

PEOPLE'S LAND COMMISSION REPORT 2019-2020

Summary 1 of 5: Dispossession



“Our Land, Our Life”



ஒலித் திணிய கடின வற தனது கன்மியை காணி உரிமைக்கான மக்கள் கூட்டணி People's Alliance for Right to Land

The People's Land Commission:

Motive:

Access and control of land not only reinforces economic stability, but is also a symbolic representation of a person's dignity and social status. Hence land has been used as the ultimate tool to maneuver political will and political leverage with land related issues often created and at times addressed in an ad hoc manner. In retrospect, land has been a key turning point in the escalation of past conflicts in Sri Lanka.

The need for a people-centred land policy is increasingly becoming evident. The People's Land Commission (PLC) puts forward a guidance note for a planned people-centered land policy developed based on concerns and ground level realities of most vulnerable communities.

Process:

The PLC was initiated in 2019 with the objective of studying problems and consequential impacts faced by communities as a result of existing land policies, land laws and land administration procedures and practices. This consultative process focused on the continuing exclusion of peoples' concerns in formulating government policies. The PLC consisted of a total of 11 activists, academics, researchers and lawyers. The PLC spoke to a total of 885 people conducting hearings across 18 districts: Ampara, Anuradhapura, Badulla, Batticaloa, Colombo, Galle, Gampaha, Hambantota, Nuwara Eliya, Jaffna, Kilinochchi, Mannar, Monaragala, Mullaitivu, Matara, Polonnaruwa, Trincomalee and Vavuniya.

Subsequently the PLC produced a series of findings and recommendations under 05 key areas:

1. Dispossession
2. Deprivation of livelihoods and social security
3. Environmental degradation
4. Diminished identity
5. Women's struggles for possession of lands, land rights and human security.

Overview:



Dispossession

What is dispossession: Dispossession is the act of depriving a person or group of land and or property.

Land dispossession is a multi-faceted issue affecting livelihoods, social security and social mobility, environmental justice and identity. A large number of land dispossession issues presented before the Commission were linked to militarisation and institutionally-entrenched ethnic discrimination. Sri Lanka's economic development model, bureaucratic failures and systemic exclusion, especially in the case of the Malaiyaha Makkal people, are key contributors to the dispossession from land in Sri Lanka.

Based on the Commission hearings, following are key factors which cause dispossession:

- Militarization
- Ethnic discrimination
- Flaws in Sri Lanka's economic development model
- Bureaucratic failures
- Systemic exclusion of the Malaiyaha makkal people
- Systemic exclusion based on caste

Key Findings:

Militarization

1. The lands that were acquired in the North and East during the conflict remain under military and police control. As a result, many of the communities who have previously lived in those areas cannot return to their original lands.
2. Mullikulam, Keppapulavu, Jaffna and Kilinochchi: the military occupies lands owned by Tamil families. Therefore, the denial of the right to land is often linked to discrimination based on ethnicity.
3. The consultations reveal that local government officials are reluctant to ask the military to leave due to fear.

Ethnic discrimination

4. Ethnically biased policies for resettlement and relocation constantly lead to land disputes between Sinhalese and Tamils, Sinhalese and Muslims or Tamils and Muslims.
 - Gal Oya Scheme (Ampara)
 - Mahaweli Development Scheme
 - Norochcholai Tsunami housing scheme (Ampara)
5. Minority communities view these settlements with mistrust (ulterior motives of weakening local groups' electoral powers through manipulating regional demographics) due to the lack of transparency in procedures.
6. The sudden and arbitrary demarcation of privately-owned lands as forest land for wildlife conservation or archaeological sites in different parts of the country. The issue becomes ethnically charged when the lands are acquired only from minority communities.
 - Eg:- Mullaitheevu , Puttalam, Trincomalee

