

Turning points in Sri Lanka's Land Policy: MCC and its predecessors



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Abstract

This paper charts out pivotal state policies on land in Sri Lanka and discusses the politics and the philosophies that underpin them. The first part of the paper focuses on changes in land policy during the colonial period in light of land use patterns of the colonial administration. The second part of the paper discusses the shift in land policy during the post-colonial period particularly in the context of major irrigation and agricultural schemes. The third and final part of the paper focuses on the recent approach of the state, in light of controversial agreements such as the Millennium Challenge Corporate (MCC) compact. This paper takes the 2018 National Budget, particularly its propositions to loosen regulation over land in Sri Lanka, as a point of departure, as it marks the most recent attempt to ‘neoliberalise’ the way we think about land in Sri Lanka. A fairly convincing case can be made that the cumulative effect of the proposed reforms in Land (Restrictions and Alienation) Act, No. 38 of 2014, Rent Act, No. 7 of 1972, Paddy Land Act, No. 01 of 1958 and the Agricultural Lands Act, No. 42 of 1973, point to a specific political economy ‘naturalizing’ neoliberal ideas as the guiding principles of the Sri Lankan state and economic organization. The paper argues that neoliberal ideas have inveigled into policy and law-making on land over the past four or five decades, not as a “neoliberal takeover”, but as a logic of governing (Ong 2007) that is selectively taken up in diverse political economic contingencies. Using primarily archival methods, this paper positions land policy within the national and global political economic assemblage.

Point of Departure: 2018 National Budget and the MCC Agreement

There were two recent occasions during which the public discourse on land policy regained momentum in Sri Lanka. The first was in the immediate aftermath of the 2018 National Budget. The second was the public outcry against the Government of Sri Lanka signing the Millennium Challenge Corporation Compact during the run-up to the 2019 Presidential Election. The two occasions, which are invariably linked, generated interest and debate on land policy and rights, national security, and sovereignty of Sri Lanka.

The 2018 National Budget advanced the loosening of existing regulations on land ownership as the 'obvious' way to attract foreign investment and stimulate the economy. In his speech, Mangala Samaraweera, the former Minister of Finance called for urgent appraisal of the laws on property rights as "without proper ownership of land and property, no country could achieve faster growth ensuring prosperity for all (p.4). The notion of underutilized land is inextricably linked to the dissatisfaction with the current laws on land and property, and perhaps non-coincidentally with the ideas articulated by the World Bank Report *Rising Global Interest in Farmland* (RGIF 2011), and the land and property rights portfolio of the Millennium Challenge Corporation (MCC), a development contractor of the U.S. government, that was directly advising the Office of the former Prime Minister, Ranil Wickramasinghe. In line with this thinking, the Budget proposal was for the Land (Restrictions and Alienation) Act, No. 38 of 2014 to be amended to allow companies with foreign ownership to own land in Sri Lanka. Complementary to this proposal was the amendment of the Rent Act, No. 7 of 1972 to loosen regulation on ownership of houses and change the law on the rent to be charged on property, and amendments to the Paddy Lands Act, No. 01 of 1958 and the Agricultural Lands Act, No. 42 of 1973 to allow farming of alternate crops. These reforms are part of a global assemblage, rooted in the Lockean notion about property that prevailed in colonial contexts. John Locke (1689) argued that land could be legitimately expropriated if people failed to improve land, or use it efficiently (Locke 1689, 81). Following Locke, and in line with the former Prime Minister Ranil Wickramasinghe's brainchild - Vision 2025 – the Finance Minister was adamant that we "restore property rights in accordance with market principles aiming at promoting faster and sustainable growth" (p.3-4).

