



# ESCR | Newsletter

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## ARE THE POOR “LESSER” STAKEHOLDERS OF DEVELOPMENT?

The development of the city and its beautification has entailed, in the recent past, a spate of evictions of low-income households and small-scale businesses. Among them have been the ongoing “Wanathamulla” evictions. The apparent reasons for the evictions (both real and purported) include that the lands in question are ‘valuable’ (in terms of market prices) and need to be ‘released’ for the promotion of commerce and the development of ‘middle-income’ housing (with private sector involvement). Given the apparent dilemma among those living in underserved settlements as to the alternatives available to them following eviction, this article raises the following questions – what is the scope of the city’s development? Who are the beneficiaries of the envisaged development? And does the process of development in any way counter the fundamental rights jurisprudence of the Constitution of Sri Lanka and established national policy.

It is envisaged that Sri Lanka’s transition to a middle-income country necessitates economic transformation - increased export led growth, foreign investment and infrastructure development that will be facilitated and supported by a spatial transformation of its urban centers<sup>1</sup>. The eviction and resettlement of underserved settlements has been identified as a necessary component in Sri Lanka’s urbanisation project<sup>2</sup>. According to 2011 estimates of the Urban Development Authority (UDA)<sup>3</sup>, close to 69,000 houses in the City of Colombo are located in 1,499 underserved settlements (low-income housing consisting primarily of shanties and slums). The settlements cover approximately 11% of its total land area and comprise half the city’s population. Conditions within these settlements are less than poor including substandard latrines and sewerage, congestion and density. They counter the objects of the city’s transformation, which include - planned urban growth, environmental friendly development and the appropriate and efficient distribution and use of land.

The inhabitants of Wanathamulla have been subject to evictions since 1997, when only a small portion of land was cleared due to resistance by the residents. The current plan, as reported, is to ‘acquire’ as much as 72 acres of land. Notice to vacate has been



issued on its current inhabitants. The UDA, which was brought under the purview of the Ministry of Defense in 2010, has been spear-heading the evictions process. The overt use of military and police in dealing with prospective evictees has introduced a level of coercion and force that is unprecedented. Many of the families have legal tenure of their land (deeds), which in most cases exceed 20 years, though their houses are often less than adequate. Even where families do not have legal tenure, their residence in Wanathamulla have been of long duration, as much as 50 plus years in the case of some. This is a feature common to a majority of low-income settlements in Colombo; that their residents have occupied the settlements for long periods of time and are not recent migrants to the city. Based on reports, the Wanathamulla residents have not been offered compensation but will be relocated to permanent houses, which are apparently of a higher standard and value to those that they currently occupy in Wanathamulla. However, it is expected that the houses will be located in the periphery of the city, where the market value of land is very much less than the lands they currently occupy. Further, the residents will be required to contribute a sum of money towards to the costs of new houses. In previous evictions, evictees from low income households have been relocated in flats built for the purpose but only if they could afford the maintenance costs (rupees 25000 at the time). Many of the resettled were not accustomed to apartment living and found it culturally inappropriate and burdensome.

There is an apparent disconnect between Sri Lanka’s national policy for urbanization and the treatment of low-income settlements. The Mahinda Chinthana Vision for the Future<sup>4</sup> outlines that housing for under-served settlements is to be through the ‘liberalisation and development of prime lands in the city’. Hence, lands on which under-served settlements are currently located will be developed for middle-income and upper-income housing, which in turn will finance the relocation of current residents in other housing units and apartments. Where it is not possible to develop the relatively small plots of land on which individual houses are located in underserved settlements, it may be necessary to resettle low-income households in relocation sites. But whether the end result will

1 Kelegama, S. (2013) Urbanisation in Sri Lanka – An Emerging Challenge, Institute of Policy Studies, 25th Anniversary Convention

2 World Bank, UNHABITAT (2012) Turning Sri Lanka’s Urban Vision into Policy and Action

3 The Urban Development Authority (UDA), established in 1978 as the key planning organization of Colombo’s development, is mandated to drive the city’s transformation towards a viable economy, sustainable development, and to position Sri Lanka as a commercial centre and economic hub in the region. The UDA was brought under the purview of the Ministry of Defence in 2010 together with the Land Reclamation and Development Board

4 Government of Sri Lanka (2010) Mahinda Chinthana Vision of the Future, section 7.3

be equitable and sustainable for all, will depend on, among other things, the ‘process’ as much as the outcome of the evictions.

