



## EFL's November Newsletter is Here!!

Catch up with what we've been working on from August to October 2020!

### Science Team



### Green Conversations on Human-Wildlife Co-existence

On October 29th 2020, EFL hosted our 5th Green Conversations event! Featuring our esteemed panelists,

Dr Malik Fernando, an SLMA Expert Committee on Snakebite, Dr Sampath Seneviratne of the University of Colombo, Mr Ranjan Marasinghe from the Department of Wildlife Conservation, Professor Devaka K Weerakoon of the University of Colombo, Ms Karin Fernando from the Centre for Poverty Analysis and Mr Jagath Gunawardana, Attorney-at-Law, and moderated by Dr. Chaturangi Wickramaratne, Head of Science at EFL. The panel covered a variety of topics related to the human-wildlife conflict in Sri Lanka and the path towards peaceful coexistence, with special emphasis on a few key species such as snakes, leopards, elephants and monkeys. The aim of the event was to open a discussion into the current steps that are being taken to combat the human-wildlife conflict, and what changes we can make to foster an environment of co-existence in the future.



## **Ramsar Urban Wetland Project**

In collaboration with the Department of Wildlife Conservation and the Ramsar Convention on Wetlands of International Importance, EFL is currently working to highlight the importance of Colombo's urban wetlands to the local community. Working with local biodiversity experts, EFL has been developing infographics and videos highlighting the wealth of biodiversity and ecosystem services that Colombo's urban wetlands have to offer! The project covers the five wetlands in Colombo, which are accredited by Ramsar and aims to build awareness on some of Sri Lanka's most important ecosystems, located right in the heart of Colombo -- the only Ramsar accredited capital in the world!



## **Canada Fund for Local Initiatives Red Listing of Ecosystems Project**

Sri Lanka currently has 6 sites designated as Wetlands of International Importance (Ramsar Sites), with a surface area of 198,172 hectares. A Ramsar Site is a wetland site designated to be of international importance under the Ramsar Convention. Although Ramsar has declared several wetland sites in Sri Lanka, their actual conservation status of the ecosystems has not been assessed so far.

For meaningful and target driven conservation and wise use, it is important to establish the current status

of the critical ecosystems within Ramsar sites. Among different aquatic ecosystems, mangroves of Sri Lanka have a very limited cover despite the fact that 1/3 of the true mangroves are present. With a mere 12,000-15,000 ha of mangroves left in the country, establishing the conservation status of already protected mangroves will enable evidence-based decision making in conservation and habitat restoration.

However, to date, IUCN Red Listing of Ecosystems (RLE) has not been attempted and this project aims to conduct the first RLE on a pilot scale to establish the conservation status of mangroves of Wilpattu Ramsar site as well as to understand the process for future application in other areas and ecosystem. This project is partially funded by the Nagao Wetland Fund.

# Legal Updates

## Legal Projects

South Asia Small Grants Programme, The Asia Foundation.

Legal division commenced the initial phase of this project which analyses the gaps in legal and policy framework and implementation of Environmental Impact Assessment (EIA) process in Sri Lanka with special focus on public participation.

Environmental Impact Assessment (EIA) process, was introduced by the National Environmental Act No. 56 of 1988. This is a key regulatory tool available to assess and plan to mitigate the adverse environmental impacts that could occur as a result of the implementation of proposed development projects. EIA in certain instances require public participation, yet public comments on development projects are seldom received due to the lack of awareness and other policy and procedural barriers. This poor public participation in the EIA process has been recognised as a loophole that affects the effectiveness and legitimacy of the EIA reports prepared and approved by the project proponents. As a result, there is a dire need to improve public participation in the EIA process. The focus of the project is twofold. Firstly the project reviews and make recommendations to address the legal, policy and implementation issues in the EIA process. Secondly, the project engages in communication and awareness creation. This second phase seeks to enhance public awareness of the EIA process and the options available for public to provide their input on proposed projects.