Law reforms applicable to agricultural land were flanked by a number of measures that signal the desired direction of the country's agriculture business model, such as, 1) penalties in the form of taxes (14%) for backward integrated agricultural activities (p.13), 2) pursuing PPPs in agribusiness (p.29) (Rs. 50 million budget allocation, and 3) incentives (exemption of NBT) for importing advanced technology-enhanced equipment for agricultural production (p.13). These measures demand critical scrutiny about who is being excluded, on what grounds, and through what means. Plotted together, they could potentially pave way for windfall profits

of global agribusiness, while erasing the Sri Lankan peasant farmer into oblivion. One could question whether Sri Lanka has embraced and legally sanctioned global “land grab” with this move, and whether the incumbent government (newly elected President in the November 2019 Presidential Election and the caretaker cabinet) has a choice in the country’s trajectory on land policy. The global land grab of agricultural lands, which spiked in 2008-09 was stimulated by the market crash in 2008, due to which institutional investors and hedge funds sought ‘safe’ places to invest money (Anseeuw et al. 2012; Cotula 2012; Fairbairn 2014). The stance taken by the previous Yahapalanaya government regarding agricultural lands legitimizes and encourages multinationals like Dole Lanka Private Limited that cleared protected areas and encroached on lands of small holder farmers during the earlier (2005-2015) Rajapaksa administration. It echoes the position taken by the Yahapalanaya Minister of Development Strategies and International Trade, Malik Samarawickrama in the cabinet paper submitted on September 15, 2016 (CP 16/1934/752/023) regularizing the land used for banana cultivation by Dole Lanka Private Limited in Kuda Oya and Demodara in Moneragala district, ignoring Dole’s multiple violations of environment regulations¹ in Sri Lanka (Chamikara 2017), sending a clear message about whose side the state is on.

Central to the neoliberal logic underlying the future of land and property rights reform in Sri Lanka is the rendering of land as “underutilized” and certain agricultural practices as “backward”. The categorization of land as “underutilized” inevitably discounts its current uses. And as Tania Li (2014) argues, this leads to a new “regime of distinction”, in which great many tracts of land are aggregated and homogenized under the label of “underutilization” (Li 2014, 592). The regime of distinction takes place in the domain of technology where scientists and other ‘experts’ produce statistics, maps, surveys and grids, making up land for investment (Demeritt 2001, 439; Blomley 2003, 128). Technologies are readily deployed to make land productive. Sub-contracting the work of Sri Lanka’s National Survey Department to the U.S. company – Timble Inc. for more precise estimates of available land, setting up a land bank at the Board of Investments (Kalupahana 2017), and connecting 45 digitized land registries with 31 state agencies and the customs department are important parts of this assemblage and are the key elements of the country’s trajectory on land policy.

These developments point to an ongoing trend in which neoliberalism is “naturalized” into the thinking of the state. This paper investigates the material potential of land, together with the way in which conditions of access to it has functioned in the making of particular political economies with a focus on the post-colonial period. Historically, land reform has been studied using a variety of frameworks. The most common approach, taken predominantly by those concerned about the economy, is to link the land reform debate with the objective of achieving

1 Environment Act No. 47 of 1980, Antiquities Ordinance, No. 9 of 1940, Fauna and Flora Protection Ordinance, Forest Conservation Ordinance and National Environment Act (Chamikara 2017).

agricultural growth. Those who are concerned with rights readily connect land rights as a normative outcome that every citizen should have rights to own land. In recent times the notion of rights-based development has helped to propagate this approach. This paper deviates from these approaches and looks at land-related policy changes in relation to the political economic landscape of Sri Lanka. Using archival methods, it synthesizes existing literature on land reform and settlement vis-à-vis key legal enactments and policy instruments. It charts out pivotal land policies in Sri Lanka and discusses the politics and the philosophies that underpin them. The first part of the paper focuses on changes in land policy during the colonial period in light of land use patterns of the colonial administration. The second part of the paper discusses the shift in land policy during the post-colonial period particularly in the context of major irrigation and agricultural schemes. The third and final part of the paper focuses on the current thought process of the state, in light of controversial agreements such as the Millennium Challenge Corporate (MCC) compact.