National law and past policy precedent is relevant with regards to the process in question. The law stipulates distinct procedures for reclaiming and acquiring land. The State may be called upon to reclaim or acquire land for the greater good of the populace, usually referred to as a ‘public purpose’. There is little scope for the interpretation of public purpose in national law, but more recent case law requires that the interpretation of public purpose must not allow for the mala fide acquisition of land based on ulterior motives.<sup>5</sup> Hence, a clear linkage between the acquisition of lands and the greater national objectives must be established. While spatial transformation of the city is necessary for reduced congestion, sustainable environmental and better housing infrastructure, the process of urban regeneration, including the upgrading of under-served settlements, must be with reference to adequate safeguards to ensure that no one is unduly disadvantaged; the ‘public purpose’ must not advantage some and unduly disadvantage others, with equal claims to the city.

The Land Acquisition Act (LAA) of 1950 specifies the procedure for the acquisition of private lands and State lands granted under servitude from the State.<sup>6</sup> Salient features include – notice of intended acquisition, investigation of whether the lands in question are appropriate for the pre-determined public purpose, procedures by which compensation is determined, and a process of inquiry for the settlement of compensation. The apparent disregard of the LAA in the Wanathamulla evictions process, is not only in violation of established law, but allows for random and arbitrary use of procedures that may be manipulated to serve the needs of some over others. In addition, it is contrary to the fundamental rights jurisprudence endorsed by the Constitution of Sri Lanka; the Constitution requires that ‘all persons are equal before the law and must have equal protection of the law’.

In addition, Sri Lanka’s National Involuntary Resettlement Policy (NIRP) provides for a negotiated process by which persons affected by development induced displacement (or evictions) will address the challenges of re-establishing themselves in their places of resettlement. It seeks to address the top-down approach of the LAA and mitigate the rigors of land acquisition and resettlement, and widen the scope of compensation to factor in losses other than the loss of land. Hence, the overt disregard of any meaningful engagement

with evictees of the potential challenges facing them in their places of relocation is regressive and defeats the purposes of progressive policy-making at the national level.

An enabling environment for equitable and affordable housing, where there is an anticipated increase in urbanisation, requires the progressive development of institutions, among other things, that will reach the most vulnerable and marginalised in society. The inhabitants of under-served settlements have been part of the city’s fabric for generations, and have contributed to its life and diversity. They have a right not to be excluded, and to benefit from its development as much as other inhabitants of the City of Colombo.

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## PROTEST ORGANIZED ISLANDWIDE FOR THE FISHER PEOPLE

**“We need immediate solutions for  
fisher people’s issues” – Fisher  
communities around the country**



<sup>5</sup> See RKW Goonesekere (2006) Select Laws on State Lands, Law and Society Publications, Colombo, Sri Lanka, pg 187

<sup>6</sup> The procedure to reclaim State lands, provided it can be established that they are unlawfully occupied, is contained in the State Lands (Recovery of Possession) Act No.7 of 1979, which provides for the recovery State land from persons who are in unauthorized or unlawful possession. Unauthorised possession is defined as – ‘every form of possession or occupation, except possession and occupation upon a valid permit or other written authority of the State granted in accordance with any written law, and includes possession and occupation by encroachment upon State land’.



People that make up the working classes, mainly in the informal sector, the fisher people and the free trade zone [FTZ] workers, have demonstrated their resilience during the past few years although they have faced numerous challenges to their livelihoods. Their experiences have taught them that they have the potential to overcome hardship, especially if there is leadership within themselves that will enable them to unite and advocate for their basic needs, wellbeing and workers' rights.

