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### 1. Scope of 'Land Policy'

In the formulation of land policy the term 'land' must be understood and employed in its diverse connotations. Those cited below as examples are considered here as being of direct salience to the suggestions made in this chapter.

(a) According to the *Concise Oxford Dictionary*, 'land', as a noun, could refer to:

- the solid layer of the earth's surface;
- ground, soil, expanse of country;
- a country, nation, state;
- landed property (estates);
- ground fenced off for tillage; *or*
- belt of ploughed field or of pasture parted from others by water furrows.

(b) A paraphrase furnished by the 'United Nations Environmental Programme (UNEP) states that 'land' refers to the parts of the earth's surface above sea-level and all its components of climate, water resources, geomorphic and geological formations, and forest fauna and flora. As pledged by the Land Use and Policy Planning Department (LUPPD) of Sri Lanka, land is a basic resource of mankind with its custodianship vested in the government which bears the responsibility of protecting it for use by present and future generations of the people.

### 2. Civil Society contribution to Land Policy

In assisting the formulation of land policy in Sri Lanka, the attention of the civil society should be devoted to the following basic considerations:

(a) Alongside the expanding population of Sri Lanka, there has been a declining trend in the *per capita* availability of utilizable land which In 2006, when the population was 16 million, was 0.29 ha, is expected to decline to 0.2 ha in 2030 when the projected population would be about 25 million.

- (b) About 80% of the population of Sri Lanka inhabit rural areas, and 70% of the population is dependent directly or indirectly on agriculture, and 90% are 'smallholders'.
- (c) According to the census of agriculture conducted in 2002, there were 139,495 family units in country which, though dependent on agriculture, were landless.
- (d) In Sri Lanka there is evidence of arbitrary and indiscriminate acquisition of private land during the recent past. This is attributable to political malpractices and bureaucratic irregularities.
- (e) Due mainly to prevailing land-use practices there has been constant degradation of land in Sri Lanka. These include:
  - (i) the occupation of steep slopes for residence and other purposes;
  - (ii) soil erosion, landslides, reduction of reservoir capacities due to excessive siltation, increasing incidence and intensity of floods, due often to ill-planned development of socioeconomic infrastructure and seasonal/sporadic cropping on hill-slopes of rugged terrain;
  - (iii) degradation of natural resources and the pollution of water due to the use of machinery, chemical fertilizer and other agrochemicals in farming; and
  - (iv) the ecological damage inflicted on 'protected' forests and the coastal fringe of the island
- (f) Agriculture and Food Security Nexus

Agriculture contributes 11.3% of the Gross National Product (it was 28% in 1990). Agriculture provides livelihood to 30% of the population. The production of food is mainly a function of small farmers who supply 70% of the country's food requirements.
- (g) There are large extents of land both in the drier, 'rain-fed' areas of the 'Dry Zone' as well under the ownership of plantation enterprise elsewhere in the country. It is essential to scientifically develop and distribute such land among small farmers, and thus expand the extent of land under agriculture in Sri Lanka.

### **3. Basic Policy Objectives**

- (a) The adherence to the principles of sustainable agriculture and the adoption of related technology in order to re-orient the prevailing agronomic practices towards a stable 'agro-ecological system' that conserves natural resources and minimize environmental degradation should serve as the basic guideline of land policy.
- (b) Enhancement of food security and increasing the income generated in agriculture should be a prime objectives of land policy.
- (c) All development activities should be planned within the framework of drainage basins (watersheds), and should avoid disruptions of hydrological cycles.
- (d) The transfer of agricultural land to other uses should not be permitted. The land having an agricultural potential should be distributed among landless farmers and agricultural labourers.