Land Use and Ownership Patterns in Sri Lanka

Sri Lanka's landmass is roughly 6.5 million hectares that fall into the two main topographical regions – the central highlands, rising above 2,500 meters and a lowland plain which surround the hilly areas and extend to the coastal regions. The climate of Sri Lanka is generally classified as tropical and maritime, with distinct monsoon seasons. Based on the annual rainfall, there are three major rainfall zones – Wet Zone (>2,500 mm of rain), Intermediate Zone (2,500-1,750mm of rain) and Dry Zone (< 1,750mm). From the total land mass, 63.6% is found in the Dry Zone, 23.2% in the Wet Zone, and the remaining 13.2% in the Intermediate Zone. Only 3 million hectares of land is arable, and the rest consists of forest reserves and inland water bodies or is classified as terrain that is not suitable for cultivation. The per capita land area has decreased over time due to population growth. In 1870, when the population was 2.7 million, the per capita availability of land was 2.7 hectares. By 1980, this figure had lowered to 0.15 hectares per capita, and currently, it is 0.062 hectares. Looking at the landmass of Sri Lanka from a forestry perspective, one is easily disgruntled at the rapidly declining forest cover, which was 90% in 1900 when the island's population was only 3.5 million. Currently, Sri Lanka's forest cover is dwindling below 30% which is less than the world average. Table 1 indicates the types of land use and corresponding extent of land based on 2007 survey figures. It is important to note that the forest cover of Sri Lanka has further deteriorated since then and is now at 27%.

Main land use type	Sub land use type	2007 extent ha	%
Urban lands	Built up land	31,000	0.5
	Non-agricultural	5,620	0.1
	Sub-total	36,620	0.6
Agricultural lands	Homesteads	1,028,600	15.7
	Tea	189,800	2.9
	Rubber	183,200	2.8
	Coconut	313,700	4.8
	Mixed & perennial crops	164,325	2.5
	Paddy	844,000	12.9
	Sugar cane	13,800	0.2
	Sparsely used crop land	1,439,532	22.0
	Other crop land	76,800	1.2
	Sub-total	4,253,757	65.0
	Forest land	Dense forest	1,123,700
Open forest		403,975	6.2
Forest plantations		86,900	1.3
Scrubs		138,600	2.1
Grasslands		90,600	1.4
Mangroves/marsh		43,480	0.7
Sub-total		1,887,255	28.8
Water		303,068	4.6
Barren land		80,300	1.2
	Total	6,561,000	100.0

Table 1. Land Use in Sri Lanka

Historically, when the island was under monarchic rule, the king was the owner and the trustee of all lands, and plots were disposed by the king for special purposes (e.g. Temples, tanks, etc.) and to noblemen. Traditionally, the people had the right to use land for living and cultivation. This system of management and administration changed over time, especially with the advent of the colonial rule in the island. Currently, there are over 39 operational laws that govern land in Sri Lanka. Some among these are pivotal, such as the Crown Land Encroachment Ordinance (CLEO) in 1840, under which over 90% of the land was vested with the government. During the current decade, roughly 82% of the land is controlled by the state as a result of this legislation. In terms of land use, approximately 40% of land is used for agriculture, of which 28% is used

for paddy cultivation. Within five decades of the post-colonial period (since 1948), the area under tea, rubber and coconut decreased by 10%, 25% and 9% respectively, while the area under paddy increased by 9% (Mapa, Kumaragamage, Gunarathne, & Dassanayake, 2002).

A significant feature of land ownership, as pointed out earlier, is that the majority – over 80% - of the land area is owned and controlled by the state, and only 17.7% of the land is privately owned. This points to the issue of landlessness, and this situation in turn has led to a high proportion of encroachments on to state land and is also associated with the decline of the forest cover. As evident in the 1982 agricultural census and statistics, 27% of the farmers in Sri Lanka are landless, and among them, 42.4% hold land less than one acre, and 82% hold land less than two acres. The highest proportion of landless farmers in 1982 were in Nuwara Eliya (30%) and Matale districts (38.2%). But by 2002, the proportion of landless farmers had decreased to 6.08% and the proportion of those who own less than one acre had come down to 5%. In 2002, it was Mannar (13%), Moneragala (10%) and Hambantota (11%) that had the highest proportion of landless farmers in the country. The state's ownership of the majority of land in Sri Lanka is a direct outcome of Crown Lands Encroachment Ordinance implemented by the British Government in 1840, whereby all uncultivated forest land, unused land and lands where ownership was difficult to established was vested with the government. These types of lands were grouped together and referred to as "Crown Land" (ibid. 974-3). At the inception coffee was grown in Crown Land, which later converted into tea and rubber plantations. Sri Lanka's pattern of land ownership is different to countries like Thailand, which was unconquered by colonial powers, where 80% of the land is privately owned and only 20% is under state control.

