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Land and Resource Grabbing in Sri Lanka

An Analysis of their Present Status

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REVIEW OF LAND POLICIES IN SRI LANKA

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Author's Introduction

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1. Land and Major Natural Resource available and their Conditions, Use Pattern

Sri Lanka is rich with natural resources which could be used in an appropriate manner to feed the population and alleviate poverty. The achievement of Sustainable Development Goals [SDGs] is in the main discourse today and it is highly unlikely to achieve them, unless the available natural resources is used in a sustainable and efficient manner.

However, Sri Lanka with blessings of natural resources in the era of climate change, which is pleasing to mention, is one of the highest biodiversity hotspots with its important natural resources, fauna and flora. For this matter, there is a requirement of continuous water supply, fertile soil in the land and the forests for the animals to survive. Importantly, the country is highly rich in all these aspects though the use patterns of the resource users destroy and deplete those same resources. The country has a history of using those resources in a manner that maintained fertile soils and receiving annual rainfall that fed the water bodies and filled them throughout the year. These provided food, shelter and added nutrients to the soil in the forests. It is an irony that the man who depends on nature destroy it and pay the price through their lives. Extreme weather conditions worsen the situation, evident in the country where one part of the country gets under severe drought and some other adjacent areas submerged with water due to floods. In the ancient Sri Lanka, the forefathers knew how to use the nature sustainably and without harm to feeding the population of the nation.

Today, we are working in a totally opposite direction, with no sustainability and devastation of nature and human lives.

The small-scale food producers are facing serious troubles due to loss of land, water and forests, primarily. The whole nation suffers from natural resource destruction as fertile land and water for agriculture are polluted by chemicals and other destructive elements. Eventually fish resources in the water bodies get affected. In turn, the food security and employment are endangered, leading to increasing hunger and poverty. Sri Lanka is experiencing this grave current situation and need very serious attention on this to protect the communities and to achieve the SDGs by 2030, if we have commitment.

1.1 LAND

Sri Lanka covers about 6.56 million hectares (16.21 million acres), of which 1.8 percent includes inland waters. But Sri Lanka's land resources are not measured by surface area alone; they include various soils - critical for productivity - underlying geology, topography, hydrology, and plant and animal populations, and how these resources have been significantly affected by past

and present human activities. A rough indicator of demands on land resources can be seen from the land-man ratio. In 1871, when Sri Lanka contained only 2.4 million people, about 2.7 hectares were available per person. According to the latest census report it revealed that the country population as 21.4 million¹, and land has decreased to 0.38 hectares (about one acre per person). The land-man ratio will decrease further as Sri Lanka continues to grow to its forecast population, levelling off at about 25 million after 2036. Competition for land among various users and appropriate management of land according to its capabilities will, inevitably, become a more significant to decide the ownership of land.

State and Private Land

Most land in Sri Lanka is owned by the state and continues to be in the possession of the central government.² However, state land is given for use by individuals and families through a system of permits and grants, as provided for by the Land Development Ordinance of 1935 and the State Lands Ordinance of 1947.³ A permit holder has the right to use a particular piece of land for agricultural and residential purposes and may later apply to convert the permit to a grant, which gives legal ownership of the land. In contrast to state land, private land is solely owned by individuals or private entities, with the ownership of such lands generally transferred through deeds.⁴

1.1.1 Land Resources and Use, 1956 to Present

Population increases have significantly changed land uses since Independence, when high growth rates intensified competition for land. At present, developed agriculture includes nearly a third of the land area, land under forest and wildlife conservation occupies another third, and transportation, human settlements, home gardens, and a variety of other uses, including undeveloped land, account for the rest.

Information on these present land uses, although imperfect, comes from Land Use Mapping by the Survey Department, the Irrigation Department, the Land Use Policy Planning Division, the Agriculture Department, and annual data gathered by the Department of Census and Statistics and other Departments and local officers. By comparing present information with results of the first comprehensive Land Use Mapping effort for Sri Lanka compiled from aerial photography in 1956 we can determine significant changes in land use and land conditions over the past 62 years. Land use changes for eight broad categories from 1956 to 2017.

¹ Key Indicators of Asia and the Pacific 2018

² Cf. Lindberg, Jonas and Dhammika Herath 2016: Land and Grievances in Post-Conflict Sri Lanka: Exploring the Role of Corruption Complaints. In: Jonas Lindberg and Camilla Orjuela (eds.): Corruption in the Aftermath of War. New York: Routledge.

³ Cf. <http://www.landmin.gov.lk/web/?p=landacts> (11.01.2018).

⁴ Cf. CPA 2014: Legal and Policy Implications of Recent Land Acquisitions, Evictions and Related Issues in Sri Lanka.

1.1.2 Smaller Natural Forests

Forests have taken the brunt of the change. Since 1956 natural forests shrunk from 2,900,000 hectares to 2,150,000 hectares in 1984. Assessed against population increases, forests declined from 0.35 to 0.13 hectares of forest per head.

1.1.3 Dry Zone Settlement

New irrigated lands brought over 300,000 families into the Dry Zone including settlement of 51,000 hectares of the Mahaweli region, where 10,000 people moved from the newly constructed Mahaweli reservoirs. Population also shifted significantly into Mullaitivu, Mannar and particularly Vavuniya, following loss of employment from nationalized tea plantations in the early 1970s. Even so, the Land Commission (1990) estimates that about 2.5 million hectares, nearly 40 percent of the country, mostly in the Dry Zone —remains "developable" in some way.

1.1.4 Encroachments on State Land

The government's first official report on this problem found that by 1979 an estimated 500,000 people had encroached on 6 percent of the country since well before Independence. Between 1979 and 1985 another 104,000 encroachments totaled over 70,000 hectares - a 19 percent increase - mostly for residences and usually on land reserved by the state along roads, streams, and canals. The highest rate of increase occurred in the Central Province.

1.1.5 Urban Expansion

Urban areas have steadily sprawled into areas still not officially defined as "urban," frequently causing settlement and filling of flood prone lowlands. Urban expansion reduced rubber and coconut plantations around Colombo and Gampaha by 25 percent. In Colombo, where the government owns 25 percent of the land, an estimated 9,000 encroachments occurred since 1979, primarily for housing along canals and road and railway embankments.

1.1.6 Agricultural Shifts

Paddy increased from 514,000 hectares to 760,000 hectares in 1988, mainly in the newly irrigated areas of the Mahaweli. Sugarcane, which barely existed in 1956, increased to about 20,000 hectares with the opening of plantations in the Southern and Eastern dry zones.

1.1.7 Other Agricultural Changes

Increased livestock population, and twice as many chickens, mostly in commercial farms, and moderate growth in non-traditional export crops such as coffee, pepper, cocoa, and in fruits and cut flowers are seen during the recent years.

1.1.8 Plantations

Tea plantations declined in size by about 10 percent, but the overall acreage of developed agricultural land - about 30 percent in 1982 - barely changed. The Land Commission estimates a 10 percent coconut decline between 1962 and 1982.

1.1.9 Increased Shifting Cultivation

Lands under shifting cultivation (Chena) increased from about 1 to 1.2 million hectares. But whereas in the mid-1950s about 90 percent lay in the Dry and Intermediate Zones, now they are found in every region, from Galle to Jaffna, despite government prohibitions

1.2 FORESTS

Forest Resources in the Country

Sri Lanka was once a land of rich tropical forests, nurtured by abundant radiation, high temperatures and rainfall, and long growth periods. In pre-colonial times these ecosystems provided local people with most of their daily needs. Over the last century much of this heritage has been destroyed, along with many of its material benefits. Rich forest diversity was, we now know, highly vulnerable to misuse. Deforestation has now seriously diminished timber supplies, made soils less productive, water supply more erratic, and floods more frequent and severe. Management of what is left, and reestablishment of new forests, will require concerted planning and strong political will. These actions depend on broad public understanding of the benefits of reforested watersheds, mixed farmland forests, village groves, shelterbelts, and sustainable natural forest ecosystems.

1.2.1 Forest Cover Today

Climate, the main determinant of forest distribution, does not preclude the presence of forest in any part of this island. Except in a few locations limited by soil factors, the entire land area of Sri Lanka was once covered with forests. Conditions today are very different.

Along the coastal fringe, tidal mud flats had mangrove forests much more extensive than today's. Until the early part of this century the higher sandy soils also had strips of littoral woodlands, but these have now almost completely disappeared. The wet southwestern region and the central highlands have the most luxuriant plant cover. The lowland area, up to an elevation of about 900 meters (m) has a climax vegetation of Tropical Rain Forests, where the crowns of dominant trees form a closed canopy at 25 m to 30 m with emergent rising to about 45 m. These forests have a relatively sparse undergrowth but are rich in epiphytes and lianas. They gradually give way through Sub-Montane Forests, at 900 m to 1350 m, to Wet Evergreen Montane Forests at the higher elevations.

The latter have a lower canopy and a denser undergrowth. Their stems are often covered with lichens, bryophytes and other epiphytic plants. The transition zone between the Wet Zone and Dry Zone ~ the seasonally dry northern and eastern plains- has Tropical Semi-evergreen Forests with their own characteristic species as well as some common to the adjacent zones.

The major part of the Dry Zone has Tropical Dry Mixed Evergreen Forests. In these the dominant species now present often do not form a closed canopy and seldom exceed 20 m in height. The extreme southeastern and northwestern regions of the island, which have very long dry periods, are covered with Tropical Thorn Forests with low trees and an undergrowth mostly of thorny shrubs. In the Dry Zone intensive felling and a form of shifting cultivation locally called Chena cultivation has badly degraded the forests. During fallow periods secondary successions lead to the development of scrub or low jungle, but where successions are prevented by frequent clearing or burning the result is formation of Damanas, savannah with fire resistant trees, or Talawas and some Diypatanas, which are dominated by coarse grasses. Some edaphically determined natural grasslands are also present in the island. These are the villus on seasonally submerged depressions in the Dry Zone, and the Wel patanas in certain boggy highland areas. Plantation forests in Sri Lanka consist mostly of even-aged monocultures of teak, eucalyptus or pine. A few mixed plantations of broad-leaved tree species, such as Jak and Mahogany, have also been established.

1.2.2 Natural Forests

During Sri Lanka's hydraulic civilization beginning more than 2,000 years ago, agricultural development in the Dry Zone required transformation of natural eco-systems to agro ecosystems. Wetlands in valleys and flood plains became rice fields, and clearings on high ground became multilayered home gardens. From about A.D. 1200, invasions from India and the spread of malaria, among other causes, forced population shifts to the central highlands, where similar village settlements were established, in the valleys and lower slopes of the hills. Forest cover on the ridges, upper slopes, and hilltops remained undisturbed. During the time of the British colonial government shifting cultivation and forest exploitation for timber supply sharply increased. By 1881, the forest cover was estimated at 84 percent of the land area, and in 1900, 70 percent.

