions in the Penal Code are hardly used.
	<p>PLR 3</p> <ul style="list-style-type: none"> • Bribery Act 1954 • With the introduction of the Bribery Act, the society began to accept bribery as a serious crime. • However, implementation of the Act has met with many practical difficulties and has not been satisfactory. The Act is not strong enough to deter those elected to power and the independence of the Bribery Commission has been questioned since it was established. • The commission was considered to be rather ineffective.
	<p>PLR 4</p> <ul style="list-style-type: none"> • Commission to Investigate Allegations of Bribery and Corruption Act No. 19 of 1994: While bribery was recognised as a punishable offence in the legislation as early as 1833 in the Penal Code, there was no proper institutional framework to contain bribery and corruption until in 1954, when the country established the Department of the Bribery Commissioner through a Parliamentary Act. • However, the independence of the Bribery Commission was questioned since it was established and it was considered to be not very effective. • With the takeover by a new government (in 2015) whose election manifesto was to eliminate corruption and bribery, the Commission has been reactivated and has been further supported by Constitutional provisions that are aimed at strengthening the independence of the Commission.
	<p>PLR 5</p> <ul style="list-style-type: none"> • Declaration of Assets and Liabilities Law No 1 of 1975: • While the law is clearly written, its proper enforcement has been problematic, as the Subjects of this law are

	<p>primarily Ministers and powerful public officials.</p> <ul style="list-style-type: none"> • In reality, in instances where this law is enforced, it is when its powerful subjects no longer hold high offices. <p>PLR 6</p> <ul style="list-style-type: none"> • Both FCID’s and Bribery Commission’s mandates are same without proper coordination between the two. <p>PLR 7</p> <ul style="list-style-type: none"> • The Forest Ordinance: Bribing has been a common practice in timber trading system in Sri Lanka. The permit system designed to protect natural forests by limiting timber felling to private lands has become an example of policy failure and leading to the opposite outcome. Although Sri Lanka has a Bribery Commission, no forest related matters have been prosecuted so far.²⁴
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<ul style="list-style-type: none"> • Sri Lanka lacks proper legislation to protect whistle blowers.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>Common to All PLRs</p> <ul style="list-style-type: none"> • Although Sri Lanka has a good legislative framework to fight corruption and bribery, implementation of those laws has turned out to be problematic in various ways. • Corruption and bribery-related crimes have become more complicated with the advancement of modern technologies. Investigations of complicated corruption cases are done using traditional methods which result in numerous unsuccessful prosecutions. • Present infrastructure under which the law operates has a complicated process to file actions against the perpetrators and to collect evidence. For example, the delay in the process of obtaining a warrant to collect evidence (financial statements and other documentation) usually provides parties with sufficient time to conceal evidence. So, the implementation process should be made strong enough to achieve the needs of justice without jeopardizing the rights of the accused. • The FCID and the Bribery Commission do not coordinate well. Duties and responsibilities of each entity are neither defined nor demarcated. As a result there have been instances where the same individual was summoned by both institutions separately for the same allegations.

²⁴ Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

	<ul style="list-style-type: none"> • General public has a major role to play in the implementation process. However due to various reasons including lack of trust, confidence and knowledge, the public does not participate or their participation is very low.
Possible info sources that could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> • Create awareness among forest management stakeholders about anti-corruption mechanisms available in the country and how to access them under REDD+ programmes.
b.7 Nationally clarified safeguards requirement : Consultation and participation of national and local stakeholders in decision-making	
Safeguard “Addressed” through existing PLRs on paper? 	PLR 1 <ul style="list-style-type: none"> • The National Forest Policy: This policy, approved in 1995, marked a fundamental change in the thinking of forest management in the country and identified participatory management as a key approach to forest resource management, for both protection as well as for production purposes. • It recognized the concept of multiple-use forestry and the sustainable use of forests (outside protected areas) for the benefit of rural communities and emphasized the need to develop partnerships with local people, communities, non-governmental organizations (NGOs) and the private sector. • Specifically, the National Forest Policy promotes partnerships with local people and rural communities (through appropriate tenurial arrangements) for the (a) management and protection of natural forests and forest plantations (b) the establishment and management of industrial forest plantations on state lands (section 3.2) (c) growing trees on homesteads and other agro-forestry activities as a main strategy to supply wood and other forest products to meet household and market needs (section 3.1) (d) in commercial forest production, industrial manufacturing and marketing (section 4.1) (e) in nature based tourism within rules of safeguards (f) protection and rehabilitation of areas identified as environmentally sensitive (section 3.3)
	PLR 2 <ul style="list-style-type: none"> • The Forestry Sector Master Plan (1995 to 2020) affirmed these new directions to enhance the forestry practices of the people. New openings have been explored in regard to partnership with communities, the private sector and NGOs for joint forest management and leasehold forestry.²⁵


²⁵ Women’s Inclusion in REDD+ in Sri Lanka – Joint Regional Program for Women’s Inclusion in REDD+, 2013

	<p>PLR 3</p> <ul style="list-style-type: none"> • The Forest Ordinance: • Chapter III of the principle enactment provides for the designation of any portion of a forest as a village forest for the benefit of any village community or group of village communities. Regulations may be made for the management of village forests, prescribing the conditions under which the community or group of communities for the benefit of which any such village forest is constituted may be provided with timber or other forest produce or with pasture, and their duties in respect of the protection and improvement of such forest.²⁶ • Forest Ordinance Amendment Act of 2009: In 2009, the FO underwent amendments which made it compulsory to prepare management plans for all forest areas under the purview of Forest Department for sustainable forest management and incorporated provisions to enable the local communities to enter into forest agreements for participatory management of forests and benefit sharing.²⁷ • Section 5 (4) (c) of the Forest Amendment Act No 65 of 2009, stipulates that for conservation and reserved forests the Minister can make regulations, applicable either to the whole or any specified area of the Reserved Forests, in respect of the preparation of Management Agreements for the purpose of obtaining community and non-state sector participation in the sustainable management of Reserved Forests. Regulations can also be made for the development of a benefit sharing mechanism among the management partners or stakeholders. • Section 37 (2) (g) (ii) of the Forest Amendment Act No 65 of 2009 stipulates that within any forest which is not a Conservation Forest, Reserve Forest or Village Forest the Minister can make regulations for activities to be carried out for the purpose of conservation and development of degraded forest areas with community and private sector participation, including for the preparation of Management Agreements indicating their purpose, scope and extent. Regulations can also be made for the development of a benefit sharing mechanism among the management partners or stakeholders. <p>PLR 4</p> <ul style="list-style-type: none"> • The National Wildlife Policy of Sri Lanka, sets out as one of its objectives, ‘to encourage private sector and
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²⁶Draft PLR study, Sri Lanka UN REDD Program, 2016

²⁷Chapter III, Forest Ordinance & Country report to 10th session on the UN forum of forests, 2010, Forest Department of Sri Lanka

	<p>communities to join as full partners in all aspects of the wildlife conservation process’.</p>
	<p>PLR 5</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance Amendment Act of 2009, requires management plans to be drawn for national reserves and permits to be issued for activities allowed inside such areas (such as fishing) which can be interpreted to contain elements of ‘participation’, but does not carry any explicit provisions pertaining to participatory governance. • In addition, the Act provides for an EIA for activities proposed within an area of one mile from the boundary of any national reserve. The EIA process administered under the Act is similar to the NEA where public involvement is warranted before finalizing the report and if necessary includes a public hearing.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The National Environmental Act of 1988 is a key law that provides for public participation in the EIA process. It provides that; • The project approving agency may take into consideration views of the public when setting the Terms of Reference. However, this is not mandatory. • On receipt of an EIA, the project approving agency must publish a notice in one newspaper each in the Sinhala, Tamil, and English languages, to notify the public of the place and times that the EIA shall be available for inspection and invite the public to make comments. NEA, sec. 23BB (2). The public comment period is open for 30 days and the PAA is required to forward such comments to the project proponent, who is required to write to the PAA in response to such comments. • This provides an opportunity for the civil society and project affected people to comment on and influence outcomes related to land and resource use. • The Project Approving Agency may, where it considers appropriate in the public interest, provide an opportunity to any person to be heard in support of his comments. This is not mandatory.
	<p>PLR 7</p> <ul style="list-style-type: none"> • Coast Conservation and Coastal Resource Management Act (1980): Applicable in respect of development activities proposed in the Coastal Zone. Any development activity within the Coastal Zone requires a permit. For consideration of an application for a permit, the Director- General may require an EIA which report is

	<p>made available to the public for review and comment.</p>
	<p>PLR 8</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy of 2001 promotes a fully participatory process in planning and implementation of relocation and resettlement of displaced persons.²⁸
	<p>PLR 9</p> <ul style="list-style-type: none"> • Land Acquisition Act (1950): This act provides for both a regular and an expedited procedure for land acquisition. • In terms of the regular procedure, there is provision for the calling of objections from the public prior to proceeding with the acquisition. The acquiring notice will specify to which Ministry the written objections to the acquisition must be directed and the period within which such objections must be made. The Act states, under section 2, 39 of the 1954 regulations, that ‘When such objections are considered every objector shall be given an opportunity of being heard in support thereof’²⁹ • For expedited acquisitions, Notices under Section 38a provisions are issued after Sections 2 or 4 Notices. When Section 38a is issued after Section 2 Notices, there is no opportunity for public consultation. As best practice recommends allowing more public consultation, issuing of Section 38a Notice after Section 4 Notice is preferred.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1& PLR 2</p> <ul style="list-style-type: none"> • National Forest Policy and the Forest Sector Master Plan • The main shortcoming in NFP implementation is the slow process of enacting supporting legislation. Overall, where participation and grievance redress is concerned, apart from locations where community forestry is strongly practiced, there is still limited opportunity for communities to be heard and to participate in the management of forest resources.³⁰ • Governance aspects are yet to fully permeate the management thinking and most decisions continue to be made in a “decide – announce – and justify” approach.

²⁸ The National Involuntary Resettlement Policy, 2001

²⁹ The Land Acquisition Act 195

³⁰Sri Lanka’s fifth national report to the Convention on Biological Diversity, 2014

	<ul style="list-style-type: none"> • As such, despite the aspirations set in the NFP and the FSMP, legislative amendments to the Forest Ordinance requiring greater participation in decision making and management of the forest resource have been limited. • However, positive trends in participatory forest governance can be observed where forest management development activities are presently implemented with greater transparency and participation of the communities. • Community Forestry is being used as the main strategy for sustainable management of forest resources and to mainstream the concept of participation in the forestry sector. It has been promoted through forest policies since the 1980s and the Forestry Sector Master Plan has promoted the concept with the active participation of forest fringe communities³¹. • Currently the Forest Department is engaged in farmer’s woodlot programs, village reforestation programs, joint forest management programs of degraded natural forests and home garden development where local communities are involved in all aspects of forest management including decision making, planning, and implementation of various forestry activities.³²
	<p>PLR 3</p> <ul style="list-style-type: none"> • The Forest Ordinance • During the preparation of management plans for conservation and reserved forests, certain windows of opportunity are provided for the community to participate and influence the contents of the management plan; that is during the PRA activities and the final stakeholder consultation on the proposed management plan. • During the implementation of Management Plans also opportunities are provided for community participation, for example ground survey method of boundary demarcation used by the Forest Department involves community participation in order to resolve conflicts and promote mutual agreement in marking/re-marking boundaries. • In addition, where Buddhist monks who engage in forest meditation establish an <i>Aranya</i> or forest hermitage, the Forest Department, after consulting the Commissioner of Buddhist Affairs, allocates an extent of land for

³¹Forest Governance and Community Based Forest Management, De Zoyza M, Inoue M, International Journal of Social Forestry, 2008



³²http://www.forestdept.gov.lk/web/index.php?option=com_content&view=article&id=128&Itemid=137&lang=en


	<p>the hermitage. These are managed by the chief incumbent of the <i>Aranya</i> or a board of trustees. Such areas are generally not encroached upon, as they are considered to be sacred/religious areas.³³</p> <ul style="list-style-type: none"> • By 2009, the category of “village forests” ceased to exist on the ground as they have been fully exploited for all types of local/national development activities.
	<p>PLR 4</p> <ul style="list-style-type: none"> • The National Wildlife Policy has been poorly implemented, and not translated into law. It largely remains as a policy on paper.
	<p>PLR 5</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance: • Although not defined in the law, during the preparation of management plans for conservation and reserved forests, opportunity is provided for the community and the public to participate and influence the contents of the management plan - during the initial stakeholder consultations and when the draft final management plan is prepared and opened to public for comments. • Under an ADB-funded program, the DWLC implemented community outreach programs for communities living adjacent to national parks focusing on community mobilization and rural/socioeconomic development. The program yielded successful results but did not sustain due to the lack of funding sustainability and poor institutionalization of processes. • Environmental Impact Assessment: Implementation experience is generally the same as outlined below for the National Environmental Act.