I. Land Policy Changes during the Colonial Period

Interests that defined and redefined land, labour and capital during the colonial period

Taking pivotal land policies as a point of analysis, this section sheds light on the political climate of colonial Ceylon, the connections between the economy and politics, and the implications of the interaction of the modern and traditional sectors of the economy. Much of the literature on the last phase of Sri Lanka's colonial rule under the British (1796-1948), a period that is relevant in understanding post-colonial organization of land, labour and capital, focuses predominantly on the island's colonial economy. Scholars have interpreted the economy in two distinct ways inspired by the intellectual roots of Wallich, Levin and others who developed the concept of an 'export economy', and a 'dual economy' model developed by Boeke for the Netherlands Indies of the early twentieth century. The latter model which gained traction among scholars of the time, characterized the island's economy as having two distinct components – plantations and the smallholding sector. The plantations which were both labour and capital intensive, hierarchically organized, and employed advanced technologies was considered the modern sector, whereas the smallholdings, which has a long-standing orientation towards subsistence, relatively less monetized and were individually or collectively owned, were central to the traditional peasant sector. This 'dual' colonial economy had a pervasive influence in molding the emergent polity of the country (Samaraweera 1981).

The most important aspect of the island's colonial economy is the composition of its labour force. Similar to other Third World countries during the colonial period, Sri Lanka too imported labour from outside the country, which in turn led to social pluralism as an inevitable legacy of plantation agriculture. Samaraweera (1981) notes that this social pluralism with the introduction of an "alien" labour force in the plantations, necessarily shaped the links between the economy and national policies, and more importantly, various "sectional interests" that stemmed from this environment (Samaraweera 1981, 129). The growth of plantation agriculture in Sri Lanka during the British colonial period led to the large-scale transfer of land from traditional holdings to new elements. The transfers predominantly took place under the 19th century legislations which became known as the "wasteland ordinances", whereby the lands were vested under the British Raj. Though there was no legal 'title', the land could be sold to investors who were interested in developing the plantations. As the plantations opened up during the 1830s, the sweeping land transfers instilled a sense of loss over peasant's land and wealth both materially and sentimentally. However, as Samaraweera (1981) notes, the dispossession of the peasantry remained unarticulated and dormant, except for an occasional petition by a peasant. As such, in the absence of a collective grievance of the loss of land or organized resistance where dispossession of land was a salient issue, this was not calculated by the colonial administration as a "public issue". This does not mean that loss of land for the peasants was a trivial issue.

It was indeed important and as many argue, it was a key factor in the outbreak of the 1848 Rebellion. However, loss of land did not openly surface as the driving force of resistance, until the emergence of the nationalist movement at the turn of the 19th Century (de Silva, 1965).

It was the English-educated elite who, under the tutelage of the colonial masters, were committed to balancing “Ceylonese patriotism” with unwavering loyalty to the Crown, that championed the cause of the peasants. Logically however, this class would be the most unlikely to advance the rights of peasants given their little or no acquaintance with the peasantry, and some among them had likely benefitted from the British land ordinances. This was particularly the case with the “new rich” who initially were not land-owning gentry, but who later invested their profits from various commercial enterprises in purchasing land (de Silva, 1973). However, broaching the land question and advancing the grievances of the peasantry gave the English-educated elite a ‘base’ and a convenient issue that would give them legitimacy as ‘representatives of the people of the colony’. And as Samaraweera (1981, 131) notes, it also likely served as an effective stick to harass the colonial government. It is interesting to note that during this time, there had not been any available information that indicated the extent to which the peasants in the plantation regions had suffered under the land reforms. Despite the lack of concrete information about peasant dispossession, the agitation over their plight may have taken off due to several literary works romanticizing peasant and rural life, by Sir Henry Maines and Ananda Coomaraswamy (Samaraweera 1978; Coomaraswamy 1905a, 1905b), and a serious concern about the proliferation of ‘Western values’ in the villages, typified by the Ceylon Social Reform Society (Samaraweera 1981, 132). This initial agitation, by the first generation of nationalists, was muted, mainly due to the diffused nature of their attempts to put land on the state policy agenda.