The first comprehensive forest survey of the country was conducted after Independence in 1956-1961. The survey found that the total area of forest was 2.9 million hectares, or 44 percent of the land area. Even then over-exploitation had so spread that as much as 42 percent of all natural forests were classified as non-productive. In 1982-1985 the FAO carried out a second inventory to obtain data for the Forestry Master Plan. According to this inventory Sri Lanka's forest cover was 1.76 million hectares and the area of scrubland was 625,000 hectares. The aggregate figure

of 2.385 million hectares, or 36 percent of the land area, is often cited as the area of forest land. However, this figure includes scrub that consists mainly of early secondary growth after deforestation, and hence these areas cannot rightly be classified as forest. The aerial photographs on which the FAO survey was based were taken in 1983. Assuming that deforestation has occurred at the rate of 30,000 hectares per year since then, the 1989 estimate of forest area should be 1.58 million hectares, or 24% of the land area as natural forest.

In addition to high forest and scrub, Chena cultivation occupies a large area, mostly in the once forested parts of the Dry Zone. As the population expanded, more high forest came under shifting cultivation with shorter rotations. In 1956 the total area exposed to shifting cultivation was one million hectares, or 15 percent of the country's land area. Since then Chena areas have been absorbed into permanent agriculture or otherwise developed, while more forests have been cleared for Chena. At present, shifting cultivation covers about 1.2 million hectares, or about 18 percent of the country, forest 24 percent, and scrub 9.2 percent of the country.

1.3 WATER

Water resource in the Country

Monsoon rains bring water resources during two seasons to the country, which are December-February season from North-East monsoon rains and May- September season from South-West Monsoon rains.

In the northernmost parts of the country, agricultural activities are possible due to the availability of groundwater which is replenished annually following the northeast monsoon rains. Increasingly erratic northeast monsoons therefore increase the sensitivity of livelihoods in this region. Micro-tanks exist in these zones, but they require upgrading in order to provide more reliable water sources. Fishermen in the northern coast of Sri Lanka are also highly vulnerable to climate risk during the north eastern monsoon, fishing is not always possible and therefore households have to engage in unskilled labour. The availability of labour in this period is not always predictable. Paddy in the south eastern region of the country is usually cultivated in small holdings, and the poorest households depend almost exclusively on rainfall. Here, two important climate trends could affect livelihoods. First, rainfall is decreasing rather rapidly compared to climatology. Second, this region depends on rains from the north eastern monsoon which are becoming increasingly unpredictable. These two trends exacerbate the vulnerability of the poorest households, and reduce their resilience capacity. Sensitivity of income in the Mahaweli mixed farming zone is lower compared to other livelihoods. This is due to the availability of an extensive network of micro-tanks which provide sufficient water even in the dry months, and due to higher diversification of livelihoods to non-climate sensitive activities. Most households in the intermediate and wet zones have low sensitivity of income. As there is sufficient and reliable

rainfall from the southwest monsoon in these zones, households have diversified into a variety of agricultural activities that are not affected by seasonal fluctuations. Such activities include cultivation of tea, rubber, cinnamon, and other field crops for export. This diversification into non-sensitive activities allows households to be more resilient to the impacts of climate change.



Fig.1 Forest Cover of Sri Lanka



Fig.2 Monsoon Seasons of Sri Lanka



Fig.3 Map of Major Rivers Sri Lanka

1.3.1 Rivers and Reservoirs

Sri Lanka has two major rainy seasons in the country [N/E & S/W monsoon] as mentioned in the previous paragraph too. The hill country is blessed with the highest rainfall, hence the country’s major water streams begin from the central hills. Sri Lanka has 103 major rivers starting from the hill country and spread around the radius as water streams. This is again a blessing to the country as almost all the areas, besides northern region, receive water for their cultivation and agriculture purposes. More than 14 million families are depending on agriculture for their livelihoods which provide social and other economic values for the rural communities. At the same time, some scholars⁵ critique over the available water streams which provide fresh water to the sea as 29, though the authorities claimed 103 streams starting from the hill country.

However, the dry zone would be suffering from water scarcity if there were be no 35,000 rural tanks [Wewa] constructed by the ancient Sri Lankans. These continue to benefit the country even today.

1.4 COASTAL & MARINE RESOURCES

Coastal and Marine Resources

Sri Lanka's coastline circles along about 1,585 kilometers of sandy beaches, extensive lagoons and estuaries, mangroves, coastal marshes and dunes. Seaward of the coastline lie reefs of coral

⁵ “We have only 29 water streams which feed water in to the Sea”, claimed Prof. Ivan Silva, retired professor at a presentation of Blue Economy on the 08th October, 2018 at NAFSO office.

or sandstone and shallow beds of coastal and estuarine sea grass. Beneath and beyond extends the continental shelf.

Except in the north, where it links Sri Lanka and India, this submerged plateau reaches outward to 20 kilometers, before it falls away through the continental slope to the deep seafloor. The continental shelf covers 26,000 square kilometers, or nearly half the land area of Sri Lanka. Sri Lanka's Exclusive Economic Zone covers an even larger area: over 230,000 square kilometers of the ocean.

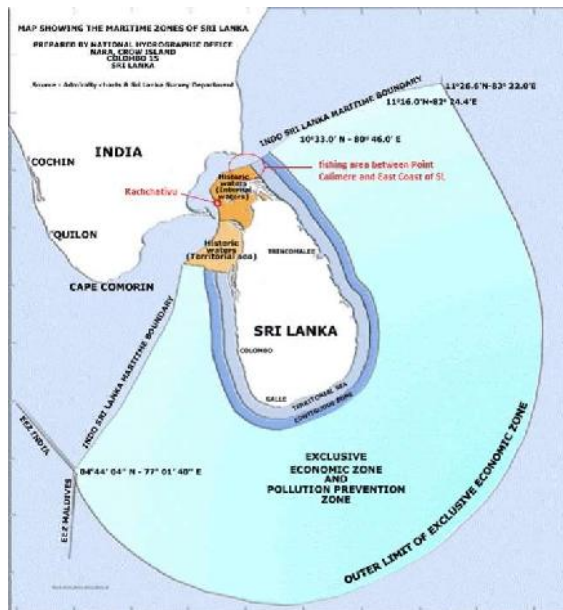


Fig.4 Sri Lanka Exclusive Economic Zone

1.4.1 Significance of the Coastal Region

- It contains 34 percent of the country's total population & represents 24% of the land area.
- It contains the country's principal city of Colombo, the largest six of the twelve Municipal Councils and 19 of the 39 Urban Councils.
- Its marine fishery supplied 97 percent of total fish production during 1987-1988 two-thirds of the animal protein consumed came from this.
- Its exports of fish and aquatic products earned 576 million rupees in 1987 and 825 million rupees in 1988.
- Sun, sand and surf of its sea beaches are Sri Lanka's major tourist attractions that also offer recreational opportunities for her people.
- Its natural coastal habitats coral reefs, estuaries and lagoons, mangroves, tidal flats (salt marshes), and barrier beaches - are immensely productive, essential for national growth and rich reservoirs of genetic resources.
- It hosts over 80 percent of the industrial units located in and around Colombo alone, and several other major units elsewhere, many of which are highly polluting

Fishing is the predominant coastal economic activity in the eastern and northeastern coasts during the southwest monsoon (from April to August) and in the southern & western coasts during the northeast monsoon (from December to March). The marine fishery industry provides full employment to about 150,000 persons, part-time employment to about 10,000 more, and indirect employment to another 5,000, contributing about 2.1 percent to the GDP in 2014. Marine fisheries contribute most (65 percent) of the animal protein & 13 percent of the total protein consumed by Sri Lankans. Export of fish and aquatic products drew an average 616 million rupees in foreign exchange in 1980-1987, or 2.8 percent of Sri Lanka's total non-traditional export earnings.

1.4.2 Present Conditions of Coastal Region

The extent and variety of coastal habitats that provide such important economic and environmental values are displayed above. All of these values are being diminished by various actions that have become significantly more serious over the past fifty years. Coastal erosion has threatened coastal investments, and pollution and competition for resources have degraded coastal systems in ways that jeopardize long term tourist, fishery, and other sustainable economic and environmental values. Demographic and development trends highlight needs for increased attention to each of these problems and their cumulative effects

2. Nature of the Problems in relation to Land and Natural Resource Grab

- Trends and extent of land and water/sea grabbing in the country, facts and figure etc.
- Impacts to common people (displacement, poverty, inequality, violation of livelihoods and social and cultural rights, gender dynamics etc.)

Land has become the most crucial commodity in the neo liberal economy. In this system it is nothing but “Profit” as the key dynamic factor. In Sri Lanka, the following has made matters so vulnerable it is high time for a serious study of the ongoing activities and systematic evaluation:

- The Tsunami disaster in 2004 and its impact on economy (TAFREN/ PTOMS);
- The rapid development and economic renewal process soon after the end of war in 2009; and
- The projected National Physical and Economic Plans [2013-2030] which comes as a powerful extension of those efforts and which the Good Governance Government is leading up to 2050 with all its development activities.

In this study and analysis it has been clearly revealed that the LAND and Resources have become the two main decisive factors in the hurried development process. As a result the grabbing and robbing of the land and the natural resources are in a rapid increase which in turn put the small

scale fishers, farmers and other small producers to become the victims of this greedy game. Most of these producers are losing their land and their resources as well as their livelihood.

2.1 Current Trends and Extent of Resource Grabbing

- Security Zones, Occupy land by military and establishment of military bases strengthen the Militarization is one of the major challenge of the citizens living in Northern and Eastern Provinces. Even after 9 years of war ending the displacement continues among thousands of communities and still awaiting to receive the land for resettlement and revive their life and livelihoods. **(See Annex 1** for more details of the militarization)
- Instead of promoting the seasonal crops, farmers are forced to stick onto a mono-crop system which promotes only one type of cultivation. Sugar Cane, Maize & Banana cultivations are some of the major commercial cultivations and intensive engagements of the multinational corporations in Uva Wellassa, North Central province areas currently. **(Annex 2)**
- Both Post Tsunami and Post War Sri Lanka, the Government major development program was the promotion of tourism and earn foreign currency for run the country. 15 tourism zones in Post tsunami development program which caused to displace coastal people while post war development program expanded the above program further up to 45 tourism zones. To cater to the needs of the tourism promotion, land is very crucial factor. Hence, the coastal lands, forests and also water bodies are being exposed to investments and eventually to the hands of investors. **(Annex 3)**
- National Physical Plan [2013-2030] cause direct harm to coastal and marine resources, such as the destruction of Mangrove forest areas in Kalpitiya [N/W coast] for hotel construction, in Rathgama lagoon [Southern Coast] hotel construction, road construction in Kokilai Lagoon [East coast], while Trincomalee harbour areas have been given to the multinational companies.
- Under the Megalapolis development program in National Physical Plan there will be 5 strategic cities such as Jaffna, Trincomalee, Kandy, Galle and Hambantota as well as establishment of new ministerial portfolio for the Megapolis ministry. **(Annex 4)**
- Many development projects are proposed under the mega development projects. Among them the Mega city project of Trincomalee, which will be adversely affect more than 3200 families from 13 villages and will be displaced and dispossessed of their land, coast and livelihoods. On the other hand, Cabinet, has approved 15,000 acres of coastal land to be leased out to the Chinese company from adjacent to Hambanthota harbour. These dislocate people from the Land.
- All the districts shall be the site of projects such as the construction of Mega Cities, industrial zones, Super High ways, air ports and harbours and more infrastructure development activities in coastal areas. The Colombo financial city [Port City] is being

constructed and the plans are being carried out to reclaim 600 acres of land with 1.4 Billion USD. The sand mining in the adjacent coasts would bring destruction to 9975 households as claimed by the Government authorities. However, the actual number of fisher folk affected by the Financial City would be three folds in the Negombo divisional secretariat area alone.

