

LAND ACQUISITIONS FOR PUBLIC PURPOSE IN POST-WAR SRI LANKA



IROMI PERERA



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INTRODUCTION

Land acquisition by the State has been a serious and contentious issue dominating the human rights and legal fields for decades. Whether or not due process was followed in the acquisition, the loss of land comes with various repercussions for those affected. There is much literature available documenting land acquisitions, analysis of the various laws and policies and processes used by the State to acquire land, and the impact on the lives of those who have lost their land. This report looks at the exercise of eminent domain by the State - the power that the State has to acquire a private land for a public purpose. The Land Acquisition Act No. 9 of 1950 gives the State the power to acquire private land, provided it is for a public purpose.¹ The selected case studies in this report, as well as the desk research on land acquisition for a public purpose over the last ten years shows that the definition of 'public purpose' used by the State is extremely broad. For example, the public purposes for which land (both private and land held by various Government institutions) was acquired have ranged from military camps to military run resorts to luxury condominiums and shopping malls to reservoir projects to roads and infrastructure projects to police stations.

Looking at land acquisition notices published in the extraordinary gazettes over the last ten years, one common factor across all of them was the noticeable absence of declaring for what the public purpose the land was being acquired. Even though the Land Acquisition Act No. 9 of 1950 does not specifically state that the public purpose has to be disclosed, judicial pronouncements have held non-disclosure of the public

¹ See Page 21 - 22 of this policy brief by the Centre for Policy Alternatives for detailed explanation of the process needed to be followed in the LAA - <https://www.cpalanka.org/wp-content/uploads/2014/11/Legal-and-Policy-Implications-of-Recent-Land-Acquisitions-Evictions-and-Related-Issues-in-Sri-Lanka.pdf>

purpose to be fatal to the acquisition. In *Manel Fernando & Another. v. D.M Jayarathne, Minister of Agriculture and Lands*, Justice Mark Fernando held that “The minister cannot order the issue of a Section 2 notice unless he has a public purpose in mind. Is there any valid reason why he should withhold this from the owners who may be affected? Section 2(2) requires the notice to state that one or more acts may be done in order to investigate the suitability of that land for that public purpose: obviously that public purpose cannot be an undisclosed one. This implies that the purpose must be disclosed. From a practical point of view, if an officer acting under Section 2(3)(f) does not know the public purpose, he cannot fulfill his duty of ascertaining whether any particular land is suitable for that purpose.”²

The non-disclosure of the public purpose makes it difficult for affected parties to make a fully informed decision regarding the acquisition process, whether to challenge it or even challenge it at a later time when the final land use is under scrutiny. As highlighted in an article titled ‘A Failing Search for Justice, Fairness and Equity in Eminent Domain’ regarding land acquisition for public purpose in Colombo, the authors Perera, Tegal and Uyangoda note, “Accountability and transparency are not prerequisites for state acquisition. The evictees interviewed all echo sentiments of uncertainty of the purpose when the acquisition was first made known. Speculation and manipulation of information, particularly by State officials is a common shared experience. Often times there is little or no information on which any challenge to the acquisition process can be made.”³

Reports over the years have indicated that land acquisition by the State has been increasing over time. A media report in September 2016 stated that “Lands Ministry

²<https://www.lawnet.gov.lk/2000/12/31/manel-fernando-and-another-v-d-m-jayarathne-minister-of-agriculture-and/>

³<https://lankadeepa.lk/wp-content/uploads/2017/11/LST-Review-March-issue-342-2017.pdf>

statistics point to a significant spike in 'Section 2 Notices'. Issued by Divisional Secretaries, they contain details of lands the Government has earmarked for takeover. Last year, a total of 267 were published. This year, there are already 328. Each includes anywhere between several dozen to over 100 plots.”⁴ The article also notes that Treasury allocation for land acquisitions rose from Rs 2.1 billion in 2015 to over Rs 2.3 billion in 2016.

It is in this background that this report is located and makes a case for strengthening processes, laws and safeguards in the land acquisition process. One that takes into consideration the existing land use, the social and economic implications of the land acquisition on the affected and the need to work together with the various state actors involved to ensure that those who give up their land for 'a public purpose' are not left worse off. This report also questions the sweeping powers of the State in acquiring land for a 'public purpose' when the said purpose ends up being one that does not benefit the public at large.

SRI LANKAN JURISPRUDENCE

In 'A Failing Search for Justice, Fairness and Equity in Eminent Domain', an article about eminent domain in the context of Colombo, the authors write, *"In the exercise of the power of eminent domain in Sri Lanka the requirement of public purpose is the only criteria discussed. The requirement of public purpose draws legitimacy from the notion of democratic governance. Jurisprudence in Sri Lanka does not consider other requirements such as efficiency and justice, which have been highlighted in academic works on eminent domain in the United States. The requirement of public purpose is a duty to disclose the public purpose and to uphold the doctrine of public*

⁴<http://www.sundaytimes.lk/160918/news/undervalued-say-owners-of-lands-under-acquisition-209056.html>

*trust in interpreting 'public purpose'. The "Public Trust Doctrine" is "based on the concept that the powers held by organs of government are, in fact, powers that originate with the People, and with the sole objective that such powers will be exercised in good faith for the benefit of the People of Sri Lanka."*⁵

In *Mundy & Others v. Central Environmental Authority & Others*⁶, Justice Mark Fernando stated, "...this Court itself has long recognized and applied the 'public trust' doctrine: that powers vested in public authorities are not absolute or unfettered but are held in trust for the public, to be exercised for the purposes for which they have been conferred, and that their exercise is subject to judicial review by reference to those purposes... Besides, executive power is also necessarily subject to the fundamental rights in general, and to Article 12(1) in particular which guarantees equality before the law and the equal protection of the law..."

Fonseka and Jegatheeswaran in a 2013 report on land acquisitions and related issues in the North and East provided a detailed analysis of the Land Acquisition Act and stated that, *"The concept of Public Trust Doctrine is extremely important as a tool that ensures on one hand that the Government's legislative actions are genuinely in the public interest, and on the other hand, allows Courts to check that they are. Where the Government does not act in the public interest, the Public Trust Doctrine as articulated by the Supreme Court gives courts the jurisdiction to void those actions However, it is essential that Courts uphold the Public Trust Doctrine in relation to land acquisitions, specifically applying it when considering the genuineness of purported 'public purposes.'*⁷

⁵<https://lslanka.org/wp-content/uploads/2017/11/LST-Review-March-issue-342-2017.pdf>

⁶ SC/58/03 –S.C Minutes, 20-01-2004

⁷<https://www.cpalanka.org/wp-content/uploads/2013/11/Land-Acquisitions-and-Related-Issues-in-the-North-and-East-of-Sri-Lanka.pdf>

The Water's Edge judgment⁸ specifically refers to the purpose of a golf course as distinct from serving the general public and instead serving the "elitist requirements of the relatively small segment of society in Sri Lanka." Fonseka and Jegatheeswaran commenting on the judgement states that, *"This case sets out explicitly that "public purpose" should not be read broadly to mean any purpose, and instead is a requirement imposed by law on the government when trying to acquire land, to show that the purpose of acquiring such land has "as the primary object, public utility and benefit of the community as a whole." The court further clarifies that the 'community' to be directly benefited must include the local community to be affected, not just the community as a whole: "Apart from the creation of a handful of low-level jobs, what is notably lacking from this list, and from any of the statements submitted in evidence by the UDA in this regard, however, is any significant benefit of a sufficiently direct nature to the community of People of the Battaramulla area." Here the court makes it abundantly clear that the "public purpose" must benefit the local community directly in some way. Consequently, following this judgment, it is not sufficient for the government to merely show that the purpose of the land acquisition benefits the country as a whole; they must also show direct benefit to the local community."*

The attitude of completely failing to acknowledge the resultant hardships, sacrifices and the connections people build with their surroundings in their chosen place of residence is reflected in the manner in which executive decisions and administrative actions are carried out before and during displacements caused by state acquisition. Case law demonstrates that Courts in Sri Lanka have been willing to recognise the infringement of fundamental rights where procedure has not been followed. The

⁸Mendis et al. v. Perera et al. SC (FR) No. 352/2007.