The second generation of nationalists, however, took on board the crisis in peasant life more seriously, mainly because their end goal was the eventual transfer of power from the British into their own hands. In this context, advancing the cause of the peasants was an effective tool, as any material improvement of the rural masses would provide the nationalists a sound justification for their increased participation in the government, and this in turn would offer greater opportunities to the masses and the development of their regions as their representatives would wield considerable power in government (Bandaranaike 1928, p.577-578 & 892-894). At this critical juncture, the nationalists faced the inevitable question of whether to push for constitutional advancement or to improve the lives of rural masses as their first call of duty. The nationalists, in this event, decided to move in the direction of constitutional advancement. The constitutional concession was based on what had already been achieved in the colony as opposed to what accomplishments would matter in future. This automatically translated into acknowledging the contribution of the plantation economy to the progress of the colony. This was emphasized by Sir Ponnambalam Arunachalam in his presidential address at the first session of the Ceylon National Congress in 1919 during which he underlined the value of plantation agriculture to the country. The nationalist camp directly challenged this position on the grounds that the alleged “material and moral prosperity” outlined by Arunachalam, was uneven, and

that the vast majority among 4.5 million people was living in dire poverty (Bandaranaike 1928, 892-3). Prominent nationalists like E.W. Perera effectively tied the developmental issues of the colony with ownership and possession of land, taking a direct hit at the growth of plantations (ibid. 754-5). This line of argument later became a powerful rallying point among the second generation of nationalists.

They advanced the argument that the colonial administration's takeover of "waste lands" and the subsequent sale of such land to investors deprived and restricted the villages from expanding, mainly for the purpose of chena cultivation. They pointed out that land adjacent to villages was used as pasture or for chenas from time immemorial and customarily, this land was considered legitimate extensions of the villagers' primary holdings. They argued that the land that could be put to productive use by their rightful owners, was continuously being alienated and acquired by the colonial administration as Crown land which in turn ushered in mass-scale disruption of rural livelihoods and lives. As the alienation of land fell upon the individual in the immediate aftermath of the World War I era, the already disempowered peasant was further deprived with dispossession of their land, much to the advantage of those in the capitalist classes that benefitted from the alienation of large tracts of rural land.

The process of dispossession was driven by two factors. One, the peasants faced the continuous problem of proving the legal ownership of land holdings, and when disputes arose between the colonial administration and the individual peasants over land titles, the latter, in the face of difficulty of proving legal ownership, was coerced to sell out to wealthy merchants, who could afford an outright purchase against the Crown. Two, the peasants were often in dire poverty that they had no other choice but to sell out their land to rich capitalists. A government-appointed committee of inquiry reported that such disputed land was being sold as low as Rs. 5 per acre. This figure was calculated after adjusting for debt incurred by peasants to the colonial administration over a period of time (Land Commission, 1927). Basically, the colonial administration deducted the value of debt from the value of the property that was being acquired by the Crown. The nationalists took on board such evidence to challenge the government with its land policy. They even utilized anecdotal evidence, such as journals and other accounts written by Leonard Woolf and R.L. Spittle which described the endemic poverty and suffering of peasants of certain regions (as cited in Samaraweera 1981, p. 135). The continued efforts by the nationalists to bring the issue of dispossession of peasants into the fore, eventually pushed the leadership of the legislature to pester the colonial administration to investigate into the matter. The outcome of the investigations only strengthened the nationalists' position on land policy in Sri Lanka. They advanced the position that the rural peasantry was being converted into a "landless proletariat" as an outcome of the colonial policies on land. They spoke against the trend of converting the peasant into an "estate cooly" in the plantations, something which the latter had rejected and resisted time and time again (Aluvihare n.d., p.23). As Samaraweera (1981) notes, this discourse led to framing the peasants of Sri Lanka as a distinct 'social group' that was in need of preservation. Furthermore, this demarcated a boundary between the peasant and the plantations.