### **4. Improvement of Land Use and Promotion of Sustainable Agronomic Practices**

- (a) The use of indigenous plant varieties that are resistant to adverse climatic changes should be encouraged.
- (b) An awareness of the need to preserve/re-establish the land-use arrangements and land and land-related structures which, in the indigenous patterns of apportionment of arable land, were set apart as cultivated fields, meadows, bunds, terraces and embankments, stream reservations, scrublands etc., should be inculcated among the farmers; and crop diversification and mixed cropping (and catch-cropping) should be promoted.
- (c) An extent of about 900,000 ha of rain-fed land, remaining unutilized despite its abundant 'latent biological potential' is available in the Dry Zone. This land should be developed for sustainable agriculture and agroforestry, with due attention to soil and water conservation, and with recourse to a system of periodic fallow (involving spells that permits the natural rejuvenation of soil fertility). The substance of a circular titled 'Recommendations for Rain-

fed Land in the Dry Zone', issued by the Department of Agriculture in 1990, still remains valid.

- (d) Productive and profitable land under tea should be permitted to remain intact with necessary agronomic improvements. Attention should be devoted, however, to the distribution of unutilized and underutilized land in tea estates among villagers and plantation-workers for their housing and farming. In this context it is also suggested that there is a distinct possibility of establishing (while devoting careful attention to the relevant ecological concerns) integrated 'village communities' *within* such estates. Such a community could consist of families, each granted a plot of land for residential and agricultural use, and provided with basic needs services, and the common amenities required for community life. Farming in this novel process of development could be modelled on the existing 'Kandyan Forest Gardens' and/or 'Integrated Farming' involving a range of mutually interdependent activities of environmental conservation and production (cultivation, livestock farming, biogas production etc.).
- (e) In the Wet Zone there is an extent of about 50,000 ha which remains fallow due to a variety of constraints such as sea-water ingress, poor drainage, absentee ownership, and unprofitability in terms of economic returns. Circular No. 4 of 2009 issued by the Department of Agrarian Services provided for the acquisition of cultivable paddy land that lies fallow and its alienation to farmers who could cultivate such land. The government should consider the possibilities of implementing this provision.
- (f) Alternatively or concurrently, the possibilities could be probed of: (i) restoring paddy cultivation by draining excess water from the inundated land and/or pumping out the brackish water; (ii) adopting cultivation techniques such as the parachute and sourjan methods (iii) facilitating changes in land-use from paddy cultivation to the production of OFCs, fodder or fresh-water fish. Where the constraint on paddy cultivation is inadequacy of water, the farmers should be encouraged to grow leguminous plants during periods of drought-enforced fallow. In any event, changing paddy land to non-

agricultural uses should only be done after careful study, and only on the basis of definitive awareness that the land cannot be used for paddy cultivation.

## **5. Changes in Land Laws and Administrative Procedures**

- (a) Certain land laws and administrative practices such as those pertaining alienation of state land in settlement schemes, the resettlement of internally displaced families, or payment of compensation for losses of property due to government acquisitions or natural hazards, bestow upon the ‘head of household’ – who are, in the Sri Lankan context, invariably men– certain privileges that are denied to women. The gender discrimination which these entail needs to be rectified through policy initiatives.
- (b) A large proportion of the labour force in irrigation-based settlement schemes – especially those of the second and third generation of the initial settlers – is landless, due mainly to the fact that the Land Development Ordinance (and its later amendments) on which the establishment of such settlements is based prohibits subdivision of the alienated allotments in the transfer of ownership from one generation to the next. This problem demands appropriate solution.
- (c) Illegal transfers of controlling rights of the land alienated in these settlement schemes through informal leases and foreclosures of mortgages need to be checked.
- (d) Statutory devices should be formulated to prevent the neglect of agriculture on productive land through phenomena such as absentee ‘landlordism’ and ‘ownership disputes’.
- (e) Land that has been acquired by the government under the provisions of the Land Acquisition Act of 1950 (and its subsequent amendments) for the beautification of the City of Colombo, construction of golf courses and hotels etc. should either be returned to the former owners, or the legally stipulated compensation be paid to them without delay.

- (f) Although the 1978 Constitution contains specifications relating to fundamental rights, it has no provisions on land ownership and assets in real estate. The ‘Thirteenth Amendment to the Constitution’ has devolved to the Provincial Councils a range of powers pertaining to land, but powers and functions on state land have been retained within the purview of the central government.
- (g) There is, at present, a confusing mass of ordinances, acts, laws and administrative regulations, and firmly embedded ‘traditions’ that pertain to ‘land’ which, as we have pointed out at the outset, is a complex and multifaceted subject. Accordingly, there is an urgent necessity to undertake a systematic and detailed study of these ‘statutes’, revise them where necessary, and incorporate them in a newly formulated framework of land legislation. An institution entrusted with the responsibilities of ensuring the implementation of this legislation could be established.