What were the issues that confronted the working class? Security threats, intimidations, “white van syndrome”, media smear campaigns against leaders labeling them as traitors, harassment of the family members of the leaders, abductions, killings or disappearances, etc., initially created apathy to their plight. These forms of oppression could have forced them into silence; media journalists were threatened to think twice before writing something contradictory to government policies and actions. The policy of the regime seemed to be “Zero Tolerance towards Dissent”, and this policy appeared to guide media reporting as well.

The above conflicts were in addition to their everyday livelihood and security issues. Such problems included loss of income, increases in fuel price, violation of their land rights and, death threats from Indian trawlers, all of which served to rob the fisher community of their dignity. The trawling issue began during the war and remains unresolved. The poaching conducted on Sri Lankan waters with the nets, boats and engines of the Indians deplete the country's marine resources [prawns, sea cucumbers and fish] which are worth millions in foreign exchange earnings, whilst disrupting local fishermen's day to day operations by trespassing into

our territorial waters three times a week, thus creating further social unrest aggravated by physical threats to our fishermen.

Furthermore, Chinese vessels have been granted licenses to conduct fishing operations in our waters. In the name of joint ventures, Chinese vessels encroach into our waters and load their catch in the harbors; attracted by this cheaper option, local purchasers opt to join them, whilst marginalizing local fishers with low prices for their fish. The share of the local fishers decreases drastically and they are actually on the verge of moving out from fisheries.

However, no serious action has been taken against these developments by the relevant authorities in order to protect the local fisher community, and in fact, further repression of leaders of fishermen, and of trade unions, appears evident, and fishermen have been accused of advocating regressive policies.

Due to all the above mentioned factors fisher people endured widespread suffering during the past two years, but there was no coordinated, consistent, collaborated campaign organized to address their plight adequately.

There was a struggle over the fuel crisis in February 2012, but one fisherman was killed and five fishermen were disabled following an altercation with the army. Fisher people were wise enough to understand that the GoSL could not provide fuel subsidies continuously. As they predicted, the subsidies agreed to by the President himself have been abandoned for over a year now.

Another source of conflict is land. In addition to the people residing in the coast, people living in the cities and



other parts of the country are facing the challenges posed by displacement due to development projects, special economic zones, city beautifications etc. The proposed tourism development plan seriously threaten small scale fisher people's livelihood. Fisher people lost their coastal land, lagoons, mangrove forests, and reservoirs, in effect losing access to sources of their livelihood. Worse still, such development policies and plans compromise the overall food security of citizens throughout the country.

In Colombo city there have been a number of instances where people have been threatened to leave their lands through military mediations.

We want to address the land rights of fishers, farmers, as well as the city dwellers who are on the verge of being evicted from their property by force. We want to help the Northern Province fishers regain their livelihoods. We expect to bring all those people together for collective action and to fight for their cause continuously during the coming months with various strategies.

“Unless we come together and take speedy action to press the government to continue to give the fuel subsidy, thousands of small scale fishers will be forced to give up their only source of livelihood, which is fishing”, said Loyel Peiris, a small scale fisherman from Barudalpola, Kudamaduwella and the coordinator of Puttlam District Fisheries Solidarity.

National Fisheries Solidarity Movement (NAFSO) decided to conduct a coordinated campaign against the present economic development models and pressurize the Government of Sri Lanka to stop land grabbing, provide fuel subsidies, remove foreign fishing vessels from SL waters, introduce mechanisms to have competitive prices for fish caught by Sri Lankan fishermen, and press for immediate resettlement of the Internally Displaced Persons (IDP's).