³³Draft PLR study, Sri Lanka UN REDD Program, 2016

	<p>PLR 6</p> <ul style="list-style-type: none"> • The National Environmental Act: • Implementation of EIA procedures specified in the EIA regulations can be deemed satisfactory. However, the effectiveness of public participation in EIAs is low. No public consultation is carried out at the TOR setting stage (as this is not mandatory) and public hearings are held only very rarely. In a majority of the cases, the CEA does not receive any comments on the EIAs. When they do, comments are from a few known NGOs.
	<p>PLR 7</p> <ul style="list-style-type: none"> • The Coast Conservation and Coastal Resource Management Act: Implementation experience is similar to that outlined above for the National Environmental Act.
	<p>PLR 8</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy: In general, the implementation of the NIRP has not provided affected people with the full benefit of joint/participatory decision making in the process of resettlement and relocation. Where resettlement is carried out under programs funded by donors with strict safeguard focus (such as WB, ADB), the NIRP is implemented with due regard to its participatory elements.
	<p>PLR 9</p> <ul style="list-style-type: none"> • The Land Acquisition Act: While steps involved in the LA process are well defined in the regulations, its full and effective administration by the acquiring agency during the acquisition process is not entirely satisfactory. • The Ministry of Land is responsible for issuing the various Section Notices, which have to be approved by the Minister in charge. At the local level, these notices are displayed at the District/Divisional Secretariats but this is far too limiting as a majority of the community do not receive information on time to present their concerns and grievances.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR3</p> <ul style="list-style-type: none"> • Forest Ordinance: Lack of supporting regulations on participatory management of forest resources. <p>PLR 5</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance: Lack of explicit/specific provisions that recognize participatory management of protected areas and buffer zones. <p>PLR6</p>

	<ul style="list-style-type: none"> • National Environmental Act: The NEA, which is a powerful tool that promotes public participation, has limited applications to the forestry sector. • Forestry activities in the prescribed list is limited to clearing of 4 ha of land or above and implementation of prescribed projects (irrespective of magnitude) within a 1 mile boundary from a forest or wildlife reserve. • One of the main weaknesses in the NEA is the removal of IEEs from the public domain since the year 2000. As a result, many development projects are processed for environmental clearance without being subject to public scrutiny. • Public hearings are not mandatory and as a result, very few public hearings are held. • Another shortcoming of the NEA is that it does not require EIA preparers to hold consultations with stakeholders during the preparation of the report. <p>PLR8</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy: The main weakness in the implementation of this policy is the lack of legislative provisions to support policy objectives. <p>PLR9</p> <ul style="list-style-type: none"> • The Land Acquisition Act: While the Act require certain notices in the LAA process, such as the notice to acquire, to be displayed for public information in the affected areas, there is no requirement for consultation and participation in decision making by the affected people.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>PLR 3</p> <ul style="list-style-type: none"> • Forest Ordinance: • The reorganization of Forest Department in order to decentralize and delegate authority to lower levels has been slowly taking place. However, the inclination towards a centralized management system hampers opportunity for the communities to play a major role in forest resource management.
<p>Possible info sources that could demonstrate PLR implementation</p>	<ul style="list-style-type: none"> • Progress Reports, Forest Department and the Department of Wildlife Conservation: • Number of awareness and publicity programs conducted • Number of participatory tree planting programs completed • Number of community participated PA management plans prepared, number of meetings/PRA exercises held, number of people who attended the meetings and locations. • Number of meetings held on boundary demarcations conducted • Divisional Secretariat


	<ul style="list-style-type: none"> • Number of land acquisitions held, number of grievances received and resolved with regard to forest land
Recommendations	<ul style="list-style-type: none"> • The lack of regulations and clear mechanisms to realize the full potential of stakeholder participation, participatory social mobilization, organizational and sharing of benefits is a main weakness in the overall PLR framework. • Section 5(4)(c) and Section 37(2)(g)(ii) of the Forest Ordinance Action No. 65 of 2009/2009 both have provisions for community participation in forest management. In order to realize the full benefit of these provisions, necessary instructions defining participatory mechanisms need to be prescribed in regulations. • Initial Environmental Examination documents under the NEA, the Coast Conservation Act, and the Flora and Fauna Protection Ordinance, should be open for public scrutiny. • A special gazette notification to be issued by the CEA requiring all REDD+ projects to be assessed with IEE/EIA.
b.8 Nationally clarified safeguards requirement: Governance indicators for REDD+ schemes and participatory approaches in monitoring	
Safeguard “Addressed” through existing PLRs on paper? 	There are no specific PLRs that promote governance indicators or participatory monitoring.
Safeguard “Respected” through implementation of PLR in practice? 	
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Possible info sources that	

could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> • The Forest Ordinance should be amended to include Articles that require monitoring of all forest-related initiatives using state-of-the-art technology, to ensure that they meet required objectives. The amended Articles should establish a National Forest Monitoring System. • The NEA should be amended to include post-EIA monitoring and reporting as a mandatory requirement.
b.9 Nationally clarified safeguards requirement : Access to justice recourse and/or dispute resolution to enforce stakeholder rights.	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The constitution of Sri Lanka: This provides some important articles under which access to justice on environment-related matters can be pursued. • Of most important are Articles 11, 12, 13 of the fundamental rights chapter in the constitution that set out rights available to every ‘person’. • Article 14 sets out certain additional rights available to every ‘citizen’ and article 15 sets out circumstances in which such rights may be restricted. Although there is no explicit reference to the environment in this chapter, environmental related cases are accommodated on grounds of alleged infringement or an imminent infringement of a fundamental right. • Article 12 - guarantees equality before the law and equal protection of the law to all citizens and this has been the most frequently invoked article in environment related fundamental rights cases. A failure to apply the environmental laws of the country can amount to unequal treatment of the persons who are affected. • The write jurisdiction conferred by article 140 of the Constitution is also one of the principal safeguards against excessive abuse of power where environmental cases have been pursued on grounds of neglect/failure by responsible institutions to exercise power in the form the Act requires. <p>PLR 2</p> <ul style="list-style-type: none"> • Code of Criminal Procedure Act 46: • Section 98 of the Code of Criminal Procedure, makes it a criminal offence to cause public nuisance by environmental pollution. Unlike civil wrongs, criminal offences are punishable by imprisonment, so are considered serious. • Chapter IX of this act headed ‘Public Nuisances’ empowers a Magistrate to make orders for the removal or abatement of a public nuisance. The categories of public nuisances include matters relating to environment

	<p>such as noise, waste, unlawful obstructions, threats to health and safety of communities, any other danger to the public. Any member of the public may institute legal proceedings by filing a report or other information before the Magistrate having jurisdiction over the relevant location. The Magistrate may then make a conditional order directing specified action to be taken to abate the nuisance. Few cases have gone to the Court of Appeal on matters relating to the NEA. There is also the right to appeal to the High Court of the relevant province under chapter XXVIII of the code of criminal procedure.</p>
	<p>PLR 3</p> <ul style="list-style-type: none"> • Penal Code: • Section 261 of the Penal Code makes it a criminal offence to cause public nuisance by environmental pollution. Unlike civil wrongs, criminal offences are punishable by imprisonment, so are considered serious. • Under this section, a person may be charged and prosecuted in criminal proceedings for the offence of public nuisance. Public nuisance constitute an act which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. Environmental matters can be justified under these circumstances.
	<p>PLR 4</p> <ul style="list-style-type: none"> • The Judicature Act and the Civil Procedure Code – civil suits can be initiated for Private nuisance which falls within the definition of a cause of action under Section 5 of the Civil Procedure Code 53, being both a neglect to perform a duty (of not causing harm to others), and the infliction of an affirmative injury.³⁴
	<p>PLR 5</p> <ul style="list-style-type: none"> • Human Rights Commission of Sri Lanka: The Commission is empowered to investigate infringements of fundamental rights and to either make recommendations thereon, refer same to a Court with jurisdiction to hear same or to refer it to conciliation or mediation as appropriate.³⁵
	<p>PLR 6</p> <ul style="list-style-type: none"> • The Land Acquisition Law: This provides several specific provisions relating to the right to access to justice on land management, compensation etc related decisions and the right to denounce offences against land law. Part IV of the act is titled ‘Appeals to the Board of Review and Appeals to the Supreme Court on Questions of

³⁴Judges and Environmental Law; A Handbook for the Sri Lankan Judiciary 2009


³⁵ Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

	<p>Law’ and provides specific details on institutional arrangements, timing, procedures and other matters relating to dispute resolution and the processing of such appeals in the court.³⁶</p>
	<p>PLR 7</p> <ul style="list-style-type: none"> • National Environmental Act – Where a project approving agency refuses to grant approval for any prescribed project submitted for its approval, the person or body of persons aggrieved shall have a right to appeal against such decision to the Secretary to the Ministry, or to the Minister. This appeal is not available to a person aggrieved by the granting of approval.
	<p>PLR8</p> <ul style="list-style-type: none"> • PLRs also provide for people to gain access to justice free of charge through the Legal Aid Commission (LAC) of Sri Lanka. The LAC has been established by the Act No 27 of 1978 in order to provide legal aid to ‘deserving persons’ in the country.³⁷
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The constitution of Sri Lanka: The Sri Lankan Supreme Court has witnessed a rapid and surprising growth in the number of environmental matters adjudicated in recent years. This evolution can be attributed to a number of factors. The Court has taken an active and liberal approach to the interpretation of fundamental rights, become more willing to make orders against the State and relax the rules of standing, pleading and burden of proof hence extending the arms of justice to all sections of society. As a result Sri Lanka has developed an active fundamental rights jurisdiction in recent years with a flood of such applications pending before the Supreme Court. • Another fundamental progression has been the advent of ‘public interest litigation’. This has seen judicial techniques innovated to deal with public matters brought before the Court expeditiously and with an aim to ensure —the constitutional promise of a social and economic transformation to usher in an egalitarian social order and a welfare state. <p>PLR 2 and PLR 3</p> <ul style="list-style-type: none"> • Code of Criminal Procedure Act 46 and Penal Code: • Since it is the State who initiates action under this act, it is frequently used by people to get rid of

³⁶Land Acquisition Act of 1950

³⁷ <http://www.legalaid.gov.lk/index.php/2016-01-13-09-16-07/about-us>

	<p>environmental pollution simply by lodging a complaint. After a complaint is lodged by a citizen, the State is obliged to take proper actions against the alleged crime. However, life of such complaints can be very short, and a very few of them go through the mechanism to reach legal justice. Because of many practical difficulties (ex:- reluctance to go to courts as witnesses, time consuming court procedures, etc) these cases get dropped out quickly in the legal process.</p> <ul style="list-style-type: none"> • Also the Magistrate is given a wide scope of discretion (by the Criminal Procedure Code) in these environmental cases, where s/he can actively interpret the law to protect the environment. Evidently, this section has been used positively by a very few.
	<p>PLR 4</p> <ul style="list-style-type: none"> • The Judicature Act and the Civil Procedure Code:Even though the law exists, those provisions are hardly used by people because of other surrounding difficulties like time consuming court procedure, high cost of litigation, etc
	<p>PLR 5</p> <ul style="list-style-type: none"> • Human Rights Commission of Sri Lanka: • Depending on the Government in power, the independence of the Commission from political power varies. • The public generally does not favour the Human Rights Commission (like mediation) to solve problems criticizing that they are inefficient and usually ends without a proper solution.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The Land Acquisition Law: • Even though the procedures are clearly written in the law, these are ignored in a majority of cases.
	<p>PLR 7</p> <ul style="list-style-type: none"> • The National Environmental Act:Such appeals have been processed in various occasions, the famous one being on the Upper Kotmale Hydropower Project.
	<p>PLR 8</p> <ul style="list-style-type: none"> • The Legal Aide Commission operates through 47 branches all over the country. However, when compared with the number of people seeking support from the Legal Aid Commission, its capacity significantly inadequate. • Also the Legal Aid Commission is funded by State, and as such it is constrained with budgetary shortages to operate effectively.


	<p>PLR 9</p> <ul style="list-style-type: none"> • The Forest Ordinance: No provisions
	<p>PLR 10</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance: No provisions
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 9 & 10</p> <ul style="list-style-type: none"> • There is no over-arching legal framework in the natural resources management sector for citizens to access justice relating to administrative decisions, including those related to environment and forest management. However, it appears that the combination of existing rights in extant law, along with expansive Supreme Court decisions, provides adequate access to formal justice avenues. • PLRs don't present any special considerations for local communities in guaranteeing their right to access to justice.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<ul style="list-style-type: none"> • Poor awareness of access to justice options already available. • Prohibitive cost
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendation</p>	
<p>b.10 Nationally clarified safeguards requirement : Gender equality and women's empowerment in forest management, especially with regard to benefit sharing, participation, and land tenure/ownership</p>	
<p>Safeguard "Addressed" through existing PLRs on paper?</p> <p></p>	<p>PLR 1</p> <ul style="list-style-type: none"> • The Constitution of Sri Lanka: The Constitution recognises that gender equality and freedom from discrimination on the ground of sex is a fundamental right, and provides for its enforcement in the Courts of Law.³⁸
	<p>PLR 2</p> <ul style="list-style-type: none"> • Women's Charter: Sri Lanka developed its own Women's Charter following the ratification of the UN Convention on the Elimination of All Forms of Discrimination against Women. The charter is the main policy

³⁸Women's Charter

	document and emphasizes safeguarding women’s rights from gender-based violence, discrimination in access to social, education and health, promoting equality in women’s political, civic and family rights and right to economic activity & benefits, as priority areas of concern. ³⁹
	<p>PLR 3</p> <ul style="list-style-type: none"> • A national action plan for women was prepared and updated for 2010-2013 proposing activities assuring national commitment for gender equality. The directives referred in here cover areas such as violence against women, women’s participation and decision making across a wide range of sectors.
	<p>PLR4</p> <ul style="list-style-type: none"> • The National Forest Policy of 1995 and the Forestry Sector Master Plan: These took a deviation from the traditional command and control methods of conservation towards community-participated forest management and they recognize the need to enhance the contribution of forestry to the welfare of the rural population and strengthen the national economy. While, there is no explicit mention of gender rights and responsibilities in both these documents, the ‘stakeholder participatory’ elements provide good entry points for gender sensitive REDD+ program planning in the forestry sector.
	<p>PLR5</p> <ul style="list-style-type: none"> • National Environmental Policy and Strategy (2003) refers to the protection of traditional knowledge on biodiversity and implications for women’s rights for equitable benefits.
	<p>PLR6</p> <ul style="list-style-type: none"> • The National Agricultural Policy (2007) refers to several areas under agriculture with direct links to agriculture and natural resources. All these areas are of direct relevance to farm women and to enhance their capacities to manage the resources.
	<p>PLR7</p> <ul style="list-style-type: none"> • Laws on land, marriage and family: According to the country’s laws on land, marriage and family, women have equal rights as men to own, inherit and control land property⁴⁰. • However, under customary law systems prevalent in the country such as Teswalamai law, there is no gender equality.

