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Urban Regeneration



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Editor's Note

In contrast to global statistics for urbanization, Sri Lanka indicates a slow pace of urbanisation, with only 14% of its population living in areas identified as 'urban'. While 'rural to urban' migration has been hitherto low -- only 2%, it is expected that the pace of urbanization will soon accelerate. There is a large 'floating population' that commutes to urban centres for employment and commerce on a daily basis, reflecting a need to access cities for employment, commerce, and opportunities of advancement not available in rural and semi-urban settings. There is, in consequence, a large demand on urban housing and land as a more permanent solution to daily migration, in addition to a demand on land for the expansion of commerce, transportation, and city development and beautification.

This edition of the LST Review makes an introductory exploration into Sri Lanka's urban regeneration projects, implemented by successive governments, in view of impending urbanization and the rapid expansion of cities. The edition gives insight into some of the effects of regeneration, especially in relation to communities living in 'under-served settlements' (referred to colloquially as 'slums' and 'shanties') in the city of Colombo. Low income communities (including vendors and day wage laborers) located in these settlements comprises approximately 50% of the city's population and occupies as much as 11% of its land extent. Successive policies and plans for the development of the city of Colombo, as well as for island-wide plans for urban regeneration, have focused on the need to both 'regularise' these settlements and release commercially valuable lands on which they are located, at times illegally.

The complexities inherent in the urban regeneration project, is reflected in the approach and method to dealing with under-served settlements. The articles in this edition indicate the multiplicity of factors that need to be considered for the planning of equitable regeneration that is pro-poor and 'inclusive'. Iromi Perera discusses the socio-economic and cultural implications of relocating slum dwellers into apartment living. The apparent lack of planning, in consultation with the affected communities, have rendered their 'lived experience' unsustainable and regressive. Referring to the experience of other countries that have transitioned communities into 'apartment living', she questions the credibility of the Sri Lankan approach and this policy decision. While Singapore is referred to as a 'model' of success, whether its approach to promoting apartment living can be replicated in Sri Lanka's urban context, it is contented, needs to be assessed pragmatically.

In their article, Sindhu Rajaratnam and Nillasi Liyanage refers to the 'forced' and 'unlawful' nature of the evictions, and in some instances the resettlement, of urban communities and under-served settlements. While the need to resettle a community may be justified, with reference to matters of public policy, among other considerations, a regeneration project that violates basic human rights cannot be progressive for those subject to such violations. Given that many of the under-served communities in the city of Colombo have been in residence for long periods of time, at times as much as 50 years,

their entitlement to the city, apart from their contribution to the life of the city, is severally compromised by the nature of these evictions. The apparent disregard for due process, established policy and regulation is discussed in this paper, highlighting the need learn from the past in making future regeneration planning credible, inclusive and rights-based.

In addition, a policy brief of the Centre on Housing Rights and Evictions is included, containing definitions and concepts that are relevant to the different contexts of evictions or displacement, including 'development induced displacement' and resettlement. Whether it is to implement 'metro cities' and centers of commerce that are inter-linked (as outlined in the Mahinda Chinthana Development Strategy), or the in the making of a 'Megapolis', as is currently the plan for urban regeneration, the relocation and movement of individuals and communities require in-depth understanding of the fact of eviction/displacement, and the need for 'negotiated resettlement' and compensation.

The LST Review is committed to taking forward the discussion on Sri Lanka's policies and plans for urbanization, including urban regeneration, and in promoting a rights-based and people centered approach to urban development.

Rasika Mendis

Editor



"Palpathakin Madurata" – High-rise Living for Low Income Communities in Colombo

Iromi Perera*

"This is why much of our built environment is so unsatisfactory. High-rise flats were designed and built by those who do not have to live in them"

- *'Greening the built environment' by Smith, Whitelegg and Williams, 1998*

The 2014 *'Ida denna'* promotional video of the Urban Development Authority¹ shows a young child rudely awaking in her flooded shanty from a dream in which she was playing happily among flowers and butterflies in Colombo's newly beautified landmarks such as the Racecourse and Waters Edge, running in and out of her beautiful new home in an apartment complex. The video ends with the children coming out of tiny huts made of wooden boards, jumping over puddles and broken bricks, making their way to school to a Sinhala song that likens the journey from 'shanty to shiny new apartment' (*palpathakin madurata*) to a butterfly emerging from its chrysalis.

Unfortunately for most of Colombo's residents that were evicted and relocated to the Urban Development Authority built high-rise apartments in and around Dematogoda, this dream has become a nightmare that they cannot wake up from. The eviction of residents of low income communities in Colombo commenced much before the end of the war and long before the Urban Regeneration Project (URP), but it gained momentum and had the force of authority after the Urban Development Authority was brought under the Ministry of Defence and the then Defence Secretary Gotabhaya Rajapaksa, who became the chief architect of Sri Lanka's development and beautification². Through what was referred to as 'improving underserved settlements', the Government planned to liberate "approximately 350 acres of prime land for commercial and mixed-used development"³. Official estimates of the number of families to be relocated varied from "nearly 70,000"⁴ to 135,000⁵ and

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¹ Urban Development Authority 'Ida Denna' - <https://www.youtube.com/watch?v=i2cpWK7oPZ4>

² Centre for Policy Alternatives, 'Forced evictions in Colombo: the Ugly Price of Beautification', April 2014

³ Mahinda Chinthana 2010, p.174

⁴ The Island, 'Colombo to become Garden City, 70,000 families to be relocated: Gota', 20 March 2013

⁵ Defence.lk, Prospects of relocating underserved settlements in Colombo suburbs', 2 February 2013

assuming an average urban household size of 4.2⁶, this implied the relocation of anywhere between 280,000 to over 500,000 people.⁷

Objectives of the URP aside, what made this project more problematic were the means used to acquire land. Military force, intimidation and harassment were used to evict people from their homes and the process did not follow Sri Lanka's laws related to land acquisition. Those who had title to their land were not given compensation, nor was the Land Acquisition Act followed. People were told to sign documents and provide household information that made the process of relocation look voluntary on paper as the letter they were asked to sign stated that they were "requesting" a new apartment in exchange for their existing house. Furthermore, all these documents were only in Sinhala and no copies were given to residents at any point. The communities had no way of airing their opinions or objections, as it was an extremely top down process⁸. What must also be kept in mind is that not all of the affected communities could be classified as a slum or a shanty – most houses had been improved upon over time, had indoor bathrooms, running water and electricity and many had built up, and some up to three levels high, and accommodating more than one family.

This paper discusses the lived experience in high-rise apartments by low income communities in Colombo, why we need to better understand high-rise housing as an option for relocating under-served settlements, and the need to explore other more sustainable options in the future. The inadequate understanding of the built environment and the importance of understanding the final user and their way of life, coupled with lack of research and information driven policy planning in the URP meant that these large spaces were built without long term socio economic considerations and is precisely the kind of planning the UDA needs to move away from going forward.

The importance of opening up the design process and ensuring people have an active involvement and a feeling of ownership in the built environment that they live and work in has been long identified by scholars and is reflected in the above quote by Smith *et al* in their book 'Greening the built environment'. The need for a consultative and inclusive process has been echoed by many before them, and many after them, as countries around the world tried their hand at providing housing for low income or slum communities.

High rise living – lived experience of Colombo's low income communities

Contrary to popular belief that apartments are being given to people free of charge, those living in the high-rise apartments have to pay a million rupees to the State over the next 20-30 years, including more than 1 lakh within the first 3 months. This includes those who

⁶ Household Income and Expenditure Survey – 2009/10, Preliminary Report, Department of Census and Statistics, Government of Sri Lanka

⁷ Centre for Policy Alternatives, 'Forced evictions in Colombo: the Ugly Price of Beautification', April 2014

⁸ Iromi Perera, 'Forced evictions in Colombo: High-rise Living', Centre for Policy Alternatives, May 2015

had title to their previous property as well. In order to obtain the keys to the apartment, Rs 50,000/- must be paid in a single instalment, after which the second instalment must be made by the third month. Residents also have to pay Rs 3960/- a month (in addition to water and electricity bills) over 20 years or Rs 2650/- a month over 30 years. This is an extraordinarily high burden on many low-income families especially because they also lose the investment made in their previous houses for which they have not been compensated.

According to the letter issued to every household informing them of their relocation and process, payments and ownership details, it is forbidden to rent, sublet, mortgage or sell the apartment or a part of the apartment. This is applicable to all, including those who owned their previous house. This has serious implications as financial security is being taken away from people and until the full payment has been made over 20 – 30 years, this restriction will apply. Interviews with households that have already moved into the new apartments indicated that people have found the money for the initial payments amounting to Rs 100,000/- by tapping into existing financial security or assets. Some individuals who are eligible for gratuity payments from their respective organisations have taken it out early while others have pawned jewellery or other assets, or taken loans in order to make the initial payment. Without making the first payment of Rs 50,000/- people cannot move into the new apartments while the second payment must be made within the first three months after moving in. Many households where the main breadwinner is nearing pensionable age expressed great concern about how they would manage in the years to come without any finances to fall back on and having to make this monthly payment for the apartment in addition to utility bills.

Residents are also yet to see the new housing agreement that is currently being drafted by the UDA, after the original version drafted last year was rescinded by the new Government in June 2015, after it was brought to their attention that the original version had several problematic clauses that went against or did not take into consideration Sri Lankan property law.

A lot of the resistance to the new apartments comes not only from having to pay for them, but also because of their size. The policy of the URP is an apartment for a house and not an apartment for a family, and where there were more than one family living in the same house (which was the case in a lot of the affected communities) - households now find themselves either crammed into a tiny living space or some members of the family having to live elsewhere. The lack of space is a common complaint across a majority of the households. The size of an apartment is approximately 400 square feet and each consist a living room, kitchen, two bedrooms and a bathroom. Most of those relocated had houses that were twice as big as the new apartments, or even bigger, and with a fair number occupying houses that had more than one floor. Residents complained that they had to sell / get rid of a lot of their furniture and goods; or had packed them into boxes, which were now piled up in bedrooms. That 'Damro' plastic chairs are visible in almost every single living room in the apartments is evidence enough. In terms of design, there are several flaws, one being that the bathroom and the kitchen are adjacent, creating issues of hygiene and privacy. In addition to not having space for their belongings, another key concern regarding the lack of space is that there is no space for traditional customs and rituals during

festivals or even when a death occurs in the family. There is a community centre in most buildings that are meant for this purpose, but the practice of rituals such as almsgivings or a 'wake' in a community centre is unacceptable to most.