A noteworthy observation in the nationalist discourse on the plantations is that they were careful to highlight only the role of the white European entrepreneur and the Crown as culprits as it allowed them to conceal their own involvement in the plantation industry. It is important to identify the two spheres in the plantation industry in the colonial period. While Europeans maintained a monopoly over tea, the coconut plantations were predominantly the turf of the local capitalist class. The ownership and management of rubber plantations were divided between the locals and European investors. When the ownership of estates transferred hands in the early decades of the 20th Century, the share of local investors gradually increased (Ramachandran 1963).

The Peasant vs. the Immigrant Plantation Worker

The migrant worker, a conspicuous feature of the plantations from their inception, was a complicating factor in the struggle to secure land for the peasantry in Sri Lanka during the colonial period. Initially a seasonally migrant labour force, the Indian Tamils were permanently settled by the early decades of the 20th Century (de Silva 1961; Roberts 1961). The permanent settlement of Indian Tamils had implications, especially as they started demanding for land outside the estates for their own use. Up until the beginning of the 20th Century, nationalists had advocated for the welfare of Indian Tamils and had categorically rejected anti-Indian Tamil sentiments voiced by certain quarters of society. But the demand for land by Indian Tamils led the nationalists to take a diametrically opposite hostile position against this group by the 1920s. The hostility towards Indian Tamil workers was deployed along two arguments. One was the role they played in the development of the plantation industry as accommodating workers for the British. The second was the privileges they acquired – wages, medicine, sanitation and education – primarily through the intervention of the Government of India. These privileges were not extended to the rural peasantry living outside the borders of the plantations. This perspective was clearly articulated by D.S. Senanayake in 1926 when he argued that the colonial government was spending a sum of over one and a half million rupees annually for the exclusive benefit of Indian Tamils living in Sri Lanka (Samaraweera 1977). By the mid-1920s the nationalists advanced the position that Indian Tamils' had no right to demand land in Sri Lanka.

Political dynamics in the 1920s further bolstered the position against the Indian Tamils' demand to own land in Sri Lanka. The Ceylon National Congress, the premier political organization that was founded in 1919, had transformed into a predominantly Low Country Sinhala political body. The representation of Kandyan Sinhalese was significantly curtailed by the 1920s, followed by the Tamils (de Silva 1973). When restricted franchise was introduced in the early 1920s for elections to the Legislative Council, the Low Country Sinhalese candidates secured electoral wins over their local Kandyan opponents in the interior owing mainly to their anti-Indian Tamil stance. The Kandyans were disgruntled by the economic changes during the colonial period which primarily took place where they lived, as a result of establishing plantations in the interior provinces. They pointed out that the immigrant labour force was overwhelmingly

present in their regions, and that the Kandyan peasant was at a greater risk of dispossession due to colonial policies and the demands of Indian Tamils. The Ceylon Tamils, on the other hand, was disinterested in issues pertaining to Indian Tamils. As Roberts (1973) explains, this is mainly due to the fact that the Northern and Eastern Provinces in which the Ceylon Tamils were concentrated, were only marginally touched by the new economy, and their stake was rather limited in comparison to the rural Sinhalese. They also had little association and affinity with Indian Tamils; and they remained neutral to the anti-Indian Tamil sentiments that were salient in national platforms. The Ceylon Tamils remained disengaged from the national debates on landlessness of the peasantry. By the 1920s, the nationalist elements in the government put forward various political proposals. The underlying principle was that the “right to acquire Crown land should be restricted to the indigenous population”, as explicitly mentioned in the Kalutara Maha Jana Sabha (Wijemanna 1926, p.3, cited in Samaraweera 1981). The direct implication was the exclusion of Indian Tamils from making any legitimate claims to land. Though some in the nationalist camp considered the rights of ‘domiciled’ Indian Tamils to acquire land in Sri Lanka, on the grounds of their contribution to the economy through hard work and perseverance, this position was strongly opposed by others (ibid, 10). In advancing the rights of the rural Sinhala peasantry, the nationalist camp had to demystify a colonial trope that the Sinhala peasant was notoriously lazy in comparison to the Indian Tamil worker. The British had employed this trope to justify the deployment of the Indian Tamil labour force to develop the dry zone during World War I and the immediate post-war years (Corlett 1916; Bevan 1941). This development triggered the Sinhala nationalist leadership to demonstrate the fallacy of the colonial trope about the Sinhala peasantry by resettling the Sinhala peasantry from the wet zone in the dry zone agricultural settlements and directing them towards cultivating paddy and other crops.