- Some land issues are evident among the tea plantation communities. The issue of landlessness is clearly seen among the plantation communities those who are living in those lands for two centuries since 1818 in hill country. Hence, the land tenure issues among tea plantations are widely spread while Govt. and the concern CSOs are engage in the collective jargon. **(Annex 5)**
- The forced evictions during the time of war was common pact and thousands of citizens plead the country either neighboring India or to Europe, Australia or to Northern American countries. However, those people could not return to their land of origin even after the war ended due to military engagements or occupation of military **(Annex 6)**

Some of the Land Rights Campaigns NAFSO and Praja Abilasha Land Rights Movement engage in. **Fig. 5** in the next page.



3. Policies and Laws

- Policies and laws that promote the land and natural resource grabbing
- Policies and laws that prevent land and natural resource grabbing

Brief Overview of Land Laws/Policies in Sri Lanka

Sri Lanka, Ceylon and Ceylinca is a country that has been subjected to the regime of three major Invaders over the years - Portuguese (1505- 1658), Dutch (1640 -1796), and British (1815-1948).With the continuous grabbing of the resources of the country, they exploited the fertile land which has been under the custody of the King and administered by his local agents .People were allowed to cultivate the land as an obligatory duty towards the Kingdom and this method was known as Rajakariya, the traditional land tenure and service tenure. This was abolished by the British rulers as a specific recommendation made by Colebrook Cameron Commission 1882 which carried out the assessment of the administrative, financial, economic and judicial system of then “Ceylon”. The main objective of the abolition of the “Rajakariya” had been to remove the communal ownership right of the indigenous people to the utilisation of forest and Land.⁶ The secondary aim was to create free access to the potential foreign investors for the plantation industry.

Over the years the controversial focal point of all socio political and economic struggles has been the land. It has been brought to the notice that there had been at least 39 pieces of legislations related to land administration. These laws and policies had been subjected to changes and amendments as and when required by the prevailing regime. Now there are 5 major pieces of legislation currently operating in the Country on matters relating to the State-owned lands. If illustrated in the order of impact, these could be enlisted as follows:

1. Provincial Councils Land Administration (13th Amendment to the Constitution) (1987)
2. Land Development Ordinance (LDO) of 1935
3. Crown Land Ordinance (CLO) No.08 of 1947
4. Land Reform Laws of 1972 & 1975
5. Agrarian Development Act No.46 of 2000

The above laws are important as those would guide how to allocate Govt. land among the citizens of the country, open to investments for foreign investors and how to utilize the Govt. land for so

⁶Resources used in ICS Booklet on Survey Data & A study Report on analysis of Key Land Laws in Sri Lanka by M.Thirunavukarasu

called development projects of the country. This includes protected areas, military utilization, declaration of nature reserves etc.

In addition to the above legislative ordinances, there are three (3) popular customary laws prevailing in Sri Lanka within the groups of Kandyan Sinhalese, Northern Tamils and Muslims, which govern their right to property, particularly with regards to succession and inheritance.

1. Kandyan Law (Sinhala) traditionally inherited from ancient Sinhala Land tenure
2. Thesavalamai Law (Tamil), inherited from Malabar migrants resided in Jaffna peninsula,
3. Muslim Law of the Muslim Community,

As mentioned earlier, Land has been a very important natural resource and becoming the most competitive element in the economic power of both individuals and State due to the increased scarcity created by the rapid growth of the population. Land is a symbol as well as an indicator of economic prosperity and social status as ownership of it establishes social security and recognition.

Key Laws relating to Private Land

The laws and practices relating to land in Sri Lanka are complex and diverse in nature, where there are numerous laws, traditional practices, institutions governing the rights and interests over land of a person-whether the land in question is state land or private land. Roman Dutch law is the residue common law of the country which applies to issues of land ownership over and/ or inheritance of land. There are number of laws governing ownership, occupation and other rights and interests a person has over land.

- Roman Dutch Law-Common Law of Sri Lanka
- Prescription Ordinance No.2 of 1871
- Customary Laws /Personal Laws of Sri Lanka : Personal Laws (Kandyan, Thesawalamai, Muslim)

Key Laws relating to State Land

There are number of laws governing ownership, Occupation, and other rights and interests a person has over State Land.

Waste Lands Ordinances

- Land Development Ordinance

- Crown Land Ordinance
- 13th Amendment to the constitution- The Land become a concurrent subject both the Central Govt. and also the Provincial Councils established under the 13th Amendment to the Sri Lankan constitution. However, the powers on land has not been devolved to Provincial councils since 1987, the time of amendment of the constitution came in to the scene.

Some Important Laws

- Land Development Ordinance [LDO] of 1935
- State Lands Ordinance No. 8 of 1947 (CLO)
- Land Grants Act No. 43 of 1979

Implementation Issues regarding the above Laws and Policies

1. No clarity or no proper criteria on ownership of land which has been privately-owned, state-owned, state-owned but now owned by private individuals or Institutions, land taken over by State from private owners, and Lands which are not identified as private or state (specially in North)
2. State lands are alienated under different ‘schemes’ with different motives under different laws such as Village expansion, regularization of encroachment, Major settlements (Galoya, Mahaweli). There is no declared implementing guidelines on the criteria of these schemes or how the grantees or beneficiaries are selected.
3. There is No declared National Land use policy that has been put forward to the People. However, the laws must be written base on some policies. So, the written policy is not clearly revealed and need to explore more to find this.
4. An attempt by Ministry of Land and Land Development to establish a Land Bank with complete and comprehensive data related to lands in the country could be helpful if used with sense of responsibility and integrity.
5. Access to land bank and its service in providing information could also be easily used by interested parties to manipulate the appropriation of lands. Mainly, those information is most probably access to the investors and the exploiters of the resources of the country and not necessarily to the poor, marginalized and landless communities of the country. So, the govt. bureaucrats could use those information with vested interests.
6. Decentralization of power through Provincial Councils (13th Amendment) including the power of administering Land and other natural resources. The land issues are one of the most important factor to create divisions among communities, ethnic groups etc. With the devolved of power to the provincial councils through 13th Amendment would assist to

address the issues and provide some remedial measures to the landlessness and extreme poverty situation as Provincial councils are more closer to the people whom need the attention for the land issues than the Central Govt.

7. Though the 13th amendment vested powers over land administration (land tenure, transfer and alienation of land, land use, land settlement) in the Provincial Council , PCs are helpless due to the absence of clear policy guidelines on land issued from the Central Government.
8. Currently there is much confusion and complexity in administering and managing the excessive amount of privately owned land taken over by Government. Uncertainty in applicable laws, lengthy and exhausting procedures set out by laws and vesting of excessive power in public officials and departments over certain lands slow down conflict resolution.
9. Absence of gender perspective in laws further burdens women. Especially in North, there is discrimination to Women in matters of housing and land rights. Most of the officials and the Society at large still see “Head of the household” as synonymous to the male member of the family. This prevents women from applying for state land which is granted to landless peasants and displaced widows creating further injustice to the women-headed families.
- 10 State institutions such as Forest Department, Divisional Secretariats, Land Reform Commission, UDA, RDA and Mahaweli Authority which are to protect and uphold the rights of the citizens in the country are acting discriminatively and infringing the rights of vulnerable groups by following discriminative procedures and practices.

Recommendations

1. National Policy on Land and Comprehensive Legal Framework

There is no National Policy or a comprehensive legal framework in dealing with Land and property in Sri Lanka particularly on state land. The 13th Amendment to the Constitution requires a National Land Commission to be established with the representatives from all the Provincial Councils. The Commission is to ensure the formulation of a national policy with regards to the use of State Land and establish a secretariat to manage and administer social, physical and economic factors that affects the land.

2. Women’s land rights and control over resources

The policies and laws which prevents women being active right holders and have control over resources due to inherent nature of discriminative and unequal principles need to be repealed. A coherent land policy in relation to the land rights of women need to be in place in order for the proper inclusion of the women in social and economic development.

3. National Policy of protection and promotion of Land Rights of vulnerable communities affected during disasters

In Sri Lanka, vast number of women-headed households resulting from armed conflict and tsunami has given great responsibility of raising children and managing a household to women already previously suffering from poverty with no proper means of livelihood and lacking in experience or education. The worst is the land laws and practices related to land management and succession are discriminative of women and vulnerable groups. Thus, there is need of further issues faced by these groups, to inform policy making in addressing displacement and ensuring lasting solutions for all vulnerable groups.

4. National Policy on Alienation of State Lands

The current operative key laws and pieces of legislations such as Land Development Ordinance (LDO), State Land Ordinance and Land Grants Act, which have paved the way and provided procedural aspect relating to the alienation and lease of State Land to the people who are landless needs to be revisited and adjusted to suit the present need and interest of the people concerned.

5. Land Information System and Access to Information

Integrated with the latest technology, an effective Land Information System (LIS) need to be established and made available to the public with additional information on soil, climate and infrastructure facilities. The title registration process need to be coupled and implemented together.

6. Effective Dispute resolution

Current legislative process in relation to the land is highly time and resource consuming and often without a satisfying solution. An alternative dispute resolution mechanism needs to be sought out. The current special Mediation Boards set up in North, East and North Central provinces to deal with the issues of the internally displaced people, the refugee returnees, women headed households of war victims and plantation communities.

- a) Resistance movements against the land and natural resource grabbing in the country
- b) Resistance movements against the land and natural resource grabbing in the country
- c) Praja Abilasha Land Rights Network

The PA continues to focus its efforts on the land grabbing issues faced by the communities especially in North, North/West and Eastern provinces of the country. The main approaches of the PA for these issues include strengthening the civil society/social movements through capacity building of leaders through equipping PA leaders and activists in the member organizations with relevant skills and knowledge, information sharing, and providing opportunities for practicing

analytical skills. All these are directed towards creating an effective voice and demanding justice against the human rights violations and unfair circumstances the constituencies face due to land rights violations. PA launched public campaigns, media/ press briefings, media tours; organized national and regional civic action forums with national and regional representations; and developed video documentaries for local and international public media coverage and exposure, as part of the main intervention measures.

a. People's Alliance for Right to Land [PARL]-Our Land Our Life Campaign

The Peoples' Alliance for the Right to Land (PARL), is a network of civil society organizations lobbying for land rights. The Law and Society Trust (LST) is the current Convener of the Network. PARL has filed Litigation, carried out campaigns, participated and supported community-led protests that have led to land release, and have engaged in local and international advocacy on land-grabbing and other forms of housing and land rights violations faced by marginalized communities in Sri Lanka.

PARL continues to actively engage in supporting communities campaigning to win back their land currently under the occupation of the military and other State actors in war-affected areas. You would be aware that over the period of the last three years, the government has been releasing plots of land in an ad-hoc manner, to its original owners, and it is reported that discussions are underway to release more land in the future. The most recent releases of land have been in Palaly, Myliddy, Urani and Thellipalai in Jaffna District, Paravipanchan and Iranathivu in Killinochchi District and Puthukkudiyiruppu East, Keppapulavu and Pilakudiyiruppu in Mullaitivu District. It should also be noted that most of these releases have taken place in response to courageous and relentless campaigning by displaced communities, some continuous street protests having run for over a year, prior to their release.

b. Organization for Protection of Paanam Pathth u[OPPP]

Panama people who were displaced since July 2010 are fighting for their land rights since 2014. They have formed an organization to get their land back and resettle their own lands and revive their livelihoods, agriculture and fisheries. This is one of the most vibrant group to fight for the rights of the communities and received some achievements too.