Information sourced through interviews

In interviews conducted by the Centre for Policy Alternatives (CPA) in 2015, residents across several apartment complexes complained of extremely high water bills – people who used to pay less than Rs 200 a month for water in their previous homes were now being given bills of Rs 5000 per month, and for some, even higher than Rs 10,000. Residents interviewed stated that they had refused to pay such high bills for a usage they say is just not possible. Furthermore, they had repeatedly requested authorities for their water bills to be issued by the Water Board and not by the UDA. When brought to the attention of the UDA by residents and by civil society groups, officials admitted that there was a problem with the meters in the buildings but residents are yet to see this issue being resolved.

For most people from the affected communities, their livelihoods were concentrated in and around the area they lived in. While Dematagoda is around 6 - 8 kilometres away from their original location or city centre, the commute and additional costs for transportation has had an impact on their livelihood. There is no easy bus route to the city centre and many have to take more than one bus, whereas previously they would walk to their place of livelihood or had easy access to transport. Those who earned a living as daily wage workers said that their daily income had reduced as they now had to spend more money on transport. Those who had a business in their community itself – like a grocery, bicycle repair or tailoring shop found it difficult to continue their business in the new flats as there is a restriction on using the apartments for businesses. Those who have been allowed to set up businesses (mainly grocery shops) say business is sparse as they have lost their regular customers as well as having to compete with several other grocery shops in the building.

The most affected by the shift to Dematagoda are women who used to earn an income by providing food and other goods to shops close to their homes. Earlier the shops or people they supplied to would be walking distance from their homes, or they would sell from their homes. The lack of space is also an issue as those who took on catering jobs, made large amounts of food items per day or did tailoring work for example, say that they just do n'o have the space required. Many women can no longer engage in their previous income generating activities because of these issues and the time and money spent on transport meant that they did not make any profit or that what they made was minimal.

With a decline in household income and an increase in expenditure, an income mismatch is a given for those coming under the URP. Affected households are forced to make a substantial payment of Rs 100,000/- within the first three months of shifting homes, and then continue to pay a monthly payment of Rs 3960/- (over 20 years) or Rs 2650/- (over 30 years). Most of the affected households fall into the low income category where the majority of the main income earners are daily wage workers. This unanticipated expense coupled with loss of income and increase in other expenses has led to a severe income mismatch for

most households who on top of the monthly payments, also have to make interest payments on the money borrowed to pay the initial Rs 100,000. There are signs of a serious debt issue among affected families in time to come if their current financial situation does not improve.

A major concern for residents who had relocated and for those due to be relocated is the lack of access to some of the national schools in Colombo. For these communities, that their children have access to schools such as Royal College, Thurstan College, Isipathana College, Sirimavo Vidyalaya, Lumbini Vidyalaya is crucial. A lot of importance is placed on securing a good education for their children, as well as the prestige and social mobility attending these schools would bring. From improving the way they live at home to wanting to better themselves, these influences are attributed to the schools they go to and the people they are exposed to and for the communities we met, this loss of access to schools was a major problem. While children already enrolled in these schools will not be affected, people were concerned about how the shift to Dematagoda would affect their younger children who were not yet in school or for their grandchildren. This year, when applying to schools like Ananda College and Nalanda College, many children did not get the required amount of points because they did not have deeds and the letter issued by the UDA for proof of residence was not accepted by school authorities. Some families had chosen to shift their children to schools closer to their new homes as they could not afford the daily transport costs. They however complain that the quality of education in these schools close by is not on par with the previous schools and they can already see their children's performance in school dropping.

At their original location, people lived in communities where their houses were clustered next to each other. Children walked or travelled to school together, came back home to a secure environment where they did not need anyone to mind them, front doors would be kept open if people were home and people went about their daily life. Problems and issues did persist and these communities were in no way living harmonious lives at all times. But a particular feature of these communities is that it was multi ethnic in composition, where the different ethnic groups lived side by side. In the relocation process, apartments were allocated randomly in order to avoid being accused of "favouritism", which means that families from the same community are now living floors apart most often, and for some, buildings apart. This has meant a significant change in their everyday routines - for instance securing childcare for households where both parents work. Given that the new apartments are quite a distance away from the schools, families have had to arrange transport to drop and pick up their children or accompany the children themselves, arrange for after school care at a relative's or neighbour's house- all of which incur expenses they did not have to bear in their previous accommodation.

Women who stay at home also complain that they do not feel very secure in their new apartments, as they do not know anyone in the surrounding apartments. This has meant that their doors stay locked when they are at home during the day and their movements restricted to the small apartments; *'Dawal welawe kukul kuduwaka innawa wagey'* 'like being stuck in a chicken coop during the day' is how some describe it. Another design flaw in the apartments also contributes to this insecurity – once the front door is closed, there is

no way to tell who is outside as there are no windows with a view of the front entrance area. So while doors are kept open when there are many people at home, when it is just the women folk, young girls or children at home, doors are kept closed. This makes them feel even more insecure when there is an unexpected knock on the door. In one interview, a father of two 14-year-old girls said that on the occasions that he and his wife leave the girls alone in the apartment, they have developed a code where they will knock on the door in a particular way and only then should the door be opened. He stated that this was the only way to safeguard his daughters from opening the door to unknown males who might notice that the girls were alone at home.

In his keynote speech delivered at the 'South Asia Region Urbanisation Knowledge Platform' on 20th March 2012 at Cinnamon Grand, Colombo, the then Defence Secretary and the chief architect of Colombo's urban regeneration, Gotabhaya Rajapaksa stated *"It has been observed that relocating the urban poor to high-rise buildings causes several problems. The people find it very difficult to adjust to their new environment. They typically lack an interest in preserving these buildings properly, and their attention to cleanliness is not as great as it should be. Because they are from the low-income segment of society, they would find it difficult to maintain the high-rise buildings properly even if they had an interest in doing so."* Households reported in 2014 that UDA officials conduct spot checks on apartments to see how well they were maintaining the new apartments. While a few households did not seem to mind, most of those interviewed were resentful of the intrusion into their private space.

What is also worth highlighting is that despite this level of scrutiny into the maintenance of private space, the common areas of most of the apartments are filthy - with dirt, urine and betel spit splattered across the staircase walls and corners of the interior of the buildings. This meant that for many residents, inviting guests home or even having extended family over was not possible as they were ashamed of the state of the building and public areas. This perhaps can be attributed to the fact that people have no sense of ownership of the public areas and while they maintain their apartments, the private space very well, this does not extend to the common or shared spaces.

A frequent complaint from residents is also the lack of maintenance of the lifts in the buildings. When CPA visited Methsara Uyana and Sirisara Uyana several times from December 2014 – July 2015, there was only one lift in operation in each block, causing people to queue up and wait their turn. These apartment complexes have twelve floors and service thousands of residents every day. There are also disabled and elderly residents who had not been allocated apartments on the ground floor as requested by them. CPA interviewed a wheelchair bound individual living on the 3rd floor who had to be bodily lifted and carried downstairs on one occasion when he had to be rushed to hospital. This is also an issue that has been raised many times with the UDA, who say that the cost of repairing and maintaining these facilities are beyond what the UDA can afford right now, as a significant number of residents across all complexes have been defaulting on rental payments for several months. However, this justification is not altogether valid as residents pay rent towards title, and not towards maintenance.

There are some households that are satisfied with their new homes in the high-rise apartments and say that it has been a positive change in their lives. It is important to note, that many of those who are satisfied were previously occupying land that did not belong to them or their previous homes/ environment was not up to standard. They praised the new apartments and the fact that they no longer had to suffer floods, leaks or unhygienic conditions.

Learning from the global high-rise experience

High-rise buildings as a solution to house the poor has been experimented with globally, from the United States to the United Kingdom to India to Nigeria. The 1960's saw the failure of high-rise as a public housing model in the US and UK, leading many to be demolished as housing projects became ghettos with high levels of drugs, crime and poverty. There is enough evidence and multi-disciplinary research of more than five decades that documents experience of the high-rise model globally. The Sri Lankan experience detailed above, echoes those of many other countries around the world who have experimented with relocating the urban poor in high-rise apartments. An assessment of the programme highlights the lack of informed policy planning of the URP; that the mistakes made by others decades prior to this have been repeated, and will continue unless the current Government transforms Sri Lanka's approach and thinking in line with public housing policy.

Singapore remains a favourite model for Sri Lankan policy planners, especially when looking at urban housing and high-rise apartments. Singapore's public housing model is a success story worldwide but it is important to understand why it worked well in Singapore, and not in Sri Lanka or many other countries to realise that several other factors have to be taken into consideration. One key factor is that Singapore's Housing Development Board's (HDB) approach to public housing has not only been about building apartments, but more about creating livable communities. Speaking at a launch ceremony in November 2000, the Minister for Home Affairs at that time in Singapore explained the reason behind the consultative process in the HDB's estate upgrade was to not only ensure that the resulting design was one that enhances the living environment, but also endows it with an identity and a community spirit all of its own⁹. As Yuen (2007) writes of the Singapore experience;

"In Singapore, high-rise living is the familiar housing for the majority---84% in public sector and 6% in private sector. Right from the outset, it has carefully and comprehensively planned its public high-rises to provide quality living environment. The public high-rises are well-serviced by facilities, maintained and upgraded with resident input to provide responsive environments. Creating a bond between resident and high-rise is critical. In consequence, these high-rises have not degenerated to vertical slums but present a

⁹ Speech by Mr Wong Kan Seng, Minister for Home Affairs, at the upgrading and launch ceremony for Indus Precinct on Friday, 24 November 2000

continuing solution to the expanding population, suggesting alternative means of living in the city and designing socially acceptable towers.”¹⁰

In studies done on the lived experience of public housing in Singapore to see what factors have led to the occupants’ appreciation and satisfaction of high-rise living, the importance of self-selection and willingness to live in high-rise buildings is significant, as well as facilities such as playgrounds, libraries, schools, shops and markets being within walking distance and other communal facilities such as public spaces that encourage neighbourliness and community life¹¹. That all of this is part of the public housing experience in Singapore has led to high levels of satisfaction, with surveys done by the HBD over the years showing an increasing number of people who have voluntarily selected to live in high rise apartments, as well as people who have expressed willingness to always live in public housing.