The Land Commission of 1927

The colonial government, under pressure by the nationalists, moved towards re-evaluating its policy on land. The fundamental change was that the colonial administration in 1926 accepted that the “lands are vested in the Crown, not as private property, but as a trustee for the public” (Farmer 1957; Samaraweera 1973). The colonial administration held that, in their role as the ‘trustee’, the lands will not be made available solely for the purpose of the indigenous population, but that the government would attempt to strike an ‘equitable’ balance in allocating land for the needs of peasants and other groups (Solicitor-General 1926, I, 275). This decision was taken around the same time that the Donoughmore Commission on Constitutional Reform had been announced. The colonial administration created the Land Commission in 1927, and its mandate was to review existing policy on land and make recommendations for future policies (Samaraweera 1973). Its recommendations were guided by two important premises: 1) “Crown land is held in trust by the government for the whole community inhabiting the this island, that community which exists at present as well as generations yet unborn”, and 2) the “preservation of the peasantry as a social group” should be given priority in formulating future land policy. While it recommended that the land should be mapped out in order to accommodate the

diverse needs of different social groups, it restricted the allocation of land for settlement strictly to 'Ceylonese'. The definition of 'Ceylonese' included Sinhalese, Ceylon Tamil, Burghers, Ceylon Moors, Ceylon Malays and Europeans domiciled in Ceylon who had adopted Ceylon as their home (Sessional Paper II 1928, p.2). The Indian Tamils were swiftly excluded in the policy recommendation. This exclusion was premised on two developments. First, there was a deep-seated concern about Indian Tamils migrating internally from the plantations into urban areas, and its implications for the urban indigenous labour force. There was a fear that the Indian Tamil workers, who tended to work for lower wages, would displace the urban indigenous worker. This was also an underlying insecurity among the urban working class and a reason why anti-Indian Tamil sentiments had great purchase in urban areas. The second development was the Donoughmore Commission's move to extend the franchise to the entire island, including Indian Tamils. The nationalists anticipated that trade union activists from the plantations would move into urban areas to organize Indian Tamils and that new groups would emerge to compete with the established political formations. As the pioneer Sri Lankan trade unionist A.E. Goonasinha's trajectory reveals, trade unionists who initially worked alongside Indian Tamil labour activists to fight for the welfare of all workers, gradually broke away and stopped advancing the rights of Indian Tamil workers (Jayawardena 1972).

Europeans with domicile in Sri Lanka faced fewer consequences by the recommendations of the Land Commission. The Commission recognized that alienating land for commercial purposes, particularly to maintain exports should be continued. Given that Europeans with domicile in Sri Lanka owned some of the plantations, they were counted as 'Ceylonese' and were included into the Sri Lankan polity by the Commission. As Samaraweera (1981) notes, the nationalists supported this move, mainly because they were patiently waiting for the transfer of power from the British into their hands, and maintaining cordial relations was an important means to the end goal.

The key recommendations of the Land Commission was enacted into law via the Land Development Ordinance of 1935. By the time of the passage of this law, several political developments, by courtesy of the Donoughmore Constitution had taken place in the country. Universal suffrage was introduced in 1931. The extension of the franchise to the Indian Tamil population came under fire by the nationalists, and they took swift measures to restrict the Indian Tamils' rights to the franchise. Central to the political changes of this time was the transfer of power in formulating and implementing policies on land from the British officials to the local politicians (de Silva 1973). The Executive Committee of Agriculture and Land became the apex body that governed all matters on land, and D.S. Senanayake became its Chairman and the subject Minister. The Committee effectively carried out most of the recommendations of the Land Commission through executive action, and land policies became heavily orientated towards the rights of the peasantry (Hansard 1932, I, 335-338; Hansard 1933, I, 981; Brohier 1956). The Land Development Ordinance, which categorically excluded the Indian Tamil population was enacted despite the resistance by groups that represented the rights of Indian Tamil workers. The Indian Tamils had all of two representatives in the State Council, and

previous advocates of their rights, such as A.E. Goonasinha, had changed their position and were of the view that indigenous land cannot be shared by everybody (Hansard 1933, III, 2419).