The Cabinet of the present government elected in January, 2015 had approved to give the land back to the owners in Panama. But the authorities and some of the ministers in the area still blocking to implement the decision and people are fighting in the streets, human rights commission and also in the courts till they get their land rights back to the community.

c. Organization for Protection of Communities affected by Uma Oya Multiple Disaster Development Project.

People affected by Uma Oya project have formed an organization to fight against the destruction caused by the Uma Oya project.

d. Organization for the Protection of Irudenyaya Farmers and Fishers' Lands

Irudenyaya land has been demarcated for tourism project which connect Kahalla Pallakele reserve to HakwatunaOya reserve through a elephant corridor. There is a serious threat to 32 villagers around 15, 000 families in Irudenyaya agriculture project by wild elephant issue right now. Once the Wildlife department introduce a new elephant corridor the situation would aggregate and farmers and fishers in the villages will have to leave the area. So, villages in those 32 communities had formed the organization and are fighting to retain their right to land, right to livelihoods and dignity. The Irudenyaya organization is a member of Praja Abilasha land rights network.

e. People's Movement Against Port City[PMAPC]

The PMAPC is a social movement working in collaboration among many actors including, fishers, women, HR and environmental organizations, Scholars, religious groups and many other Civil Society Groups, including NGOs, individual activists who are concerned about the socio, political, economical cultural and environmental rights of the coastal communities. PMAPC is a member of both PARL and Praja Abilasha networks which are facilitating many aspects of court cases, people's mobilizations, media engagements, political representation, attending negotiations with politicians, etc. Unfortunately, the Chinese company has influence in many circles, including politicians, Catholic Church, media, and also most importantly among the fishermen groups. They use money for dismantle the people's protests using money and influencing influential persons, institutions through finance.⁷

Recommendations

For SAAPE to engage with the national campaign which will have regional significance

- GOSL should take immediate action to implement the recommendations of UNHRC, over the resolution 30/1 and to ensure improvement of the human rights situation and reconciliation⁸
- GOSL give Orders to Stop all the harassments, threats, monitoring and intimidations by military on general public, civil society activists and NGO workers.

⁷ Concept Note of International Fact Finding Mission of Port City to be conducted by 26-30 November, 2018 by the PMAPC.

⁸ The Vanni: Civilian Land under Military Occupation, research report published by STP, in collaboration with NAFSO in February, 2018

- Release all the captured land and allow the internally displaced people to resettle in their original, traditional lands, while ensuring the land rights of those communities
- While reducing number of military personnel in Vanni area, ensure demilitarization and stop all the business activities including hotel, restaurants, farms in the area.
- Whilst responding to the plight of returning IDPs as a whole, it is imperative to take note of the particular vulnerabilities faced by women returnees. The government must ensure joint ownership of land, at least with regard to State land, as returning women- headed households in particular, face undue hardship as a result of discriminatory land laws that deny women the ownership of land.
- The Government of Sri Lanka to fully commit to their promises of meaningful reconciliation efforts and adhere to the policy principles of the ‘National Policy on Reconciliation and Co-existence’, approved by Cabinet on May 2, 2017, and ensure that it functions as a State policy on reconciliation and coexistence⁹.
- Advocate to the full implementation of the ‘National Policy on Durable Solutions for Persons Affected by Conflict Related Displacement’¹⁰ that was passed by the Cabinet in 2016. The policy *“provides a rights-based set of principles and standards to guide all stakeholders working with IDPs and displacement-affected populations, in accordance with Sri Lankan law and policy, and international law and humanitarian standards, including the UN Guiding Principles on Internal Displacement”*.
- The diplomatic community and donor and UN agencies to initiate and enhance coordination with local civil society actors, in order to recognize and address the diverse and complex community concerns.
- Resettlement allowances and compensation thus far appears to be ad-hoc and varying amounts with no proper basis for rebuilding property, clearing land, etc. Key recommendations for reparations made by the Government appointed Consultation Task Force on Reconciliation Mechanisms in their final report released on 17 November, 2016 include;
- A mapping of past and on-going efforts at compensation and reparation, including of existing institutions and programmes that have a bearing on reparations
- Review of existing criteria for beneficiary selection of social welfare and development projects must be undertaken.
- A clear policy on reparations that recognizes the right to reparations and a clear set of normative and operational guidelines to give effect to this should be set out and made public.

⁹ National Policy on Reconciliation and Coexistence,

<https://drive.google.com/file/d/0B9WlxR8zoLmbQkJWRjRhWHZVVzQ/view> (accessed June 4, 2018)

¹⁰ Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, National Policy on Durable Solutions for Conflict Affected Persons Affected by Conflict Related Displacement, August 25, 2016, <https://reliefweb.int/sites/reliefweb.int/files/resources/final%20policy.pdf> (accessed June 1, 2018).

- The GOSL needs to exhibit a stronger resolve¹¹ to fulfill its' commitments to the war-affected displaced from the North and East.
- There have been partial releases in areas such as Myliddy, Kankasanthurai, Tellipallai and most recently in Palali in Valikamam North. The government must have a systematic plan of release that should also be shared publicly.

Annexes

Annex 1: Militarization

Sri Lanka has experienced a bitter 26-year-long civil war. The struggle for a separate Tamil state in the north and east of the island was brutally defeated in 2009 by Sri Lankan government forces. Tens of thousands of people died, while hundreds of thousands were displaced as a result of the war. Both sides are alleged to have committed crimes against humanity and war crimes. In January 2015, the incumbent President, Mahinda Rajapaksa, who led the country in an authoritarian direction with an alarming human rights situation, lost the election to Maithripala Sirisena. The new presidency broke the previous government's authoritarian and repressive practices. However, it has not significantly ameliorated the human rights situation. The torture and ill-treatment of detainees, arbitrary arrest and detention, and the surveillance and harassment of civil society and journalists are still common in Sri Lanka. Furthermore, ethnic and religious minorities in Sri Lanka continue to experience discrimination.

After the end of the war, the Government of Sri Lanka (GoSL) started to resettle displaced people. The resettlement process, even though the war has ended nine years ago, is still not finished. A significant number of people still remains unable to access their traditional land because the military continues to occupy vast stretches of land under the pretext of national security. The limited changes brought in by the new government has prompted an increase in protests over military-occupied land. During 2017, several communities organized continuous roadside protests, firmly demanding their land back. While a few were at least partially successful, others were placated with promises from various government officials, which were subsequently not kept.

The challenges faced by war affected persons in the North and East in their struggle to return to their original land, as well as significant challenges faced by them upon return. While there have been ad-hoc releases of land since the election of the new government in 2015, that alone is

¹¹ Daily Mirror, President, PM Security Forces and TNA discuss release of land - <http://www.dailymirror.lk/mobile/article/President-PM-Security-Forces-and-TNA-discuss-release-of-land-150653.html> (accessed June 09, 2018).

insufficient in the land restitution process. According to the military, there remains 22,085 acres of both private and State land, still under the occupation of the military.¹² The real extent however, would be far higher. Nearly a decade since the war ended, Sri Lanka has yet to fully restore civilian ownership of land and property, hindered by broad military claims of national security and lack of a transparent process, finds new Human Rights Watch report released on 10th October, 2018.¹³ The continued release of land is urgent, and this brief highlights other measures that must be in place alongside. The objective should be to ‘build back better’, and ensure a process of return that is just and equitable.

Although the government has committed to gradually demilitarize and release lands in the North and East, recent statements by the Army Commander, Lt. Gen. Mahesh Senanayake, clearly indicated the full extent of the military’s power and autonomy. He stated, *“We [the army] released 683 acres in Palaly. It was a very bold decision and we took it. Frankly, even the government or the political leadership did not know that we were going to release land there.”*¹⁴ His statement is a frightening revelation that the government has little or no control over the military and their actions, and that the military is the ultimate decision maker. He further solidified their position, in a previous speech addressing Tamil displaced civilians in the North, with the ominous claim, that “the military not only had the power to give, but also had the power to take back the land and facilities handed over to people.”¹⁵

Even after 9 years of the war, still the resettlement process is not completed. In 25 welfare camps - 625 Families in Jaffna district and another 11300 families still live with friends and relatives. Land of these families are occupied by SL military.¹⁶

However, the President Maithripala Sirisena, announced at the Myleddy harbor construction ceremony that they have released 88% of people’s land in Jaffna alone.¹⁷ And the Ada Derana news alert system disseminate a message mentioning, President Sirisena had instructed to release all the land to the original owners of the land by 31st December, 2018. However, it is irony that the President Sirisena, once he visited Jaffna and met the people who are living in IDP camps

¹² Land under military occupation, Reuters, Sri Lankan Army, May 18, 2018, <https://twitter.com/Meerasrini/status/997314555855425536> (accessed June 01, 2018).

¹³ <https://t.co/KgjHorrEVL> <https://t.co/CxvMiiQBaj>

¹⁴ Meera Srinivasan, ‘Sri Lanka is the only country that has eradicated terrorism’ - <http://www.thehindu.com/opinion/interview/sri-lanka-is-the-only-country-that-has-eradicated-terrorism/article23895657.ece> (accessed June 09, 2018).

¹⁵ TamilNet, Military can take back whatever it releases, SL commander tells uprooted people in Jaffna - <https://www.tamilnet.com/art.html?catid=13&artid=39020> (accessed June 09, 2018).

¹⁶ Source: Ministry of resettlement -30 of June 2018]

¹⁷ President Maithripala Sirisena’s speech at Lankadeepa News paper on .. September, 2018

in last April had promised that they will be resettled by end of April which is a broken promise already.

Since the end of the war, the security forces have been acquiring land without following any official procedures. As a consequence, the military is not only repressing fundamental freedoms, such as the freedom of movement, as people are not allowed to enter the occupied areas, but also arbitrarily depriving or restricting people of their traditional livelihood. Before being displaced, it was their access to land and water that provided local communities with diversified and sustainable sources of income and in turn economic security. The military occupation of their traditional land has denied them access to both for several years, making them dependent on the support of relatives and work with irregular wages. As a result, many, especially female-headed, households are currently struggling to meet their basic needs. In the occupied land, meanwhile, the military not only maintains its camps, it also runs businesses, such as resorts, tourism, restaurants and farms. These economic activities deviate far from the military's actual ambit and pressure the local communities even further by taking away market shares and, therefore, work and livelihood opportunities.

Some of the places where People are struggling for their land rights:

- 1.1 Iranathivu
- 1.2 Kepapulau
- 1.3 Mullikulam
- 1.4 Pallimunai
- 1.5 Pilayikudiyirippu
- 1.6 Silawathurai
- 1.7 Ashrof Nagar
- 1.8 IDP sites in Kilinochchi
- 1.9 In Thellipalai DS division area
- 1.10 Chundikulam

1.1 IRANATHEEVU

In 1992, 225 families from Iranatheevu, a self-sufficient island in Kilinochchi, Northern Sri Lanka, fled their homes due to the intensification of the war. It was subsequently occupied by the Navy, which remain there to this day. Over the decades, some families fled to South India, and the remainder settled in a village in the mainland, soon to be referred to by the people as Iranaimatha Nagar, dedicated to their home island.