The design and models of public housing in Singapore has also evolved over the years, with more consideration given to the common areas and shared space, as the buildings go higher and higher, with the intention of creating ‘villages in the sky’, where residents do not feel isolated or disconnected from their built environment, irrespective of which floor they are on or how big the apartment complex is.

Moving forward

Sri Lanka does not need to look beyond Dematagoda (North of Colombo) for examples of lessons learnt in housing low income communities. ‘*Sahasapura*’, completed in 2001 was the first high-rise low income apartment project in Sri Lanka. *Sahasapura* today has two of the URP high-rise buildings on either side – Methsara Uyana and Sirisara Uyana. A 2010 study of residents of *Sahasapura*, concluded that the “*relocation project failed to achieve its targets largely because the resettlement process did not address the disruption of social fabric and did not incorporate strategies to prevent social disarticulation. Also, it did not address other socioeconomic aspects such as livelihoods of non-regular income earners and their access to credit*”¹².

There is no doubt that many of Colombo’s low income settlements need significantly higher levels of service provision and that lack of adequate housing, secure tenure and title are a concern. However, the URP lacked a comprehensive framework of entitlements and an involuntary resettlement policy in line with national and international standards,

¹⁰ Belinda Yuen, ‘Singapore high-rise a sustainable housing model’, Conference on Sustainable Building South East Asia, November 2007, Malaysia

¹¹ Yuen et al, ‘High-rise Living in Singapore Public Housing’, Urban Studies Vol.43, March 2006

¹² Factors contributing to the failure of development induced resettlement projects: a case study of the “*Sahasapura*” slum relocation project, Colombo, Sri Lanka, S.L. Dhammika K. Wijayasinghe, Master’s Thesis submitted to the International Institute of Urban Management of the Erasmus University of Rotterdam, p.55.

essentially making accepting relocation a pre-condition for access to better housing and services.¹³

Therefore it is important that the policy principles of the National Involuntary Resettlement Policy be reviewed, brought up to date with national and international standards and be enshrined in law and made applicable to all future instances of land acquisitions involving relocation.

Specifically on housing, the Government must shift their approach with regard to housing for low income communities and explore all possible options, including and especially in-situ redevelopment and upgrading, to eliminate and minimise involuntary resettlement. The URP's approach to housing contradicts that which is spelt out in the draft National Housing Policy (NHP),¹⁴ which contains many positive elements despite its limitations. For example, the NHP specifically calls for "[s]trengthening community based organisations to promote community participation in housing development and guiding poor communities on decision making processes." The NHP also notes that the "[l]ack of emphasis on the approaches of participatory methodologies, capacity building and empowerment in low income housing development" has been a serious problem in respect of housing policy in Sri Lanka."

While this is mainly applicable to those who are yet to be provided with housing, there is also the serious issue of the thousands of families already relocated to the high-rise apartments. Solving the list of problems from the immediate to the long term, including tenure, security, access to facilities and services requires a multi-disciplinary study and approach that must bring together the expertise and input not only from policymakers but also architects, urban planners, sociologists, civil society and the group that is the most crucial – the communities.

Creating a sense of ownership with the built environment is key and this means approaching it from different angles. High-rise living is a way of life and one that must be a choice – and what we have today is thousands of families being forced to adapt to it, with no consideration of their socio economic wellbeing, nor of the importance placed on community. The road ahead is a long one and one that the UDA must sincerely commit to as an exercise in uplifting the lives of people and providing adequate housing, instead of seeing it as an exercise in liberating land in Colombo. We need to change the mindset that providing any type of housing for low income communities is sufficient and in addition to following due process and creating spaces for inclusive decision making, also concentrate on, in the long run irrespective of type of housing, towards creating a sense of ownership in the private and public space in the built environment, allowing for community life to continue and grow, security of tenure and improving the quality of life.

¹³ Centre for Policy Alternatives, 'Forced evictions in Colombo: the Ugly Price of Beautification', April 2014

¹⁴ Draft National Housing Policy, <http://www.housingpolicy.lk/images/pdf/NHPE.pdf>



Forced Evictions in Sri Lanka's City Planning and Beautification; Implications for Human Rights

Nillasi Liyanage and Sindhu Ratnarajan*

Introduction

City planning and beautification is not a concept alien to Sri Lanka. The ancient city of Anuradhapura was methodically organized by King Pandukabhaya according to an original master plan. This was developed by succeeding rulers which transformed the capital into a stable centre of political power and urban life in South Asia.¹ Modern leaders have shown the same concern for city planning with different degrees of effectiveness.

The American Planning Association defines city planning as "a process of improving the welfare of the people and their communities by creating more convenient, equitable, healthful, efficient and attractive places for present and future generations. Furthermore, good city planning offers better choices for where and how people live, lets them envision their future and finds the right balance of new development and essential services, environmental protection and innovative change."² Thus the core of city planning is to raise living standards by aiding good governance, and preserving fundamental human rights. This thereby lays the road for economic and social development.

However, recent city planning and beautification projects in Sri Lanka have negatively affected human rights, dwarfing its projected objectives of. A major concern is the forced eviction and involuntary resettlement of people, mostly from underprivileged and minority groups. Although most evictions were justified as the removal of illegal settlements, continuous enjoyment and legal documentation held by the evictees, prove otherwise.

At present, though a majority of such State-endorsed evictions have halted, the consequences still remain. The evictees were uprooted from their communities leading to social issues such as erosion of security and breakup of communities. Many have had to give up their usual livelihoods and lifestyles. Some have even lost their right to vote due to lack of a permanent address.

The current government's proposals of a 'Megapolis project' and transforming Colombo into a 'Smart City' may detrimentally affect human rights if executed as before. In that context, a close scrutiny of the forced evictions and involuntary resettlements from 2009 to 2015 is

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¹ Anuradha Seneviratna, *Ancient Anuradhapura: the Monastic City* (Archaeological Survey Department 1994), pp. 13, 14

² American Planning Association, <<https://www.planning.org/aboutplanning/whatisplanning.html>> accessed 12 November 2015

relevant. A rights based approach to the future trajectory of urban regeneration should be adopted.

Hence, this paper explores the various rights that are prone to violation where there are forced evictions. It also presents recommendations for improving the existing framework.

It is pertinent to understand definitions that are intrinsic to this discussion. Forced evictions, is defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”³ It leads to displacement, “a process by which development projects cause people to lose land or other assets, or access to resources usually resulting in physical dislocation, loss of income, to other adverse impacts.”

Displacement is one arm of involuntary resettlement, of which the other is resettlement. In a process of involuntary resettlement, those adversely affected are assisted in improving and restoring their previous living standards.⁴

Background: Colombo Metro Development 2009-2014

The Metro Colombo Urban Development Project includes several urban regeneration programmes undertaken following the end of the internal conflict. It aimed to beautify Colombo with scenic public spaces such as the ‘Independence Arcade’ located in the heart of Colombo. Another aim was to reduce shanties by providing inmates with high rise apartments, simultaneously improving their quality of life.⁵ In its execution the project could not meet these objectives.

Resettlement in apartments did not equally benefit all evictees. While those living in shelters unsuitable for human habitation found the apartments beneficial, others speak of a decrease in their living standards.

The Metro Colombo Development Project failed to provide fitting alternatives. In the case of Castle Street, consisting of slums on state owned land the evictees were promised apartments with full ownership. For apartments worth 7 million, people were required to pay only 1 million, a seemingly great bargain. However, the option of alternative housing involved a 20 year debt burden and an upfront payment of Rupees 100,000 within 3 months. Compensation paid was limited, with no thorough consideration of lost land,

³The right to adequate housing (Art.11.1): forced evictions: 20/05/97 CESCR General comment 7. (sixteenth session 1997) 2

⁴ ‘Forced Evictions’ <www.worldbank.org> accessed 22 October 2015

⁵ http://www.defence.lk/new.asp?fname=Colombo_beautification_projects_20140401_07 accessed 07 November 2015

structures, businesses and assets.⁶ Considering that the evictees are low income earners, the requirement to pay monthly installments for 20 years would be a great burden.

Moreover in the Java Lane Case, while families had previously held title deeds, no documentation regarding ownership of their new apartments were given. Having made to sign many documents, copies of them weren't granted even on request.⁷ While an appearance of a voluntary agreement was there, it was indeed rather arbitrary. City planning was carried out in an expedited, cavalier manner.

The Pettah 'Floating Market' expected to become a marketplace and a tourist attraction did not gain proportionate returns on investment. A drastic reduction in sales has led to plans of bringing back the vendors originally evicted from Bastian Mawatha,⁸ suggesting the un-sustainability of the project.

As observed above, Sri Lankan city beautification and urban regeneration projects, though ambitious, have had limited success. Some reasons include lack of attention to due process and human rights, a failure to prioritize projects beneficial to the public and not obtaining public participation or being inclusive of citizens from all strata.

National Legal and Policy Framework

Constitutional provisions

While the right to an adequate standard of living and adequate housing appear as directive principles of state policy in the Constitution of Sri Lanka, they are not justiciable before the law.⁹ However other fundamental rights recognised therein can act as effective safeguards against forced evictions.