The initial phase of the project will engage in desk research, meeting with the government officials and other stakeholders, and preparation of a gap analysis on the legal, policy, and implementation issues. This also involves looking into the latest international developments, best practices and public participation and suggesting reforms to the EIA procedure in Sri Lanka. As a result of the review and research, the project will create an active ongoing dialogue on the lack of public participation in the EIA process. Second phase of the project is mainly focused on awareness creation and communicating the findings of the research carried out. In this phase a set of tools will be developed for public who seeks to engage in the EIA process by providing public comments and connect then with the necessary resources. Consequently, it will ensure that public participation in the EIA process is carried out more efficiently and effectively, thereby protecting the rights of the people of Sri Lanka.



# Case Updates

## **Thalangama Case – CA/W/21/2018**

The Thalangama tank and its surrounding environs are an important habitat, functioning as an urban biodiversity refuge for local flora and fauna. In addition to this, the paddy fields irrigated by the Thalangama tank provide a valuable source of income to around 175 paddy farmers residing in the neighbouring villages. It also has an important flood retention capacity within the greater Colombo flood retention area. In mid-2016, EFL received information regarding illegal landfilling and construction activities carried out by a private property owner within the Thalangama Environment Protection Area (EPA). EFL was made aware that as a result of such activities, severe and irreparable damage may be caused to the sensitive environment of the wetland. Hence, EFL filed a case in the Court of Appeal seeking protection for the entire wetland ecosystem.

**The Case was taken up before the Court of Appeal on 28.08.2020 and the Court fixed the case for Argument on 09.11.2020.**

## **Hakgala Case – CA/W/549/06**

EFL filed a Writ Application in the Court of Appeal on 23.03.2006 to halt further encroachments in Hakgala Strict Nature Reserve and to evict the present encroachers. The case was settled on 23.05.2007 and the Respondents agreed by means of an undertaking in Court to halt encroachments and evict the squatters. Since 2006, EFL has been trying to protect the Reserve from the illicit felling of trees, large scale cultivation and encroachment of forest lands.

However, despite escalating public concern about the state of Hakgala, and the Court of Appeal judgments in its favour, Hakgala Strict Nature Reserve and the lands surrounding it continue to be encroached, deforested and degraded.

Therefore, EFL Filed an Application in the Court of Appeal on 13.10.2011 and re-opened the case due to non-fulfillment of settlement terms by the Respondents as agreed on 23.05.2007.

**The case was taken up before the Court of Appeal on 16.09.2020 and the Court fixed the case for Mention on 16.12.2020.**

## **Udawalawe Case – SC/FR/529/11**

This Fundamental Rights violation case was filed by the Environmental Foundation Limited (EFL), Wildlife and Nature Protection Society (WNPS) and Wilderness and Protected Area Foundation (WPAF) as petitioners against illegal felling of trees within the Udawalawa National Park and Dahaiyagala Sanctuary, contrary to the provisions of the Fauna and Flora Protection Ordinance and Forest Ordinance. It was also brought to the notice of the court that the Respondents are of the intention to block the elephant corridor that presently runs from Udawalawe National Park through the Dahaiyagala Sanctuary to the Bogahapattiya Forest where elephants derive much of their nourishment. The Petitioner stated that under the Fauna and Flora Ordinance no person is entitled to enter into a national park except for the purpose of observing the fauna and flora and also under the Forest Ordinance no person is entitled to cut, lop or injure any reserved tree within a forest. However, in violation of these legal provisions, Chairmen – Pradesiya Saba Thanamalwila as 9th Respondent has continuously engaged in the activities of felling trees within the Udawalawa National Park and in the Dahaiyagala sanctuary using bulldozers and other vehicles. The petitioners alleged that the respondent government authorities have not taken any measures to prevent this destruction.