### Objectives of the program:

- The main aim is to highlight the above issues and pressurize the relevant authorities to find solutions in relation to fisher people, farmers and the working class in the present development paradigm;
- Bring the working class people, trade unions, Civil Society Organizations (CSO's), and religious groups together to commemorate Antony Fernando and draw attention to the relevant issues;
- Present a campaign agenda to the wider public to address issues raised in the Lessons Learned and Reconciliation Commission (LLRC) report in relation to political and Economic, Social and Cultural Rights in order to unite them further under a common campaign; and
- Put forward the people's issues and sensitize people's agenda to the wider political arena in order for these issues to be addressed by the relevant politicians when they come to power.

### The chief demands and issues to be addressed during the campaign:

1. The need for a systematic approach to concessional fuel prices rather than misleading fuel subsidies for fisher people such as those agreed to during the fuel price struggle in February 2012;
2. The removal of foreign fishing vessels from Sri Lankan waters, mainly the Chinese vessels which are operating using the Sri Lankan flag in our Exclusive Economic Zone (EEZ);
3. To stop land grabbing and release the land, forest, seas, and inland water bodies which have been grabbed in the name of development for tourism, infra structure and special economic zones;



4. To release the land and resettle those who have been internally displaced since wartime and allow them to begin their lives and revive their livelihoods via fishing and farming activities in the Northern and Eastern provinces;
5. A permanent solution for the Indian trawler issue, which seems to be inadequately addressed through present dialogues between SL and India;
6. An effective strategic intervention to release SL and Indian fishermen when arrested, and
7. A reasonable, competitive price for fish for the local fish producers.

**The National Fisheries Action Committee which was led by NAFSO conducted the following activities as part of the campaign:**

- Building coalition- United people, trade unions, CSOs, Community Based Organizations (CBO's), Politicians, Religious groups, and NGOs together for collective action;
- Awareness campaign- Printed leaflets and 6 posters with various issues and displayed the same in Chilaw, along the Negombo-Chilaw road and Thalwila- Chilaw sea side road;
- Campaign- Organized protests in 4 main places [including Chilaw as the main campaign event, Jaffna, Galle and Arugambay]. A commemoration event for Antony Fernando, and a seminar was organized in Chilaw. Furthermore there were Press releases, Social Media awareness and community education programs conducted.
- Training and Capacity Building- To educate leaders, activists, women and NGO groups to enable them to raise the issues throughout the year.

Vineetha Fernando, a leader of the Sri Vimukthi Fisher Women Organization, Negombo, expressed her concern and solidarity with the slain fisher leader Antony Fernando's family. She said, "We experience difficulties of living in the present economic crisis on a daily basis. The difficulty to live on the money earned by my husband is clear evidence of the economic crisis today. Even with his earnings we cannot run my family. As a house wife I know this very well. We can understand how much difficulty Antony's wife undergoes for her family's survival."

This is the central issue facing the fisher families today.

Fisher leaders, supported by the Catholic church has conducted fisher people's agitations after the February 15 campaign demanding a reduction in fuel prices or a fuel subsidy for fisher people, which led to a hunger strike by the fishermen's leader Lanie Fernando in Negombo.

"There is no other way to open the eyes of the issues faced by the fisher people without conducting a hunger strike, unless we receive a solution to the fuel price crisis by 28th March, 2014."

A central question that remains for the fisher people, is whether these concerns of social, economic issues will be addressed by the authorities concerned.

**Herman Kumara  
Convener, NAFSO**

## FOOD SECURITY CRISIS IN THE NORTH ?

In June 2013, the UN High Commission for Refugees in Sri Lanka released data from an extensive survey it had carried out in Jaffna, Kilinochchi, Mullaitivu, Vavuniya, Mannar and Trincomalee Districts. The survey interviewed 917 respondents as a sample for 138,651 returnee households comprising of 463,924 individuals.

One of the striking features of the survey was that despite three and half years of peace and mega development projects, many in the region still found it difficult to have a square meal regularly.

The survey found that a third of the population felt they lacked food security. "Food security seems to be a concern. Only 65% of the respondents feel that they have sufficient food," the report said.

In some districts the rate was higher. In Trincomalee over half of the interviewed population said they lacked sufficient food, in Mullaitivu 47% felt the same while in Kilinochchi the rate was 40%.