Article 12 of the Constitution considers all persons 'equal before the law' and 'entitled to equal protection'¹⁰. Although discrimination based on income isn't explicitly mentioned, discrimination on the grounds of race, religion, language, caste, sex, political opinion, place of birth or such grounds is contrary to this right.

Shanty dwellers are often from low income earning families and if city planning and beautification only targets lower income dwellers, it is then arguably, a form of 'social cleansing'. Had forced evictions affected the middle and upper classes of society it may have witnessed stronger opposition. If one segment of society is allowed to enhance their

⁶ Centre for Policy Alternatives, April 2014 *Forced Evictions in Colombo-The Ugly Price of Beautification* 32

⁷ *Ibid*

⁸ <<http://www.ceylontoday.lk/90-105601-news-detail-floating-market-haven-for-prostitution-and-drug-addicts.html>> accessed 22 October 2015

⁹ The Constitution of Sri Lanka, 1978, Article 29

¹⁰ The Constitution of Sri Lanka 1978

livelihoods while another is unable to fulfil their basic needs, there is then, a violation of the equal protection that is envisaged in Constitutional provisions.

Further, Article 22 (4) states that all orders, proclamations, notifications used by any public institution or local authority shall be published in both National Languages.¹¹ In the Java Lane Case, citizens who were primarily Malay Moors—a largely Tamil speaking population were asked to sign documents entirely in Sinhala. This led to citizens signing documents that they didn't comprehend, demanding an unquestioning acceptance on their part¹². It became a norm for authorities to disregard language rights. By not seeking their cooperation, the public was further distanced from the process of city beautification.

Article 14 (1) provides for the freedom to engage in any lawful occupation and also the freedom of movement and of choosing one's residence within Sri Lanka. This can also be used as a combined right against forced evictions. A person's residence is often a determining factor in his profession and contributes towards efficiency at his workplace. Many a time people who were forcibly evicted had been engaged in small businesses within their homes. They have eventually been unable to secure similar numbers of customers when re-housed.¹³

The 19th amendment gives Constitutional protection to the right of access to information. This right allows the public to demand information regarding the processes behind forced evictions and involuntary resettlements. Thereby, the culture of secrecy that has overshadowed city development projects like Mews Street and Java Lane can be alleviated. Arbitrariness and corruption on the part of authorities can also be reduced by increasing transparency. Introducing an enforcement mechanism for the right to information will encourage the practical application of this safeguard.

The right to a fair trial as set out in Article 13 is integral for those who seek justice for their grievances. In Mews Street, Slave Island, over 30 houses were destroyed to build a high profile school¹⁴. There was no mention of alternative accommodation or compensation.¹⁵ In response to a fundamental rights case, the Urban Development Authority (UDA) sought to

¹¹ *Ibid*

¹² *Supra* note 6, 30

¹³ Mr. M. Nazeer, a resident evicted from near the St Sebastian canal says that his eatery was one of the largest businesses in the area and his monthly profit was around Rs. 150,000. Since it was a registered business identified by project officials, he was eligible for compensation at replacement cost and received Rs. 500,000. Today, he has gone from a 2-storey house where the ground floor was solely for his shop, to operating a shop in his 400 square foot apartment in *Methsara Uyana*. He makes around Rs. 15,000 – 18,000 now and finds the impact on his business and loss of income very hard to live with. There are several other grocery shops and eateries in the building and competition is high as everyone is trying to make up for the loss of a customer base. <<http://www.sundaytimes.lk/150524/business-times/evicted-under-the-world-banks-watch-149983.html>> accessed on 26 October 2015

¹⁴ 'Defence Ministry Slams Supreme Court: Cheats Displaced People with SC Approval'(25 November 2013)<<https://www.colombotelegraph.com/index.php/defence-ministry-slams-supreme-court-cheats-displaced-people-with-sc-approval/>> accessed 10 November 2015

¹⁵ *Supra* note 6, 8

build alternative accommodation in Dematagoda, the '*Mihindu Senpura*' apartments. However 3 years later it was revealed in court that these apartments had been distributed to some others. The Defence Secretary had indicated that these petitioners would not be given houses despite the court order. UDA officials were unwilling to act against the instructions of the Defence Secretary. The de facto Chief Justice, Mohan Peiris, failed to uphold the UDA for contempt of court.¹⁶ These events show that politicization and corruption within higher officials may prevent a person from accessing his fundamental rights even when enforced by courts, since there is a complete disregard for it by authorities.

While carrying out evictions, it is also essential that the dignity of a person is kept intact. Article 11 states that 'no person shall be subjected to degrading treatment,' and Article 14 (g) provides every citizen the freedom of choosing his residence within Sri Lanka. These provisions sanction the right to be treated with dignity in the event of an eviction. The evictions of families in Wanathamulla, Borella, involved the use of army personnel to intimidate and threaten residents to vacate their premises. No alternative accommodation was provided, forcing people to reside in tents while their promised apartments were yet being constructed.¹⁷ Evictions in connection to the rehabilitation of the St Sebastian South Canal area also resulted in similar incidents. Residents claim that they were removed by force, signatures were coerced and army officers threatened to bulldoze their house whether or not they moved. In one instance an officer had even threatened to shoot unless they moved.¹⁸ Such treatment is perhaps a consequence of bringing the UDA under the purview of the Defence Ministry. Considering that these institutions have no objectives of mutual interest, such acts shouldn't be encouraged.

Land Acquisition Act (LAA) No 9 of 1950

The Land Acquisition Act allows the Government to legally acquire 'privately owned' land. According to the Act, the Minister can decide at his own discretion, whether any area is needed for any public purpose. This bestows on the State the right to interfere in private ownership.

The seven day notification margin set out in Section 2 of the LAA is rather insufficient causing much inconvenience in finding alternative accommodation. In *Bakery Watte*, inhabitants were forcefully evicted with immediate effect even when no distinct purpose for the land thus acquired had been finalized.¹⁹

¹⁶ *Supra* note 14

¹⁷ 'Bar Association Condemns Borella Evictions' (The Republic Square, 30 January 2014) <<http://www.therepublicsquare.com/politics/2014/01/bar-association-condemns-borella-evictions/>> accessed 11 November 2015

¹⁸ 'Evicted Under World Banks's Watch' (Business Times) <<http://www.sundaytimes.lk/150524/business-times/evicted-under-the-world-banks-watch-149983.html>> accessed 11 November 2015

¹⁹ <<http://dbsjeyaraj.com/dbsj/archives/29926>> accessed 29 October 2015

Furthermore, compensation is only available to those who can provide written proof of their interests over the land.²⁰ Therefore no obligation is placed on the Government to provide the evictees with options for resettlement in the framework of this legislation. It is evident, in the manner of the implementation of this Act, that there is scope for its arbitrary use and consequently in the infringement of fundamental rights (as outlined above)

National Involuntary Resettlement Policy (NIRP)

The National Involuntary Resettlement Policy was formulated in 2000 and received cabinet approval in 2001²¹ as a means of addressing the shortcomings of the Land Acquisition Act. Its main objective is to ensure that persons with private ownership of land would be adequately protected when displaced by development projects.²² It seeks to ensure that people are not negatively affected and are able to restore their living standards and integrate into their new environments.²³ Therefore agencies are required to submit detailed Resettlement Implementing Plans, for all projects displacing twenty or more. Authorities are also expected to pay compensation for land at replacement value.²⁴

Even though NIRP was introduced a decade ago, it is yet to be adopted into legislation.²⁵ Since the policy is not enforceable one can only rely on it for persuasive value.²⁶ The policy principles of the NIRP include minimizing the negative impacts of involuntary resettlement by facilitating re-establishment on a self-sustainable basis.²⁷ Thus NIRP aims to ensure that no impoverishment takes place as a consequence of compulsory land acquisition and involuntary resettlement.²⁸

²⁰ Land Acquisition Act No 9 of 1950, s 9 (3)(b)

²¹ N Godamunne, 'Development and displacement: the national involuntary resettlement policy (NIRP) in practice' (2012/2013) <http://dl.nsf.ac.lk/bitstream/handle/1/19351/35_36_1_2_37.pdf?sequence=1&isAllowed=y> accessed 29 October 2015

²² Vidya Nathaniel, 2015, 'The National Involuntary Resettlement Policy: A case for implementation' *Daily FT* (12 June 2015)

²³ N Godamunne, 'Development and displacement: the national involuntary resettlement policy (NIRP) in practice' (2012/2013) <http://dl.nsf.ac.lk/bitstream/handle/1/19351/35_36_1_2_37.pdf?sequence=1&isAllowed=y> accessed 29 October 2015

The first large scale development project that adopted the principles of NIRP was the Southern Transport Development Project. Even those who did not have legal titles were recognized as being eligible to a right to compensation.

²⁴ *Ibid* 41

²⁵ *Supra* note 22;

With President Sirisena taking oaths in January 2015, Harsha de Silva, the then Deputy Minister of Policy Planning and economic development, after a visit to the high rise apartments in Dematagoda, promised that the NIRP will soon be legislated. While this would address most of the pressing needs of the inmates, 26 action is yet to be taken following this visit. Forced Evictions in Colombo: High Rise Living Centre for Policy Alternatives (May 2015) 9

²⁷ National Involuntary Resettlement Policy (NIRP) incomplete

²⁸ *Ibid*

NIRP also seeks to ensure a consultative, transparent and accountable mechanism in providing redress available for the victim. This is essential considering that many of those who are forcibly evicted are from lower income groups, making them less likely to be aware of or have access to such means. Therefore this provision can be of great value. If projects that require evictions and resettlements offer legal aid, evictees could be made more aware of their rights. This is especially important to give guidance on basic formalities, documentation, choices of compensation, alternative accommodation etc.

NIRP principles include gender equality and equity, full involvement of affected persons in the process of resettlement. The scope of this policy extends to assistance in even psychological, cultural, social and other stresses caused. While NIRP provides suitable guidelines in identifying people's rights and understanding the difficulties of resettlement, it is important that there is a mechanism for it to be made a reality.