Supreme Court in *Mundy & Others v. Central Environmental Authority & Others* held that “If it is permissible in the exercise of a judicial discretion to require a humble villager to forego his right to a fair procedure before he is compelled to sacrifice a modest plot of land and a little hut because they are of "extremely negligible" value in relation to a multi-billion rupee national project, it is nevertheless not equitable to disregard totally the infringement of his rights: the smaller the value of his property, the greater his right to compensation.”

The judgment in *D.F.A. Kapugeekiyana v. Minister of Lands & Others* states, “Yet, in the process of carrying out greater good for the public of the country, one must not unduly neglect the owner of the land. It would be overly harsh to forget the ties a landowner has to his property. Therefore, it is necessary for the Minister and/or any authority acquiring the land, to have a clear and distinct public purpose for which the acquisition is commissioned.” In *Mundy v. Central Environmental Authority*, the Court of Appeal held “...While development activity is necessary and inevitable for the sustainable development of a nation, unfortunately it impacts and affects the rights of private individuals, but such is the inevitable sad sacrifice that has to be made for the progress of a nation. Unhappily there is no public recognition of such sacrifice which is made for the benefit of the larger public interest which would be better served by such development. The Courts can only minimize and contain as much as possible the effect to such rights...”⁹

⁹ SC Appeal No. 161/2010

CASE STUDIES

When doing the background research for this report it was evident that not a single gazette over the last nine years that we perused disclosed what the public purpose is. Therefore, we compiled a list of 170 extraordinary gazettes where land had been acquired for a public purpose and a Right to Information¹⁰ request was submitted to the Ministry of Land and Parliamentary Reforms requesting information as to what the public purpose was for each acquisition and the name of the acquiring agency. The gazettes were selected at random, with two gazettes per month from May 2010 - December 2018. The start month and year was May 2010 as the online gazette archive only goes back to that time period. Gazettes were not available for certain months and therefore the total number of gazettes was 170. The RTI request was made on May 22, 2019 and we received the full list with the requested information on June 18, 2019.

A breakdown of the information is as follows. While a majority of the acquisitions had been for highways, roads and road expansion, some of the other public purposes had been -

Roads and road expansions	42
Highways	20
Military related	11
Police station	8
Schools and school development	6

¹⁰ Act No. 12 of 2016

Other public purposes included reservoir projects, hospitals, widening villages, flood control, town development, water supply related (purification plant, treatment plant, water tower), multi floor car park, Ayurveda dispensary.

MILITARY

Land acquisition by the military has been a serious issue during the war as well as post war. As Human Rights Watch noted in 2018, *“By the end of the war, the military was in control of vast swaths of land, including the areas previously held by the defeated LTTE. While the administration of President Mahinda Rajapaksa took some steps to release land back to original owners, the military retained control over large areas and made use of it for both military and non-military purposes. The military consolidated its position and control, including shifting from de facto occupation to legal acquisition. It not only established barracks, but has used the land for agriculture, tourism, and other commercial ventures.”*¹¹In a press release in January 2019, the Presidential Secretariat said that over 87,800 acres of land occupied by the armed forces had been released over the past 10 years and that the Sri Lanka Army has released more than 90 percent of military acquired lands in the Northern Province to the original owners.¹²

In the information requested under the Right to Information Act, there are several land acquisitions by the military that have been included. This is however not an exhaustive list and the information given below are only pertaining to the gazettes picked at random for which information was sought. All this land had been acquired for a ‘public purpose’ and the current uses of the land acquired are presented in the table below.

¹¹<https://www.hrw.org/report/2018/10/09/why-cant-we-go-home/military-occupation-land-sri-lanka>

¹²<http://www.sundaytimes.lk/190127/news/more-than-90-percent-of-military-acquired-lands-returned-to-owners-in-the-north-333077.html>

Certain land acquisitions by the military are discussed in detail further below to identify what the public purpose for which the land was acquired for transpired to be, and the process and experience of the acquisition process wherever information was available.

DATE OF GAZETTE	GAZETTE NUMBER	AREA	PUBLIC PURPOSE (wording as per RTI information)	AMOUNT OF LAND ACQUIRED
April 11, 2018	No. 2066/37	Plantain Point, Orr's Hill GramaNiladhari Division, in Divisional Secretariat Division of Town and Gavets, Trincomalee District	For Sri Lanka Army - Plantain Point bungalow	0.4079 hectares (1.0079 acres)
July 06, 2018	No. 2078/54	Kosgama village, Minor Division of HewagamKorale in the Divisional Secretary's Division of Seethawaka (Hanwella) in Colombo District	To establish volunteer force headquarters of SL Army	20.2419 hectares (50.0188 acres)
February 6, 2015	No. 1900/20	Delft East village, GramaNiladhari Division No. J/06 of Delft East in the Divisional Secretary's Division of Delft, Jaffna District	Sri Lanka Navy - For SLNS Wasaba detachment of potassium	0.6197 hectares (1.5313 acres)
July 3, 2015	No. 1921/59	Nayaru village, GramaNiladhari Division No. MN/83 of Chemmalai East in the Divisional Secretary's Division of Maritim Pattu in Mullaittivu District	For security purposes - SL Navy - Nayaru Sub Company	1.7455 hectares (4.3132 acres)

March 10, 2014	No. 1853/8	Mullanai village in the GramaNiladhari Division No. J/156 of Mullanai in the Divisional Secretary's Division of Valikamum Southwest in Jaffna District	Localisation of 16th voluntary Gemunu Hewa Brigade of SL Army	0.2410 hectares (0.5955 acres)
April 1, 2014	No. 1856/15	Achchankulam village in the GramaNiladhari Division of Achchankulam in the Divisional Secretary's Division of Nanaddan of Mannar District	For SLNS Pussadewa - Security Zone 'C'	0.8235 hectares (2.035 acres)
July 3, 2014	No. 1869/37	Marichchikaddy village in the GramaNiladhari Division of Marichchikaddy, in the Divisional Secretary's Division of Musali of Mannar District	Public relation office SLNS Bharana - Musali	0.9709 hectares (2.3991 acres)
October 15, 2014	No. 1884/32	Allarai village in the GramaNiladhari Division No. J/301 of KovilKudiyiruppu in the Divisional Secretary's Division of Thenmarachchi of Jaffna District	Localisation of 523rd force/11th Vijayabahu Infantry regiment	9.9520 hectare (24.5919 acres)
November 21, 2014	No. 1889/44	Thiruvaiaru village in the GramaNiladhari Division No. KN/21 of Thiruvaiaru West in the Divisional Secretary's Division of Karachchi of Kilinochchi District	Localisation of 20th force of Gajaba regiment SL Army	6.2698 hectares (15.4930 acres)
April 24, 2013	No. 1807/12	Thalangama, Pallepattuwa Minor Division, Divisional Secretary's Division, of Kaduwela in Colombo District	Reconstruction of Min. of Defence & Urban Development	3.7505 hectares (9.2676 acres)