In the time that has elapsed since, nothing much has changed.

The problem with detecting food security levels as with everything in the Northern Province has been the lack of data. In the early part of 2014 when the national unemployment rate was 4% of the labour force according to the Department of Census and Statistics, data was largely unavailable for the Northern Province.

In the Northern Province, there was no official data for three of the five districts that make up the province, namely Jaffna, Mullaitivu and Vavuniya. The two districts where data was available recorded unemployment rates that are more than twice that of the national figure with Mannar at 8.1% and Kilinochchi at 9.3%. What this data meant was that people were poorer in the North than other parts of the country.

According to Economist Muttukrishna Saravananthan, who heads the Jaffna based Point Pedro Institute for Development, the rates could be much higher if stringent parameters are used to calculate the unemployment rate – a national unemployment of 18% and a staggering 32.8% unemployment rate in North.

The reason for such high food insecurity levels is primarily because people's incomes have not increased in the region. Government officials have indicated to the author that by mid-2014, over four billion dollars will have been spent on development work in the north. But such monies have been spent largely on infrastructure works like highways, power supply and water projects, while very little by way of job creation has taken place.

The two traditional main-stays of the North economy, agriculture and fisheries have not received the kind of impetus they deserve. The impact has been telling.

In late 2012, the village of Mamaduwa, about 30 km north east of Vavuniya was facing devillish ravages of a severe drought. Here, around 40 families, mostly Sinhalese, had returned after fleeing in 1985.

They were receiving houses, a new road including a bridge was being built, there was even a functioning school. But the villagers were desperate, with their wells drying up and their harvest having failed twice in a row, once due to the floods and then again, because of drought. Some even spoke about going back to living with relatives south of Vavuniya because they were not quite sure whether life in their home village was worth the risk.



Their main grievance was that hardly any assistance was provided for their main income source, agriculture, and since the return they had felt like they were tied to the end of a yo-yo, pulled by changing weather patterns. There had been no meaningful attention paid to revive agriculture here.

This anomaly of millions spent on infrastructure but relatively limited attention paid to increasing incomes or figuring out how to supplement immediate post resettlement assistance is worryingly frequent.

Even when returnees made a good harvest, the system would make sure the beneficiaries were not them. This happened in the village of Nedunkerni in late 2011. When villagers were able to record a high harvest of aubergines, they hoped for a windfall.

The road that connect Nedunkerni to the south via Puliyankulam was so bad, the wholesale buyers from Vavuniya held out sending lorries to buy the harvest till the last possible moment. They bought a kilo at Rs 5 and resold it in Vavuniya at Rs 70.

The worsening of the lack of food due to changing weather patterns is not limited to the North, experts warn. The recent drought between November of 2013 and mid-March may have caused the paddy crop to shed one tenth of the estimated harvest. There are other connected evils, when households

are pushed to pay more for electricity due to rising production costs, the pressure is to cut down on expensive food items, for example by replacing chicken with dry fish.

Ranjith Punyawardena, the Chief Climatologist at the Department of Agriculture says there is one very obvious fix to easing food security – water. Punyawardena says that the

country has to undergo a massive behavioral change in how it treats its water resources. A shift from treating it as if it was on never-ending supply to treating it like a high-end super luxury good with a premium price tag.

**Amantha Perera**

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## ESCR ADVERSELY AFFECTED BY THE RISING COST OF LIVING

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The rising cost of living is a pressing issue in Sri Lankan society today. A problem that surfaces each time an item is purchased and at times used by politicians as an election promise, the issue is embedded in society as the rising costs invariably affect every aspect of an individual's life. Clearly the cost of living in Sri Lanka has been consistently increasing, adversely impacting the various Economic, Social and Cultural rights of the general public.