Since the end of the war, upon requesting special permission from the Navy, the villagers were permitted to visit their island to celebrate their annual church feast, on about three occasions. However, since 2015, they had not been permitted to return to their home island.

Eight years following the end of the war, as the people were tired of waiting indefinitely, out of desperation, they started a continuous sit-in protest, on the beach in Iranaimatha Nagar, in May 2017. Having marked 99 days of continuous protest there, they shifted inland to their church premises on the 100th day, due to the onset of the monsoon rains.

Despite their protest, including blocking the main highway for a few hours, and having handed over a memorandum of demands to government officials, there was no concrete response from the State. Therefore, on April 23, 2018, the people of Iranatheevu (approx. 200 families) boarded boats bearing white flags and decided to take back their homes themselves. They returned to their island and camped out on their church premises until May 7th, when the government officially acknowledged the people's return home. Since their return, the people have begun to clear and clean up their lands and wells, etc. and are slowly starting to rebuild their lives.

Key Demands

- Short- and long-term resettlement assistance, including expenses pertaining to forest clearing, well cleaning/cutting and other related expenses
- Standardised housing assistance in-keeping with the current cost of building material and labour charges
- Free access to former fishing routes
- Renovate or rebuild public buildings and infrastructure – i.e. hospital, schools, churches, community halls, playground etc., and restore basic services
- Regular boat service between the island and the mainland
- Fair compensation for the long years of displacement and loss of income due to limited access to fishing and/or sale of cultivation/produce

1.2 KEPPAPILAVU

In 2009, villagers from the Keppapilavu Grama Niladhari division, comprising the four villages of Sooripuram, Seeniyamottai, Keppapilavu, and Pilakudiyiruppu, were forcibly displaced from their lands (approx. 520 acres) by the military. Having lived in displacement till September 2012, about 150 of these families were relocated by the State to a housing scheme built by the military named, the 'Keppapilavu Model Village'. In January 2013, a further 146 families were relocated to the Model Village. Right throughout however, the people had maintained their demand to return home. Over the course of their displacement, the community had continuously

campaigns for the release of their lands, including two fast-unto-death protests, all however to no avail.

Therefore, at the end of January 2017, 138 families from Keppapilavu, along with the villagers of Pilakudiyiruppu started a continuous sit-in protest outside the entrance of the Security Force Headquarters, situated at the entrance to their lands. In March 2017, most of the land in Pilakudiyiruppu was released. However, the people of Keppapilavu continue their protest to date. The continuous day and night struggle led by women in Keppapulawu marked the 590th day on 12th October 2018. These families are demanding the release of 482 acres of land, which includes their community buildings and infrastructure such as a school, three Hindu Kovils, a church, a community hall, a pre-school, five public wells, a playground, cemeteries and a co-operative society building.

As a direct result of the people's continued protests, in August 2017, the military released 243 acres of occupied lands in Keppapilavu, to their original owners. Later that month, the Resettlement Minister, D.M. Swaminathan, told the people that the Cabinet had approved for his Ministry to release Rs.148 million to the Army Commander to relocate army buildings and equipment located in the 111 acres of land which are to be returned to the people of Keppapilavu. The people have angrily questioned why Rs.148 million that should have been allocated towards their resettlement is being "gifted" to the Military to return the people's lands.

In June 2018, a meeting was held at the Karaithuraipattu Divisional Secretariat, with the 55 owners of private lands (approx. 60 acres) from Keppapilavu, to discuss the possibility of legally acquiring these lands and paying them compensation for their lands. Although a majority of these families refused the offer and maintained their demand to return to their lands, five families agreed to receive monetary compensation in return for their lands. The remainder of the families continue to protest for the return of their lands.

Key Demands

- Release of all remaining occupied lands (138 acres) and removal of the security forces from all civilian spaces
- To be given full access to the sea and sources of livelihood so they can restore their livelihoods
- To be permitted to keep the Model Village houses given to families over the course of their displacement
- That they be provided with adequate material and financial assistance to rebuild their lives, including the return of boats, nets and other resources they had left behind in 2009
- To rebuild/develop community infrastructure, including schools, hospitals, cooperatives and other such infrastructure

1.3 MULLIKULAM

More than 400 families from Mullikulam were forcibly evicted from their lands by the Army, on September 8, 2007. Since 2009, the people of Mullikulam, with the support of their local clergy and activists, have been relentlessly campaigning for the return of their lands. However, in 2010, the Navy established its North Western Naval Command Headquarters in Mullikulam, further solidifying their occupation. Even though the people had hope that with the election of the new government in 201 they would be able to return home, no progress was made. Therefore, in March 2017 they started a continuous sit-in protest opposite the entrance to the Navy Headquarters in Mullikulam. Just over a month later, on the 29th of April, the Navy promised to return Mullikulam to its rightful owners. The people stopped protesting and have been waiting since for the return of their lands.

More than a year later, in July 2018, the Navy has made yet another promise to the people to release their lands “soon”, based on the direction of the President. The people are currently camping out on their church premises, which is within the Navy occupied camp premises. The people have been enduring immense suffering without electricity and toilet facilities, and risking attacks from elephants and snakes as they have no proper living quarters.¹⁸

Key Demands

- To return to their original lands (balance 23 acres of land and 27 houses, plus the 300 acres they had “earlier consented to release1) and for the removal of security forces from all civilian areas
- To be given full access to the sea so they can restore their livelihoods
- To be permitted to keep the 27 houses made for families over the course of their displacement
- That they be provided with adequate material and financial assistance to rebuild their lives, including the return of boats, nets and other resources they had left behind in 2007
- To rebuild/develop community infrastructure, including schools, hospitals, cooperatives and other such infrastructure

1.4 PALLIMUNAI

In 1990, there was a mass exodus of 600 families from Pallimunai, due to the intensification of the war. Although some families returned in 1991, 50 private houses were being occupied by the army. The army left four years later, and the police took up occupation of these houses. In 1994,

¹⁸ Ruki Fernando, Mullikulam: A step closer to regain Navy occupied lands and houses - <http://www.sundayobserver.lk/2018/08/05/news-features/mullikulam-step-closer-regain-navy-occupied-landsand-houses> (accessed Aug 15, 2018.)

the police fenced off about 2.2 acres of private land, and about 2 acres of public land to set up their quarters.

Three years after the end of the war in 2012, the 23 owners of private houses under the occupation of the police were told that their houses would be returned to them. However, without any warning, the Navy took over occupation from the Police, and blocked the return of the original house owners. Although the Navy tried to negotiate with the owners by offering to pay a monthly rent to the owners, the families were unanimous in their refusal and demand for the return of their homes.

On February 11, 2013, 20 out of the 23 owners filed cases against the Navy, demanding the release of their houses. Since 2013, the owners have been to court more than 25 times. Even though all the owners are now aged and ill, with one even having passed away in displacement, they are yet to obtain a resolution to their long overdue problem.

Key Demands

- For the immediate release of the 23 privately owned houses still under the occupation of the Navy and removal of the security forces from all civilian areas
- For rent, in accordance with current rental scales, including all arrears to date, to be paid to all house owners
- For proportionate compensation to be paid to those whose houses were demolished by the police and navy respectively, whilst under occupation
- For compensation to be paid for the loss of income as a result of limited access to the sea and the sale of produce grown in their lands

1.5 PILAKUDIYIRUPPU

The people of Pilakudiyiruppu were mostly landless people displaced from regions such as the hill country, Galle, Matale, Trincomalee, Jaffna and Puthukkudiyiruppu, who moved to the North during the ethnic violence. Having been displaced multiple times throughout the war, they were given lands in Pilakudiyiruppu by the government in 2002. After having to flee their homes due to the war in 2008, they were not permitted to return to their homes till March 1, 2017, as it was under the occupation of Air Force. They continuously campaigned for the release of their lands, alongside the people of Keppapulavu, since 2010. Finally, as a result of a continuous sit-in protest outside the Security Force Head Quarters in Mullaitivu, in February 2017, most of their lands were released in March 2017. The people of Keppapulavu, however, continue their daily protest calling for the release of their lands, to date.

Of the original 85 families there, the number of families have dwindled to 65 over the course of the war. However, in 2017, only 45 families took up permanent residency in the lands, with the

remaining 25 families, having lived in displacement in Jaffna and Trincomalee for many years, visiting their lands regularly, but not having returned permanently as yet. There are also 7-8 families whose land is still under the occupation of Air Force, and yet to be released.

For more than a year following their return home, the villagers of Pilakudiyiruppu had to endure much suffering, with no proper shelter from either the scorching sun or the heavy monsoon rains. They got no support at all from the State, and had to rely on the support of private well-wishers, the clergy and the media. It is only as at very recently, that they were provided with housing assistance from the Government. But, that too has been ad-hoc and inadequate to complete construction and re-start their lives.

Key Demands

- Short and long term resettlement assistance, including expenses/reimbursements pertaining to forest clearing, well cleaning/cutting and other related expenses
- Standardised housing assistance in-keeping with the current cost of building material and labour charges
- Arrangements to be made for regular public and school transport
- Assistance to renovate or rebuild public buildings and infrastructure – i.e. hospital, schools, churches, community halls, playground etc.,

1.6 SILAVATHURAI

Silavathurai is a Muslim village in the Mannar district. The residents of Silvathurai were forcibly evicted from their homes as part of the mass expulsion of the Muslim community from the North by the LTTE in 1990. Although some residents tried to return during the ceasefire in 2004, they too fled again in 2006 due to local tensions with the LTTE. Although the government started resettlement in Mannar in April 2009, it was not until October 2009, that they permitted the Muslims to return.

When the villagers (34 families at first), commenced their return process in October 2009, the screening process and paperwork by the Navy alone, took almost nine hours. Upon their return, they found most of their lands had become forest land, and that the Navy had imposed tight restrictions.

There was little assistance provided to the returning families, with rations not being provided till 3 days after their arrival, and there was a lack of basic facilities such as drinking water. Further returnee families were not given access to their own lands as they were under Navy occupation, and therefore had to resort to staying with host families in the neighbouring Muslim village of Musali, and rely on the support of the nearby Tamil village of Saveriyapuram to dock their boats, and give them fishing access.

There has been no significant change in the situation, since then, with only a fraction of the original 220 families currently residing in Silvathurai, due to a lack of proper facilities. The remaining families are living in areas such as Puttalam.

The Navy continues to occupy the centre of the village where the mosque and at least five houses are located. A 400m section of the beach too remains off limits. The residents have re-built the village in adjoining land, which they refer to as 'New Silavathurai'. In 2011, the Government provided 20 perch lands under the Indian Housing Project to 56 families, but the people are quite clear that no government officials clearly stated that these lands were provided as part of their compensation.