May 28, 2013	No. 1812/10	Kankasanthurai West, Kankasanthurai Central, Wimankamam South, Theiyadi South, Palali South, Ottapulam and Walali in the Divisional Secretary's Division of Walikamam North, Walikamam East in Jaffna District	Resettlement of displacement persons* *This acquisition is included in this table as the acquiring body had been Sri Lanka Army	2578.4475 hectares (6371.4825)
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(a) Security Services Headquarters in Akuregoda, Battaramulla

Land acquisition - While it is difficult to ascertain exactly how much land was acquired 'for a public purpose', which turned out to be for the security services headquarters complex, four gazettes give some indication of land acquired. Two extraordinary gazettes - No. 1764/23 of June 29, 2012¹³ and No. 1807/12 of April 24, 2013¹⁴ acquired 1.9208 hectares (4.7464 acres) and 3.7505 hectares (9.2676 acres) respectively. Two other extraordinary gazettes also show that land had been acquired for this project under the Urban Development Projects (Special Provisions) Act of No. of 1980 - 0.4503 hectares (1.1127 acres) acquired to 'develop the proposed Pelawatta-Akuregoda double line road under the Relocation Project of Tri Forces Headquarters in the Akuregoda'¹⁵ in 2012 and 0.9191 hectares (2.2711 acres) 'urgently required for widening of Akuregoda Pothuawawa Road under the Relocation Project of Tri Forces Headquarters in the Akuregoda area' in 2014.¹⁶

In January 2011, the Cabinet approved a proposal submitted by then President Mahinda Rajapaksa as the then Defence Minister to relocate the Defence Ministry,

¹³http://www.documents.gov.lk/files/egz/2012/6/1764-23_E.pdf

¹⁴http://www.documents.gov.lk/files/egz/2013/4/1807-12_E.pdf

¹⁵ No 1784/4 - November 5, 2012 - http://www.documents.gov.lk/files/egz/2012/11/1783-04_E.pdf

¹⁶ No 1870/60 July 10, 2014 - http://www.documents.gov.lk/files/egz/2014/7/1870-60_E.pdf

Office of the Chief of Defence Staff and the Army headquarters from Colombo to Akuregoda in Battaramulla. By moving the defence establishment located in the land facing Galle Face Green to Akuregoda, the Government was able to hand over land to Shangri-La and the ITC Group for two hotel projects. At the time cabinet approval was sought, it was reported that the investment by the hotel projects would bring in a total investment of one billion US dollars, and the revenue from the sale of the land would be used to fund the relocation.¹⁷ In June 2011, the then Prime Minister D. M. Jayaratne presented a supplementary estimate of LKR 20 billion for parliamentary approval for the construction of the Defence Headquarters.

¹⁷http://www.colombopage.com/archive_11/Jan26_1296018366CH.php



Top – land prior to acquisition, 2012 / Bottom – current status, 2020 / Source: Google Earth

The new complex was designed to house the Defence Ministry, Headquarters of the Army, Navy, and Air Force, office of the Chief of Defence Staff, the offices of the Commanders of the three-armed forces, training centers, operational rooms, research centers, and other facilities. The government expected to complete the constructions of the new military complex by 2013¹⁸. The complex would be on two blocks of land, totaling 56 acres. According to a description of the project by the Central

¹⁸http://www.colombopage.com/archive_11A/Jun23_1308834574CH.php

Engineering Consultancy Bureau¹⁹, the '*Administrative Building Complex comprised eight nine storeyed buildings with total floor area of 12,335 m² to house the Ministry of Defense, Office of the Chief of Defense staff, Headquarters of Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force. The total building height is approximately 60 meters above ground level. The building is completed within a framework of aesthetics symbolizing sovereignty, heritage and prosperity of the Nation*'.²⁰

The Performance Report 2014 of the then Ministry of Defence and Urban Development stated that the total estimated cost of the project is Rs 53.2 billion and had been scheduled to be completed by the end of the year 2019.²¹

Following the change in Government in 2015, the project was halted due to non-availability of funds as well as financial irregularities. Some of these irregularities included the fact that the total cost estimate was not mentioned anywhere in the project documents²², that the lead consultancy firm was selected without following proper procedures and that the firm had charged an excess of LKR 600 million in consultancy fees.²³ It was reported that as a result of the delays certain divisions of the Army Headquarters were operating out of rented properties. In 2017, the Defence Ministry spent LKR 77,875 million as rental costs including for properties housing divisions of the Army HQ.²⁴ A separate bank account had been opened for the project at the Bank of Ceylon and the account had been opened in 2011 with

¹⁹ The CECB provided 'Consultancy Services for Civil, Structural, Mechanical, Electrical, Plumbing, IT, Quantity Surveyors, CMU Support Services and Construction Supervision'.

²⁰ <http://cecb.lk/project/On%20Going%20Projects/Buildings/Defence%20Head%20Quater%20Complex.html>

²¹ Performance report 2014 ministry of defence and urban development

<https://www.parliament.lk/uploads/documents/paperspresented/performance-report-ministry-of-defence-urban-development-2014.pdf>

²² <http://www.dailymirror.lk/66571/defence-hq-constructions-halted>

²³ <http://www.dailynews.lk/2016/06/23/local/85500>

²⁴ <https://www.newsfirst.lk/2019/02/28/battaramulla-military-hq-construction-work-delayed/>

about LKR 20 billion,²⁵ which were the total proceeds from the land transaction with Shangri-La and ICT and had been transferred outright for the lease of land. According to former Finance Minister Ravi Karunanayake, “if an ordinary public servant had followed this process he or she would be in jail”.²⁶

In a May 2018 interview with Minister Champika Ranawaka, under whose purview the land for the new Defence Headquarters came under (the UDA), a sum of Rs.64 billion has been spent so far while another Rs. 100 billion was needed to complete the project. The Minister had also stated that ‘*these forces have been provided with temporary accommodation in 15 rented buildings at an annual rent of Rs.5 billion, he said adding that the abrupt and unplanned decision taken by the previous regime to shift the Defence headquarters to Akuregoda has put future generations under a heavy debt burden*’.²⁷

On the 8th of November 2019, President Maithripala Sirisena declared open the Army Headquarters at the Defence Headquarters. In his speech the President stated that construction of Navy and Air-Force headquarters building complexes will be completed within the next two years²⁸.