## 6. Land Policy and Macro-economic Development

- (a) Projects that involve large capital outlays such as the proposed ‘Colombo Port City’ and the ‘Megapolis’ are associated with complex and intricate issues pertaining to environmental impact, investment priorities from the viewpoint of national needs, economic and social consequences, and implications in foreign relations, all of which require detailed investigation at the planning stages and vigilant monitoring procedures thereafter. Moreover, located as both these gigantic projects are in the Western Province, even in a future scenario of their successful fulfilment of expectations in economic growth, they are likely to have the effect of further widening spatial disparities of development, while aggravating problems of urban over-population – especially those of waste disposal and sewerage, pollution, traffic congestion– from which this metropolitan region already suffers.
- (b) Accordingly, instead of embarking on mega projects of the type referred to above, we suggest that a concerted and comprehensively planned programme of rural development covering each of the 14,200 *Grāma Niladhāri* areas of authority should be implemented in order to bring about

spatially balanced, sustainable development of the entire country. In such a programme, undertaken as an alternative to a Colombo-centric development effort, if designed to advance the production of goods and services in the country's network of villages; link the villages with the regional hierarchy of urban centres; facilitate the provision of urban services to the villages with improved transport facilities; and diversify the economy by promoting animal husbandry, rural industries and crafts; provide for the dissemination of appropriate technical training; establish of manufacturing centres, and of marketing networks based on co-operative principles; will pave the way towards the desired equitable and sustainable development of the island.

## **7. Land and Nature**

Throughout the past few decades immense damage has been caused to ecosystems and natural resources. Related legislation for conservation and protection has been ignored. The warnings submitted by various institutions have been discarded. It is, of course, obvious that development is essential for any country. There could be no dispute on the need to increase employment opportunities, enhance the means of livelihood, establish industries, and improve transport systems in order to cater to the needs of the expanding population. Yet, it is imperative for such development to avoid causing harm to the natural environment, and to take into account the consideration that soil, water, forests, biodiversity, wetlands ecosystems, coastal fringe and the up-stream hydraulic catchments are all integral components of land-based natural endowments. The specific recommendations we suggest in respect of this aspect of policy formulation in this context are to:

- (a) Prohibit the use of steep and structurally unstable land for residential purposes, and provide for the re-settlement of those residing on such land in other localities.
- (b) Re-establish vegetation covers that have the effect of stabilizing the land surface, and thus minimize the risk of landslides.

- (c) Establish/preserve the reservations (of vegetation) on land bordering rivers, streams and other water bodies, and ensure that such reservations are not used for any other purposed.
- (d) Regard a catchment areas as a unit of management, and thus ensure its hydraulic stability in any development activity.
- (e) During the past decade the maritime fringe of the island and lagoon ecosystems along with traditional fishery villages have been grabbed under insidious political influences for constructing tourist hotels. When the land in these ecosystems is made available for such purposes, statutory provision is already available for *prior* certification of environmental impact assessment, and for selecting the development projects that are the most appropriate for such localities. In these efforts. It is also essential to devote attention to the suggestions made by fishery communities, and encourage their participation in environmental conservation, while inculcating among the fisher folk an awareness of the need to conserve the natural ecosystems.
- (f) Mangrove forests which at present cover an aggregate extent of about 16,000 ha, and are associated mainly with lagoon ecosystems, have been particularly vulnerable to the harm caused by large-scale projects such as prawn farms, salterns, and sea-plane 'aerodromes'. The policy should focus on protecting mangroves which require a long time for natural rejuvenation. Among the economic value of mangrove forest is the fact that they provide the site for breeding of lagoon fish, provide the habitat for a wide variety of fauna, and protect of coastal fringe against wave erosion, storms, and the tsunami hazard.