The quandary with regard to evictions and resettlement has often been over whether those who didn't have proper ownership titles of land, but had been residing in a place over generations need to be compensated. Since squatting over long periods of time on State lands over the long term doesn't guarantee ultimate legitimate ownership of such lands (as in prescription rights that may be claimed over private lands), state acquisition of such land has often been justified. However, squatters are an indication of the larger issues of urbanisation that is unplanned. High cost of living and lack of space leads to informal settlements which have grown into sizeable settlements over decades. The aim of city planning projects should be to alleviate informal settlements by giving permanency to them, not necessarily through evictions.

Since NIRP offers an officially recognized framework which is also workable²⁹, its incorporation fully into law, may allow for better dealings with involuntary resettlements. City beautification will thus become an initiative in which people will voluntarily engage in, if the principles suggested by NIRP are followed. Currently many feel that they are being arbitrarily deprived of their rights and have to bear the brunt of these urban regeneration projects. The manner in which evictions are carried out lately suggest a notion that low income earners and their shanty dwellings are an obstacle to development, therefore they should be all resettled in identical looking high rise apartments. On the contrary, NIRP policies focus on allowing people to engage in the city planning discourse so that forced evictions become more people centred and city planning shifts from mere beautification to uplifting living standards. An appreciation for the communal way of life and the environment that cannot be replicated in apartments is also created.

International Safeguards against forced evictions

Forced evictions have been addressed as a key issue leading to the violation of human rights. As far back as 1976, it was determined in the United Nations Conference on Human Settlements that major clearance projects can take place only when conservation and

²⁹ *Supra* note 22

rehabilitation are not feasible. In 1988 the fundamental obligation by the government to protect and improve neighbourhoods and houses rather than destroy them was also recognized. Agenda 21 too affirmed protection from unfair evictions, while the Commission on Human Rights considered it a 'gross violation of human rights'.

International law may not always have the power of enforcing a response from the local community. However international jurisprudence has been utilized, as in the case of Susan Waithera Kariuki and 4 others v Town Clerk, Nairobi City Council & 2 others in the interpretation of housing rights and protection from forced evictions. This case sought to balance the right to property with housing rights concerning informal settlements in the backdrop of city beautification. The judge interpreted the right to adequate housing—enshrined in the Kenyan Constitution—using jurisprudence from South Africa as well as international human rights law. This however was possible because the Constitution of Kenya states that 'The general rule of international law shall form part of the Constitution of Kenya' and 'any treaty or convention ratified by Kenya shall form part of the law'.³⁰ It's clear that international law as a means of redressing eviction and displacement will influence a nation only to the level that the country allows it.

The United Nations has also adopted the Optional Protocol to the ICESCR which, once in force, will enable individuals to file complaints directly with the CESCR having exhausted all domestic remedies.³¹

Universal Declaration of Human Rights (UDHR)

Forced evictions are protected through many articles of the UDHR. Article 1 emphasizes that 'all humans are born free and equal in dignity and rights'. Article 8 provides everyone the right to an effective remedy against acts that violate his fundamental rights. According to Article 12 'no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence'. Article 17 states that everyone has the right to own property and that 'no one shall be arbitrarily deprived of their property'.³²

UN ICESCR General Comment 7

General Comment 7 mentions that the circumstances under which forced evictions can be permissible are questionable, for the term in itself may seem arbitrary. Even if forced evictions may be justified, they can only be executed in so far as they are compatible with Article 4, for the purpose of promoting the welfare of society with general principles of reasonableness and proportionality. Opportunity for genuine consultation, adequate

³⁰ The Constitution of Kenya

³¹ Leilani Farha, 2011 'Forced Evictions: Global Crisis Global Solutions', UN Habitat

³² Universal Declaration of Human Rights 1948

reasonable notice, timely information on nature of evictions, process, provision of legal remedies/legal aid and redress from court are essential requisites.³³

International Covenant for Civil and Political Rights- Optional Protocol

Sri Lanka has ratified the ICCPR which speaks of the right to reside in a place of one's choice and also protection against all forms of forced internal displacement. The only restrictions for this right are national security, public order, health, protection of others' rights. The test of proportionality, reasonableness and the need for housing should also be considered.³⁴

Women, children, ethnic minorities and other vulnerable groups are disproportionately affected by forced evictions. Women especially may be particularly vulnerable to violence and sexual abuse when rendered homeless,³⁵ which makes the discrimination clauses of article 2.2 and 3 of the ICCPR significant. Article 17.1 of the ICCPR complements protection from forced evictions by the right against arbitrary and unlawful interference with one's home. Article 14 too provides a right to fair hearing, due process in relation to property rights and protection from arbitrary interference, which further enforces this right.

Thus an ideal framework has been established by the international arena in relation to rights available in case of forced evictions. Practically speaking even if a person receives attention from the international sphere for violation of human rights, it carries only persuasive value. They are however useful in terms of policy formulation. It is also essential that changes are made at national level, in order to give more adherence to international policies and values.

Compensation

One of the basic principles of the right against forced evictions is the duty of the State to provide adequate compensation. The adequacy of compensation depends on the circumstances of each case. The extent to which they fulfill the criteria of the right to housing, security, access to basic services, affordability and habitability determines the sufficiency of alternative lands. It is not always easy to fulfill these criteria. For instance, indigenous communities have a strong, enduring bond to their land and will often find the offer of alternative land or monetary compensation unacceptable.³⁶

In Sri Lanka, a person is granted compensation for the land one lives in, and not for the investment on land. A two storeyed house is regarded the same as a one storeyed house.

³³ *Supra* Note 3

³⁴ UNHABITAT, 2007, *Forced Evictions-Towards Solutions* Second Report of the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT 131

³⁵ The right to adequate housing (Art.11.1) CESCR General comment 7 sixteenth session 1997

³⁶ *Supra* Note 31

Registered businesses receive compensation, but micro enterprises, which involve distribution of food to nearby residents or small tailoring businesses, are ignored. With a change in location the continuity of businesses are threatened because it can lead to a change of customer base, and possibly a heightening of competition. Despite National Involuntary Resettlement Policies which specify that forced evictions shouldn't result in a state of impoverishment, these un-discussed changes have led to a diminution in the income of those affected.

Furthermore, there is no method of compensation for major disruptions caused to day to day activities. For example, heavy transportation costs were incurred when continuing prior livelihoods, such as schooling and travelling to workplaces. Residents who were evicted and not provided homes such as in *Apple Watte*, Wanathamulla, reported a loss of their vote.³⁷ The deprivation of such a vital civic right can in no way be compensated.

Land use planning such as zoning affect land values, thus prices of land designated for agricultural purposes fall to minimum levels.³⁸ These are some of the factors that need to be considered in a scheme of compensation for involuntary resettlement.

Although Development projects aim to provide replacement costs with the intention that such payment will restore the loss, families have found it increasingly difficult to buy land with compensation paid and to make the shift from land-based to non land-based occupations.³⁹

Conclusion and recommendations

Whilst development can be seen as a right to which all should have access to, one must also be protected from its negative impacts, such as the loss of economic, social and political rights and arbitrary eviction. Thus development should aim to improve livelihoods using a transparent mechanism, with the participation of the people from grassroots level.⁴⁰

Past experiences have shown that city beautification projects have prioritized expedited execution over a non-arbitrary and systematic process. The failure to acknowledge human rights has overridden the ultimate purpose of development by leading to greater issues. It is essential that upcoming city planning projects learn from the past and give proper acknowledgement to human rights.

Compensation for forced evictions needs to be reviewed, though the toll of resettlement cannot be fully compensated. However compensation, as often interpreted by courts, is not

³⁷ Forced Evictions in Colombo: High Rise Living Centre for Policy Alternatives May 2015, p. 13

³⁸ *Ibid*, pp. 144, 145

³⁹ *Supra* Note 23

Irrigation development schemes such as the Mahaweli Development Project of the 1970s have led to resettlements. Most of the affected families were resettled in the dry zone, where families had to learn to cultivate different types of crop than what they were used to, leading to malnutrition, impoverishment.

⁴⁰ *Supra* Note 23

sufficient to redress damage and loss, but is seemingly a small contribution towards the losses suffered. In securing the rights of a person it is thereby essential that compensation shouldn't be used as a means of justifying the violation of fundamental rights.

It is also important to change the perception that shanties are an impediment to development, without acknowledging that they may well be a consequence of unplanned urbanisation.

The way forward may be to learn from the experiences of other jurisdictions. In the 1960s the Housing and Development Board of Singapore was able to give a complete solution to the housing issue in the city where earlier 91% of the people had lived in slums. A 'Public Housing Strategy' consisting of an agency in charge of Public Housing enabled this feat.⁴¹ It is a strong indicator that Sri Lanka too should adopt a holistic approach in providing alternate housing for shanty dwellers. For instance, the Ministry of Housing and Samurdhi could work in coordination with the National Housing Development Authority and the Urban Development Authority, so that the evictees could receive necessary support during this transition.

It is necessary to learn from the past. In contrast to earlier experiences, the proposed Western Region Megapolis Project is to be implemented with reference to an appropriate legal framework, namely the 'Megapolis Development Authority Bill' which is awaiting parliamentary approval.⁴² Specific working groups are to handle tasks such as urban design, legal framework, acquisition and compensation.⁴³ It can be recommended that a mechanism should be formulated for these groups to work closely with elected and appointed officials and communities. The input thus received can be used to formulate projects that address the real needs of the people. It is essential that these activities are non-partisan and free from politicization, if the rights of the people are to be respected.

NIRP requires that involuntary resettlement be reduced as much as possible, by firstly reviewing alternatives in any development project. The Megapolis Project proposes an Elevated Rail Network System for Colombo and the suburbs. The laying of the rails will involve the acquisition of land. Keeping in line with the above principle the route of the monorail should be mapped in a way that minimizes the acquisition of private land, and in turn, forced evictions.