²⁵ The original funds comprised \$ 75 million (Rs. 8.3 billion) by Shangri La and a further \$ 50 million (Rs. 5.4 billion) again by Shangri La and \$ 54 million (Rs. 5.9 billion) by Avic - from <http://www.ft.lk/article/383586/Checking-waste--Ravi-K-walks-the-talk>

²⁶ <http://www.ft.lk/article/383586/Checking-waste--Ravi-K-walks-the-talk>

²⁷ <http://www.sundaytimes.lk/180513/business-times/akuregoda-defence-headquarters-building-becomes-a-white-elephant-293785.html>

²⁸ <https://www.dailynews.lk/2019/11/09/local/202450/president-opens-new-army-hq>

(b) Defence Battalion Headquarters - Jaffna

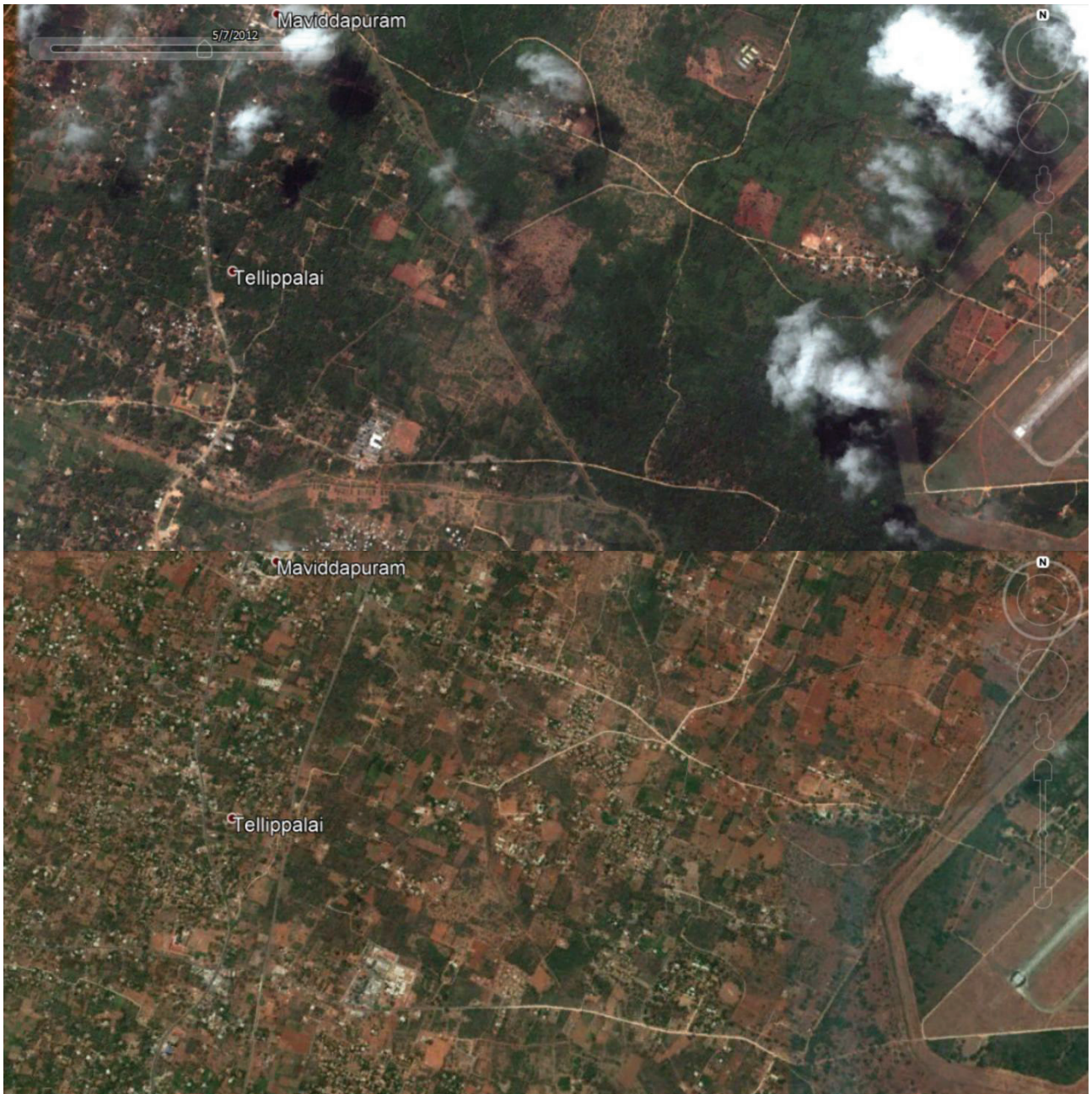
On the 20th of April 2013, a section 2 notice under the Land Acquisition Act was displayed on several trees just outside the barricades on the Kankesanthurai Road at Tellipallai. The notice stated that the Minister of Lands has *“directed that “a land” in the “area” indicated in the Schedule is necessary for a public purpose, paragraph 3 which sets out the purpose of the intended acquisition states “Defence Battalion Headquarters [Jaffna] - Regularising handover of area on which High Security Zone [Palaly and Kankesanthurai] is established.”*²⁹

Following the display of this notice, 1474 people who owned the land located within the area described in the notice filed a case in the Court of Appeal (CA Writ 125/2013) on 14th May 2013 against steps by the government to take over the traditional lands constituting approximately 6381 acres for a purported public purpose³⁰. The Centre for Policy Alternatives who supported the filing of this cases stated that, *“The petitioners state that the purported notices are unlawful as the said notices refer to “regularizing handover of area on which High Security Zone (Palaly and Kankesanthurei) is established” despite the lands within the area specified in the notice not forming part of any HSZ recognized by law as there are no HSZ in existence after the lapse of Emergency regulations in 2011. Further the Land Acquisition Act in section 2 (2) states that the notices have to be in Sinhala, Tamil and English whereas the said notices were published only in Tamil, and is therefore illegal. For the above reasons the petitioners have sought a writ of Certiorari to quash the notice and a writ of Prohibition preventing the implementation of the notice.”*

²⁹ CA Writ 125/2013 <https://www.colombotelegraph.com/wp-content/uploads/2013/05/CAWrit125of2013.pdf>

³⁰ <https://www.cpalanka.org/arunasalam-kunabalasingham-and-1473-others-vs-a-sivaswamy-and-2-others-ca-writ-1252013/>

The petition also clearly stated that *“no public purpose is served by the acquisition of any land in the Jaffna peninsula for regularising “handover of area on which High Security Zone is established,” since no such Zones ever existed or continue to exist.”*



Top – land prior to acquisition, 2012 / Bottom – current status, 2020 / Source: Google Earth

In late May, another 702 landowners filed action (CA Writ 135/2013) as well against the land acquisition, stating the same reasons as above.³¹ The cases are still ongoing.

RESERVOIR PROJECTS

The response provided to the RTI application made to the Ministry of Lands indicated that there were eight reservoir projects for which land was acquired for between 2008 - 2018. While some included land acquired for the actual project itself like the Yan Oya reservoir and the Rambukkan Oya reservoir, land was also acquired for 'elephant use' in the Moragahakanda - Kalu Ganga development project or for widening existing reservoirs.