Flaws in Sri Lanka's economic development model

7. The neoliberal economic strategy of the State is styled on a myth that mass dispossession (in the style of land enclosures) will make the land in rural areas available for industrial activity.
8. In turn a workforce is expected to arise out of the dispossessed masses who can find employment in the newfound industrial and commercial economy.
9. Large extents of land have been allocated by the State to facilitate multinational agri-businesses, while poor farmers' share of land has shrunk over the years.
 - Monaragala
 - Hambantota
 - Anuradhapura
10. The urban poor are forced off their lands into the suburbs or to housing complexes located in the outskirts of the city as urban land has become a highly sought-after market commodity,
 - Colombo and Negombo: Increasing land prices and rent hikes create issues of landlessness and homelessness among the urban poor, driving them further away from the city.
11. Lands acquired all over the country are used for tourism-related infrastructure and large 'mega-development' projects.
 - Malwathu Oya: Villages living downstream were relocated to make way for a tourism project.
 - Bandarawela, Hambantota, Colombo, Negombo, Sampur, Aruwakkalu: dispossession of communities due to mega development projects

Bureaucratic failures

12. People accuse the administrative authorities of neglecting their grievances through inefficiency and indifference, while expediting the demands of the economically and politically affluent.
13. People further complain that there is a fundamental lack of coordination among the different state departments who deal with various aspects of land. As a result, when one of the local authority's issues land permits, another might simultaneously prohibit entrance to the same land.
14. Tensions among these different State departments thus detrimentally affect the resolution of people's land issues. Landless people are often misled by the cumbersome and confusing bureaucratic procedures involved in getting permits and in exercising their rights.
15. Dishonest administrative authorities can also benefit from a lack of awareness or education among local people about the annual renewal of land permits and other procedures, as permits and land grants can then be subject to illegal transfers in spite of the presence of the original owners.
 - Mullaitivu: Communities interviewed have been unable to convert their temporary permits into permanent deeds due to bureaucratic challenges.
16. The Land Development Ordinance (LDO) introduced in 1935 set up a restricted land tenure system responding to landlessness among the peasantry. Under this law, land is given to farmers first under a permit and then under a grant.
17. State land given under the LDO only recognised male heads of household and provided inheritance to the oldest son and not the mother or other female children.
18. Land permits given under the LDO can also be cancelled and cannot be alienated, while land grants may be alienated but are subject to stringent conditions. Land falling under this scheme is distributed through kachcheris; however, the system has run into many administrative problems since its inception.
19. Ethnically biased policy-making concerning settlements and land distribution, bureaucratic red tape, corruption, illegal transfers of LDO land, issues of succession and arbitrary use of the land kachcheri system were among the issues raised at the public hearings of the Commission.

Systemic exclusion of the Malaiyaha makkal people

49. Disenfranchisement and systemic exclusion of plantation communities from decision-making processes have detrimentally affected their living conditions.
50. Bureaucratic failures have also perpetuated landlessness in the plantation sector, despite policy changes introduced to distribute land to plantation communities.
51. Those who had already left plantations in search of alternative employment opportunities are also not able to access these schemes even if their landlessness is connected to the larger issue of bonded labour in the plantations.
52. Findings of the PLC point out that land allocated for plantation workers by these schemes is situated in uninhabitable areas that are prone to landslides and other forms of natural disasters.
 - Delthotta Loolecondera Estate: It is the first ever tea plantation in Sri Lanka- the workers are demanding ownership of the tea estate be handed over to the workers and for land to be distributed among workers.

Systemic exclusion based on caste

53. Caste-based discrimination in land ownership has a centuries-old history and precedes the Sri Lankan ethnic conflict and militarisation.
54. Even if the land currently under the custody of the military was released to the people, there is no certainty that many of the displaced living in the Neethavan Welfare Center would be able to return to the areas where they lived before because they do not own land in those areas.
55. PLC background research reveals that Tamil nationalist politicians do not give any prominence to the ways in which the caste background of IDPs has caused their pervasive landlessness.
56. Caste also plays a central role in Tamil people's experiences of the civil war, internal displacement and militarisation. Demilitarisation, albeit important to ethnic reconciliation and socio-economic development of the Northern Province, cannot itself be a solution to the landlessness of the oppressed caste communities in the North.
57. Indeed, the families of the IDPs from oppressed caste backgrounds have expanded since they were initially displaced, with greater land needs than in the 1990s.
58. Some inmates of the camp who do not own land in the villages occupied by the military opined that they should be given alternate land either where they live at present or other areas where they have access to good schools for their children's education, health care services and transportation.
 - Neethavan Welfare Center (Jaffna): it is a camp for internally displaced people (IDPs). There are 61 families living in the camp at present and nearly 25 of them have been there since 1990 when they were first displaced from different villages in Valikamam North. Many of the displaced belong to oppressed caste communities.