³⁹Women’s Charter

⁴⁰ Women’s Inclusion in REDD+ in Sri Lanka Lessons from Good Practices in Forest, Agriculture and Other Natural Resources Management Sectors; Joint Regional Initiative for Women’s Inclusion in REDD+, October 2013


	<p>PLR8</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy of 2001 stipulates that gender equity and equality should be adhered to in the implementation of the policy.⁴¹
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The Constitution of Sri Lanka:In Sri Lanka, the status of women has progressively improved since independence through free education, employment in the industrial sector and overseas domestic employment. However, it is still a patriarchal society and although womens’ agencies and programs are being implemented, cultural barriers still exists that do not adequately recognize women in environmental conservation and decision making roles. <p>PLR 2</p> <ul style="list-style-type: none"> • Women’s Charter: The Government has a Ministry dedicated to the subject of Women’s Affairs. Currently, the Ministry of Women and Child Affairs is the main government agency responsible for assuring gender equality, gender mainstreaming and women’s empowerment. It includes the National Committee on Women⁴², which implements the Women’s Charter, and the Women’s Bureau, which is the operational arm of the ministry that is implementing programs to strengthen women’s social capital. Currently the Ministry is spearheading the formulation of a national framework and action plan for gender based violence in Sri Lanka. <p>PLR 3</p> <ul style="list-style-type: none"> • The National Action Plan: The National Action Plan for women revised in 2000 has not been successfully implemented. <p>PLR 4</p> <ul style="list-style-type: none"> • The National Forest Policy of 1995 and the Forestry Sector Master Plan : • The Feasibility and Design Team for the Sri Lanka Australia Natural Resource Management Project Phase II identified significant gender disparities in forestry related labour, access, responsibility, control of assets as well as livelihood activities, home gardens and household maintenance, etc. Although many rural women participate in and contribute to forest use and management, their voices are rarely heard in forest-related management and planning. Perceptions that forestry is a male profession have inhibited women from participating in forest-planning and management meetings, resulting in women’s low representation in



⁴¹ National Involuntary Resettlement Policy 2001,


⁴² <http://www.childwomenmin.gov.lk/English/institutes/national-committee-on-women>

	<p>forest-related decision-making.</p> <ul style="list-style-type: none"> • In addition, the FD has no gender strategy to facilitate the inclusion of women’s concerns in forestry plans and interventions.⁴³
	<p>PLR 5</p> <ul style="list-style-type: none"> • National Environmental Policy and Strategy (2003): • The capacity of NRM institutions on gender perception and to promote and include gender and women in programs is lacking. • However, in practice, Sri Lankan experience in women’s participation in natural resources management can be considered good given many donor funded projects encouraging women’s representation and participation in grass root level development activities. • In many community development projects carried out near forests, women have been in the forefront with regard to organization of CBOs. They are also substantially involved in home garden development and rural drinking water development projects, although the degree of participation and decision making authority may still be backward depending on the part of the country. • These CBOs are formed with a specific mandate. There are no organizations of federations to deliver women’s concerns to the policy table.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The National Agricultural Policy : Recognizing the importance of gender mainstreaming, Women’s Extension Department of the Department of Agriculture has established field extension mechanisms to work with farm women and to enhance their capacities in resource management, home garden development and agri-business enterprise etc
	<p>PLR 7</p> <ul style="list-style-type: none"> • Laws on land, marriage and family: Where land ownership is concerned, inheritance of land is often given to men as a wealth generating property. This stems from the traditions of the dominant patriarchal system of the society. There is a significant disjunction between contemporary laws governing women’s inheritance and customary rules of marriage.
	<p>PLR 8</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy of 2001: In donor funded projects the NIRP is implemented

⁴³Resettlement Policy Framework, Strategic Cities Development project, Ministry of Megapolis and Western Development, 2014

	carefully but under domestic funded projects, experience of NIRP implementation is less than satisfactory.
Gap, weakness, inconsistencies in existing PLRs on paper	PLR 2 <ul style="list-style-type: none"> The women’s charter of 1993 remains to be translated into a legally binding document
	PLR 6 <ul style="list-style-type: none"> Women’s participation in natural resource management policies are not adequately addressed although recognized as important.
	PLR 5 <ul style="list-style-type: none"> There is no policy framework or guidelines for gender equity in forestry.
Gap, weakness, inconsistencies in implementation of PLRs in practice	PLR 5, PLR 6, PLR 7 <ul style="list-style-type: none"> Inadequate institutional capacity, lack of technical gender expertise and insufficient financial resources preclude gender mainstreaming into conservation and development plans/programs.
	<ul style="list-style-type: none"> Customary law systems such as Muslim law and Thesawalami Law prohibit women from taking a lead role in society. Such local law systems are a hindrance to gaining gender equity.
Possible info sources that could demonstrate PLR implementation	<ul style="list-style-type: none"> No gender disaggregated data available in both departments.
Recommendations	<ul style="list-style-type: none"> The Forests Department should develop a gender strategy to ensure that women’s concerns are included in forest plans and interventions.
b.11 Nationally clarified safeguards requirement : Definition of the rights/responsibilities of all actors that take part in forest management	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> The key PLRs for forest management do not explicitly define rights and responsibilities of all actors that take part in forest management. See b5 for discussion on the related issue of legal recognition of strategic actors in forest management.
Safeguard “Respected” through implementation of PLR in practice?	

	
Gap, weakness, inconsistencies in existing PLRs on paper	<ul style="list-style-type: none"> The key PLRs for forest management do not explicitly define rights and responsibilities of all actors that take part in forest management.
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Possible info sources that could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> Management plans required by the Forest Ordinance include specification of the rights and responsibilities of actors taking part in forest management. Stakeholders need to be made aware of these rights and responsibilities.
b.12 Nationally clarified safeguards requirement: Access to, and disclosure of, up-to-date, accurate and complete information on forest protection/management	
Safeguard “Addressed” through existing PLRs on paper? 	<p>PLR 1</p> <ul style="list-style-type: none"> As discussed in b.3 above, the Government of Sri Lanka adopted the Right to Information bill in June 2016. While it is widely acknowledged, that the enactment of legislation would usher in an era of greater openness and accountability, evidence of enhanced transparency through more and better proactive disclosure of information, is gradually but increasingly apparent (please refer section on respect below). <p>PLR 2</p> <ul style="list-style-type: none"> The Forest Ordinance: The FO requires that prior to the declaration of reserved forests and conservation forests, the significance of such a declaration be notified to the surrounding villages. <p>PLR 3</p> <ul style="list-style-type: none"> The Fauna and Flora Protection Ordinance: The act provides for an EIA for activities proposed within an area of one mile from the boundary of any national reserve, including public review and comment; and if DWLC deems necessary a public hearing as well <p>PLR 4</p>

	<ul style="list-style-type: none"> • The National Environmental Act 1988: The environmental assessment procedure implemented in terms of the National Environmental Act to carry a public consultation component which requires the line agency to proactively provide access to information for prescribed projects. The NEA requires; • The project approving agency to publish a notice in one newspaper each in the Sinhala, Tamil, and English languages, to notify the public of the place and times that the final EIA is be available for inspection and invite the public to make comments. NEA, sec. 23BB(2) • Where approval is granted for implementation of any prescribed project, such approval to be published in the Gazette and in one newspaper each in Sinhala, Tamil and English languages. NEA, sec. 23BB(4); 1993 Regulations, sec. 15 • The Project Approving Agency to forward such comments to the project proponent within 6 days and for the project proponent to respond to such comments in writing to the project approving agency. 1993 Regulations, sec. 12 • The project approving agency to regard such comments and any other materials if any, elicited at [the public hearing] in determining whether to grant its approval for the implementation of the project. NEA, sec. 23BB(3)
	<p>PLR 5</p> <ul style="list-style-type: none"> • Coast Conservation Act1980Act1980: This act too, carries a public consultation component which requires the line agency to proactively provide access to information on EIAs for development activity proposed within the coastal zone.
	<p>PLR 6</p> <ul style="list-style-type: none"> • The laws related to evidence enable copies of public documents to be produced in court. This is limited to ‘public documents’ which includes documents forming the acts, or records of the acts of public officers, legislative, judicial, and executive.⁴⁴
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR1</p> <ul style="list-style-type: none"> • Right to Information Act: The bill has only recently been approved; hence there is no implementation experience yet. <p>PLR 2</p> <ul style="list-style-type: none"> • Forest Ordinance: Notice of declarations regarding new reserve areas are carried out via Divisional Secretariat


⁴⁴ Sri Lanka Country Assessment -Forest Governance Project, IUCN 2009

	<p>prior to enforcing legislation. However, in terms of proactive sharing of information it is far too limited and comes too late in the process to serve as a governance tool. Such notices that are generally displayed in the Divisional Secretariat do not reach the communities broadly or in time.</p>
<p>PLR 3</p> <ul style="list-style-type: none"> • National Environmental Act: The procedure for clearing EIAs, including public access to and review of EIAs, is well defined in the NEA and its regulations. These procedures are always followed by the CEA or the PAA (including the Forest Department which is a designated PAA), albeit achieving effective governance, as desired by the disclosure of EIAs, is far from being satisfactory as public use of these provisions is weak. Also the NEA has limited impact on the forestry sector, as the prescribed list of projects for which EIA/IEE is mandatorily required covers the forest sector in a limited way. 	
<p>PLR 4</p> <ul style="list-style-type: none"> • The Fauna and Flora Protection Ordinance: • Environmental Impact Assessment – same as the NEA above. • Preparation of management plans for national reserves involves a public commenting period of 30 days, similar to EIA, with paper notifications published to alert the interested stakeholders. This is a good practice rather than a legislative requirement. 	
<p>PLR 5</p> <ul style="list-style-type: none"> • Coast Conservation Act 1980: Same as the NEA above. 	
<ul style="list-style-type: none"> • Apart from the mandatory legal requirements, proactive disclosure is increasingly apparent in Sri Lanka. Government’s program on “e-Government” has been a key driver of information disclosure. In general, at a national level, the government websites assessed reflect a positive attitude towards proactive disclosure. It is evident that steps have been taken to ensure that, at the very least, basic information is available on matters of direct public concern. For instance, most institutions (including the FD, DWLC, CEA) disclose macro-level organizational information, staff directories, acts and regulations and information on the monitoring and evaluation of institutional programs, including status, progress reports, and statistics. These steps are promising foundations for a progressive disclosure regime.⁴⁵ The Commission to Investigate bribery and Corruption, in its website has disclosures on detention, raids and convictions carried out by it.⁴⁶ 	

⁴⁵ Citizen’s Access to Information in Asia; Regional Synthesis Report, The Asia Foundation , 2014

	<ul style="list-style-type: none"> • However, by and large, data and information management is rather weak in public institutions that are custodians to different sets of critical environmental data (coastal, climate, topography, river flows, etc.).
Gap, weakness, inconsistencies in existing PLRs on paper	PLR 2 <ul style="list-style-type: none"> • Forest Ordinance: Lack of comprehensive policy and enabling regulations/guidelines on information collection, management and distribution. This may be overcome by the implementation of the recently passed RTI but will take time.
	PLR 3 <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance: Lack of comprehensive policy and enabling regulations/guidelines on information collection, management and distribution. This may be overcome by the implementation of the recently passed RTI but will take time. • On IEEs – see below.
	PLR 4 <ul style="list-style-type: none"> • National Environmental Act: Under the NEA, only EIA reports are opened for public comment. While IEEs were also required to be publically disclosed, they have been withdrawn from this requirement by an amendment to the NEA by Act No 53 of 2000 whereby the public right to comment on IEE was removed. This has significant implications on the transparency and good governance of the environmental approval process of the country. Public opinion strengthens the CEA’s position and in the current politicised environment, IEEs can be viewed as a way to avoid public concern on controversial development proposals. • The situation is similar with the Fauna and Flora Protection Ordinance
	PLR 5 <ul style="list-style-type: none"> • Coast Conservation Act 1980: Same as the NEA above on removal of IEEs from public review.
Gap, weakness, inconsistencies in implementation of PLRs in practice	PLR 2, PLR 3, PLR 5 <ul style="list-style-type: none"> • Lack of proper systems to store, share or respond to request for data. • General reluctance in most organizations to share data unless instructed to do so by political or administrative hierarchy.

⁴⁶http://www.ciaboc.gov.lk/web/index.php?option=com_content&view=category&layout=blog&id=34&Itemid=2&lang=en


	<p>PLR 4</p> <ul style="list-style-type: none"> • Lack of public awareness about EIA disclosures and using disclosed data
Possible info sources that could demonstrate PLR implementation	<ul style="list-style-type: none"> • Records maintained by the Forest Department, Department of Wildlife Conservation, Central Environmental Authority • The number of public notices issued on new PA declarations • Number of public notices issued on EIAs, responses received and hearings held
Recommendations	<ul style="list-style-type: none"> • Initial Environmental Examination documents under the NEA, the Coast Conservation Act, and the Flora and Fauna Protection Ordinance, should be open for public scrutiny. • The Forest Ordinance should be amended to allow public access to information relating to proposed REDD+ actions
<p>b.13 Nationally clarified safeguards requirement : Grievance redress mechanisms that can be accessed by individuals in response to breaches of safeguards.</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> <p></p>	<ul style="list-style-type: none"> • With regard to land, Sri Lanka has a complex framework for legal and possessory rights which is meant to provide tenure security for individuals residing and using the land and safeguards to prevent arbitrary displacement and dispossession. The existing legal framework provides for the basic recognition that acquisitions of private land need to be done in accordance with the law. Some key PLRs include:
	<p>PLR 1</p> <ul style="list-style-type: none"> • Land Acquisition Act 1950 – This Act provides a limited grievance redress mechanism whereby certain grievances of the affected persons relating to compensation can be referred to the Board of Review established under the LAA. This is a limited redress mechanism that only addresses issues pertaining to compensation.
	<p>PLR 2</p> <ul style="list-style-type: none"> • Land Acquisition regulations of 2009: The regulations provide for the affected parties to be entitled for a hearing before the land in question is acquired.
	<p>PLR 3</p> <ul style="list-style-type: none"> • Land Acquisition regulations in 2014 - Special provisions have been introduced via this regulation on resolving disputes and redressing grievances for those losing private property in projects that have been categorised as ‘specified projects’. The LARC and Super-LARC are forums for discussion, negotiation and

	<p>appeal between the affected people and government agencies helping relocation. Under these regulations, the affected parties have the option of appealing to a more powerful Super Land Acquisition and Resettlement Committee (LARC) if dissatisfied by decision made by LARC on compensation</p>
	<p>PLR 4</p> <ul style="list-style-type: none"> • Land and Development Ordinance No.19 of 1935 - a permit holder of a land, whose permit is going to be cancelled by the District Secretary for reasons of non-compliance with grant conditions, can demonstrate reasons against such a decision within a stipulated time period from the date of such recommendation and appeal to the Minister by written petition.
	<p>PLR 5</p> <ul style="list-style-type: none"> • State Lands (Recovery of Possession) Act No.7 of 1979: People can institute action against eviction from land under this Act and can even claim compensation in the event of an unfavourable decision.
	<p>PLR 6</p> <ul style="list-style-type: none"> • Mahaweli Authority of Sri Lanka Act No. 23 of 1979 (as amended) and the Regulations under the Act – This act provides for compulsory land acquisition. It states that aggrieved persons have the right to refer their claims in writing to the Authority within a certain time specified in the notice published by the Authority. Such notices shall be published in the Gazette and in at least one newspaper in the Sinhala language and one newspaper in the Tamil language and shall be displayed, in accordance with directions of the Authority, at conspicuous places in such part of a Special Area.
	<p>PLR 7</p> <ul style="list-style-type: none"> • Forest Ordinance – As far as grievances are concerned, the legislative framework applicable to forestry resources is not explicit. The forest protection legislation does not offer any administrative appeal forum for forest offences. The power to commute offences under the Forest Ordinance referred to above is one means of resolving a dispute without having recourse to Court.
	<p>PLR 8</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy: The NIRP recommends the establishment of an internal monitoring system by project executing agencies to monitor the implementation of Resettlement Action Plans and handling of grievances. One of the key Policy objectives is making all affected persons aware of processes that are easily accessible and immediately responsive for grievance redress. Each project should have its own grievance redress mechanism formally instituted by the project authorities with the support of the Divisional Secretaries of the project area.