(a) Yan Oya Reservoir Project, Anuradhapura District

Land acquisition - according to the Yan Oya Reservoir Projects Deputy Project Director Engineer Palitha Wickramatilake, of the 10,000 acres of land covering the project, 6,000 acres are from government reservations while the balance has been through land acquisition from the people and nearly LKR 5000 million is required as compensation payments for lands acquired for the construction of the reservoir.³² Several gazette notifications of the land acquisitions have been published over the years.³³

The Yan Oya Reservoir Project was launched under the previous Mahinda Rajapaksa government in 2011. Estimated to cost US\$ 210 million, the project is 85% funded by

³¹<http://www.ft.lk/news/appeals-court-issues-notice-on-respondents-in-jaffna-land-acquisition-cases/56-154061>

³²<http://www.dailynews.lk/2018/12/11/local/170937/nearly-rs5000-mn-required-yan-oya-compensation-payment>

³³ LINKS/ GAZETTE NUMBERS

China and the China CAMC Engineering Corporation undertook the construction work. During the time the project launch happened, media reported that the ‘Yan Oya Reservoir Project will boost agricultural production and inland fishery development benefitting the local economy and creating more employment opportunities for the local youth in the Northeast’.³⁴ The reservoir is constructed by building a dam across Yan Oya, which flows to sea from Pulmoddai in the Eastern Province, at Pangurugaswewa in Trincomalee district.

³⁴<https://reliefweb.int/report/sri-lanka/yan-oya-irrigation-project-launched>



Top – land prior to acquisition, 2011 / Bottom – current status, 2020 / Source: Google Earth

Media reports in 2012 also stated that the project ‘would be capable of solving water problems for areas in the North Central Province including Kebithigollewa, Padaviya, Welioya, and Medawchchiya. The project, expected to be completed in 4 years, is expected to benefit 10,000 farmer families and provide direct and indirect employment to 7,200 persons.³⁵

³⁵ Ibid

The project is meant to provide irrigation facilities for agriculture in Anuradhapura and Trincomalee Districts during both seasons in addition to improving drinking water facilities in the area, providing drinking water and irrigation facilities to Trincomalee town round the clock, while an annual fish harvest of about 100,000 metric tons is also expected.³⁶

The Environmental Impact Assessment (EIA) report was submitted to the Mahaweli Authority in May 2013; however environmental activists raised concern over the EIA report, alleging that the report was rampant with inaccurate, inconsistent and unreliable data.³⁷ In a media briefing in June 2013, environmentalists had ‘pointed out that the benefits and losses listed out in the EIA has been conveniently swapped to serve the purposes of those in charge of the reservoir project, pointing out that the losses incurred by the project has been downplayed while its benefits have been exaggerated’. They had also pointed out that the report had failed to account for the impacts of project on the natural resources in the vicinity including the Pulmoddai mineral sand mines and that even though the area the reservoir was to be constructed in is rich in archaeological value, an archaeology assessment report had not been carried out.

In January 2019, a review of a recently published Supplementary Environmental Impact Assessment (SEIA) quoting from the SEIA stated that ‘severe escalation of the human-elephant conflict is likely to be caused by the resettlement of families under

³⁶http://www.colombopage.com/archive_17B/Sep03_1504417776CH.php

³⁷<http://www.dailymirror.lk/30588/yan-oya-reservoir-project-could-the-goal-of-agricultural-self-sufficiency-be-achieved->

the Yan Oya Reservoir Project in the North Central Province'.³⁸ Some key points from the SEIA that were reported about it included the following -

(a) the number of families to be displaced by the initiative will be higher than initially estimated. A 2013 EIA report for the project said that 546 families would be affected. But the SEIA released on the Central Environmental Authority (CEA) website states that a total of 1,389 will either lose their houses or paddy lands or both.'

(b) This means the three resettlement sites identified in the EIA report are no longer sufficient. The Irrigation Department and the Forest Department have now named four new resettlement sites and six new irrigable areas. Therefore, the extent of land needed for resettlement has also become "significantly higher" — up from 407 hectares to 1500 hectares — than what was estimated in the EIA report.

(c) The SEIA observes that the four sites now selected for resettlement and six sites flagged as new irrigable areas "are located in areas with elephants."

"Escalation of human-elephant conflict is the next most significant issue to arise due to the implementation of the proposed activities that will negate the expected socio-economic benefits from the project," it admits.

The human-wildlife conflict, especially due to the presence of wild elephants that cause damage to crops and property as well as death and injury to villagers, was identified "as another significant issue in the area during the field visit".

³⁸<http://www.sundaytimes.lk/190106/news/yan-oya-project-likely-to-escalate-human-elephant-conflict-report-warns-328864.html>.

“Implementation of the project will result in further loss of habitat for elephants as well as other fauna that can lead to further aggravation of the human-wildlife conflict,” the SEIA continues.

The SEIA repeatedly refers to the presence of elephants in resettlement and irrigable areas. The most significant impact arising from the proposed activities is loss of forest habitats due to establishment of irrigable areas, construction of houses, access roads and infrastructure in the new resettlement sites.

According to the Movement for Land and Agriculture Reform (MONLAR), by 2017 the project had so far destroyed over 5400 hectares of farm and forest land, including 238 water bodies and displaced over 340 families. They also reported that most of the affected families allege that they have not been adequately rehabilitated and compensated for their losses³⁹. About 85 families had by then been provided alternate land to resettle in, but with little or no infrastructure facilities. 960 farmers in the region had lost their paddy lands and none of the peasant families have cultivated in the past four years, thus losing their livelihood and food security.⁴⁰

By end 2018, over 2731 claims had been submitted for compensation but only 171 people had been compensated, according to the Horowpothana Divisional Secretary.⁴¹ While it was reported that it would cost around LKR 5000 million approximately to pay the compensation, affected people had also not been paid for the loss they had incurred for not being able to cultivate in the Yala and Maha

³⁹ Interview with activist SajeewaChamikara, MONLAR, July 2019

⁴⁰<https://viacampesina.org/en/300-peasant-families-north-eastern-sri-lanka-face-eviction-uncertain-future-yan-oya-irrigation-project-inches-closer-completion/>

⁴¹<http://www.dailynews.lk/2018/12/26/local/172403/yan-oya-farmers-await-compensation>

seasons. Furthermore, many lands of the farmers were submerged when the water was released to the reservoir although those lands were not in the initial plan, which meant that they would not get any compensation. Newly settled families also complained that they lack drinking water, sanitation, electricity, transportation, education, health and other amenities. Muddy land that had been allocated were located around 80km from where they live and farmers had been informed by the GA that they would be provided with alternative land.