Relevant Recommendations:

1. *Land governance:* Decision making about land must be effectively available and enabled at the institutions geographically closest to the people affected.
2. *Establishment of a National Land Commission (NLC):* A NLC vested with the power to formulate national policy on land including State land, land alienation, land use, human settlement and other related matters.
 - Policies on land use, settlement, and alienation should prioritise local peoples' needs and experiences.
 - Any dispute between the Central Government and the Provincial Councils should be decided by the NLC. Any party dissatisfied with the decisions of the NLC shall have the right to appeal to the Constitutional Court/Constitutional bench of the Supreme Court. With regard to State land, local authorities subject to other levels of government shall be in a position to obtain land for any of their activities.
3. *Upgrade in attitude and capacity of Public officials:* Public officials engaged in land administration must fulfill the following:
 - closely adhere to the guiding principles.
 - be suitably qualified for their responsibilities.
 - be adequately trained to interact with people with respect
 - be adequately trained on laws, regulations and policies relating to land
 - be competent in both Sinhala and Tamil languages
 - discharge their responsibilities with the sense that sovereignty lies with the people, and that they are serving the people of Sri Lanka to ensure smooth, accountable and satisfactory procedures.
 - not act, fail to act or take decisions for the benefit of politicians, political parties or any other third party as a result of corruption. If such an action or omission is committed, the law should provide for criminal and disciplinary consequences.
4. *Prior notifications:* Public institutions/officials must provide information prior to public consultations regarding the proposed development (or State acquisition, etc.) of land to give adequate time for people and communities to meaningfully engage in consultations.
5. *Dissemination of public information:* Proactive public dissemination of land information must be ensured along the following guidelines:

- Simplified and accurate information: Programs and activities must be designed and implemented to provide simple, accurate information to people and communities about land rights, administrative procedures, institutions, land policies and its impacts and any decisions or plans relating to land.
 - Information on dispute resolution mechanisms must be provided.
 - Information on land must be reviewed to improve transparency and to evaluate its level of public accessibility. Assistance on how best to achieve this could be sought from the Right to Information Commission to ensure consistency across government bodies.
6. *Increase efficiency:* Public officials responsible for land administration must function strictly in adherence with timelines provided in the law to ensure that people receive timely updates on these processes. They should also proactively inform people of renewals of permits, licenses etc. to ensure that people are provided with adequate notice and opportunity to renew their documents.
7. *Improve technological infrastructure:* Land administration institutions must be equipped with suitable technology to maintain secure, accurate and adequate records relating to land, including sex disaggregated data.
8. *Effective internal coordination mechanisms:* All public officials dealing with land related matters must have access to official information relating to lands. There must be effective coordination between various public officials and public institutions involved in land matters.
- The burden must not be on the people to supply public records (including original documents), to submit certification of public records/information or to clarify public or official information.
 - It must be the responsibility of the public official interacting with the person to provide all public records/information, clarify issues and assist the person with their request or query.
9. *Establishing institutional mandate:* An institutional mandate to handle land grabs must be established as an independent, appropriate mechanism. Addressing land grabs is necessary to address grievances and foster a culture of fairness. It is a necessary part of engaging in reconciliation and working towards peace in affected areas.
10. *Grievance assessment mechanisms:* The mechanism must be empowered to assess grievances for levels of injustice and social and economic impact. It must have the capacity, expertise and representation to address complex inter-ethnic land disputes and be empowered to recommend solutions.