The proposed Zoning System of the Megapolis Project also sets out different areas of the Western Province for specified purposes. This includes Residential Zones, Industrial Zones (Horana and Mirigama), and Tourism Cities (Negombo and Maggona). Once the zoning is done, those presently carrying out business activities, may be hindered from continuing, if their livelihoods are contrary to the purposes set out in the plan. Even with expert

⁴¹ Housing and Development Board, Singapore <<http://www.hdb.gov.sg/cs/infoweb/about-us/history>> accessed 12 November 2015

⁴² <<http://www.thesundayleader.lk/2015/09/20/port-city-will-come-under-megapolis-development-minister-ranawaka/>> accessed 26 October 2015

⁴³ Western Region Megapolis Planning Project, <www.wrmpg.gov.lk> accessed 29 October 2015

knowledge, it is difficult to maintain individual property rights while zoning.⁴⁴ A Zoning Ordinance is essential to manage the process of zoning with minimal disturbance. In addition, a Zoning Board of Appeals should be introduced to provide adjustments and modification after zoning is put into operation. This allows a more participatory process.

Recently, Prime Minister Ranil Wickremasinghe in revealing the mid-term economic plan stated that those living on rent in government houses for more than 20 years and those living in line houses would be given ownership of housing.⁴⁵ This can be considered a step towards the goal of giving permanency to informal settlements by means other than involuntary resettlement.

With respect to land acquisitions, limitations should be placed on the Minister's autonomy and use of discretion to ensure accountability in land acquisition for public purposes. Limitations can be in the form of compulsory consultation with planning experts and members of the potentially affected community. In addition, a condition may be imposed requiring the Minister to give reasons for the selection of such areas, along with a detailed proposed development plan, in keeping with the Government's current commitment to the right to information the provision of alternate housing should be made mandatory on the part of the Government.

Even if international safeguards only maintain a persuasive value, it is essential to retain them for purposes of accountability. Therefore the role of NGOs/CBOs is integral in utilizing recommendations such as concluding observations of treaties to demand action and change in a variety of ways: to build media attention, publically shame their government, or to support litigation.⁴⁶

Thus, by strengthening and enforcing the available local and international framework regarding forced evictions, and creating an atmosphere where human rights are given due respect, city planning and beautification activities in Sri Lanka would reach their objective of aiding the development of the country.

⁴⁴ Newman F. Baker, The Zoning Board of Appeals, Minnesota Law Journal , 1926 volume 10
<<http://heinonline.org/HOL/LandingPage?handle=hein.journals/mnlr10&div=27&id=&page=>>
accessed 27 October 2015

⁴⁵ 'EPF-ETF to become new retirement fund' Yohan Perera (Daily Mirror, 6 November 2015)

⁴⁶ Leilani Farha, 'Forced Evictions: Global Crisis Global Solutions' (UN Habitat) p. 29



Ending Displacement: Definitions and Reality

Policy Brief: Centre on Housing Rights and Evictions (COHRE)*

Introduction

Much has been written about displacement and overcoming displacement, both internationally and in Sri Lanka. The causes and consequences of displacement are diverse and complex. And the ending of displacement requires creative and innovative policies and programmes to address the particular difficulties and challenges of displacement. These difficulties will differ among the different circumstances in which persons are displaced. The involuntary displacement of persons has been a significant feature in Sri Lanka following the conflict in the North and East, and the Tsunami natural disaster of December 2004. Displacement is also induced by other natural causes, and by large scale development projects planned for the city of Colombo and other parts of the country. Each of these instances presents their own set of challenges for managing and bringing displacement to an end. It is significant to examine the different circumstances in which persons continue to be displaced in Sri Lanka, the manner in which the different contexts of displacement are managed and brought to an end, and the particular challenges they present to policy makers and the displaced persons themselves.

Several programmes and initiatives implemented in the past by government and non-government actors in Sri Lanka have aimed to address displacement, and establish sustainable and durable solutions for the ending of displacement. On-going programmes include – those that aim to ‘resettle’ displaced persons in the North, and programmes for the ‘resettlement’ of persons subject to development induced displacement.¹ However, it is not always easy to define features that typify displaced persons. For instance, while some displaced persons live in welfare camps and temporary accommodations, and clearly fall into the category of displaced persons, others may appear to be living in very settled circumstances and in conditions which are seemingly sustainable, but still identify

* A Policy Brief of the (former) Centre on Housing Rights and Evictions (COHRE) in the series of briefs entitled – ‘Housing, Land and Property Restitution in Sri Lanka’. It was compiled by Ms. Rasika Mendis in 2011, while she was attached to the Centre as a Senior Programme Officer, Legal Advocacy. The definitions explored in the policy brief are relevant to the on-going development related displacements associated with the regeneration of Colombo city and other urban locations through-out Sri Lanka today. While the references to conflict-related displacement are in the past, these references are useful to compare/consider different contexts of displacement and resettlement, and remedies that are most appropriate and relevant to addressing the complexity of displacement and loss.

¹ The term ‘resettlement’ is used to refer to a particular process of bringing displacement to an end; see note 6 and 8

themselves as displaced persons. Hence, it is not always clear whether displacement has in fact ended.

The scope of this briefing will be confined to two broad areas of displacement, namely conflict – induced displacement and development induced displacement. Within these two broad categorisations, there are many different ways in which persons are pushed into displacement. Both areas however, are typified by the 'involuntary' nature of the displacement, in that persons are subject to a certain amount of coercion to leave, and their choices are limited by events which are beyond their control.²

This briefing will discuss the scope and ambit of what it means to bring such displacement to an end. It will refer to popular terms and definitions that are used in connection with displacement in the international sphere and their relevance to Sri Lanka. It will then attempt to relate these definitions to the contexts of displacement in Sri Lanka, in order to make sense of whether in fact different types of displacement is being brought to an end.

Definitions, policy and practice

Internal displacement has received little attention from the international community until the recent past; primarily because problems associated with internally displaced persons are internal to national territories, and is not of immediate concern to international peace and stability. Given the humanitarian and human rights implications of displacement however, there has been increased attention on the plight of these persons. The urgency of their circumstances has made it necessary to identify those features that warrant the legitimate classification of persons, as internally displaced persons.

The most commonly referred to definition of an internally displaced person is to be found in the United Nations Guiding Principles on Internal Displacement (commonly referred to as the 'Deng Principles').³ The preamble to the principles stipulates as follows:

“... internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, *in particular* as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border (emphasis added).”

This definition clearly captures within its fold persons who have been displaced due to violence resulting from conflict. These persons are obliged to leave their homes due to the inability to remain in the face of violence and violations of their human rights resulting from armed conflict. The definition, on the face of it, is less inclusive of those who have been

² See; Muggah R. (2003), *A pressing humanitarian and developmental issue: reflections on Internal Displacement*, GSC Quarterly 9 (Summer 2003)

³United Nations (1998) *United Nations Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, annex section 2

displaced due to large scale development projects. However, it does not exclude these persons. It refers 'in particular' to those who have been displaced due to armed conflict, but the key determinant in the above definition for all intents and purposes, is – 'persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence'.

It is therefore important for purposes of defining displaced persons to also identify the potential consequences of having been forced or obliged to flee or leave one's home of habitual residence. A real consequence of displacement is for the potential for persons to become gradually impoverished and vulnerable by their displacement. The preamble to the Deng Principles outlines some of the adverse effects of displacement:

"...Often the consequence of traumatic experiences with violent conflicts, gross violations of human rights and related causes in which discrimination features significantly, displacement nearly always generates conditions of severe hardship and suffering for the affected populations. It breaks up families, cuts social and cultural ties, terminates dependable employment relationships, disrupts educational opportunities, denies access to such vital necessities as food, shelter and medicine, and exposes innocent persons to such acts of violence as attacks on camps, disappearances and rape..."

Therefore, it is necessary, in any given situation to also identify the potential consequences of having to leave one's home or habitual residence, to be able to determine whether there has in fact been an incidence of displacement.

In the context of large scale development projects, the need to leave one's home or habitual residence is associated with both forced evictions and market evictions. Much has been researched and written on these types of evictions based on case-studies from around the world.⁴ Not all evictions employ the use of force, but still retain a certain amount of coercion. Forced evictions have been defined by the international community as –

"... the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or lands which they occupy, without provision of, and access to, appropriate forms of legal or other protection. The prohibition of forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenant on Human Rights."⁵

Other instances of evictions may not necessarily employ the use of force. But evictees may still be under pressure to leave their houses, and to release their lands in the name of economic development and the more profitable use of their lands. Such evictions may entail

⁴ See; Durand L. A. (2005) *Dealing with Market Evictions Processes in the Context of Developing Cities*, Third World Bank Urban Research Symposium. Land Development. Poverty Reduction Urban Policy

⁵ United Nations (1997) The right to adequate housing (article 11.1 of the Covenant): forced evictions, General Comment No. 7, paragraph 3

the allocation of moneys by Government for the resettlement of evicted persons and for the payment of compensation, but there is always no guarantee that the economic and housing conditions of the evicted persons will not deteriorate. Evictions of this nature are therefore often referred to as 'market driven displacement' or 'development induced displacement', for their potential to reduce and undermine the stability and welfare of those who have been obliged to leave their homes and lands. In the case of both forced evictions and market based evictions, displacement is caused by pressure from the market, and the demand for land which most often is in excess of supply.

As in the case with all types of displacement it is not always possible to outline clear instances of when such development begins and ends. There is less clarity where development induced displacement is concerned, especially in terms of the issues and problems and the relief and redress that the persons concerned are entitled to. Unlike in conflict induced displacement, they may not fall into definable categories for which humanitarian and other relief is warranted. However, there is recognition that all forms of displacement, including development induced displacement exposes persons to tremendous risks of impoverishment and loss.