Key Demands

- Release of all occupied lands and removal of the security forces from all civilian areas
- Proper infrastructure development, including regular public transport, building/development of public building such as hospitals, schools, playgrounds etc.,
- Housing assistance in keeping with current cost of material and labour costs
- To be given full access to the sea so they can restore their livelihoods

1.7 ASHRAF NAGAR (LAND RELEASE)

In around November 2011, the Sri Lankan Army and officers of the Forest Department occupied/took control of approximately 150 acres of land in Ashraf Nagar in the Addalachenai Division, Ampara District. The occupation took place when local residents had temporarily fled the area following a 'Grease Yaka' incident. The SLA set up a military base with a perimeter fence preventing outsiders (including relatives and anyone who had left the village even temporarily) and vehicles from entering what had become a high security zone. The SLA launched a campaign of threats, harassment and rigorous restrictions aimed at coercing residents to leave their land and homes. Of the 69 families that lived in Ashraf Nagar before the occupation, only 1 family remains as of August 2018.

The military has destroyed the houses of those who left and used various means of justifying their presence and preventing families from returning to the area. An interim order by the Kalmunai High Court in an action brought against the occupation, that was intended to benefit the families was used to prevent residents from making any improvement or repairs to their houses. The civil administration, which is in negotiation with residents, maintains that they are unable to take any steps to return land, due to the 3 cases pending before courts in Kalmunai High court/ Akkaraipattu Magistrate court/Supreme Court.

Update – August 2018

In July 2018 residents entered their land following protests against the military transporting rubble from the area for commercial purposes. The families didn't meet any resistance from the limited military presence at the time, but were unable to remain in the area due to the lack of facilities and resources. The families intend to return to their homes over the following months. However, in response to their action in July, residents state that the military has increased its numbers in the area and also cut off electricity supply to the one remaining family, who is also the head of the village committee advocating for land release.

Key Demands

1. Release all lands and permit families to return to their homes without restriction
2. Remove any military base or remnant of military presence from the area
3. Provide compensation and damages to residents

1.8 Paravipanjan Village at Kilinochchi

The Land issue of Paravipanjan village at Kilinochchi DS division at Kilinochchi district continue even after the war ended.-There were 97 families who lived in the village until 2008, which was the latter part of the war. There were 30% families who had land deeds while 20% families had land permits.

The 97 families who lived in the village had owned 117 acres of land. Some of the villagers had the ownership of 1 acre land or some had ½ acre land ownership. The main occupations of the village people were either government servants, daily wage earners, small enterprises and a few engaged in agriculture practices too. In October 2008, during the time of final war period, the villagers were displaced and stayed in displaced camps at Settikulam. After the war ended in 2010, the people returned to their village but found the military police occupying their houses. So, the people had to find rented houses or lived in relatives' houses, in temporary shelters or in friends' lands.

People's Actions over those issues

People who were displaced from their own land kept quiet until end of 2013 due to the oppression of the previous regime. However, just one year before the regime changed the people launched a massive protest in April 2014, demanding their land back from the military. From thereon, the villagers continued their agitations every week at the main entrance of the village demanding their land back.

After that, the villagers met the district secretary and government officials and submitted petitions demanding the land. At the same time, the Paravipanjan people launched a massive agitation on June 2017. The President had issued a letter ordering to release the people's land

once he attended a function at Kilinochchi in 05 October 2017. As a result, the Army released the land and allowed 15 families, who had land deeds, out of 97 to settle back. The rest of the families had to fight back one year more to get their land back.

The earning from daily wage is not adequate for their survival as well as there is no work regularly. The low-income families and women-headed households are facing lot of economic difficulties for their survival.

People's Aspirations:

- Those who do not have permanent houses yet are expecting houses to be provided to them.
- People expect the roads in the village to be renovated and the rest of the development activities in the village.
- People expect NGOs mediation for uplifting their economic situation and other development activities.

1.9 Thellipalai DS division area [Palali area]

In Jaffna district, Thellipalai DS area, there area around 4380 acres of land have been occupied by military and made them high security zone. There were around 10,000 fisher families affected with the occupation and lost their fishing activities which is the only livelihood for generation. However, there are plans underway to develop Palali airport and also the Myleddy harbor under the Jaffna district development programs.

Also, it is important to mention here that the coastal area around 12 Km stretch land has been restricted to the fisher families though the same area in Kankasanthurai has been used for military run tourist hotel call Thalsevana.¹⁹

Annex 2: Commercial Cultivation

UWA WELLASSA SUGAR CULTIVATORS (PELAWATTE SUGAR CORP) (LAND TITLE/OWNERSHIP)

The land concerned was acquired by the Sri Lankan State with minimum compensation to traditional farmers/residents in the area, and leased to the Pelawatte Sugar Corporation for cash crop cultivation (in extent 8400 acres). As a condition for remaining on the land, the residents were compelled to cultivate sugar cane and sell the produce to the Corporation. Those who failed to do so would have to return the land to the State. Each farmer was given an area of approximately 4 ½ acres, of which a ½ acre plot was reserved for their residential use. Residents could build a house on that plot, but didn't have title or ownership to the land or property. The

¹⁹ "Dark Clouds Over Sunshine Paradise", a publication of Society for Threatened People,[STP], 2015

plantation is beyond the reach of the local civil administration and farmers (over 2700 families) have been almost entirely reliant and controlled by the Corporation. An RTI application filed in around August 2017 revealed that the long-term lease to the Corporation had expired. The RTI also revealed that this Government was taking steps to renew the lease and had surveyed the land including areas on which farmers had built their houses. Following the RTI, residents have launched a campaign demanding legal ownership/title over at a minimum, the ½ acre land on which they live.

Update – August 2018

The divisional secretaries of the Buttala and Wellawaya Divisions have taken steps to conduct a baseline survey of farmers/residents in 4 Janawasa Areas belonging to the Corporation. Of the 16 Janawasas in the plantation, surveys have been conducted in Janawasa 3, 10 and 14. The farmers in these areas had been among the first to agitate their demand for land rights in 2017. The local DS has also taken steps to conduct ‘land katcheri’s’ in Janawasa 10, which is a first step towards recognizing land ownership and registering title in the local land registry.

Key Demands:

1. Grant clear title to farmers to the land and property on which they live (minimum extent of ½ acre)
2. Bring all persons and lands under the authority of the local civil administration, limiting the power of the Corporation over the lives of farmers and residents
3. Provide effective and equitable access to basic services to all residents
4. Include conditions in the new lease agreement that guarantees the rights of farmers and residents and the assurance of peaceful and undisturbed possession of their property

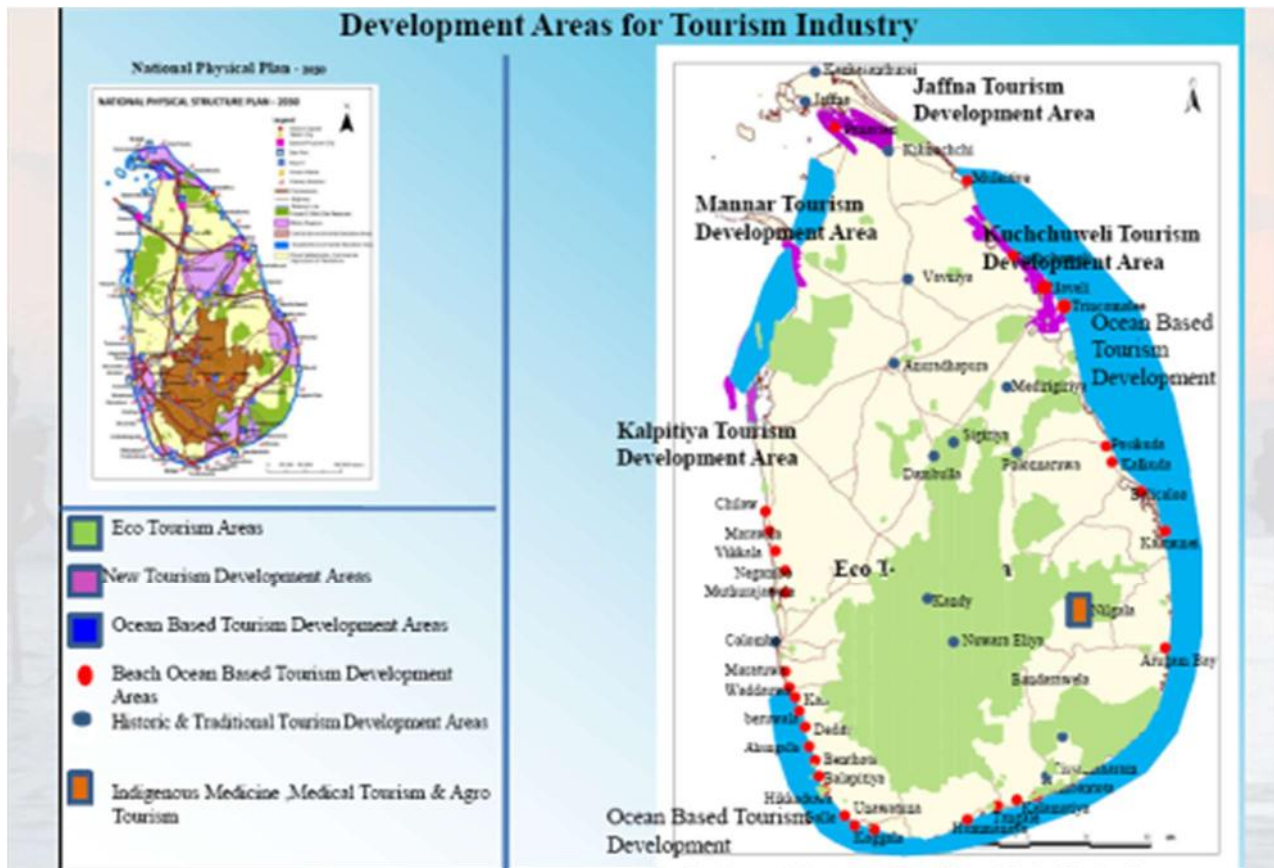
Some of the Commercial Agriculture projects of MNC

- 1 Kiriyanakumbura-
- 2 Athimale – Sugar Cane cultivation project.
- 3 Monaragala-Banana cultivation belong to Dole Company

Annex 3: Tourism Projects

- 1 Paanama- Lagoon and Sea occupy for tourism sites
- 2 Trincomalee (Nilaveli, Kutchchaveli)
- 3 Kalpitiya-Kalpitiya Integrated Tourism Development Zone
- 4 Dedduwa –Tourism Zone

Fig. No.: 6 Proposed tourism zones in Sri Lanka



Source: Housing Department Authority in Sri Lanka: National Physical Planning Department

Acquiring of lands for the purpose of Large-scale Tourism Promotion

GOSL has proposed to establish a total of 45 “tourism zones” around the coastal belt to develop tourism after war ended in 2009. For example, in Pasikuda-Batticaloa district, Kuchchaweli coast became a tourism zone in one hand and Salapayaru lagoon became a saltern of a local company. Both the sides of the coast and the lagoon, which are the main source of income for the fishermen during the fishing season and the off season, now have become a saltern to make profit for a company. This situation affected more than 1500 fishermen in Salappayaru lagoon as well as 2000 fishermen in Erikakandy, Kuchchaweli coastal lands - Trincomalee district [Eastern coast]. Other of these zones include:

- a) Kalpitiya [N/W coast] and in Rathgama lagoon [Southern Coast] with hotel construction,
- b) road construction in Kokilai Lagoon[East coast],
- c) Colombo financial city, Colombo district [West coast], which is with the financial support of Chinese Communication Construction Company, a development project devastating fishing economy, the environment, aquatic resources and Social life of fishermen, and

- d) Sea beaches and sea shores being rapidly reserved and acquired for mass scale tourist centers by not renewing their license, specially in Nilaweli, Sendebe, China bay in Trincomalee District and Ahangalla in Galle district.