**The case was taken up before the Supreme Court on 22.09.2020 and the Court fixed the case for Mention on 11.01.2021.**

## **Pallekandal Church Case – CA/W/51/2018**

Built over a few centuries ago, there had been a small jungle shrine in the Pallekhandal/Pomparippu area within Block V of the Wilpattu National Park (WNP). Over the years it has been recognised as a Catholic place of worship which included a small chapel placed in an area less than a quarter of an acre. The fishing communities who reside around the Puttalam lagoon would visit this chapel for an annual feast. However, later, it has been observed that this shrine has expanded to a greater size than the original status of the former jungle shrine. Additional structures have been added beyond the boundaries of the

shrine while clearing the forest cover. Currently, there are permanent structures and roads in place for vehicles to access the church. The permanent structures within the National Park include a water tank used for drinking water, accommodation facilities and a church bell. Each year when the church feast is held, there is increased human intrusion to the WNP with over 300,000 devotees from all over Sri Lanka congregating at the Pallekandal church. EFL filed a case in this regard and it was taken up on 05.07.2019 at the Court of Appeal.

**The case was argued on 02.07.2020 and the judgment was delivered by the Court of Appeal on 25.09.2020. The Court of Appeal upheld the Preliminary Objection of the Respondents and dismissed the application.**

#### **Elihatha Case – CA/W/478/15**

The beautiful Eli Hatha, or the 'Seven Falls' waterfall, is situated in the Uda Maliboda area, comprising seven waterfalls cascading in stages within the Peak Wilderness Nature Reserve. The status of this area was upgraded from a Sanctuary to a Nature Reserve by the Gazette Notification No.1515/21 on the 21st of September 2007, due to its high ecological value and richness of flora and fauna species. The Nature Reserve consists of nine blocks as set out in the Gazette. The alleged unlawful construction of the Mini Hydro Project was taking place at the seventh waterfall called Dothulu Ella belonging to Naya Ganga, where extensive damage to the environment has been caused. The power plant was initially granted permission when the Peak Wilderness was a sanctuary prior to the status of the area being upgraded as a Nature Reserve. However, the project was abandoned sometime in 2003, when the permit granted was not renewed. Subsequently, around 2009/2010, the project was sold to Pan Hydro Pvt. Ltd and the new proponent sought to renew the lapsed permit, disregarding the protected status of the Peak Wilderness as both a Nature Reserve and a UNESCO World Heritage Site. Furthermore, the DWC, as the mandated authority for the protection and management of Nature Reserves, who also manages and controls the Nature Reserve since 2007, failed to raise any objections with regard to this and the illegal mini hydro power plant was commissioned in 2015.

**The Case was taken up before the Court of Appeal on 29.09.2020 and the Court fixed the case for Argument on 14.12.2020.**

#### **Solid Waste Management Case – SC/FR/243/17**

The irregular disposal of waste in the Muthurajawela Sanctuary and the Kotikawatta Garbage Disposal Site in violation of the applicable laws of the country has caused severe damages to the environment as well as citizens residing nearby.

On 14.07.2017, EFL filed a Fundamental Rights application in the Supreme Court objecting to the illegal disposal of solid waste in the Muthurajawela sanctuary, the Kotikawatta Garbage Disposal Site and several other locations. EFL filed the petition with the intention of halting garbage disposal in these two sites, requesting that the respondents adopt scientifically sound practices that are detailed in Technical Guidelines on Solid Waste Management published by the Central Environmental Authority.

As a result, the Ministry of Environment was delegated with the task of formulating a National Waste Management Policy involving relevant stakeholders including EFL. The case was taken up before the Supreme Court on 14.01.2019 and the Learned State Counsel appearing for the Respondents informed the Court that the National Policy on Waste Management is now prepared and is pending approval.

**The Case was taken up before the Supreme Court on 06.10.2020 and the Court fixed the case for Mention on 21.01.2021. State indicated that the Solid Waste Management Policy is pending approval before the parliament and the further date was given to report on the progress of the same.**



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