According to the Head of the Department of Sociology & Anthropology, of the University of Sri Jayawardenepura, Dr. Praneeth Abeysundara, the Right to family life has been gravely affected by the rising costs. "People have various costs today for basics such as food, clothing, electricity, gas to things like house rent, school fees or school van fees of their kids" he said. Focusing on the rising cost of milk powder, Dr. Abeysundara says that the rising price of that single product can cause difficulty in the average family unit today. While government taxes and private companies hike up prices, Dr. Abeysundara points out that peoples' incomes remain more or less the same.

"Some parents eat less, and give more food to children as they can't afford it" he says adding that various problems including indebtedness caused by the rising costs creates hardship in the family unit.

Times have changed for the average family. Taking an example from his own life, Dr. Abeysundara remembers that it was his father who went to work but his mother remained home to take care of the family. "We managed with his salary as there was a quality and value to that salary unlike today" he says, adding that today, for most families both spouses have been forced to work. Some people may even postpone marriage due to fears of being unable to bear rising costs and maintaining a family thereafter.

"There is no happiness as people are always stressed giving rise to fights and arguments, they work overtime and have less time to spend with their families so rising costs adversely affects a person's right to a family life and right to an adequate standard of living" he says.

Education is another major ESC right which is badly impacted by the rising cost of living. According to the

Commissioner of the Human Rights Commission of Sri Lanka and renowned educationist, Jezima Ismail. "Rising costs make a bigger impact on poor families as they are unable to keep children in school" she says, noting that the school retention rate in Sri Lanka is low. She points out that though we term our education system 'free education' there are various hidden costs which make it difficult for low income families to keep their children in school.

"It costs money to buy stationery, uniforms, meals, things like cricket gear as these are not provided for" she says, explaining that even something as simple as not having shoes can cause a child to drop out. Ismail says that sending children to school amid rising costs can be extremely stressful for a mother as she is constantly worrying how to utilize the limited money she has. "Some children do fall through the cracks and end up working in houses (as domestic workers) even in this day and age" she adds. Finally she notes that while cost of living affects the right to education, the problem is more prevalent amongst the urban poor rather than the rural poor.

The right to adequate health and food are also seriously affected by sky rocketing costs. According to Clinical Nutritionist Dr. Angela de Silva, President of the Nutrition Society of Sri Lanka, rising costs can restrict the access to adequate access to food. She adds that while most of a person's income is spent on food, at times the public spends on the wrong kinds of food. "We buy expensive things like grapes and cheese but if we look there are cheaper alternatives that can give the same kind of nutrition". According to Dr. De Silva there can be malnutrition as well as over nutrition caused by eating the same kind of foods, leading to various kinds of health issues. She says people have a lack of knowledge and need to be educated on food choices they can make even on a limited income and get value for money. Concurring with Mrs. Jezima Ismail, Dr. De Silva says the issues are more prominent in the urban areas than rural areas as the rural poor tend to have home gardens thereby fulfilling their nutrition needs to a certain extent.

Despite complaints of the public with regard to rising costs, the Governor of the Central Bank Ajith Nivaad Cabraal points out that the Colombo price index (which lists 350 goods and its prices on a weekly basis) has only seen an increase of 4.2 per cent since last year. "It is still in the mid digit range and therefore it is tolerable and not a huge increase", thus

the Central bank considers the current situation reasonably benign.

Chandalatha is from a low income family. Her house is in darkness because she was unable to pay her electricity bill and as a consequence the power supply has been terminated. Like many families today she and her husband are both employed, but with a new addition to their family, they are still facing financial difficulties. “Everything is expensive, especially healthcare and medicine from pharmacies, government hospitals don’t have all the medicine so we have to buy from a shop” she says adding that this poses problems for even middle income families

Rising costs can and have clearly adversely affected the ability of people to obtain basic necessities in life. As people compromise on even their basic needs while facing various difficulties, it is not surprising to see Sri Lanka amongst the last 20 countries in the World Happiness Report. Clearly much needs to be done to ensure an adequate standard of living and to enable the public to withstand the rising costs of living , but there is little evidence of any action being taken in this regard.

**Maneshka Borham**



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