By February 2019, Chinese contractors working on the construction of Yan Oya reservoir left bank main canal way had closed the construction site until further notice, due to agitation by farmers whose land had been acquired for the canal way. It was reported that ‘the farmers state that no compensation was paid for their lands including paddy lands and it had dragged them onto the road without any livelihood support. “The reason is the growing agitation and the opposition of farmers due to the lack of an acceptable solution with regard to the payment of compensation.”⁴²

LUXURY APARTMENTS AND SHOPPING COMPLEXES

(a) One Colombo Project, Kompanyaveediya

Land acquisition: A land parcel of 2.5607 hectares (6.3276 acres) was acquired in August 2013 and the boundary roads of this land parcel were Lichmans Mawatha, Java Lane, MasjidulJammiah Mawatha, Malay Street, Glennie Street, Market Place, De Soyza Street and Justice Akbar Mawatha.⁴³ A total of 496 lots were acquired in this land parcel which was acquired for a public purpose. In September 2014, Notice under Section 7 of the Land Acquisition Act was given and in this Extraordinary

⁴²<http://www.dailynews.lk/2019/02/21/local/178133/yan-oya-reservoir-project-standstill>

⁴³ Extraordinary Gazette No. 1824/25 - Friday, August 23, 2013, Declaration under Section 5 of the Land Acquisition Act

gazette, the number of allotments of land being acquired had increased from 496 to 590, increasing the land parcel being acquired to 2.9720 hectares (7.3439 acres).



Top – land prior to acquisition, 2013 / Bottom – current status, 2020 / Source: Google Earth

This increase in the number of allotments of land during this period included 64 lots of land (extend 0.0999 hectares/ 0.2468 acres) belonging to the Colombo Municipal Council. The CMC land was vested with the Urban Development Authority in May 2014, by the then President Mahinda Rajapaksa, under the powers vested in him as Minister of Defence and Urban Development under Section 15 of the Urban

Development Authority Law No. 41 of 1978 enacted by the National State Assembly.⁴⁴

In July 2014, under Section 3(2) of the Strategic Development Projects Act, No. 14 of 2008 as amended, Lakshman Yapa Abeywardena, the then Minister in charge of the subject of Investment Promotion, notified through an Extraordinary gazette that “a project to undertake Re-Development and Mixed Development Project (“Project”) on a land in extent eight (08) Acres located at Slave Island, Colombo 02 (“said area”) in the Western Province with an envisaged investment of United States Dollars Four Hundred and Twenty Nine decimal Five Million (US\$ 429.5 Mn) which includes foreign direct investment of United States Dollars One Hundred and Thirty Million (US \$ 130 Mn). The Re-Development of the said area will bring significant change in the landscape of Colombo city through higher standard of living associated with better quality of life to the habitants whilst the establishment of the Mixed Development Project will importantly contribute to the economic development of the Country:

(i) through the inflow of foreign exchange inflows and strategic importance of the establishment of re-development and mixed development project with a total investment of United States Dollars Four Hundred and Twenty Nine decimal Five Million (US\$ 429.5 Mn) which includes foreign direct investment of United States Dollars One Hundred and Thirty Million (US \$ 130 Mn) within the Project Implementation Period of Eight (08) years from date of the Agreement signed between the Board of Investment of Sri Lanka and the Project Company;

⁴⁴ Extraordinary Gazette No. 1861/26 - Wednesday, May 07, 2014, Order under Section 15 of the Urban Development Authority Law No. 41 of 1978.

(ii) this Project being a pioneer concept for urban renewal enabling the Urban Development Authority to acquire private lands in under developed/underserved areas of Colombo City and provide a better housing/ commercial area with amenities to the habitants on a part of the said area. This approach ensures the habitants to continue to enjoy the locational advantages and to improve their quality of life and living standards;

(iii) through the construction of residential and commercial buildings including luxury apartments and commercial spaces create avenue for development of a world class project that will transform the urban landscape and uplift the profile of the entire area.; and

(iv) through potential employment generation and consequent income earning opportunities for the people of Sri Lanka.”⁴⁵

The gazette also included a schedule of tax exemptions for the project company One-Colombo Project (Private) Limited (locally incorporated company of TATA Housing Development) which included corporate income tax concession, dividends distributed to shareholders out of the exempted profit to be exempted from income tax for ten or six years, as the case may be, and one year thereafter, waivers of Withholding tax afforded in specified cases, and the expatriate staff of the project company to be exempt from the pay as you earn (PAYE) tax, subject to restrictions⁴⁶. The same notice (word for word) with the same tax exemptions was gazetted in June 2016 by Malik Samarawickrama, as the Minister in charge of the subject of Development Strategies and International Trade.⁴⁷

⁴⁵ Extraordinary Gazette No. 1872/9 - Tuesday, July 22, 2014, Notification under Section 3(2) of the Strategic Development Projects Act, No. 14 of 2008

⁴⁶<http://www.sundaytimes.lk/141109/news/tata-company-undertakes-mixed-development-project-in-colombo-2-126726.html>

⁴⁷ Extraordinary Gazette No. 1973/58 - Thursday, June 30, 2016, Notification under Section 3(2) of the Strategic Development Projects Act, No. 14 of 2008.

It was one of the country's oldest Malay Muslim settlements, and by the time the land was acquired there were more than 500 families from all ethnic communities living on this parcel of land, and almost all had deeds to their properties going back decades. Over 80% of the lots were described in the gazette as 'garden contains with one permanent building'.

Several residents in groups filed cases in the Supreme Court (No. SCFR 496/12, 497/12 and 523/12) in September 2012. In the months that followed, residents and the Urban Development Authority had to work out a resolution that was agreeable to all in order to allow the development project of the TATA Housing Development Company to proceed. On October 21, 2013, the then Chief Justice Mohan Peiris delivered a judgement which laid out the options -

- 1) That the petitioners are entitled to an apartment in the new development that will be constructed on the land that they currently live on and that during the period of construction (estimated to be two years) the residents will get two years of rent paid up front as a lump sum. In the event the period of construction is extended, additional rent will be paid.
- 2) Those who do not opt for the above option would be entitled to compensation in terms of the Land Acquisition Act subject to some conditions. These conditions included entitlement to rental payments for a maximum of one year which would be subsequently deducted from the compensation payment and that in the event a petitioner who opted for the compensation option but wished to change to the above option of an apartment in lieu could do so within one year of the operation of the order.

Furthermore the Court directed that for those who opted for the first option and those who opted for the second and changed to the first option, for the purposes of the admission of children into schools the present address would be deemed as the address to be taken into consideration by the authorities of the Department of Education and the relevant schools. Petitioners were to vacate the area identified for development on or before the 1st of December 2013. The Court also directed that the order would apply to any person affected by the new development.

In April 2014, in a report on development and beautification related evictions in Colombo, the Centre for Policy Alternatives reported the following about the community affected by the TATA development -

“However, none of affected households CPA spoke to reported having in their possession anything in writing that outlines their rights, the obligations of the UDA, or those of the private developer regarding the terms of ownership, the deliverables and the time-lines. They also have no information with respect to their entitlements in these new buildings nor the design, size and specifications of these apartments.

At the same time however, some affected residents also told CPA that they had been made to sign multiple documents when they were asked to visit the UDA but were not given any copies of what they had signed. Requests in writing made to the UDA to make available copies of the documents signed had not been answered or acknowledged. Furthermore, all the documents they were asked to sign had been in Sinhala, whereas the community is largely Malay Muslim and Tamil speaking, meaning many of them did not understand what they were signing, but since there was little room for debate or questioning the authorities they had complied. Residents were concerned that insisting for copies or raising questions when they

were at the UDA might result in losing the promised apartment at their original location.”