Those living in informal settlements (such as in slums, shanties and low-income housing) are rather precariously placed, in view that their capacity to negotiate a compensation and resettlement package is considerably challenged by their lack of land tenure over the lands they occupy. Hence, the compensation paid to those from formal settlements on the expropriation of land and property, may not be available to those living on informal settlements.⁶ However, the degree to which these persons will be able to bargain or negotiate the terms of their displacement and resettlement will be influenced by other factors, such as whether they have 'de facto tenure' over their lands, whether they enjoy a certain social-status or political protection. It is generally assumed that all evictions that are not forced will be conducted according to a stipulated legal procedure and framework, though this will often be subject to power politics and political decisions.

The concept of resettlement is widely used in the context of development induced displacement. While there may be different instances and types of resettlement programmes and schemes, the term resettlement has been recognised to necessarily imply – a movement of the population from one location to another, entailing population control (the reintegration of persons with a host community).⁷ It entails substantial planning to ensure self-reliance of resettled communities and the gradual reduction of their dependency on both the host community and the state.⁸

In the Sri Lankan context, a National Policy for Involuntary Resettlement was drafted with the facilitation of the Asian Development Bank (ADB). The policy was drafted to address the large scale displacement that would result from the development projects, which were

⁶ See; Durand L.A. (2005) *Market Driven Displacements and the Perpetuation of Informal Settlements in Developing Cities*, 6th N-AERUS Research Conference on Cities in the South, Lund, p. 3, www.n-aerus.net/web/sat/workshops/2005/papers/24.doc, accessed June 09, 2011

⁷ See note 2, p. 5

⁸ *Ibid*

to be financed by the ADB (among others).⁹ The policy was drafted to reflect international standards for the involuntary resettlement of persons¹⁰ (which is to be distinguished from voluntary resettlement and economic migration). A primary objective of the policy is to overcome and address the inadequacy of the Land Acquisition Act (LAA) of 1956, to meet the wider socio – economic concerns of holistic resettlement. The LLA confines itself to the payment of compensation for lands and formalised settlements that are expropriated for public purposes including urban regeneration and other development projects.¹¹ It does not however, provide for the larger social and economic needs of those who are displaced and are involuntarily resettled in other locations.

The rationale for a policy on involuntary resettlement, as stipulated in the Bank's technical assistance - terms of reference document, includes the following:

“...The Land Acquisition Act of 1956 sets standards for the payment of compensation for land and other immovable assets acquired by the projects. The Act does not deal with broader social and economic impacts of land acquisition and resettlement, such as land replacement, income restoration, relocation assistance and allowances; consultation and grievance redress; assistance to vulnerable groups such as squatters, households headed by women, the elderly and disabled; and provision of resettlement sites and services. There is no requirement for monitoring and evaluation of resettlement once the legally stipulated compensation is disbursed (emphasis added)”¹²

The scope of the policy itself applies to – all development induced land acquisition, as well as to recovery of possession of State land by the State.¹³ Since the approval of the policy however, and especially with regards to the recent escalation of development induced evictions, there is little clarity of the extent to which there is planning, for the type of resettlement process that would be required in each instance of eviction and displacement, or the process of monitoring and evaluation that would be required.¹⁴

The term resettlement is also used in the context of conflict affected displacement in Sri Lanka, to refer to the return and reintegration of conflict affected displaced persons into their original lands. The term resettlement however, is used in the global context, to refer to the process of relocating persons in different homes and lands following displacement from their location of habitual residence. It envisages a process of social control, whereby the persons are reintegrated and re-established into ‘new communities’.

⁹ The policy process commenced in 1999, and the policy was approved by the Cabinet in 2001

¹⁰ Asian Development Bank (1999), Technical Assistance to the Democratic Socialist Republic of Sri Lanka for Development of a National Policy on Involuntary Resettlement, TAR: SRI 32504, p. 8

¹¹ This briefing will not discuss the criteria by which a public purpose is determined, or whether such purpose is justified in the face of the eviction/displacement and subsequent resettlement that would be required.

¹² See note 10, p 1

¹³ National Involuntary Resettlement Policy, Approved by Cabinet in 2001, Section 3

¹⁴ See the discussion in the next section – Contextual Developments

The more appropriate terminology for a context of conflict affected displacement would be to refer to a process of return and restitution (rather than resettlement). As in the case of development induced displacement, there has been in the recent past a substantial development of soft-law, relating to persons displaced by conflict. These are mostly in the way of guidelines, standards and policies. Prominent among them are the United Nations Principles on Housing and Land Restitution for Refugees and Displaced Persons.¹⁵ The principles articulate both the concepts of return and restitution as two independent human rights, which derive their legitimacy from several other overarching international human rights, several of which has been endorsed by the Sri Lankan state.¹⁶ The rights to return and restitution are outlined as the 'preferred solution' to displacement.¹⁷ This is based on the premise that persons displacement by conflict, must be allowed to return to their homes and land as a matter of priority, unless they themselves voluntarily choose to either relocate or locally integrate in their locations of displacement. However, returning persons to their original lands and homes alone is insufficient to remedy the adverse effects of displacement and redress the many violations of human rights resulting from it. Hence, these persons are also entitled by right, to a process of restitution. A process of restitution involves the 'restoration' of persons into a life of normalcy, such that their displaced circumstances are brought to an end. It requires a holistic approach that must address all aspects of a life-style and living conditions that would be considered normal in the context under consideration.

Given the propensity of displacement to impoverish and reduce the standards of living conditions of displaced persons, it is often not easy to define whether a process of restitution will effectively bring displacement to an end. This is especially the case, where many of the displaced persons are from impoverished backgrounds. The State may be bound, in such circumstances, not to restore persons to the poverty stricken conditions they were in before, but to conditions which are considered adequate and sufficient by reference to Sri Lanka's human rights obligations as well as relevant national standards.

Contextual Developments

Since the cessation of the civil war in 2009, internal displacement in Sri Lanka has become less apparent. This is not conclusive of the fact that displaced persons have fully settled into normal and sustainable lives.

There is currently no specific policy that is explicit for the regulation and administration of conflict affected displaced and returning communities (which is in contrast to the Tsunami Housing Policy, which was drafted to address the restitution of Tsunami housing following the natural disaster). However, there is substantial programmatic intervention for the relief and recovery of returning displaced persons. This includes shelter and livelihood

¹⁵ United Nations (2005), Pinheiro Principles, United Nations Document No: E/CN.4/Sub.2/2005/17

¹⁶ See *Ibid*, principles 3 - 9

¹⁷ See *Ibid*, principles 2.2 and 10

assistance upon return, food assistance,¹⁸ and the restoration of agricultural assets. It is envisaged that the humanitarian phase of the return process will be gradually phased off. There are efforts by both government and United Nations' (UN) agencies to promote and work towards the gradual transition into an early recovery and medium term development phase, and for the implementation of permanent housing.¹⁹ However, there is still a large humanitarian and recovery need, as many of the returnees are not in sustainable conditions of life.²⁰ This is in addition to the fact that a large majority of displaced persons are from impoverished backgrounds, which makes the recovery process all the more challenging.²¹

In the aftermath of the conflict in May 2009, there was a need to give priority to those displaced in the last stages of the war in the large humanitarian effort that followed. These persons are commonly referred to as the 'new IDPs'.²² Especially in the current context of limited resources, the concerns of these persons are given priority over and above the concerns of those who had been displaced prior to May 2009, the 'old IDPs'. This is prominent in the housing sector, where the estimated priority housing need is calculated with reference to the new IDPs. It is assumed that the older IDPs have been granted some form of assistance and are in a better position of recovery than the new IDPs. Hence, many of the older IDPs have been living in temporary shelters for several numbers of years, but have not progressed to permanent housing in view that many of the new IDPs require priority shelter assistance. The use of the 'old' and 'new' divide is not confined to those displaced in the North, but was also used following the liberation of the East in 2007. Persons displaced during the hostilities in July 2006, were referred to as 'new IDPs', to differentiate them from IDPs who were at the time in protracted conditions of displacement, the 'old IDPs'. However, many of those who were newly displaced had been subject to recurrent displacement prior to July 2006 dating back to the 1980s and 1990s.²³ Hence, the new and old terminology does not accurately indicate the displacement history of a person. A new IDP may have been subject to recurrent displacement and have suffered

¹⁸ The World Food Programme announced at the beginning of the year that approximately 24 million dollars would be required in 2011 to assist 371,000 beneficiaries, comprising IDPs in camps, returnees and host communities under the Protracted Relief and Recovery Operations. See, Joint Humanitarian Update, North and East, Sri Lanka, Report # 29, OCHR – Sri Lanka

¹⁹ See Mendis R.N (2010) *The Right to Adequate Housing in Post Conflict Restitution and Rebuilding*, Policy Briefing: June 2010 Issue, COHRE, Sri Lanka Project

²⁰ See: Mendis R.N. (2010) *Post Conflict Development and the Right to Restitution – Implications for National Policy*, Policy Briefing: December 2010 Issue, COHRE Sri Lanka Project

²¹ Since the brief was written the numbers of displaced persons living in welfare camps and shelters have reduced. Return to lands located in the High Security Zones (HSZs) are still in progress, where there are a number of challenges to returning, and consequently to the restitution of these persons. There is still an outstanding number of houses that require building both in the North and East (approximately 59,000 houses in the North and 40,000 in the East) with concurrent issues of land regularization (Source: UNHABITAT estimates)

²² The population displaced by the last stages of the conflict amount to approximately 300,000 persons

²³ See COHRE (2009), *Recommendations for a National Policy on Housing, Land and Property Restitution in Sri Lanka*, pp. 17 - 20

many disadvantages and loss, which is not, indicated by reference to the last stage of his/her displacement. Similarly, an old IDP, by virtue of being one, may receive less assistance than a new IDP, despite his circumstances of protracted displacement, in view that the new IDPs receive priority attention.