PLR 9

In addition to the above, the Sri Lankan government has established a range of institutional mechanisms for grievance redress and to resolve conflicts before they can be taken to a court of law. These are;

- **Community Mediation Boards (CMBs):** The Government has established mediation boards (“Samatha Mandala”) through the **Mediation Boards Act of 1988** to (i) mediate in a wide range of civil and criminal disputes, *such as assault, family, land and property disputes and disputes arising from commercial transactions*, (ii) bring disputants to an amicable settlement and (iii) remove, with their consent and whenever practicable, the real cause of grievance. Mediation boards are set up in every divisional secretariat. They meet once a week and are required to resolve a dispute within 30 days of the board being constituted. The application process is simple, and costs less than five cents.
- **Special Mediation Boards (SMB):** In order to address land issues, which most CMBs are unable to resolve, the Ministry of Justice has proposed setting up Special Mediation Boards (SMB). Currently, preparatory activities for setting up the SMBs are being carried out.
- **Environmental Mediation Boards:** EMBs have also been recognised but are not functioning anymore. It has been proposed to revitalize them.
- **Divisional Secretary (DS):** Divisional Secretaries are representatives of the lowest level of public administrative divisions and are entrusted to coordinate central government ministries and agencies duties at the divisional level. The DS has substantial authority vested in him to resolve land related matters. They conduct Division Days, a mechanism for solving problems identified at the GramaNiladhari Divisions based on information gathered during the data gathering process and based on evidence discovered during the document search, interviews, testimonies etc. This is considered to be quite successful in resolving grievances. They also conduct Land Kachcheris, a formal proceeding where land is alienated to poor and landless people in the division. Claims for public lands will be received by the DS and resolved based on evidence. This is also said to be quite successful in resolving grievances.
- **Provisional Land Commissioner:** Some land related grievance may be reported to the PLC. In such cases, the Department of the PLC will conduct together with the DSs joint investigations, produces a report and submit it to the Provincial Land Commissioner. The final response is conveyed to the Divisional Secretary for resolution.
- **National Level:** In 2014, a pilot GRM was started by the Ministry of Public Management Reforms. This GRM included a computerized system channelling grievances to seven public institutions including the Education

	<p>Ministry, Environment Ministry, Agrarian Services Ministry, Wildlife.</p> <ul style="list-style-type: none"> • Conservation Department, Irrigation Department, National Water Supply and Drainage Board and Forest Department. Citizens could lodge a complaint by internet (www.complaints.gov.lk website), hotline 1919 or mail and once the complaints are received they are automatically forwarded to the relevant institution responsible to respond to such complaints. Once complaints are received they are entered in to the data base by the respective agencies. • Ombudsman: The office of the parliamentary commissioner or the Ombudsman provides redress to aggrieved persons in cases of maladministration or misconduct of authority at the national government level. The ombudsman is a constitutional appointment and is charged with the duty of investigating and reporting upon complaints or allegations of the infringement of fundamental rights and other injustices by public officers and officers of public corporations, local authorities and other institutions. The public to submit petitions directly to the Ombudsman. • When projects are implemented with donor funds such as the World Bank, ADB, project specific GRMs are set up
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • Implementation of provisions within the LAA is not satisfactory across all development activities. <p>PLR 2</p> <ul style="list-style-type: none"> • Land Acquisition act and regulations of 2009: The grievance redress mechanisms are not effectively implemented due to lack of awareness of such provisions and public notifications. <p>PLR 3</p> <ul style="list-style-type: none"> • Land Acquisition regulations in 2014: Only a limited number of high-profile projects have been approved as ‘specified projects’ by the Ministry of Lands with the ratification of the Parliament of Sri Lanka for grievance redress and payment of compensation under the LARC and Super LARC systems. Provisions under these regulations are fairly well implemented. <p>PLR 4</p> <ul style="list-style-type: none"> • Land and Development Ordinance No.19 of 1935: The grievance redress mechanisms are not effectively implemented due to lack of awareness of such provisions and poor knowledge of public notifications. <p>PLR 5</p> <ul style="list-style-type: none"> • State Lands (Recovery of Possession) Act No.7 of 1979: The grievance redress mechanisms are not effectively implemented due to lack of awareness of such provisions and poor knowledge of public notifications.

	<p>PLR 6</p> <ul style="list-style-type: none"> • Mahaweli Authority of Sri Lanka Act No. 23 of 1979: The grievance redress mechanisms are not effectively implemented due to lack of awareness of such provisions and poor knowledge of public notifications. <p>PLR 8</p> <ul style="list-style-type: none"> • Implementation of the NIRP is not satisfactory across all development activities. <p>PLR 9</p> <ul style="list-style-type: none"> • At the divisional level, low capacity of resources and skills to handle land issues makes the process inefficient. Across the country, reportedly, there is a high backlog of cases and low resolution rates which is particularly pronounced in the Northern and Eastern Provinces. • National level GRM system – not well implemented. The pilot system suffered a setback with the administrative restructuring that followed government change in 2015. It is planned to develop this GRM further into a comprehensive, inter-sectoral GRM for the entire public sector.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 2 and PLR 3</p> <ul style="list-style-type: none"> • LA regulations: No provisions within the regulations requiring awareness raising on the GRM systems offered. <p>PLR 7</p> <ul style="list-style-type: none"> • Forest Ordinance: As far as grievances are concerned, the legislative framework applicable to forestry resources is not explicit. The forest protection legislation does not offer any administrative appeal forum for forest offences.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>Common to all PLRs</p> <ul style="list-style-type: none"> • Low awareness of the public about existing systems and public notifications that are made under such provisions.
<p>Possible info sources that could demonstrate PLR implementation</p>	<p>Records with the Forest Department and the Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Number of forest related grievances received and recorded <p>For grievances related to forest land acquisition, the following details are available with the District Secretary.</p> <ul style="list-style-type: none"> • Issuance of public notices • Grievances received and redressed

	<ul style="list-style-type: none"> • Where involuntary resettlement is concerned, number of meetings held with affected community pre and post resettlement • Number of cases relating to forest land referred to the mediation boards and number of cases resolved.
Recommendations	<ul style="list-style-type: none"> • Strengthen the existing Mediation Boards for grievance redress to handle REDD+ grievances, in line with the procedure outlined in UN REDD Programme (2015), Joint FCPF/UN-REDD Programme Guidance Note for REDD+ Countries: Establishing and Strengthening Grievance Redress Mechanisms. In addition, general awareness should be created about existing grievance redress mechanisms available to communities and stakeholders participating in REDD+ actions.

Cancun Safeguard (c): Respect for the knowledge and rights of indigenous peoples and members for local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the UN Declaration on the Rights of Indigenous Peoples

c.1 Nationally Clarified Safeguard Requirements: Use of free, prior, informed consent procedures

Safeguard “Addressed” through existing PLRs on paper?



The PLR framework does not recognize principles of FPIC in any significant way. However, two recent PLRs, as highlighted below, have made an attempt to bring in FPIC that may reflect the Government’s evolving thinking.

Proposed PLR 1

- **National Bio-safety Policy:** Sri Lanka shall ensure that bio-safety measures are established based on the precautionary approach and the advanced informed agreement.⁴⁷

Proposed PLR 2

- **Proposed National Policy on Access to Biological Resources, Sustainable Use and Benefit Sharing⁴⁸** : The policy reiterates the government’s commitment to conservation of biological resources for the benefit of the present and future generations. This policy is aimed at binding all relevant parties concerned with the conservation and sustainable use of the biological resources and to act as an umbrella policy in managing access and benefit sharing of biological resources. One of the stated policy principles recognize (i) the rights and needs of farmers and local communities in terms of biological resources and that (ii) access should be done only with prior informed consent (PIC) and on mutually agreed terms.⁴⁹

Proposed PLR 3

- **The proposed legal framework for the Protection of Traditional Knowledge in Sri Lanka:** The proposed framework explicitly acknowledges principles of FPIC. It states that no person shall have access to traditional knowledge, registered or not, and in public domain or not, without the prior informed written consent of the holder of such traditional knowledge.⁵⁰



⁴⁷National Bio-Safety Framework of Sri Lanka, Ministry of Environment and Natural Resources 2005

⁴⁸Ministry of Mahaweli Development and Environment Website -

http://www.environmentmin.gov.lk/web/index.php?option=com_content&view=article&id=775&Itemid=152&lang=en

⁴⁹Website of the Ministry of Mahaweli Development and Environment

⁵⁰Working document no 1, Legal Framework for the Protection of Traditional Knowledge in Sri Lanka, January 2009

Safeguard “Respected” through implementation of PLR in practice? 	Proposed PLR 1 <ul style="list-style-type: none"> • National Bio-safety Policy: According to the second regular national report by the Ministry of Environment in 2011, on the implementation of the Cartagena Protocol on Bio-safety, no regulations or administrative measures have been taken to implement provisions relating to Advance Informed Agreement (AIA) of the protocol.⁵¹
	Proposed PLR 2 <ul style="list-style-type: none"> • The National Policy on Access to Biological Resources, Sustainable Use and Benefit Sharing is not yet finalised.
	Proposed PLR 3 <ul style="list-style-type: none"> • The proposed legal framework for the Protection of Traditional Knowledge in Sri Lanka has been pending approval for several years
Gap, weakness, inconsistencies in existing PLRs on paper	<ul style="list-style-type: none"> • The proposed legal framework for the Protection of Traditional Knowledge in Sri Lanka, and the proposed National Policy on Access to Biological Resources, Sustainable Use and Benefit Sharing are both not yet in place.
Gap, weakness, inconsistencies in implementation of PLRs in practice	<ul style="list-style-type: none"> • No PLRs are yet in place that deal specifically with FPIC.
Recommendations	<ul style="list-style-type: none"> • The relevant Ministry should develop a guideline to promote FPIC in REDD+ programmes when needed. In addition, the legal framework for the Protection of Traditional Knowledge in Sri Lanka, and the proposed National Policy on Access to Biological Resources, Sustainable Use and Benefit Sharing both contain FPIC provisions. The relevant Ministry should finalize and approve these instruments.
c.2 Nationally Clarified Safeguard Requirements: Minimize resettlement and disruption/loss of traditional and rural livelihoods of indigenous people and forest-dependent communities	
Safeguard “Addressed” through existing PLRs on paper? 	PLR 1 <ul style="list-style-type: none"> • The Land Acquisition Act of 1950: This Act does not direct Project Executing Agencies (PEAs) to address resettlement planning and implementation issues such as exploring alternative project options to avoid or minimize impacts on people, consulting affected persons, providing for successful social and economic integration of the


⁵¹ <https://bch.cbd.int/database/record.shtml?documentid=102951>

	<p>affected persons into the host communities or rehabilitating affected persons. It only provides for compensation for land, structures and crops.⁵²</p>
	<p>PLR 2</p> <ul style="list-style-type: none"> • Land Acquisition Regulations of 2009: The regulations which were made effective by the government gazette number 1956/12 of April 7, 2009, discourage unnecessary acquisitions and emphasizes that the land should be used for the purpose that it is acquired.⁵³
	<p>PLR 3</p> <ul style="list-style-type: none"> • The National Environmental Act: requires an EIA/IEE to be carried out for resettlement of people involving more than 100 families. The EIA/IEE is required to evaluate alternative options and justify the option with least impacts, which would cover the above.
	<p>PLR 4</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy (NIRP) 2001: This policy was adopted to overcome the short comings of the LAA and to ensure that people affected by development projects are treated in a fair and equitable manner, and not further impoverished in the process. <p>The NIRP outlines the following policy objectives:</p> <ul style="list-style-type: none"> • ‘Avoid, minimize and mitigate negative impacts of involuntary resettlement by facilitating the reestablishment of the affected people on a productive and self-sustaining basis. • Ensure that people adversely affected by development projects are fully and promptly compensated and successfully resettled. The livelihoods of the displaced persons should be re-established and the standard of living improved. • In its policy principles, the NIRP directs that ‘Involuntary resettlement should be avoided as much as possible by reviewing alternatives to the project as well as alternatives within the project’⁵⁴ • The NIRP applies ‘to all development induced land acquisition and requires that a comprehensive Resettlement Action Plan be prepared where 20 or more families are displaced. In case where less than 20 families are displaced, the NIRP still requires a RP with lesser level of detail.


⁵²Land Acquisition and implementation of the national involuntary Resettlement Policy, A guide to good practices, Ministry of land and land development, 2013


⁵³Resettlement Policy Framework, SCDP, Ministry of Megapolis and Western Development

⁵⁴The National Involuntary Resettlement Policy

	<p>For compensation related provisions under the LAA and NIRP – please refer section C.7</p> <p><u>Definition and legal status of IPs</u></p> <ul style="list-style-type: none"> • Sri Lanka does not have an existing national policy or law that recognizes any community as ‘indigenous’. Hence, there is no legal definition. • However, the Vedda community in Sri Lanka who are primarily the ‘forest dwellers’ and dependent on forest resources for their livelihoods is recognized by various sources as ‘indigenous people’. But this is not universally accepted. • The UN organizations recognize ‘Veddas’ as Sri Lanka’s indigenous population because they represent a socio-cultural milieu different to rest of the ethno-religious communities. Sri Lanka is also a signatory to the UN Declaration on Rights of Indigenous People. • The Veddas are recognized as citizens of Sri Lanka under the Citizenship Act of 1948. They enjoy all rights and privileges enshrined in the constitution to which any other citizen is entitled to irrespective of ethnicity, religion, location, vocation, caste and creed. • They are guaranteed equal access to justice through the constitutional provisions and accorded equal status before the law and the social and cultural recognition that is enjoyed by rest of the communities. • The Ministry of Cultural Affairs and National Heritage has a launched a project on the indigenous people that include a proposed bill to safeguard the existence and rights of indigenous people, providing legal facilities to IP, measures to conserve their traditional knowledge and to establish a museum on their heritage.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR2</p> <ul style="list-style-type: none"> • Land Acquisition Regulations of 2009: There are significant gaps between the laws and the enforcement of such laws. <p>PLR3</p> <ul style="list-style-type: none"> • The National Environmental Act: The quality of EIA reports vary vastly and on average a majority of the EIAs lack analytical rigour. This includes the alternative option analysis which is weak. Although the EIA process is well defined in the law and the procedures are generally administered, the effectiveness of the EIA process and its outcomes are also hampered by several factors including the weak administrative set up. Independent and unbiased decision making on EIAs by the Technical Evaluation Committees are increasingly not apparent.