These circumstances in fact did not change for many years following this report. The two-year construction period was way overdue and the UDA continued to give rental allowances to the community until mid-2019. People had difficulty accessing this rental allowance over the years, as unlike the first upfront payment for two years, the subsequent payments were given in shorter sometimes three to six-month blocks which made it difficult for some to continue living in the same rental housing.

In August 2019, the first series of apartments were handed over to the community and continues to be handed over to date. Compared to the apartments built by the UDA under the Urban Regeneration Project, these apartments built by TATA Housing are spacious and comes in various sizes upward from 600 square feet. Apartments had been allocated based on the size of the previous house and owner preference. While residents have not been handed over deeds to their apartments yet, they do not have to pay for the new apartments as they are given in lieu of their original property. Additions such as fire alarms, sprinkler systems, outlets for fire brigade hoses on all floors, a basement car park are in place. However, there are some restrictions that residents find a burden such as the rule that prevents them from drying clothes on the balcony. With no other space available on floors that have natural light and fresh air, this proved to be a problem. It must be noted that this is a rule applied by the UDA even in their own buildings, in order to maintain the uniformity on the outside.

On the acquired property were also two buildings that should have been gazetted as protected monuments under the Antiquities Act - the Castle Hotel and the De Soyza

building, the last of the shop houses left in Sri Lanka. Both buildings were built over 140 years ago and should be protected under the Act. However, despite the law stating that an Archaeological Impact Assessment must be done for any development project where the land extent exceeds 0.25 hectares, an assessment was done by the UDA before handing over the land to TATA. In May 2017, TATA demolished the Castle Hotel after UDA gave its go ahead, even though in June 2016 the Director General of the Archaeology Department informed the UDA that they have determined the building must be preserved and instructions were given not to make any alterations that would damage its historic and architectural value.⁴⁸

Since early 2018, a group of concerned citizens comprising civil society activists, architects, conservation specialists and residents have been lobbying to protect the De Soyza building and have it listed as protected monument. Despite several attempts by the UDA to demolish the building, the Archeology Department has to date been continuing the process to gazette the building as a protected monument under the Antiquities Act. On January 20, 2020 the residents and occupants of the De Soyza building were given one month notice to vacate the building stating that alternative shop premises and housing would be provided for them in the new buildings built by TATA Housing for the community.⁴⁹

(b) Destiny Mall and Residence, Kompannyaveediya

Land acquisition: The Slave Island Redevelopment Programme (Stage 2) of the Urban Development Authority began in late 2012, and in 2013 the area known as Station Passage in Kompannaveediya (Slave Island) was acquired for a public purpose - a

⁴⁸<http://www.sundaytimes.lk/170618/news/140-year-old-heritage-castle-hotel-victim-of-us-400m-township-245792.html>

⁴⁹Interview with an occupant of the De Soyza building, January 2020

total of 0.4150 hectares (1.0254 acres) in 149 lots of land⁵⁰. The gazette notification for the land acquisition only stated that the land was being acquired for a 'public purpose' and nowhere indicated that the acquisition was for a private development of a luxury living and retail space - 'Destiny Mall and Residency' by Imperial Builders, a Pakistani company.

This land parcel contained a residential area of approximately 450 perches, and contained approximately 105 houses, including several places of religious worship including the *Masjid Abi-Ubaida Al-Jarrah* Mosque.⁵¹ According to the Supreme Court case petition filed by the residents, there were approximately 500 people living in the community and around 85 per cent of the houses were occupied by Muslims, 15 per cent by Sinhalese and 5 per cent by Tamil. They had been living there for over 75 years, a majority owned their homes which were permanent structures.

The decision to file the case arose from several factors. Since 2011, the residents had been visited by and having discussions with officials from the UDA and Ministry of Defence regarding a project to redevelop the land. The residents had been told that they would get alternative housing units built on the same land itself and that they would have to leave the property until the new housing was built. While residents were agreeable to this, they had requested all the details in writing which they had not received.

⁵⁰ Extraordinary Gazette No. 1805/17 - Wednesday, April 10, 2013, Clause (a) of the proviso to Section 38 of the Land Acquisition Act and Extraordinary Gazette No. 1824/25 - Friday, August 23, 2013, Declaration under Section 5 of the Land Acquisition Act

⁵¹ Information contained in the petition of the petitioners for case No. SCFR 294/2013



Top – land prior to acquisition, 2012 / Bottom – current status, 2020 / Source: Google Earth

Several discussions later, including one at the BMICH on July 31, 2012 where they were told by Gotabhaya Rajapaksa, the then Secretary to the Ministry of Defence and Urban Development that they would be able to stay in their homes until the new housing units were built in the adjacent railway quarters property by Imperial Builders (Pvt) Ltd and another in October 2020 at the UDA where the same was communicated to them by UDA officials, nothing was given to them in writing. In March 2013, residents of around 37 households were called for a meeting with UDA officials and officials from Imperial Builders and were asked to vacate their homes so

that the redevelopment project to build their new housing units could continue. Most refused this as they believed it was an attempt for Imperial Builders to start their private project, Destiny Mall and Residency. As this was not the assurance given to them previously by the Defence Secretary, the residents wrote to him asking that they not be relocated but they received no reply.

In August 2013, following the letters they received from the Divisional Secretary in May 2013 that 149 lots comprising 0.4150 hectares were being acquired under the Land Acquisition Act, and the subsequent meetings that followed where residents were not given adequate information in writing about their alternative accommodation and whether they would have to relocate until their new homes were built, the residents decided to go to court.⁵² In their petition they stated that the vague and inconsistent assurances they were being given made them fear that they would not get any alternative accommodation or rent prior to the demolition of their homes, and that they were also concerned that the new housing units for them on the adjacent railway quarters land would not materialise. Along with other issues including that constitutional safeguards and international covenants ratified by Sri Lanka being violated by removing the residents from their homes, and the entire acquisition process being flawed, the petition also mentions the fact that no public purpose for which the land was required had been disclosed to the residents.

The Court's decision was decided on November 12, 2013 where the two options and conditions (admission to schools etc.) for the residents outlined by the then Chief Justice Mohan Peiris were the same given to the petitioners in the One Colombo/TATA development project detailed above. Petitioners were to vacate the area

⁵² Fundamental Rights case (No. SCFR 294/2013)

identified for development on or before the 31st of December 2013. The Court also directed that the order would apply to any person affected by the new development.

The judgement also stated that for occupants who choose to remain on the premises while building operations are in progress will do so at their own peril and will not be entitled to any compensation on the basis of the obligations that flow on the basis of 'Occupiers liability'.