Hence, it is the case that displacement which follows a thirty year long conflict will invariably involve a number of complex situations that requires flexible policies and programmes for their amelioration. The following instances of displacement are outlined to highlight some of the divergent ways in which displacement is perceived and the challenges inherent in overcoming barriers to effective restitution and to the ending of displacement:

The Puttalam IDPs: These persons are those who were displaced to Puttalam from the Northern Districts, mainly from the district of Mannar. They had lived in Puttalam for as much as 20 years, and are now in the process of returning to their original districts. The numbers of the displaced communities have increased considerably over the years to include latter generations. Most of the displaced had integrated and settled into a life in Puttalam with post displacement assistance from the Government, and some had received permanent housing from the North East Housing Rehabilitation Project (NEHRP) of the World Bank. Others had built huts of their own and found employment in Puttalam. A majority of the Puttalam displaced had expressed a wish to return to their original lands. With recent political moves to register their vote in their places of origin, many of these persons have been obliged to deregister as IDPs and are now registered as returnees to the Northern districts. However, living conditions and infrastructure is inadequate in their places of return. For instance, planned returns to Musali in Mannar have not factored in the lack of sanitation; and in Mullaitivu, there is a dire need for housing and land restitution. There are few employment opportunities in places of return, hence many of the returnees come back and live in Puttalam, after having collected their return based assistance. Returnees do not have adequate information of a clear process of restitution following return, including information on housing assistance.²⁴ Hence, it is apparently the case that the Government has not defined the problem of displacement as a long-term one. In these circumstances, it is important to consider – are the Puttalam IDPs still to be defined as displaced persons? Have they overcome their displacement? If not, then what are the measures that need to be put in place to return them to a life of normalcy in their places of return? How long will this process take? What indicators of restitution should the process be guided by?

Displaced persons in the East: Many of those who were displaced in the East have been subject to recurrent displacement and movement since the 1980s and 1990s. Some of them have re-established their lives in other parts of the country. Those who were displaced in 2006 have now returned to their original districts and villages following the de-mining of their lands. The attention given to the East in 2007 declined in the latter part of 2010, with

²⁴ Based on an interview with Ms. Farzana Haniffa, Senior Lecturer, Sociology Department, University of Colombo; Head of the Commission on the Expulsion of Muslims from the Northern Province by the LTTE

the need to prioritise the Northern displacements in 2009.²⁵ There is a perceived lack of linkages between humanitarian efforts and early recovery, with heavy reliance on non governmental agency support. Information and planning for permanent housing for those living in temporary shelters have not been forthcoming in the recent past.²⁶ Issues of land demarcation and multiple claims to land are ongoing and unresolved.²⁷ The question remains – have persons, who were displaced in the East, transitioned to a process of early recovery? Are they in a fair way to recovering from instability and potential impoverishment?²⁸

Displacement from High Security Zones (HSZ): Displacements from HSZs have been by the demarcation of official HSZs and the existence of 'defacto' HSZ. Hence, the assessment of compensation and redress that is due to affected persons has not been consistent or well defined. In Jaffna, of the 43 Grama Niladhari (GN) divisions covered by the Palaly HSZ, 23 have been subject to mine clearance. Following 3 GN divisions that were opened for resettlement in November 2010, another 9 GN divisions were released from the HSZ early this year. However, while the lands and wells have been cleared by the Government, affected persons have not been able to fully settle in these areas, though some were able to repair their houses and return. There is distinct need for assistance with boundary demarcations, land documentation, infrastructure and livelihood assistance. These issues need to be addressed parallel to the release of these zones. A policy for compensation, outlining instances in which returnees will be eligible for compensation for the deprivation of their lands, would greatly benefit these returnees. It is not clear, at the current time whether the HSZ returnees are even eligible for the returnee package; available funds are being used for the support of the new IDPs.²⁹ If it is the policy of the Government to return and re-integrate persons who have been displaced by the demarcations of HSZs, then what measures need to be taken in order to do so, and by whom?³⁰

The position of those displaced by the Trincomalee HSZ/ Economic Zone are significantly more complicated in view that it is not clear whether their displacement at the current time is conflict induced or development induced. Displacement from the areas of the Zone was induced due to hostilities. Following the cessation of hostilities, return to these areas was not allowed due to the demarcation of both a High Security Zone and Economic Development Zone (excepting a few areas in the buffer zone outside the HSZ, which have been released for the return of displaced persons). Hence, it is a point of debate whether

²⁵ This includes the 3 coordination mechanisms that had been established – livelihoods, water and sanitation and shelter

²⁶ Refugee returnees in Kuchcheveli find that their houses had been affected by the tsunami, but have missed the opportunity to receive a house. There is an expectation that 10,000 of the proposed Indian housing will be allocated for the East (in the Murugandi area)

²⁷ Interview with officials of the UNHCR in Trincomalee

²⁸ This question is pertinent today; even as there are development projects planned for the Eastern Province, there is insufficient data and information to assess if those displaced during the war have adequately recovered and have been restituted sufficiently to be able to reap the benefits of planned development.

²⁹ Based on interviews conducted with officers of the UNHCR, Jaffna

³⁰ *Supra* note 21

displacement was caused by reason of the conflict or by the *defacto* eviction of these persons for purposes of development. The affected are currently housed in camps and are unwilling to accept an alternative to returning to their lands in the demarcated Sampoor area. The Government would prefer to close these camps, but a solution is yet to be determined since the displacement in 2006. It is pertinent to consider – the nature of the negotiations that have been conducted so far. Have there been sufficient attempts at holistic resettlement (including adequate compensation)? Are development actors aware of the involuntary resettlement policy?

Outlined below are a few instances of development induced evictions and displacements in and around the city of Colombo, for which the above questions are overarching and pertinent.

The current spate of development induced displacement includes the eviction of families living in Mews Street, Slave Island, which has been included in the Urban Development Authority (UDA)³¹ plan for a Concentrated Development Zone, which is to be the centre of business in the future. The UDA demolished 17 houses in this area at the beginning of 2011, which follows the evictions carried out in May of 2010 in the same area. The evicted persons have been in occupation of these houses for generations. The police and army were deployed for the evictions indicating the undue use of coercion, and a unilateral approach to the evictions rather than a negotiated process of displacement and resettlement. They were offered alternative housing in the areas of Dematagoda in the suburbs, but these houses are in the initial stages of construction.³² It is estimated that the Government plans to evict a total of 66,000 persons to make way for large scale development projects and for the beautification of the city of Colombo.³³ Many of the persons targeted for evictions are from under-served settlements³⁴ in and around the city of Colombo. The settlements are located on prime land and covers approximately 960 acres of State land and other reserves, over which the occupants have little security of tenure. For instance, more than 1500 houses in Wanathamulla (a low-income under-served settlement) are being demolished to make way for a modern housing complex. The alternatives before the displaced are that they either pay Rupees 3 million for a new apartment, or move out of the city to other locations. The UDA claims that the lands belong to the UDA, and the land documentation in the possession of the potential evictees are municipality deeds which are not valid.³⁵ Many persons marked for evictions claim that they have been occupying these lands for over 50

³¹ The UDA and the Land Reclamation and Development Board (LRDB) falls under the purview of the Ministry of Defence at the present time

³² Reports indicate that the promised houses were not allocated among the evictees. See also; Rajaratnam S, and Liyanage (2015) *Forced Evictions in Sri Lanka's City Planning and Beautification: Implications for Human Rights*, page 4, in this edition of the LST Review

³³ See a summary of evictions: World Socialist Web Site, *Sri Lanka Government intensifies Colombo Evictions* (by Vilani Peiris, January 27, 2011), International Committee of the Fourth International, <http://www.wsws.org/articles/2011/jan2011/sril-j27.shtml> accessed June 16, 2011

³⁴ Low income households comprising of slums, shanties and other make shift residences

³⁵ See; the Sunday Times Newspaper, April 17, 2011, *Demolition for Development*

years, and would be severely disadvantaged if they are forced to leave their homes, jobs and livelihoods without an adequate alternative. In the past, persons from these settlements have been moved to apartment complexes built for the purpose of their resettlement.³⁶ However, the difficulties inherent in such moves need to be adequately anticipated and planned for; some of those who were to be resettled in these apartments could not afford the advance fees that they were required to make, and other expenses such as for electricity connections.

The populations living in under-served settlements, it is estimated, constitute approximately half of the population in the city of Colombo. It is therefore imperative that half of the city's population is not unduly disadvantaged by plans for developing the city. There is much inequity and injustice in planning for development that will benefit some, at the expense and disadvantage of a large section of the city's population. It is better for development plans to incorporate within its ambit as a policy measure, financial allocations and resettlement planning that would benefit the development of all persons concerned.

Conclusion

Much has been achieved by both the Government and non Governmental entities to address the humanitarian concerns of displaced persons. It is not the intention of the brief to question the government's commitment to the ending of displacement. But it is necessary to evaluate whether the restitution of persons displaced by the conflict and development are being brought to an end, such that the effects and consequences of displacement are being effectively addressed. It is counter to the prospects of rights-based (equitable) development, if affected persons are unduly disadvantaged and thereby excluded from ongoing development planning.

It is understood that both processes of return and restitution, and resettlement, will involve substantial time, resources and energy to implement. The question however, is whether there is a process in place to assess and monitor the different entitlements of those who have been subject to displacement, and at times to re-current displacement. It is first necessary to make an assessment of what those entitlements are, with reference to the different histories and types of losses that displaced persons have been subject to. This would be relevant to an effective process of bringing displacement to an end.³⁷

Thus, the ending of displacement for both conflict affected displacement and development induced displacement envisages a holistic process, by virtue of which the different effects and consequences of displacement are identified, and dealt with over a period of time, with adequate measure for monitoring and evaluating whether displacement has in fact come to an end. Neither resettlement nor restitution will ever involve programmes that are

³⁶ The Sahaspura and Singhapura are complexes were developed to resettle persons from underserved settlements

³⁷ See COHRE (2009), note 22, pp 18 – 26, and pp 72 - 91

uniformly relevant to all instances of displacement. They will require the flexibility to adapt to the particular concerns of different groups of displaced persons.

Any equitable and rights-based process for development induced displacement must include a strategic plan by which to ensure that persons are not unduly disadvantaged and impoverished. Addressing vulnerability must be in parallel to large scale development.

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