	<p>PLR4</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy (NIRP) 2001: For projects that are funded by donors with strong focus on safeguards, the provisions of the NIRP are implemented, as aspired. However, under programs funded with domestic funds, the provisions of the NIRP are poorly implemented.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 1 & 2</p> <ul style="list-style-type: none"> • The Land Acquisition Act and Regulations: • Non recognition of non-title holders: The LAA framework doesn't have remedial measures for non-titled holders although they are using the land in question over many years. • Although the LAA makes provisions for the acquisition of lands for a '<u>public purpose</u>', it does not define what constitutes a 'public purpose'. The judiciary has suggests that for land acquisition it is best if the public purpose is disclosed without merely stating that the land is required for a 'public purpose'. Judicial decisions affirm that private land can be acquired only for public purposes under LAA, which should ideally be disclosed in the Section 2 Notice. In general, defining 'public purpose' in the Notice would make the identification and assessing the suitability of an area and a land more efficient, transparent and effective. • Lack of requirement for impact assessments to be conducted in the land acquisition process: There is no requirement for the Minister to undertake impact assessments on the land to be acquired, prior to its selection. This is crucial to ensuring that the 'public purpose' is truly met without detriment to the immediate local community. In addition, the fact that the LAA does not address resettlement issues or require exploring of alternative project options that avoid or minimize impacts on people has implications for grievances and their redress. • Proving of Ownership: Another key inadequacy of the LAA is that the owners have to prove ownership, gather all information and submit a compensation claim in respect of land to be acquired. Often displaced persons are not aware of their rights or time frames to be observed under the LAA, or they are aware, but inexperienced or unprepared to deal with the official procedures. <p>PLR 4</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy(NIRP) 2001: The NIRP is a statement of policy intentions without specific rules and prescriptions to guide implementation. The policy is considered a 'soft law' serving as a normative tool to address gaps in existing legislation. It is therefore not legally admissible in a court of law at the present time.
<p>Gap, weakness, inconsistencies in</p>	

implementation of PLRs in practice	
Possible info sources that could demonstrate PLR implementation	<p>Progress Reports of the Forest Department and the Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Information available with the Environment Management Division • Number of encroached lands regularized under various PA categories • Number of resettlements avoided in boundary demarcations • Number of land acquisitions with zero resettlement • Number of land acquisitions with resettlement • Number of resettled people
Recommendations	<ul style="list-style-type: none"> • Any significant land use change, other than a change of agricultural use, should be subject to EIA under the NEA. Land use change should therefore be “prescribed”. • The National Involuntary Resettlement Policy should be enshrined within law, and properly implemented.
c.3 Nationally Clarified Safeguard Requirements: Poverty alleviation through alternative livelihood opportunities and improved social services, to improve the standard of forest dependent communities	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • National Forest Policy 1995: Forest programs contribute to national poverty reduction. One of the objectives as stated in section 1.3 of 3 of the Policy stipulates ‘<i>Enhance the contribution of forestry for the welfare of the rural population and to strengthen the national economy, with special attention being paid to equity in economic development</i>’. • Various thrust areas of the NFP support and promote alternative livelihood development opportunities in order to reduce exploitation of the natural forests by the community. Some of the lower level objectives as reviewed by the two former conservator generals of the FD include: <ul style="list-style-type: none"> • Greater responsibility given to local people, organized groups, cooperatives, industries and other private bodies in commercial forest production, industrial manufacturing and marketing. • Efficient forest product utilization, development of competitive forest industries based on sustainable wood sources and the manufacturing of value-added products will be promoted. • The establishment, management and harvesting of industrial forest plantations by local people, communities, industries and others in the private sector will be promoted. • Nature-based tourism will be promoted to the extent that it does not damage ecosystems and insofar as it provides


	<p>benefits to the local population.</p> <ul style="list-style-type: none"> • Growing trees on homesteads, and other agro-forestry activities, will be promoted as a main strategy to supply wood and other forest products to meet household and market needs. • All of the above provides the basis to support income generation through alternative and more sustainable forest related livelihood development.
	<p>PLR 2</p> <ul style="list-style-type: none"> • The National Involuntary Resettlement Policy: The policy as described in c.2 above requires livelihoods of those affected by displacement to be restored. The Resettlement Action Plan provides detail strategies in addressing livelihood restoration issues which in most cases include alternative livelihood development.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • National Forest Policy: Various initiatives to support livelihoods and uplift socio-economic conditions of forest dependent communities have been implemented. • Farmer Woodlots: Partnerships with farmers in raising FWLs on a long-term lease basis were established by the forest department as early as in 1980s. • Forest Management Plans - have been prepared for several natural forests in the country based on thematic areas of sustainable forest management and the welfare of rural communities have been identified as one of the key areas in SFM. The management plans identify activities for sustainable exploitation of forests by the community. (eco-tourism, collection of NTFP) • Participatory Forest Management (PFM) activities have attracted international interest and many donor funded projects have been implemented in Sri Lanka promoting the concept, such as the Participatory Forestry Project which commenced as early as 1982, that specifically focused on creation of employment opportunities and income to reduce poverty in rural areas as one of its key project activities.⁵⁵ • Community Forestry - Rural communities are the direct beneficiaries of community forestry program where many income generation activities are introduced to the peripheral communities to upgrade their living standards. These activities are ranging from the collection of non-wood forest products from forests to providing micro-financing facilities for the communities to initiate their own income generation activities.⁵⁶⁵⁷

⁵⁵ Climate change and community forestry in Sri Lanka, 2016

⁵⁶ Sri Lanka Country report to the UN forum of forests, 2012

⁵⁷<http://www.communityforestry.lk/index.html> Community Forestry Program implemented by the FD as a follow on to the AUSAID funded FRMP.

	<ul style="list-style-type: none"> Although not a legal requirement, community outreach is practiced by the DWLC where measures to uplift economic status of communities are targeted.
	<p>PLR 2</p> <ul style="list-style-type: none"> National Involuntary Resettlement Policy: This policy is generally poorly implemented.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	<p>PLR 1</p> <ul style="list-style-type: none"> The farmers do not maximize the potential benefits from their woodlots as they are not aware of the value of the products, services and potential income that may derive from their woodlot, and they may not be familiar with the management of small scale forestry operations as a commercial enterprise. Partnerships between farmers and private companies secure access to forest product as industrial raw materials from FWLs. The partnerships may improve the image of the companies and they can provide farmers with new income-earning opportunities and access to skills, technologies, raw materials and markets they would otherwise find hard to secure. With the maturity of trees for final harvest of FWLs, close cooperation and partnership with forest industries is providing the raw material needed for meeting their requirements. Lack of effective partnerships with government and other stakeholders to meet the increasing demand for timber, recreation and other products, including non-commercial services such as clean water and attractive landscapes through farmers' woodlot program. Weak technical support network to transfer education and knowledge on woodlot management for farmers remains a major challenge to sustainable development of woodlots. Success of implementing FWLs has been affected to some extent by the insecure land tenure without any legal assurance. (Carter at al. 1994).
Possible info sources that could demonstrate PLR implementation	<p>Forest Department</p> <ul style="list-style-type: none"> Number of community forestry programs implemented Number of farmer woodlot program implemented <p>Department of Wildlife Conservation</p> <ul style="list-style-type: none"> Number of community outreach programs implemented
Recommendations	<ul style="list-style-type: none"> The relevant Ministry should adopt a formal "Alternative Livelihood Opportunities for Forest-Dependent

	Communities” policy.
c.4 Nationally Clarified Safeguard Requirements: Benefit-sharing mechanism arising from use of forest resources	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The National Forest Policy 1995 recognizes that the State agencies alone are unable to protect and manage the forests effectively, and called for participatory management and benefit sharing with community and other stakeholders in both forest protection and production. • Degraded forestland will be rehabilitated as forest for conservation and multiple-use production, where this is economically and technically feasible, mainly for the benefit of local people. • For the management and protection of natural forests and forest plantations, the state will, where appropriate, form partnerships with local people, rural communities and other stakeholders, and introduce appropriate tenurial arrangements. • The establishment and management of industrial forest plantations on state lands will be entrusted progressively to local people, rural communities, industries and other private bodies, keeping pace with the institutionalizing of effective environmental safeguards. • Degraded forestland will be rehabilitated as forest for conservation and multiple-use production, where this is economically and technically feasible, mainly for the benefit of local people.⁵⁸ <p>PLR 2</p> <ul style="list-style-type: none"> • Forest Ordinance Amendment Act 2009: Forest legislation was amended in 2009 to incorporate new provisions (as set out below) for the more effective implementation of the National Forest Policy (e.g. for participatory management, benefit sharing, private sector involvement) which recognized local community rights to access/participate in benefit sharing schemes. • Section 5(4) c and f of the Amendment to the Forest Ordinance 2009 stipulates that the Minister shall make regulations applicable either to the whole or any specified area of the Reserved Forests in respect of : • the preparation of Management Agreements for the purpose of obtaining community and non-state sector participation in the sustainable management of Reserved Forests; • The development of a benefit sharing mechanism among the management partners or stakeholders. • The same amendment under section 37(2) g (ii) and (iii) stipulates that “without prejudice to the generality of the


⁵⁸National Forest Policy Review – Sri Lanka, Fernando S M P, Bandarathilake H.M

	<p>powers conferred by subsection (1), the Minister may make regulations—in respect of the matters set out below within any forest which is not a Conservation Forest, Reserve Forest or Village Forest:—</p> <ul style="list-style-type: none"> • activities to be carried out for the purpose of conservation and development of degraded forest areas with community and private sector participation including the procedure for the preparation of Management Agreements indicating their purpose, scope and extent; • the development of a benefit sharing mechanism among the management partners or stakeholders;⁵⁹ • According to the Forest Department Website ⁶⁰on community forestry, management of isolated patches of natural forests is carried out with the help of local communities with an agreed system of benefit sharing on a forest agreement signed between the local community and Forest Department. This is called the Joint Forest Management Program.
	<p>PLR 3</p> <ul style="list-style-type: none"> • Proposed National Policy on Access to Biological Resources, sustainable Use and Benefit Sharing⁶¹reiterates the government’s commitment to conservation of biological resources for the benefit of the present and future generations. This policy is aimed at binding all relevant parties concerned with the conservation and sustainable use of the biological resources and to act as an umbrella policy in managing access and benefit sharing of biological resources. The policy objectives specifically include the following; <ul style="list-style-type: none"> • To guide relevant authorities to establish and manage an efficient and effective system to regulate the access to biological resources and to ensure fair and equitable sharing of the benefits arising from the use of these resources. • To ensure sustainable use of biological resource and equitable sharing of benefits arising from the direct and indirect use of biological resources and associated traditional knowledge. • To develop a mechanism for sharing benefits arising from monetary and non-monetary uses of biological resources. • To describe the right and obligations, procedures, timing of benefits and distribution of benefits etc.

⁵⁹Forest Ordinance, 2009 amendment Act



⁶⁰http://www.forestdept.gov.lk/web/index.php?option=com_content&view=article&id=128&Itemid=137&lang=en


⁶¹Ministry of Mahaweli Development and Environment Website - http://www.environmentmin.gov.lk/web/index.php?option=com_content&view=article&id=775&Itemid=152&lang=en



	<ul style="list-style-type: none"> • While no specific regulations have been issued on the above and there is no specific law on access to genetic resources, the existing legal framework, provided by the FO and the FFPO, has adequate flexibility for granting/denial of a legitimate application made to the Government of Sri Lanka to access forest resources and for benefit sharing (ex; permits issued to collect certain NTFP through recognition of such activity in the management plan.)⁶² <p>PLR 4</p> <ul style="list-style-type: none"> • The National Wildlife Policy states as one of the policy objectives ‘to ensure sustainable use and equitable benefit sharing arising from the direct and indirect use of wildlife resources and ecosystems.’ As per the Flora and Fauna Protection Ordinance, no allowance is given to collect forest produce from the national parks and therefore collection of anything within the national park is an offence. • There is no mention specifically of IPs (please refer C.2) and the only mention is of local community which can include the IP as they are forest dependent communities. <p>PLR 5</p> <ul style="list-style-type: none"> • The National Wetland Policy in section 5.1.5 refers to sustainable use and equitable benefit sharing of wetland resources as one of the key policy directives. However, within protected areas, the application of this policy is overridden by forest/wildlife regulations.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1 and PLR 2</p> <ul style="list-style-type: none"> • National Forest Policy and Forest Ordinance • There has been an increasing trend towards sharing of benefits arising out of forest resources with local communities. • Programs such as the Sri Lanka Community Forestry Program have been prepared to manage the forest lands with communities on a benefit sharing basis. • Community forestry programs have been conducted fairly successfully • Re-forestation with private sector participation has been carried out by the Department with cabinet approval where plantations were established on forest land by private companies. This initiative which was discontinued

⁶² During community consultation in Trincomalee, it was revealed that the Forest Department allows the collection of 2 m² of firewood to each family each month on a permit system.