Sri Lanka has 8 times more of the sea belt around the island, many number of foreigners and their companies have been offered these lands while on the contrary, the fishermen are losing their beaches and their regular livelihoods.

3.1 PANAMA LAND STRUGGLE

Panama comprises of the villages of Shashrawela, Ragamwela, Egodayaya, Horewekanda and Ulpasa. Its residents have traditionally engaged in agriculture, fishing and include indigenous groups that live off the forest. In 2010, the Panama land (1200 acres) was forcibly taken over by the Sri Lanka Navy (SLN) and Air Force evicting 350 families. A Navy Camp and Hotel was built in the area with a perimeter fence preventing residents from accessing their land. The SLN and civil administration have so far refused to return the land despite: (1) a recommendation by the Human Rights Commission of Sri Lanka (HRCSL) in August 2010, (2) Magistrate Court Order in May 2015, and significantly, (3) the Cabinet decision on 11.02.2015 to release 340 acres of the land to residents out of 365 acres. Not only have the relevant division/district secretaries, land commissioner and SLN refused to act on the directive, the police have taken steps to prevent residents from entering their land.

Update – August 2018:

Instead of returning original land, this Government is currently attempting to pressure residents to accept alternate land in proximity to the Ragamwela area. Apart from the 34 families from Ragamwela, other villagers may agree to this alternate land due to fatigue, and fear. PARL has several concerns with this scheme including that:

- a) Each family is to be given 25 perches, which in many cases is far less than the extent of land lost to the Navy.
- b) There is no written promise of financial assistance. There have only been oral assurances of Rs.5 lakh to build a house and 10 lakh to start a tourist business.
- c) The proposed land for relocation is on the landside and does not have direct access to the sea/beachfront.
- d) While the initial 25 plots are by the roadside, the remaining roadside property has been earmarked for commercial/tourist businesses linked to a prominent government parliamentarian.

- e) The remaining plots will be located further interior increasing the potential for human elephant conflict. In effect, the relocated villages will create an informal buffer zone or elephant corridor protecting tourist and commercial establishments from attack.
- f) The government plans to build a total of 350 houses for which local authorities are currently compiling a name list. Where displaced residents delay or don't agree to accept the alternate scheme, there is a possibility of other persons not linked to Panama obtaining property through it.

Key Demands

- 1. Immediately comply with the Cabinet Decision to return land to residents
- 2. Clarify current ownership of the 150 acres earmarked for relocation and the development plan for the Panama area
- 3. Clarify the process, procedure and criteria for providing alternate land, compensation, and ensuring housing and other basic necessities for displaced families including ensuring access to livelihood sources

Annex 4: Development projects

- 1. Sampur (displacement, indigenous fisheries and farm land)
- 2. Trincomalee (Urban development project)
- 3. Gin-Nilwala Diversion Project,(Irrigation project to supply water to Hambantota district)
- 4. Uma Oya,(Multipurpose Development Project for water, electricity and Irrigation purposes while displacing 10,000 farmers families and destroying natural water resources for agriculture purposes).
- 5. Port City Project[Colombo Financial City Project](Destruction of sea, coast, displacement of fishers, destruction of environment, Loss of water sources etc.)

4.1 SAMPUR LAND STRUGGLE (LAND RELEASE)

The residents of Sampur a village in the Muthur Division of the Trincomalee District, have suffered immensely due to the war and development driven displacement. In 2006 Sampur was the first area to be taken over by the military from the LTTE following the breakdown of the ceasefire. Following that over 12,000 persons were displaced and denied access to their lands, which was declared a High Security Zone (HSZ) in 2007. In October 2008, around 8000 persons were permitted to return following a government order reducing the extent of the HSZ. In 2012, the area was demarcated as a 'Special Zone for Heavy Industries' and a portion of the area was demarcated for a coal power station. In March 2015, the Government announced that 818 acres would be returned to residents. To date, a total of 908 families have returned to their original lands and been given financial assistance to rebuild their lives. In September 2016, the Attorney

General informed the Supreme Court that the coal power plant would be cancelled due to environmental concerns.

Update – August 2018

PARL is aware that, despite assurances, the coal power plant has not been completely cancelled and an area of 500 acres remains cordoned off for this purpose. The Navy who previously occupied a school in the Sampur area, have since relocated to agricultural land 376 acres in extent. The residents initially agreed to the military entering the area on the promise that the Navy would retain 40 acres and release the rest for residents to cultivate. However the Navy has since refused to release land, claiming ownership based on a 2016 gazette, which gives them authority over an extent of 236 acres. Activists and residents have so far not been able to identify this gazette relied on by the military. Residents demand the return of the 336 acres promised by the Navy. Although the military claims that the land was vacant, there is clear evidence of cultivation and 80 families claim to have farmed that area.

Santhosapuram: This is a new village created by the Government in the Trincomalee District, where persons displaced due to the coal power plant have been relocated. However, residents mainly from the indigenous Vedda community complain that they are unable to live there due to lack of basic resources and access to traditional livelihood sources, especially as they rely heavily on the forest for their daily needs and income. The residents demand that they be permitted to return to their original land.

Key Demands

1. Release all land demarcated for the coal power plant and permit residents to return to their old land and way of life.
2. Release the agricultural land currently occupied by the Navy in the Sampur area.

4.2 TRINCOMALEE TOWN (DEVELOPMENT DISPLACEMENT)

Around 3500 families from 13 urban villages around Trincomalee Town are at risk of being evicted from their homes and displaced under the proposed Strategic Cities Development Project under the Ministry of Megapolis and Western Development. While development plans are underway, there is no clarity on what will happen to those who are forced to leave their lands and homes to make way for progress.

PARL is aware of a move to relocate evicted persons to the Morawewa area, which is around 15 km away from the city. Such a decision to move persons inland (in a forest area) will have a disastrous impact on their livelihood, especially for the fisher community who will lose access to

the lagoon. There is also a threat of the government relocating people to high-rise buildings, similar to the accommodation provided to evicted people in Colombo.

Local authorities have already begun to place restrictions on people in areas earmarked for tourism or development in a bid to compel them to leave the area. Fishermen have complained that they are prevented from accessing the lagoon without any basis. For instance an area called Samudragama has been identified as a beach park area which will have a direct impact on local residents and their ability to live and work there.

4.3 GIN NILWALA DIVERSION PROJECT

Under the pretence to control the floods, the water of the Gin Nilwala rivers are planned to be diverted to the Greater Hambantota proposed industrial development zone. In order to do this, three Reservoirs Pitadeniya, Kotapola and Ampanagala are to be constructed which are connected to Muruthawela and the Chandrika Tank through a 30km tunnel. The water is supposed to be channelled to Magampura harbour, Mattala Airport and the proposed industrial zone through this tunnel.

In the construction of this reservoir, more than 300 families will be displaced and people will lose a lot of land which they use for cultivation. Other than these, after the dam is constructed the area above the dam will flood during the rainy season and the area below will have a hard time during a drought. Due to digging a tunnel in unstable land, there can also be risks to water sources and settlements.

It is important that a proper feasibility study is conducted prior to starting this project and such an assessment and an environmental impact assessment hasn't been conducted. Further, there should be a study on alternative methods to control the flood situations in the area surrounding the Gin and Nilwala rivers. This project is being initiated based on an old project plan and by depriving people of their right to water: with the intention to commodify water. This should be stopped immediately.

4.4 UMA OYA MULTIPURPOSE WATER PROJECT

The project commenced on April 29, 2008 and covers the Divisional Secretariat Divisions of Bandarawela, Hali-ela, Welimada, Uva Paranagama, Ella in the Badulla District and Wellawaya in the Monaragala District, Uva Province.

This unsuccessful project has created many social and economic issues. Particularly 7,450 families have been completely displaced due to the project. All agricultural activities have come to a standstill as approximately 2,200 acres of farmlands have been destroyed. There were 7,100

houses that have been completely and partially damaged and, thus, not habitable. There were, also, 3,090 wells used by communities for routine household and agricultural activities and over 45 natural water sources in the environment system that have completely dried out.

Update as of August 2018

At present about 60% of compensation payments have been completed. Given the enormous weaknesses in these payments it has been planned to reinvestigate into the payment of compensation.

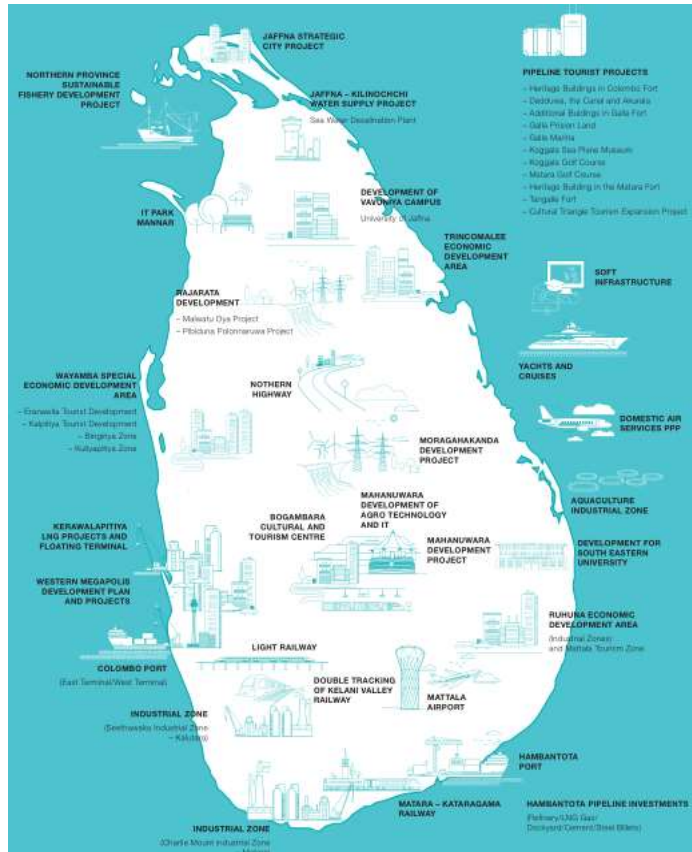


Fig. No.6: Proposed Development Projects as introduced at V2025 document of GOSL
Source: GOSL V2025 policy document, 2017

When awarding compensation there have been major discrepancies in the valuation process of the Government Valuation Department, and, thus, families who suffered complete damages have been discriminated.

Moreover, the area where families have been relocated at present - Dickarawa- has indicated signs of landslides and a proposal to relocate them in another area has been made. Meanwhile, the excavation of tunnels in this project has continued and only the last 3 kms is remaining to be completed. For now there is still no systematic distribution of drinking water.

Key Demands

1. Conduct a fair investigation of irregularities in the payment of compensation and reconsider valuations done by the Government Valuation Department.
2. Expedite the planned payment of compensation for the proposed 432 individuals whose paddy lands were damaged due to the project.
3. Systematize and provide a permanent solution for the provision of drinking water for communities in the affected areas.
4. Expedite the implementation of the 'Visal' water project proposed for the Bandarawela area.
5. Continue the payment of Rs. 8,000 monthly, as rent for those whose houses were completely damaged. This payment has been stopped.
6. Immediate allocation of appropriate lands for affected communities to construct permanent housing and engage in agriculture.