The redevelopment project also included housing for the residents of railway quarters who received keys to their new apartments in November 2015. The press release for the handing over ceremony stated that through this collaboration between Imperial Builders and the UDA "The mutual motive behind is to beautify the skyline of Colombo and the surrounding area. This total project is expected to be over a US \$ 120 million investment with a total extent of 525 perch of land in the heart of Colombo to be re-developed. Based on Slave Island, a prime commercial area of Colombo, the Phase-I of this project is set to change lives and lifestyles of the former dwellers on the land by developing them (sic) modified apartments with much better living features compared to their past living standards." It also stated that the apartments for the Station Passage residents would be complete by August 2016."⁵³ Imperial Builders considers the building of the apartments for the railway staff and the Station Passage residents as Corporate Social Responsibility effort.⁵⁴

The Destiny Mall and Residence is described as a *"G+37 Twin Tower apartment complex consists of 210 apartments and includes one, two, three and four bed Sky Villas with the price ranging from Rs. 30 million to Rs. 100 million. The shopping*

⁵³<http://www.dailymirror.lk/95553/railway-quarters-completed-under-slave-island-redevelopment-program-stage-ii-opens>

⁵⁴<http://www.ft.lk/propertyconstruction/Destiny-Mall---Residency-nears-completion-in-Q4-2019/10516-673650>

mall consists of 130,000 Sqft of retail space, inclusive of a supermarket, and retail shopping, making it very attractive to the rental investment market. The apartment amenities include an infinity pool and deck on the 6th level, a business centre, gymnasium, a banquet hall, seven guest rooms and ample visitor parking.” A press release issued in February 2019 stated that the development would be completed by the fourth quarter of 2019 and that 72% of the apartments had been sold to local and foreign nationals. It also stated that in appreciation to their “loyal existing clients who placed their trust in Imperial Builders, we wish to compensate our valuable customers by offering a home furnishing voucher by Chrelisa Design Italy for an amount of Rs. 1.5 million or the same amount can be deducted from the apartment value at handover, effectively providing all our existing customers a Rs. 1.5 million deduction in their purchase price.”⁵⁵

However, more than 6 years later, the housing for Station Passage residents are still not completed. It is only due to the perseverance of the housing society, (formed by the residents themselves even prior to the eviction) that construction got back on track in 2016 after many delays, with completion promised by end 2017 although to date the housing is not yet complete. The housing society has held the UDA accountable to all that was promised and consistently demanded every promise to be given to them in writing.

Residents who continued to live at Station Passage for as long as they could said that they decided to remain on their land for as long as they could in order to be better positioned to exert pressure on the government.⁵⁶ Construction for the second tower of the Destiny Mall (to be built in the area where their houses are located) was only

⁵⁵ Ibid

⁵⁶ The Making of a World Class City, Centre for Policy Alternatives, January 2017 -

<https://www.cpalanka.org/the-making-of-a-world-class-city-displacement-and-land-acquisition-in-colombo/>

to start after they had moved into their new apartments; however the second tower has proceeded with the construction. While initially the relations with the UDA were good and the people of Station Passage benefitted from an unusually sensitive and initial consultative process, this has changed over time with the delay in the completion of their new housing. When the consultations regarding their housing began after the court case, UDA officials in charge of the project took over a year to get to know the community and incorporate their needs into the housing project. Such detailed and extended consultations, has only happened for the Station Passage case. Given this type of consultative process, the community was able to influence certain design aspects of the apartments, for example having a separate toilet and bathing area instead of having both components in one bathroom. Because the community has always had a separate toilet area and separate bathing area, they preferred for that aspect to be incorporated into the apartment design as well. They were also given everything in writing - from apartment allocation to entitlements, another process that other relocated communities have never experienced. Unfortunately given the delay in securing their housing, the relationship with the UDA officials soured over time.

CONCLUSION

What is clear is that despite repeated calls and advocacy for strengthening land acquisition processes in Sri Lanka over the years, current practices and the way that the Land Acquisition Act is used by the State needs a drastic overhaul. Furthermore, it is inadequate to continue using the Land Acquisition Act as it is and the State must go beyond it to strengthen processes and build in better safeguards and entitlements for citizens whose land is being acquired. While due process, transparency and accountability in the process of land acquisition are important, it is also paramount to

have a concept of justice and equity that rises above existing law and its presumptions.

Overall, whenever the Land Acquisition Act is being used to acquire land for a public purpose, it is crucial that the public purpose for which the land is being acquired is disclosed right from the start. People have a right to know what their land is being acquired for and have adequate information to make a choice about whether it would benefit them and the country at large. The case studies discussed above show that even in instances where the public purpose was known, there was insufficient scrutiny on the loss of land versus the benefit to the country. Lawyers interviewed for this report believe that it is not up to the judiciary to define exactly what a public purpose is, and that this should come from a more rigorous public debate.

Furthermore, a social and environmental impact assessment should be made compulsory in order to justify that the land being acquired is exactly what is needed for the specific public purpose. These assessments should take into account not just the value or loss of physical structures and impact to natural resources, but also of the loss of livelihood, places of worship, community ties, access to schooling and other services like transport and ensure that whatever entitlements that people receive take all this into consideration. The assessments should also account for specific impacts on women, children, other marginalised or minority groups as the impact and needs of each group would be very different.

Lack of information continues to be a serious issue across the board, right through the acquisition processes. This must be addressed with information being made available in Sinhala and Tamil, in a form that is easily understood by the communities, with copies of documents being given to affected communities,

adequate time given for them to consult with lawyers or experts about the process as well as access to a secure grievance redress mechanism process. What has been observed over the years is that affected persons rarely have access to any mechanism in the various State agencies they deal with - from ministries to divisional secretariat offices - to handle queries, complaints, or even raise issues ranging from compensation to other entitlements that are handled in a timely manner. Part of the frustration of the land acquisition process experienced by people is not only the delays in information or even compensation, but the sheer amount of time that goes into dealing with the various actors of the State.

The case studies have made clear the importance of legislating the National Involuntary Resettlement Policy. This was promised under the *Yahapalanaya* Government at the time they came into power but there has been no progress made on this. The National Involuntary Resettlement Policy addresses many of the inadequacies in the Land Acquisition Act and ensures that people who lose their land due to development projects are not left worse off. The NIRP, as well as safeguards of donor agencies as the World Bank and Asian Development Bank require social impact assessments, entitlement matrix, grievance redress mechanisms, consultations and awareness meetings at various points of the project at a minimum. These are all processes that the Land Acquisition Act does not include and the acquiring State agency is not bound to follow. However, when required to follow World Bank or ADB safeguards, institutions such as the Urban Development Authority have proved capable to carry out the various social and environment safeguards measures, which demonstrates that it is not a lack of capacity but a lack of will or interest on the part of the State in their selective processes in land acquisition.

Land acquisition by the State has been a serious and contentious issue dominating the human rights and legal fields for decades. This report looks at the acquisition of land by the State for a public purpose from May 2008 - December 2018. The report finds that land acquisition for a public purpose over the last ten years shows that the definition of ‘public purpose’ used by the State is extremely broad. The public purposes for which land (both private and land held by various Government institutions) was acquired have ranged from military camps to military run resorts to luxury condominiums roads and infrastructure projects to police stations. This report discusses in depth select cases where land was acquired for luxury development projects, reservoirs and for military purposes.

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The Law & Society Trust (LST) is a non-profit organisation engaged in human rights documentation, legal research and advocacy in Sri Lanka. Our aim is to use rights-based strategies in research, documentation and advocacy in order to promote and protect human rights, enhance public accountability and ensure respect for human rights.



The Peoples' Alliance for the Right to Land (PARL), is a network of civil society actors advocating for housing, land and property rights of the poor and marginalised communities in Sri Lanka. PARL recognizes the need for comprehensive consultation processes to better inform and influence advocacy for reforms on land policy.