	<p>about 10-15 years ago is planned to be resurrected.</p> <ul style="list-style-type: none"> Benefit sharing is also practiced to varying degrees through Forest Management Plans. Although according to law, no uses can be allowed inside conservation and reserved forests, the Department recognizes sustainable utilization of NTFP and services by the surrounding communities under a permit system. During the preparation of the Management Plans, the community can highlight their traditional use patterns and seek permission to continue same in a non-destructive way by mutually agreeing with the Forest Department. The new generation of Management Plans recognize zones within the protected area where public use is allowed and restricted.
	<p>PLR 3</p> <ul style="list-style-type: none"> Proposed National Policy on Access to Biological Resources, Sustainable Use and Benefit Sharing is still being finalized.
	<p>PLR 4</p> <ul style="list-style-type: none"> The National Wildlife Policy (and Fauna and Flora Protection Ordinance) Benefit sharing in a limited way is practiced through the recognition of permitted activities such as small-scale fisheries and eco-tourism inside protected areas. These activities are allowed under a strictly regulated permit system.
	<p>PLR 5</p> <ul style="list-style-type: none"> The National Wetland Policy: Implementation of policy has been rather weak..
Gap, weakness, inconsistencies in existing PLRs on paper	<p>PLR 2</p> <ul style="list-style-type: none"> Lack specific regulations specifying the mechanisms, roles and responsibilities of stakeholders involved in benefit sharing.
Gap, weakness, inconsistencies in implementation of PLRs in practice	<ul style="list-style-type: none"> See the “respect” discussion above.
Possible info sources that could demonstrate PLR implementation	<p>Forest Department</p> <ul style="list-style-type: none"> Number of management plans prepared with community benefits recognized

	<ul style="list-style-type: none"> • Number of permits issues to community to harvest non-timber forest products • Number of Farmer woodlots created • Number of community forestry projects initiated • Number of forest plantations initiated with private sector involvement <p>Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Number of management plans prepared with community benefits recognized • Number of permits issued for fishing and tourism within PA areas • Extent of land leased to private sector for plantation forests •
<p>Recommendations</p>	<ul style="list-style-type: none"> • Regulations should be developed that clearly define the mechanisms through which benefits can be accessed, distributed, and re-invested, and the roles and responsibilities of stakeholders involved in benefit-sharing.
<p>c.5 Nationally Clarified Safeguard Requirements: Community forest land tenure, land allocation, and demarcation based on customary rights of use</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • Customary tenure rights are relatively weak in Sri Lanka and has little acceptance in state forests. • Statutory law has been gradually extinguishing customary rights for more than a century and as result communities have limited customary access and use rights to forest resources. • Under the Fauna and Flora Protection Ordinance, traditional activities are allowed to continue in areas declared as Nature Reserves and Sanctuaries. No activity is, however, allowed in National Parks and Strict Nature Reserves.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<ul style="list-style-type: none"> • Customary rights enjoyed by farmers for their traditional shifting cultivation have been recognized in the past and to a limited extent presently, given that shifting cultivation has changed from how it was originally practiced. • There are some examples of collective land management within forest reserves based on customary norms. For example, in some remote areas communities manage water resources to fill water tanks. Grazing of livestock is also tolerated in some State forest areas. Rather than recognizing these as access and use rights, the government tends to be lenient, at least currently. There are no legal documents or arrangements to recognize these customary rights. • In the case of Sri Lanka’s Veddha indigenous people, their customary tenure rights have only been partially recognized by the Department of Wildlife Conservation through the granting of access and usufruct rights to non-timber forest products (NTFPs) in certain designated protected areas.

	<ul style="list-style-type: none"> • Although the Veddha have been granted access rights to collect NTFP, successive governments since 1970s have failed to implement official assurances given to these people with regard to declaring a large sanctuary dedicated to their way of living. • A more recent proposal has been to implement a permitting system whereby members of the Veddha community would receive ID cards granting them special access to the forest reserve to continue their traditional practices other than hunting.
Gap, weakness, inconsistencies in existing PLRs on paper	<ul style="list-style-type: none"> • Access rights for Veddha people have not been implemented.
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Possible info sources that could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> • EIA/IEE conducted for REDD+ initiatives must examine issues of customary access and rights over forest issues.
c.6 Nationally Clarified Safeguard Requirements: Rights of indigenous people and forest dependent communities to customary forest access and sustainable forest use.	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> • Covered above in safeguard c5.
Safeguard “Respected” through implementation of PLR in practice?	

	
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendation	
c.7Nationally Clarified Safeguard Requirements: Right for compensation and other remedies in case of unavoidable involuntary resettlement and economic displacement.	
Safeguard “Addressed” through existing PLRs on paper? 	<p>PLR 1</p> <ul style="list-style-type: none"> • Land Acquisition framework • The Land Acquisition Act No 9 of 1950, 18 of 1986 and LAA regulations passed in 2009 provides the framework for facilitating land acquisition within the country and guarantees that no person shall be deprived of land except under provisions of the LAA. • The LAA provides for compensation of lands and other fixed assets built and grown on them and for loss of income for those who can prove their income losses by documentary proof up to a maximum of average net profits for three years immediately preceding the publication of section 7. • LAR 2008, issued under section 63 (2) (f) of LAA 1950 and made effective in March 2009 (Section 1 (1.1 and 1.2) of the LAA regulations of 2009) has provisions that include compensation for affected land at market rates, reconstruction costs of structure without depreciation, valuation for whole plot of land for determining proportional unit cost for the affected land parcel, business losses and relocation assistance etc. <p>PLR 2</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy, 2001 • The Government adopted the National Involuntary Resettlement Policy (NIRP) in 2001 in order to address shortcoming of the LAA and to treat affected persons in a fair and equitable manner. The aim of the NIRP to assure displaced people a living standard that is of a standard comparable to that at the time of displacement. It



	<p>guarantees adequate compensation to the affected persons in a timely manner</p> <ul style="list-style-type: none"> • The main principles of the NIRP that is relevant to compensation includes the following • In the case of loss of land, replacement land should be an option for compensation. In the absence of replacement land, cash compensation should be an option for all affected persons. • Compensation for loss of land, structures and other assets and income should be based on full replacement cost and should be paid promptly. It should also include transaction costs. • NIRP makes a distinction from the LAA, by not limiting compensation to persons with documentary evidence of their interest in the land in question. • Include affected people in the relocation and resettlement process and in determining livelihood compensation at the earliest opportunity. The policy required Resettlement Action Plans (RAPs) to be published and to be made publicly available.
	<p>PLR 3</p> <ul style="list-style-type: none"> • National Policy for the Payment of Compensation, 2008 • In 2008, the Government approved a national policy to establish a uniform system of compensation payment. It superseded all other ad hoc and special compensation packages that existed on the date of the cabinet approval of the policy. • Under this policy, parties dissatisfied with Land Acquisition and Resettlement Committees (LARC) decision are permitted to appeal to a review board of compensation.
	<p>PLR 4</p> <ul style="list-style-type: none"> • Land Acquisition Regulation of 2013 • This regulation provides for a comprehensive compensation package that goes beyond what is prescribed in the 2009 regulations. It provides for ‘Ex Gratia Compensation’ and non-statutory payments of compensation through LARC and super LARC systems to aggrieved parties who are dissatisfied with statutory payments, and/or who are excluded from statutory payments under LAR 2009. • In order to process claims under this regulation, development projects must be designated as ‘specified projects’ by the Ministry in charge of the subject of land with the ratification of the Parliament of Sri Lanka.
<p>Safeguard “Respected” through implementation</p>	<p>All PLRs</p> <ul style="list-style-type: none"> • While the law is comprehensive, enforcement and implementation of its provisions is only partially satisfactory.


<p>of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<p>PLR 1</p> <ul style="list-style-type: none"> • The legislative enactments like LAA and other such provisions and regulations with their amendments are directed towards paying for compensation for land, structures and crops to lawful owners of such assets. These enactments don't have remedial measures for non-titled holders although they are using the land in question over many years. • The LA act puts the onus to prove ownership, demonstrate clear title to, gather all information and submit a compensation claim in respect to land to be acquired on the Affected Party. Often displaced persons are not aware of their rights or time frames to be observed under the LAA or they are aware but are ill-equipped and inexperienced to deal with procedures and documentation.⁶³ • The LAA lacks provisions to address the social and economic impacts of people affected by Land Acquisition in relation to relocation and rehabilitation.
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	<p>PLR 1</p> <ul style="list-style-type: none"> • Major delays in land acquisition arise with respect to the compensation procedure with attendant legal proceedings.
<p>Possible info sources that could demonstrate PLR implementation</p>	<p>Annual Performance Report of the Forest Department and the Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Information available with the Environment Management Division and the Natural Resources Division of FD and DWLC, respectively. • Number of land acquisitions with resettlement • Number of resettled people • Number of people who were paid compensation • Number of grievances received regarding compensation and number of grievances resolved.
<p>Recommendations</p>	<ul style="list-style-type: none"> • The National Involuntary Resettlement Policy should be enshrined in law, and properly implemented.



⁶³Resettlement Policy Framework, Strategic Cities Development project, Ministry of Megapolis and Western Development, 2014



Cancun Safeguard (d): Full and effective participation of relevant stakeholders, in particular indigenous people and local communities


d.1 Nationally Clarified Safeguard Requirements: Meaningful participation of disadvantaged stakeholders in forest management related decision making.

<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • There are no PLRs with specific mention of the rights of vulnerable/marginalized communities/stakeholders being recognized for participating in forest related programs. Special consideration of disadvantaged stakeholders are only mentioned in the following two PLRs: • <p>PLR 1</p> <ul style="list-style-type: none"> • National Involuntary Resettlement Policy - which requires that vulnerable groups should be identified and given assistance to substantially improve their living standards in the resettlement planning and implementation process. <p>PLR 2</p> <ul style="list-style-type: none"> • Land Acquisition Regulations in 2013 - section (4)(2)j, stipulates that an extra payment will be paid for families in a vulnerable situation as determined by the Land Acquisition and Resettlement Committee (LARC).
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1 and PLR 2 Often weak and inconsistent implementation</p>
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	



Recommendations	<ul style="list-style-type: none"> Regulations should be developed specifying mechanisms for participatory forest management which would give special consideration to vulnerable/disadvantaged stakeholders.
d.2 Nationally Clarified Safeguard Requirements: Private sector participation	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> The National Forest Policy 1995 aims to actively promote private sector participation. It carries the following directives. Section 2.5 (policy on management of state forests) – Establishment and management of industrial forest plantations on state land will be entrusted progressively to local people, rural communities and industries and other private bodies , in pace with institutionalizing effective environmental safeguards. Section 3.2 (policy on the management of private forests and tree resources) – The establishment, management and harvesting of industrial forest plantations by local people, communities, industries and others in the private sector will be promoted. Section 4.1 (policy on wood and non-wood products, industries and marketing) – Greater responsibility will be given to local people, organized groups, cooperatives, industries, and other private bodies in commercial forest production, industrial manufacturing and marketing. <hr/> <p>PLR 2</p> <ul style="list-style-type: none"> Forest Amendment Act No 65 of 2009 provides the following provisions to support the policy directives mentioned above. Section 5 (4) (c) of the Forest Amendment Act No 65 of 2009, stipulates for conservation and reserved forests the Minister can make regulations, applicable to either to the whole or any specified area of the Reserved Forests, in respect of the preparation of Management Agreements for the purpose of obtaining <u>community and non-state sector participation</u> in the sustainable management of Reserved Forests; Section 37 (2) (g) (ii) of the Forest Amendment Act No 65 of 2009 stipulates that within any forest which is not a Conservation Forest, Reserve Forest or Village Forest the Minister can make regulations for activities to be carried out for the purpose of conservation and development of degraded forest areas with <u>community and private sector participation</u> including the procedure for the preparation of Management Agreements indicating their purpose, scope and extent. <hr/> <p>PLR 3</p> <ul style="list-style-type: none"> Fauna and Flora Protection Ordinance: No specific provisions.

<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1 and PLR 2</p> <ul style="list-style-type: none"> • The National Forest Policy & Forest Amendment Act No 65 of 2009: The government has taken steps to establish large areas of new forest plantations with private sector involvement to meet increased wood demand. In 2002, 26 agreements were signed between the Forest Department and private sector investors to develop commercial scale plantations. These are joint ventures with the state, where state lands are allocated to the private sector for commercial forest plantation development on long-term lease agreements, as well as private plantations developed on their own. In both cases the Forest Department provides the required technical knowhow free of charge mainly in preparation of management plans and carrying out silvicultural operations. • This practice was eventually discontinued and efforts are being made currently to revive the program. <p>PLR 3</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance: The DWLC collaborates with the private sector for promotion of tourism and research, by granting free access, issuing permits and organizing research symposiums etc
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • Develop regulations that specify mechanisms for private sector participation in forest management, along with their rights and responsibilities.
<p>d.3 Nationally Clarified Safeguard Requirements: Awareness and capacity among stakeholders for effective participation in forest-related decision-making process</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>There are no PLRs promoting public awareness on effective participation in the forestry sector.</p> <p>PLR 1</p> <ul style="list-style-type: none"> • The only relevant provision can be found in the National Environmental Act, where the Project Approving Agency is required by law to proactively inform the public of the availability of an EIA for public comments. The two relevant provisions are given below.

	<ul style="list-style-type: none"> • A project approving agency shall on receipt of an initial environmental examination report or an environmental impact assessment report, as the case may be, submitted to such project approving agency in compliance with the requirement imposed under subsection (1), by notice published in the Gazette and in one newspaper each in the Sinhala, Tamil and English languages, notify the place and times at which such report shall be available for inspection by the public, and invite the public to make its comments, if any, thereon. NEA, sec. 23BB(2) • Where approval is granted for the implementation of any prescribed project, such approval shall be published in the Gazette and in one newspaper each in Sinhala, Tamil and English languages. NEA, sec. 23BB(4); 1993 Regulations, sec. 15 • A subsequent gazette issued by the government removed IEE from the public commenting process. This has serious impacts on the governance process of the EIA/IEE.
Safeguard “Respected” through implementation of PLR in practice? 	Already covered in b7 and b11.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendation	
d.4 Nationally Clarified Safeguard Requirements: Reduced human-wildlife conflict	
Safeguard “Addressed” through existing PLRs on paper? 	PLR 1 <ul style="list-style-type: none"> • A National Policy for the Conservation and Management of Wild Elephants in Sri Lanka: • This policy was developed in 2006 and ratified by the Cabinet of Ministers. The policy ensures the sustainability of elephant population within their habitats, minimize and control of human-elephant conflicts, obtain socio-economic benefits to the rural population, enact necessary mechanisms to control the number of elephants in the

	<p>forests and provide the livelihood support to the affected people of the human-elephant conflict. The second of the six statements of the policy aims at minimizing human-elephant conflict. It provides 3 key national strategies to minimize the human-elephant conflict and a number of activities under each strategy in order to achieve the policy intentions.</p> <ul style="list-style-type: none"> • In 2010, a National Action Plan based on the policy was developed and presented to the then President who approved its implementation. • In 2014, a comprehensive human-elephant conflict mitigation plan was developed and approved by the National Planning Department with necessary budgetary allocations.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • Implementation of the policy and the action plan has not yet properly begun.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	<p>Annual Performance Report of the Department of Wildlife Conservation</p> <ul style="list-style-type: none"> • Details available from the Elephant Conservation Division • Number of Elephant and Human Deaths Reported • Number of new elephant managed areas declared • Number of Compensations paid • Length of electric fences erected
<p>Recommendations</p>	<ul style="list-style-type: none"> • Resources should be applied to implement the National Policy for the Conservation and Management of Wild Elephants, and the associated National Action Plan.

d.5 Nationally Clarified Safeguard Requirements: Stakeholder mapping of those likely to be affected by proposed REDD+ activities, prior to the decision-making process at national and local levels.

<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> No specific PLRs
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> Regulations describing mechanisms for participatory management should mandatorily include a stakeholder mapping requirement.