4.5 The Colombo International Financial city [Colombo Port City]

The Colombo International Financial City (CIFC)²⁰ (formerly called Colombo Port City) is a planned city in Colombo, Sri Lanka on reclaimed land next to the Galle Face Green, an ocean side urban park. The city is expected to be a city-on-the-sea, a financial centre with shopping and office complexes, hotels, etc.²¹ The project is the landmark of the infrastructure development program launched on the 17 September 2014 by then Sri-Lankan President Mahinda Rajapaksa and the Chinese President Xi Jinping. It is supposed to develop Colombo into a financial hub and attract foreign investors and is part of the Chinese Silk Rout expansion.

After the fall of the Rajapaksa government, the project was suspended due to issues related to sovereignty of Sri Lanka and adverse environmental impacts. Under the new regime, the ban was lifted and a new tripartite agreement between Megapolis and Western Development Minister Champika Ranawaka, the Urban Development Authority (UDA) and the China Harbour Engineering Company (C.H.E.C.), a subsidiary managed by Chinese Government-owned China Communication Construction Company (CCCC) was signed on August 12, 2016. All the lands required for the project will be on 99-year lease basis, with the option for extension for another 99 years. The government is also creating new laws, eg. the city is expected to be governed under a new act named Colombo International Financial Centre Law.

Although the Colombo Port City was planned since 2011, the details of this project, particularly the agreements that Sri Lanka and China have arrived at, were never made known to the public.²²

²⁰ <http://www.portcitycolombo.lk/about/>

²¹ According to Mr Dulip Jayawardene, a retired Economic Affairs Officer of the UN ESCAP, the main objective of the project is "to create not only a major maritime hub but also a harbour city for attracting major overseas private investors with tax holidays, etc."

²² People were kept in the dark and no reliable information of this massive project was in the public domain, says Dulip Jayawardene in an article to the Daily Mirror.

Local communities, environmentalists, engineers, marine biologists and others have resisted the project from the very beginning fearing an adverse impact to marine ecology, environment and fishermen's livelihood.²³

According to them, environmental impact assessments (EIAs) carried out in this regard are inadequate and incomplete, and thus most of the impacts are yet to be identified and quantified. Work that had already been carried out was illegal on the grounds of not carrying out a proper impact assessment of the project activities as required by the EIA legislation in Sri Lanka (Section 16 of the Coast Conservation Act as amended).

The project was also criticized for its lack of transparency and irregularities such as the involvement of SLPA (Sri Lanka Ports Authority) beyond its mandate to deal with ports and shipping.

Fish netted from the coastal waters, the cheapest fish on the market, provide two-thirds of the protein consumed by the population.²⁴ However, the sand mining for the construction of Port City will have important consequences on the coastal fishing industry, resulting in a deprivation of the population from obtaining essential protein. This obviously affects the poorest, who have limited resources to buy nutritious food.

The impacts of the Colombo International Financial City (CIFC) on the fishing community are already visible. Due to the sea erosion caused by mining sand, homes of the fishing villages are washed away and the places to park fishing boats are more limited.

According to estimates the number of fishermen directly affected is in excess of 30,000 in Negombo alone. The overall figure including those engaged in associated trades is estimated to be more than 600,000. Other losses of livelihoods include those fishermen living nearby the site of the project and in the areas where the construction materials are extracted. Fishermen who live along the coastal area of Kammalthota to the Rathmalana claim that their income has been already reduced due to the depletion of fish resources as a result of sand mining.

The number of fishermen registered in the EIA is almost four times lower than it is in reality, according to which only 9000 fishermen are supposed to get compensation. Hence, thousands of fishermen will be deprived of their livelihoods for years.

The construction working and the sand extraction will impact on the underwater rich biodiversity in both Dredging Site and the Project Site of the Port City. This will especially occur in the districts

²³ Mr. Jinadasa Katupotha, Emeritus Professor at the Department of Geography of the Faculty of Humanities and Social Sciences of the University of Sri Jayewardenepure, Ms Carmel Corea, Marine Biologist, Mr. Dulip Jayawardane, retired Economic Affairs Officer of the UN ESCAP and Sellakapu S. Upasiri de Silva, Former Construction Expert CFTC/UN, are to name a few.

²⁴ Carmel L. Corea, "*Why the Port City is bad for the country*", The Sunday Times, 12 June 2016, See article at : <http://www.sundaytimes.lk/160612/sunday-times-2/why-the-port-city-is-bad-for-the-country-196859.html>

of Gampaha, Colombo and Kalutara where the authorities identified 11 quarries from which supply the needed materials.

In order to preserve their livelihoods, the local biodiversity and the Galle Face Green as a public space, accessible for all, the project needs to be halted.

Annex 5: Plantations

5.1 Lulkandura tea Estate

5.2 Issues surrounding Malaiyaha Tamils and land tenure and ownership in plantation areas

5.3 Knuckles development plans

5.1 FRAGMENTATION AND SALE OF STATE PLANTATIONS (LULKANDURA TEA ESTATE)

Lulkandura estate in Delthota, Kandy is the first tea estate established by James Taylor in 1867. In 1872, the first tea factory was built. Since then for 150 years now, this plantation has been the livelihood of these estate communities. At the beginning it consisted of 13,441 hectares, and currently tea plantation is done only in 4,067 hectares. The working community is 761. It consists of 716 families and the total estate population is 3,579. The state owned Janatha Estates Development Board owns Lulkandura estate. Currently, it is a loss making enterprise. Various reasons have led to this status and workers have been informed that the government cannot maintain it any longer. In this context, the Board had planned to divide and sell the Lulkandura estate, which had been the livelihood of plantation communities for over 4 generations, to private entrepreneurs and investors.

Status as of August 2018

In early 2018, the workers collectively decided to develop and maintain the Lulkandura estate and factory, as they see the negative environmental, economic, social and political impacts that may emerge. Accordingly, they mobilized the entire Lulkandura estate community. Further, together with them, the workers developed an alternate plan to obtain ownership of the land to workers, maintain the factory and administration under the control of workers, and develop the area. They had commenced discussions with the Presidential Secretariat to implement this as a pilot project and had submitted the alternate plan to the National Economic Council.

The decision of the Janatha Estates Development Board, though, hasn't been changed, especially as influences continue.

Key Demands

1. Take immediate measures to stop the fragmentation and sale of Lulkandura estate.
2. Ensure the right to a permanent land for upcountry communities.

3. Immediate intervention to commence the pilot project as per the alternate plan of workers to develop Lulkandura estate with state involvement.

Annex 6: LANDLESSNESS OF REFUGEE RETURNEES FROM INDIA

The three decades long armed conflict and civil war forced vast numbers of Sri Lankans, mostly Tamils from the Northern and Eastern parts of Sri Lanka, to leave the country and seek refuge in India. Since 1983, Sri Lankan Tamil refugees have lived in refugee camps and with the assistance of the Government of India have been able to survive the hardships of refugee life.

Refugee Return

With the war end in 2009, more than 12,000 refugees have returned to Sri Lanka, while the majority of refugees remain in camps in India and uncertain of their future.

‘Return’ is the inalienable right of every refugee who fled their homeland amidst the uncertainties of war. Though the Government of Sri Lanka has been welcoming the return of refugees to their homeland, there are several key gaps in its support services and schemes the Government sees its work more as a fulfilment of services rather than the fulfilment of refugee rights as citizens.

Land – An essential need

Having lived for nearly two or three decades away from their homeland, refugees return with almost little or no resources available to them. At this crucial juncture, land is one of the most essential needs for returnees. This is due to the simple fact that it is not only crucial in the setting up of their lives in their place of origin, but also qualifies the returnees to increase their access to livelihood and other survival needs. It is an accepted belief in the country that when you have access to land, you are not denied of your livelihood. Thus, the term access to land is large enough to embrace the whole range of rights and duties associated with use and enjoyment of land, including ownership, possession, occupation and control over land.

Land problems of refugee returnees

Having been away from the country for two to three decades, it has become a herculean task for refugee returnees to claim and have access to their own land, irrespective of their possession of land deed or land permits.

- The inability of refugees to be physically present to claim their properties has resulted in their land being occupied by both the army and the public. For example: a substantial portion of the land in Mullikkulam, Mannar, owned by Sri Lankan refugees in India, is occupied by the Army, while a large portion of land in Mannar owned by refugees is utilised as a Pineapple Gardening project supported by the Israeli Government.

- Refugees have been away from their land and country for nearly three decades. As per the country's land regulation, the State is entitled to redistribute state lands that have not physically occupied by the owners over a certain number of years. This leaves, therefore, a majority of the refugees at risk of losing their land. Many among the returnees have lost their lands and been forced to live with friends and relatives or in welfare centres. Though some returnees have attempted to retain their land through legal measures, there are inordinate delays to resolve the land disputes, whereas some returnees have failed miserably in going up against the law.
- Most refugees, before their return, lived in lands temporarily designated for them till they acquire their own land permits needed for legal access. Although some refugees/returnees had managed to obtain their land permits from the Land Registration Department, these have been lost during upheaval and uncertainties brought on by displacement.
- A situation has arisen where returnees do not have access to their lands in spite of being in possession of land deeds. This is due to the fact that their lands had been redistributed during the period of war by the Sri Lankan government or militant groups to the general public or are presently occupied by the Army. If the new occupant has been in possession of the land for over five years the returnee is left with no option but to petition the court for redress.
- In land disputes, many of the refugee returnees don't have documents proving their ownerships. In the unfortunate circumstances presented by displacement, many land documents are lost or are inaccessible due to several extraordinary situations which are usually beyond their control. When faced with this situation those affected are unable to obtain or access the necessary documents upon their return.
- Majority of the families among the returned refugees are landless. Hence, they are forced to live with relatives or in rental houses. In several locations, the government doesn't have enough state land to provide for the landless refugee returnees. Without land, they were unable to apply for the housing scheme as well.
- Many refugee returnee families have problems with their land demarcations/boundaries or being unable to locate their land.
- In many places, the land that were left by the refugee returnees, are now unprepared for settlement as it is overgrown by jungle and bushes. Due to this, even returnees who are able to recover their land are unable to use it for resettlement due to the threats by animals, which lead to an insecure life. This also leads to inaccessibility of basic facilities such as electricity and water as the land is isolated and not connected to the civic life-
- Some illegal attempts have been made by the locals to locate the land of refugee returnees and create fake power-of-attorneys to sell it to the people. In these circumstances, their lands are owned by unknown people.

Key Demands

- The Government should set up a special programme, to include all returnees, to facilitate quick access to land and housing within a specific period. There should be an exclusive system that allows returnees to reclaim their land upon the issuance of documentation. - This special program should be supported by the introduction of land policy and a mechanism set up to assist refugee returnees claim their land without delay, and/or to resolve land disputes in case of problems in possession. This arrangement should consider the complex land issues of refugee returnees and provide solutions. Under this arrangement the government should provide land for landless refugee returnees.

- All returnees should have access to appropriate systems/schemes which will support them with obtaining shelter. For example, there should be a provision of capital (grants for transitional shelter or rental allowance) until they find a permanent house with basic facilities and/or to clear their lands.