11. *Provision of reparations:* Reparations must be provided for all those subjected to land grabs. Reparation must not be limited to the distribution of compensatory land and/or money, including loss of income over the duration of displacement. Other support to restart lives and secure livelihoods, education, social welfare, infrastructure and other facilities must also be provided.
12. *Demilitarization of land:* The State must immediately implement a programme to return land taken by the military to people and communities. There are many ways in which militarisation has affected land rights: the displacement of people; the land-grabbing of private, community and commons lands; restrictions on land use, such as cultivation; and the restricted resources related to land use, such as water.
13. *Provision of suitable alternative lands:* If people cannot return to their original lands due to security threats (or any other legitimate reason expressed by them) and are willing to accept alternative lands, such alternative lands should take into consideration people's livelihood needs, access to education, public transport and basic services.
14. Military personnel, retired and in active duty, should not be appointed to State institutions and other bodies that are civilian institutions. Steps must be taken to demilitarise State institutions such as the Urban Development Authority.
15. *Supporting local communities:* Communities who are residing in the geographic areas for proposed development, must be prioritised and must benefit from development projects.
 - Economic advantages for private companies, industrial zones and commercial enterprises (including public-private enterprises) must not override this fundamental benefit to the people.
 - Often unrealistic broad notions of benefits to the country and trickle-down benefits to the people must be replaced with information on actual, tangible projected benefits to local people and communities.
16. *Consult local communities:* Prior to initiating development projects, the government must ensure there is public awareness and local engagement with development plans. It must establish collaborative mechanisms with local affected communities to conduct consultations, analyse concerns and develop redressive recommendations and responses.
 - Instill feedback mechanism: It must further establish feedback mechanisms that engage local communities and involve multi-sector experts to meaningfully respond to communities and then recommend changes to development plans where needed.

17. Land acquisition for development projects must strictly be supported by:
 - a. an economic development strategy
 - b. a human and environment management strategy
 - c. a human rights impact assessment, including a strong gender component
 - d. a physical development plan addressing the above-mentioned strategies
 - e. a State sponsored independent feasibility study and report
 - f. a State sponsored independent Environment Impact Assessment (EIA)
 - g. adequate lead time for objections, consideration of alternative reports, strategies and consultations.
18. The State must ensure timely registration of all relocated people into meaningful social security programmes and ensure quality health and education facilities are accessible in these areas.
19. *Environment Impact Assessment:* Projects and activities causing redirection or extraction of natural resources must be evaluated for their impact on people living in those lands, as well as environmental impact and the impact on availability of local natural resources to those living in the area.
20. Emphasis on sustainable tourism: Tourism must be promoted in a manner that protects and benefits local communities, local resources and the environment.
21. At least 20 perches of land, with a house each should be granted to whole resident families of plantations as a consequence of working for the plantation.
 - Full ownership of this land should be provided by way of a proper deed, so they have the freedom to decide how to utilize this land for housing and household food productivity. Ensure women get equal ownership for land.
22. Ensure the people living in plantation areas have access to services provided by local government authorities similar to other villages in Sri Lanka.
23. Remove livelihood controls and limitations placed over lands provided to plantation workers for living and accommodation, such as requiring permission to grow food for consumption or use resources upon such lands.
24. Remove controls placed by plantation companies on the citizenship rights of plantation workers, such as limiting their access to water and electricity and other facilities.

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| PLC Thematic Summaries | 1 | 2 | 3 | 4 | 5 |
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The full People's Land Commission Report can be accessed via ([Link](#))

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"Our Land is Our Life"

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மக்கள் காணி ஆணைக்குழு, இலங்கை
People's Land Commission, Sri Lanka

PARL
People's Alliance for Right to Land

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Published by:



The People's Alliance for Right to Land (PARL) is a voluntary coalition of civil society organisations and individuals, that has been working together against land-grab, and for housing, land and property rights of marginalised communities in Sri Lanka, since 2011. PARL brings together environmental, social justice, human rights, and community-based organisations of women, small-scale farmers, fishing communities, plantation workers, and civil society activists fighting against the dispossession of the vulnerable from their lands, fishing waters, and homes; and in solidarity with the struggles of displaced communities.



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