Cancun Safeguard (e): REDD+ actions are consistent with the conservation of natural forests and biological diversity, ensuring that REDD+ actions are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits

e.1 Nationally Clarified Safeguard Requirements : Protection of biodiversity and natural forests to maintain/enhance ecosystem services at the local and national levels

<p>Safeguard “Addressed” through existing PLRs on paper?</p>	<ul style="list-style-type: none"> The following PLRs contain provisions for the protection of natural forest areas, outline protection measures, regulate forest offences and define clear penalties for non-compliance.
	<p>PLR 1</p>



- The **National Forest Policy 1995** recognizes the need to conserve forests for posterity, with particular regard to biodiversity, soils, water, and historical, cultural, religious and aesthetic values as one of its key objectives. It advocates all forest resources to be brought under sustainable management both in terms of the continued existence of important eco-systems and the flow of forest products and services. It also advocates that natural forests will be allocated firstly for conservation and secondly for regulating multiple use production forestry. The Forestry Sector Master Plan, which puts into practice the National Forest Policy, puts particular emphasis on conserving the remaining natural forests to maintain wildlife as reservoirs of biodiversity.

PLR 2

- The **National Wildlife Policy 2000** recognizes the need to conserve wildlife resources, maintain ecological processes and life sustaining systems, to manage all components of genetic diversity, as some of the key policy objectives.

PLR 3


- The **Biodiversity Conservation Action Plan (BCAP)** prepared in 1998 in response to the country's obligations to the CBD, has been regarded as a principle instrument for the implementation of biodiversity conservation at both the national and global level. The BCAP is currently being fully reviewed and revised as Sri Lanka's National Biodiversity Strategy and Action Plan for 2016-2020. National biodiversity conservation strategies and targets, as set in BCAP and its addendums, are reinstated through the different generations of national environmental action plans (ex; Haritha Lanka, Punarudoya) and the annual programs of the Forest Department and the Department of Wildlife Conservation.



PLR 4

- The **Forest Ordinance**— the long title of the act is “An ordinance to consolidate and amend the law relating to the conservation, protection, and sustainable management of forest resources and utilization of forest produce; To provide for the regulation of the transport of timber and forest produce and other activities related to such transport. The Forest Ordinance is a comprehensive law covering many aspects of forest management including reserve forests, conservation forests, village forests, forest produce, timber transport, and penalties.



PLR 5



- **The Fauna and Flora Protection Ordinance** – the long title of the act is ‘An ordinance to provide for the protection and conservation of the fauna and flora of Sri Lanka and their habitats; For the prevention of commercial and other misuse of such fauna and flora and their habitats; For the conservation of biodiversity of Sri Lanka. Similarly, the FFPO is a comprehensive law covering many aspects of wildlife management including designation of national




	reserves, wildlife offences and penalties.
	<p>PLR 6</p> <ul style="list-style-type: none"> The purpose of the National Wilderness Heritage Areas Act as stated in the act is ‘preserving in their natural state, unique eco-systems, genetic resources; or physical and biological formations and precisely delineated areas wilderness which constitute the habitat of threatened species of animals Areas. and plants of outstanding universal value from the point of view of science or conservation ; for enhancing the natural beauty of the wilderness of Sri Lanka and for promoting the scientific study and enjoyment’
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>All PLRs</p> <ul style="list-style-type: none"> The PLRs outlined above collectively have provided the framework for the creation and maintenance of a network of protected natural areas in the country with high biodiversity. While there could be gaps and loopholes in law enforcement, there is generally strict protection of these areas.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Possible info sources that could demonstrate PLR implementation	<ul style="list-style-type: none"> Extend of PA areas protected and managed under each protection category
Recommendations	<ul style="list-style-type: none">
e.2 Nationally Clarified Safeguard Requirements : Monitoring and evaluation to demonstrate progress towards management objectives	
Safeguard “Addressed” through existing PLRs on paper?	<p>PLR 1</p> <ul style="list-style-type: none"> National Wildlife Policy : There are elements relating to monitoring of protected areas within the National Wildlife Policy 2000 Section 2 – to identify, classify, manage and monitor all protected areas, on the basis of scientific studies and


	<p>agreed criteria).</p> <p>PLR 2</p> <ul style="list-style-type: none"> • Fauna and Flora Protection Ordinance Amendment Act of 2009 - section 4(b) stipulates that the implementation of all Management Plans shall be monitored according to an approved plan, made by the Director-General and be subject to an evaluation within five years of the date of adoption of such Management Plan. <p>PLR 3</p> <ul style="list-style-type: none"> • Forest Ordinance: No specific monitoring and evaluation mechanisms are stated in the forestry legislation. <p>PLR 4</p> <ul style="list-style-type: none"> • National Environmental Act&Environmental Impact Assessment(EIA)regulations: Monitoring in the EIA regulations is limited to the Project Approving Agencies (PAA) submitting a plan detailing how they would undertake the monitoring of all EIA cleared projects under their jurisdiction. There are no provisions that make post EIA environmental monitoring mandatory.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1, PLR 2, PLR 3</p> <ul style="list-style-type: none"> • In practice, both the Forest Department and the Department of Wildlife Conservation undertake biodiversity monitoring assessments in selected sites but they are isolated in nature. Since carrying out the National Conservation Review between 1992 and 1996, systematic country wide monitoring has not been undertaken, largely due to lack of financial resources and non-availability of expertise in the FD for countrywide biodiversity assessment. Hence, this gets low priority in annual program.⁶⁴ <p>PLR 4</p> <ul style="list-style-type: none"> • Monitoring under EIA/IEE is generally expected from the project developer. However, this is the weakest link in the EIA/IEE cycle.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	<ul style="list-style-type: none"> • National Environmental Act: The current EIA regulations do not require the Project Proponent to submit a comprehensive environmental management and monitoring plan. This is a significant gap in the law. Even if they do, the EMP is not legally binding. Also the contractor and EIA clearance clauses are not linked as clearance is issued to the project proponent who is not the contractor. The current amendments to the Act seek to change these clauses.

⁶⁴Sri Lanka’s fifth national report to the CBD, 2014

Gap, weakness, inconsistencies in implementation of PLRs in practice	
Possible info sources that could demonstrate PLR implementation	<ul style="list-style-type: none"> • Quarterly progress reports of the two departments
Possible info sources that could demonstrate PLR implementation	
Recommendations	<ul style="list-style-type: none"> • The Forest Ordinance should be amended to include Articles that require the monitoring of all REDD+ initiatives using state-of-the-art technology, to ensure that they meet required objectives. The amended Articles should establish a National Forest Monitoring System. • The NEA should be amended to include post-EIA monitoring and reporting as a mandatory requirement.
e.3 Nationally Clarified Safeguard Requirements : Legal frameworks supporting the mapped spatial distribution of natural forests	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> • No specific provisions are found within the forestry legislation that requires the mapping of natural forests and biological diversity and the development and updating of natural forests inventories.
Safeguard “Respected” through implementation of PLR in practice? 	<ul style="list-style-type: none"> • Both the Forest Department and the Department of Wildlife Conservation have GIS departments that produce forest cover maps and habitat maps. However, this is not regular.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in	




implementation of PLRs in practice	
Recommendations	<ul style="list-style-type: none"> The Forest Ordinance should be amended to require the regular mapping of the spatial distribution of natural forests.
e.4 Nationally Clarified Safeguard Requirements : Independent verification of compliance with forest management standards	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> No specific provisions are found within the forestry legislation that makes independent verification of compliance with forest management standards mandatory.
Safeguard “Respected” through implementation of PLR in practice? 	
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendation	<ul style="list-style-type: none"> The Forest Ordinance should be amended to include specific, independently verifiable forest management standards.


e.5 Nationally Clarified Safeguard Requirements : Access to state-of-the-art technology and resources to monitor natural forest areas and biological diversity	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific provisions are found within the forestry legislation that promote access to state-of-the-art technology and resources to monitor natural forests and biodiversity.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • See recommendation for e2.
e.6 Nationally Clarified Safeguard Requirements : Development of pest management plans as a method for protecting biodiversity	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • Sri Lanka has a fairly comprehensive regulatory framework for the regulation of pesticides. Pest management plans will be a requirement under EIA projects where non-agricultural lands are converted to agricultural lands. However, this is according to recommended practices as opposed to being explicitly required under the law. • National Agricultural Policy 2007 that takes into account sustainable agriculture in conformity with environmental and biodiversity considerations, promotes integrated pest management among other good practices (land management, adapting to climate change, and sustainable use of genetic resources) in compliance with Article 15 of the Convention for Biological Diversity. In its statement of policy objectives under section 4 on Pesticides it states




	<p>that reliance on synthetic pesticides should be reduced and use of environmentally friendly methods of controlling pests must be enhanced.⁶⁵</p> <ul style="list-style-type: none"> • No specific provisions are found within the forestry legislation that promotes mechanism for the development of pest management plans as a method for protecting biodiversity.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<ul style="list-style-type: none"> • In practice, the FD carries out pest management in the field as part of the department’s regular work and has staff capacity for it.⁶⁶ No pest management plans as such are prepared.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendation</p>	<ul style="list-style-type: none"> • The National Agricultural Policy should be revised to include requirements for the regular production and updating of pest management practices.

⁶⁵ National Agricultural Policy 2007

⁶⁶Sri Lanka’s Fifth National Report to the CBD, 2014


e.7 Nationally Clarified Safeguard Requirements : Integrating the economic value of ecological, biological, climatic, and socio-cultural benefits of forest resources in decision making.	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific provisions are found within the forestry legislation that recognizes the economic value of eco-system benefits. • The Biodiversity Conservation Action Plan introduces valuation of biological resources and their services.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<ul style="list-style-type: none"> • The Biodiversity Conservation Action Plan: Economic valuation has not been implemented in a significant way.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • The National Environmental Act, the Forest Ordinance, and the Flora and Fauna Protection Ordinance, should be amended to allow for the implementation of the concept of ‘valuation of ecosystems services’.
e.8 Nationally Clarified Safeguard Requirements : Conservation research and awareness-raising	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>PLR 1</p> <ul style="list-style-type: none"> • The National Forestry Policy 1995, under policy on institutional support for forestry development, states that ‘state will coordinate, carryout and promote research that pays attention to the requirements of beneficiaries and supports the implementation of the sectoral policy’. The same policy, under inter-sectoral linkages, states ‘the general public and industries will be educated about the importance of forestry, and of conserving biodiversity and protecting watershed’.

	<p>PLR 2</p> <ul style="list-style-type: none"> • The National Wildlife Policy 2000, under policy on institutional support for wildlife conservation, promotes research and education as valuable contributors to the national effort on wildlife conservation. • The forest laws do not carry provisions that actively promote research and awareness raising. However, they do include provisions to allow entry into protected forests for authorized persons for research purposes.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>PLR 1& PLR 2</p> <ul style="list-style-type: none"> • Awareness programs on biodiversity conservation are carried out for CBO personnel and rural communities under various projects by both departments • The Department of Wildlife Conservation has a research and training division that conducts programs within and in collaboration with academics and experts.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	<ul style="list-style-type: none"> • Research and Education Division, Forest Department & Research and Training Division, Department of Wildlife Conservation Division • Research projects conducted and approved • Forestry education and training programs conducted • Workshops and seminars on research findings conducted
<p>Recommendations</p>	

e.9 Nationally Clarified Safeguard Requirements : Mandatory Strategic Environmental Assessment in land use planning	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • Strategic Environmental Assessment (SEA) is not made mandatory in Sri Lanka due to the absence of supporting provisions in the law. The Cabinet of Ministers (May, 2006) has approved SEA for policies, programs and plans in Sri Lanka and Ministries, Departments and Authorities responsible for implementing a new policy, plan or programme is expected to carry out an SEA prior to implementation.⁶⁷ Following this, the CEA has developed A Simple Guide to Strategic Environmental Assessment (SEA). • The CEA has also already taken the initiative towards developing legal provisions supporting SEA and the amendments to the Act are underway.⁶⁸
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • SEA should be mandatory for all policies, plans, and programmes.
e.10 Nationally Clarified Safeguard Requirements : Ecosystem approach to land use planning	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<p>The National Wildlife Policy 2000, has a reference to the ecosystem approach to land-use planning. Under the policy on protected area management and wildlife conservation section, it states that <i>‘the national policy in this area is to manage all protected areas in the context of their surrounding landscapes, taking into account the ecological, social and economic links between natural and human systems’</i> AND <i>‘to promote active, ecosystem based management of all protected areas’</i></p> <p>Legal provisions for land use planning in the country are provided in a number of laws, namely the following, but none of</p>

⁶⁷ Website of the Central Environmental Authority: <http://ceanew.lankapanel.biz/index.php/si/strategic-environment-assessment>

⁶⁸Draft PLR analysis, 2016

	<p>them carry provisions that promote landscape level/ecosystem level approaches.</p> <ul style="list-style-type: none"> • National Environmental Act – Central Environmental Authority to formulate and recommend a land use scheme with the assistance of the Ministry in charge of the subject of lands. • National Environmental Act – Central Environmental Authority to recommend basic policy on management and conservation of natural resources. • National Environmental Act – Central Environmental Authority to recommend a system of land classification. • Town and Country Planning Ordinance (amendment of 2000) – Formulation and implementation of a national physical planning policy, the making and implementation of a national physical plan and the making of regional planning schemes in conformity with the national physical planning policy. • Coast Conservation and Coastal Resources Management Act – Preparation of a comprehensive Coastal Zone Management Plan based on the results of a survey of the coastal zone. • Urban Development Authority Law – The Urban Development Authority has the power to formulate and to implement an urban land use policy within any development area
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<ul style="list-style-type: none"> • The National Wildlife Policy has been poorly implemented. • Ecosystem level planning will be tried and promoted under the World Bank-funded Ecosystem Conservation and Management Project which is planned for implementation from 2016.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendations</p>	

e.11 Nationally Clarified Safeguard Requirements : Strict prohibition of conversion of natural forest and critical natural habitats through enhanced management protection and enforcement of law

Safeguard “Addressed” through existing PLRs on paper?



PLR 1

- The **National Forest Policy of 1995**, acknowledges that the natural forests are heavily depleted, and emphasizes the importance of ‘conserving’ the remaining natural forests for posterity. It emphasizes the importance of retaining the present natural forest cover, and increasing the overall tree cover. It further states that, planned conversion of forests to other land uses can take place only in accordance with procedures defined in the legislation and with accepted conservation and scientific norms.

PLR 2

- **The Forest Ordinance** doesnot allow conversion of legally protected forest areas into non-forest uses. These laws have traditionally been heavily biased towards ‘protection of forests’. The Act prohibits activities that damage and degrade forests as forest offences punishable by law.
- The moratorium on logging in natural forests declared by the government in 1990 applies to date and the registration for timber permits (**section iv of the Forest Ordinance Amendment Act 2009**) and timber transport permits are heavily regulated.

PLR 3



- **Fauna and Flora Protection Ordinance** does not allow conversion of legally protected wildlife areas into non-conservation uses. This laws too has been traditionally biased towards ‘protection of wildlife habitats. The Act prohibit activities that damage and degrade wildlife and its habitats as offences punishable by law.
- EIA provisions provided in the **Fauna and Flora Protection Ordinance**, provide mechanisms to control conversion of forest land by requiring a publicly reviewed EIA/IEE.

PLR 4


- **National Wilderness Heritage Areas Act**does not allow conversion of legally protected national wilderness heritage areas into non-conservation uses. The Act prohibit activities that damage and degrade forests as forest offences punishable by law.


PLR 5

- EIA provisions provided in the **National Environmental Act** and the Fauna and Flora Protection Ordinance, provide mechanisms to control conversion of forest land by requiring a publicly reviewed EIA/IEE.
- The National Environmental Amendment Act No 56 of 1988, under section 24 C & D, stipulates that an area can be declared as an Environmental Protection Area; and once declared, the applicability of any planned scheme or any

	<p>project under any law which is in conflict with the provisions of the NEA will cease to operate; and that the CEA will be responsible for the physical planning of such an area. Several critical habitats have been protected under these provisions of the NEA.</p>
	<p>PLR 6</p> <ul style="list-style-type: none"> • Punarudaya Policy Document – The programmes for conservation and development of forest resources under the policy includes the strategy of minimizing forest land used for agricultural projects, development projects and infrastructure projects as well as the prevention of illegal encroachments. It also refers to evicting illegal encroachers through law enforcement measures.⁶⁹
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	<p>All PLRs</p> <ul style="list-style-type: none"> • While the procedures for approval of a project through various departments constitute a system of checks and balances to ensure that environmental impacts of forest conversion are avoided or minimized, the pressure to develop and convert forests continues and is the practical reality.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • More financial and capacity-building resources should be channelled towards forest law enforcement.
<p>e.12 Nationally Clarified Safeguard Requirements : Increase in natural forest cover</p>	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • The Intended Nationally Determined Contributions (INDCs), published in October 2015 by the Ministry of Mahaweli Development and Environment sets emission reductions from the forest sector by increasing forest cover from 29.6% to 32%. • The National Physical Plan (NPP) for 2011-2030 has set goals for reforestation in the central fragile area to conserve water resources. It does not provide targets in terms of % land area to be under forest cover. A

⁶⁹PLR study

	supporting document that presents the NPP refers to three phases under which land above 1500m, low productivity tea land and land between 300m-1500m will be identified for reforestation. ⁷⁰⁷¹
Safeguard “Respected” through implementation of PLR in practice? 	
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendations	

Cancun Safeguards (f): Address the risk of reversals in REDD+ programs	
f.1 Nationally Clarified Safeguard Requirements: National-level approach to REDD+ planning and implementation	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> Given the broad definition of ‘forests’ in the Forest Ordinance, the regulatory framework that governs State land is of noteworthy significance. In this regard, the regulatory regime that has been introduced by the 13th Amendment to the Constitution is important to consider as it recognizes the province as a planning and administrative unit in the field of environmental activities.⁷² The 13th Amendment to the Constitution of Sri Lanka, enacted in 1987, provides for the establishment of Provincial Councils for nine provinces. It provides the basis for sharing power between the centre and the province based on


⁷⁰http://www.nppd.gov.lk/images/stories/National_Plan/national_plan_part_2.pdf




⁷¹http://www.acesl.org/download/conference/tp_Lakshman%20Jayasekera%20and%20Veranjan%20Kurukulasuriya.pdf

⁷² SACEP Handbook of Law and Draft PLR Study – Sri Lanka UN REDD program, 2016

	<p>three agreed lists of subjects – the reserved list, concurrent list and the provincial council list. The Provincial Councils are empowered to formulate ‘statutes’ applicable within the respective provinces in respect of subjects set out in the Provincial Council List. Provincial Councils are also empowered to formulate ‘statutes’ in respect of subjects set out in the Concurrent List, after consultation with Parliament as it considers appropriate in the circumstances.</p> <ul style="list-style-type: none"> • The Provincial Council List contains as a provincial subject ‘Land, that is to say, rights in or over land, tenure, transfer and alienation of land, land use, land settlement and land improvement, to the extent set out in Appendix II. Appendix II provides that land shall be a Provincial Council Subject, subject to certain provisions. The first of these is that State land continues to vest in the Republic and may be disposed of in accordance with Article 33(d) and the written law governing the matter. The cumulative effect of these provisions indicates that the Government regulatory regime over State land is of considerable significance particularly in relation to the management of State land. • The 13th Amendment to the Constitution also provides for the Government to establish a National Land Commission (NLC) which would include representatives of Provincial Councils. The NLC would be responsible for the formulation of national policy with regard to the use of State Land and in terms of the law it is mandated to have a Technical Secretariat representing relevant disciplines that are required in order to evaluate the physical and socioeconomic factors relevant to natural resources management. • The subjects of Protection of the environment, Social Forestry and Protection of Wildlife and Birds are listed in the Concurrent list of the 13th amendment, which means the Provinces can pass statutes in consultation with the centre. The North Western Provincial Council is the only council that has passed its own environmental statute which is very similar in contents to the NEA. The Council claims that the NEA is inoperable within the North Western Province, which is wholly disputed by the CEA.⁷³ • Given the above, the law provides significant power for the provinces to plan and manage ‘land’, in most cases with the concurrence of the central government. It also provides significant power for the province to manage ‘natural resources’, always with the concurrence of the central government. Forests fall into both these categories, with implication on the geographical scale of planning and managing forest resources if the necessary statutes are instituted.
<p>Safeguard “Respected” through implementation</p>	<ul style="list-style-type: none"> • The 13th Amendment to the Constitution has not been fully enforced in Sri Lanka and administration remains to be centralized.

⁷³Draft PLR Study – Sri Lanka UN REDD program, 2016

<p>of PLR in practice?</p> 	<ul style="list-style-type: none"> • No statute has been passed in any province in relation to social forestry and protection of wildlife and birds. The only environmental statute that has been passed is the North Western Provincial Environmental Act, under which EIA/IEE for development within the province is administered. In practice they follow the same guidelines as the CEA. • Where provincial environmental management is concerned, the Central Ministry of Environment has failed to accept the Provincial Council as the main Provincial Authority in the field of environmental activities related to the province. The Ministry generally maintains its linkages from the centre through to peripheral government positions such as District Secretary and Divisional Secretary, effectively by-passing Provincial Councils. • In conclusion, it could be said that the central Government's role in managing provincial forest land is not completely taken away from the 13th amendment. Provincial strategies and plans will still require concurrence from the central government.
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Possible info sources that could demonstrate PLR implementation</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • Despite the requirements of the 13th Amendment, environmental and forests administration will effectively remain nationally-directed. Under Cancun requirements, 'summaries of safeguards information' will need to be reported at the national level. It is recommended that the UNFCCC REDD+ focal point establish a national safeguards information collection and reporting system.


f.2 Nationally Clarified Safeguard Requirements: Guidance in the national policy framework to address risk of reversal and pursue permanence in REDD+ projects	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific PLRs
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • National Forest Monitoring System (NFMS) should be designed to detect and provide information on reversals. • Forest Ordinance should be amended to include Articles that require the monitoring of all REDD+ initiatives using state-of-the-art technology, to ensure that they meet required objectives. The amended Articles should establish a National Forest Monitoring System.
f.3 Nationally Clarified Safeguard Requirements: Mechanisms to promote environmental disaster risk reduction	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • The legal basis for disaster risk reduction in Sri Lanka can be found in the Disaster Management Act (DM Act) No 13 of 2005. • The preamble to act states the following; <ul style="list-style-type: none"> ‘WHEREAS human life, property and the environment of Sri Lanka is being threatened and endangered due to certain disasters taking place within the territory of Sri Lanka: AND WHEREAS it has become necessary to protect human life and property of the people and the environment of Sri

	<p>Lanka from the consequence of these disasters, by effectively dealing with them from a national perspective by the preparation of a national policy and a plan and by the appointment of centrally co-ordinated committees and institutions to give effect to such policy and plan.’</p> <ul style="list-style-type: none"> • The definition of “disaster” means the actual or imminent occurrence of a natural or man-made event, which endangers or threatens to endanger the safety or health of any person or group of persons in Sri Lanka, or which destroys or damages or threatens to destroy or damage any property – covers all forms of natural disasters that can threaten forests with reversals. This definition fails to include disaster to ‘environment and natural resources’ nor is there a definition on the term ‘environment’ as included in the preamble. • The Act in its section 2 requires establishing the National Council for Disaster Management.⁷⁴ Further the Act in its section 8 requires establishing a Disaster Management Centre (DMC) which was in fact established in the same year. • The DM Act empowers the Council (NCDM) to formulate a national policy and program on the management of disasters which, in its functions, shall provide for the protection of life of the community and environment from disaster.⁷⁵ Based on the National Policy, Council should prepare and formulate the National Disaster Management Plan and the National Emergency Operation Plan in order to ensure; <ul style="list-style-type: none"> • Preparedness for disasters and any other emergencies, • Risk prevention, and the prevention and mitigation of disaster. • As provided by the DM Act, the National Policy on Disaster Management was prepared by the Council in 2010. The Policy is intended to complement the other core elements including the National Disaster Management Plan (NDMP), National Emergency Operations Plan, and Disaster Management Plans for every Ministry, Government Department and public corporation; and other plans, programs and guidelines. Laws, policies and undertakings on other topics, such as land use planning and local government, also contribute directly and indirectly to disaster management outcomes in Sri Lanka.⁷⁶ • The objective of the National Disaster Management Plan is to establish mechanisms/systems for disaster risk management in Sri Lanka as a multi-sectoral, inter-ministerial, and inter-agency activity, by identifying and assessing the capacities of existing agencies for improving their capacities and mandates as necessary to implement the identified tasks, using methodologies and concepts already developed and field tested. Accordingly the Plan includes
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⁷⁴ <http://www.disastermin.gov.lk>


⁷⁵ Section 4(a) of the DM Act

⁷⁶ National Policy on Disaster Management. Available at <http://www.disastermin.gov.lk>



	<p>disaster situation in Sri Lanka, disaster management organizations and their roles, DM priorities and strategy, Disaster Preparedness and Response Plan for district, division and GN levels.⁷⁷</p> <ul style="list-style-type: none"> • According to section 15 of the DM Act, ‘any person who suffers loss or damage to his or its property by reason of any act, omission or default in taking any action by an appropriate organization as sets out by the Act or a police officer or member of armed forces, shall be entitled to compensation in respect of any loss or damage cause. • Based on the provisions as stated above, it is not clear if the DM Act provides the basis for environmental risk reduction as intended in REDD+ for protection against reversals caused by environmental disasters.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • The Disaster Management Act should be amended to provide the basis for environmental risk reduction as intended in REDD+ for protection against reversals caused by environmental disasters.



⁷⁷ <http://www.dmc.gov.lk>

Cancun Safeguards (g) : Actions to Reduce Displacement of Emissions in REDD+ programs	
g.1 Nationally Clarified Safeguard Requirements: National level approach to accounting for emission reductions and increases in removals	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific PLRs • The National Forest Monitoring System under the REDD+ strategy will include a Measurement, Reporting and Verification (MRV) systems which is designed to produce an estimate of emission reductions from the forest sector, as part of the national GHG inventory.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • The relevant Ministry should establish a national-level approach to accounting for emission reductions and increases in removals. This will need to be integrated with a new National Forest Monitoring System.
g.2 Nationally Clarified Safeguard Requirements: Regulations on the responsibilities and procedures for monitoring at national and local levels in order for the national accounting system to be coherent	
<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific monitoring and evaluation mechanisms are stated in the forests or environmental legislation. • Under the REDD+ program, a comprehensive National Forest Monitoring System will be introduced and implemented for this purpose.

<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	
<p>Gap, weakness, inconsistencies in implementation of PLRs in practice</p>	
<p>Recommendations</p>	<ul style="list-style-type: none"> • The Forest Ordinance should be amended to include Articles that require the monitoring of all REDD+ initiatives using state-of-the-art technology, to ensure that they meet required objectives. The amended Articles should establish a National Forest Monitoring System.

g.3 Nationally Clarified Safeguard Requirements: Mechanism for undertaking comprehensive risk analysis and mitigation to address direct and indirect drivers of reversals/displacements

<p>Safeguard “Addressed” through existing PLRs on paper?</p> 	<ul style="list-style-type: none"> • No specific provisions in the existing PLR framework. • Under the UNREDD+ program in Sri Lanka, a comprehensive study was undertaken on the drivers of deforestation and forest degradation in the country. This has set forth the basis for the country’s REDD+ strategy.
<p>Safeguard “Respected” through implementation of PLR in practice?</p> 	
<p>Gap, weakness, inconsistencies in existing PLRs on paper</p>	

Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendations	<ul style="list-style-type: none"> • Comprehensive risk analysis should be part of environmental impact assessment of proposed forest-related projects. • EIA regulations should be amended to give CEA authority to direct EIA/IEE on non-prescribed projects as and when required. Under such provisions, the CEA can direct forest programmes for approval. • Guidelines on EIA reporting should be drafted to include this type of risk analysis OR the FD can agree on an EIA/IEE format for REDD+ protection against reversals caused by environmental disasters.
g.4:Nationally Clarified Safeguard Requirements : National and local level monitoring of deforestation	
Safeguard “Addressed” through existing PLRs on paper? 	<ul style="list-style-type: none"> • There are elements of monitoring of protected areas within the National Wildlife Policy 2000 (section 2 – to identify, classify, manage and monitor all protected areas, on the basis of scientific studies and agreed criteria) and the Fauna and Flora Protection Ordinance Amendment Act of 2009 (section 4 (b)). The implementation of all Management Plans shall be monitored according to an approved plan, made by the Director-General and be subject to an evaluation within five years of the date of adoption of such Management Plan) that covers deforestation.
Safeguard “Respected” through implementation of PLR in practice? 	<ul style="list-style-type: none"> • In practice, the Forest Department carries out national level monitoring of deforestation by updating forest cover maps from time to time.
Gap, weakness, inconsistencies in existing PLRs on paper	
Gap, weakness, inconsistencies in implementation of PLRs in practice	
Recommendations	<ul style="list-style-type: none"> • Covered by e2