Meanwhile, land policy remained in the hands of D.S. Senanayake and his Committee of Agriculture and Land. His primary goal was to develop the dry zone, which he often imagined as the original heartland of the 'great hydraulic civilization' of the Sinhalese. Central to his policy assemblage was 'peasant colonization' in the dry zone, which took off during the post-independence years (Farmer 1957). There were several noteworthy factors about these dry zone settlements. One was that neither the Indian Tamils nor the European investors were allowed to acquire or use land in the dry zone. Secondly, even the Ceylonese Tamils were excluded from these settlements, and in any case, there was little enthusiasm in Tamils to occupy land in the dry zone in the 1930s. It was after a couple of decades later that the incremental extension of the 'Sinhalese frontier' to the north became a contentious political issue. By 1956, these settlements became a central tenet of the grievance against Sinhalese political leadership. The nationalists concentrated on drawing support from the rural masses and took broad welfare measures to revive the Sri Lankan countryside. The State Council focused heavily on "rural reconstruction", and the objective was to "cure rural ills by making a direct and concentrated attack on five fronts, namely, social, physical, mental, economic and spiritual" (Sessional Paper XXIII, 1944). This focus on the peasantry, championed by D.S. Senanayake and others, came at the expense of neglecting the disempowered urban worker.

While the rural peasant was at the heart of policy making in the 1930s and 40s, the middle class was next in line on nationalist priorities. The nationalists identified the middle class as a "rural gentry" and as people of moderate means (Senanayake 1935, p. 23). In D.S. Senanayake's land policy, the middle class was given priority after the peasantry. The principle was to protect this social class from losing out to larger investors. The emerging local capitalist class fitted well within this social category and they were given the 'first chance' in allotments up to one hundred acres of land (Hansard 1932, I, p. 690-691). The middle class also benefitted from special interest legislation, particularly from policies proposed by nationalists to support local enterprise. The underlying thought process was articulated well in the report of the Ceylon Banking Commission (Sessional Paper XXII, 1934):

World war revealed the interest weakness of the economic structure of a country whose material prosperity depended on the welfare of a few stable agricultural industries catering entirely for an export market. At the same time, a public, buoyed by the acquisition of a measure of political power, aspired to achieve a similar measure of freedom in the economic sphere. It was considered essential for the attainment of this goal of economic freedom that the public should have adequate financial assistance, so as to enable indigenous capital and enterprise to participate more actively in the [economy]. The prevailing banking system primarily designed to foster development by requisitioning the aid of non-indigenous capital and enterprise proved to be ill-adapted, by the very nature of its structure to offer such facilities.

Simultaneous measures were taken by the State Council to reform the credit structure of the country that was predominantly oriented towards the European investors. The local entrepreneurs had either to depend on European banking institutions or on the immigrant community of money-lenders – Chettiars – who charged exorbitant interest rates from the locals (Ramachandran 1963, 149-50). The leadership of the State Council responded to this issue by establishing the Ceylon Banking Commission in 1934, with the mandate to inquire into the condition of banking and credit in the country. The recommendations of this Commission led to the establishment of the state-sponsored Bank of Ceylon in 1938.

By the 1940s, a political revolt against the export economy of Sri Lanka emerged from various quarters. The strongest opposition to the export economy came from the Marxists. They had been working in the Southwest coastal belt and in some of the key plantation regions and had established a strong base. Their opposition stemmed from an anti-imperialist and anti-capitalist position. They called out on the plantations as symbols of imperialism and capitalism. The nationalists did not take such a radical position, and instead focused their energies on the transfer of power from the British. D.S. Senanayake, who was soon to become the Prime Minister of the country, took an increasing interest in landlessness in the wet zone. While the national policy focus was on developing the dry zone, attempts to develop the wet zone was considered as supplementary to national priorities. The Executive Committee of Agriculture and Land, in 1939, recommended that the rubber plantations in the up- and mid-country which were newly planted in response to the growing demand for rubber in the global market, was an unsuitable crop and the land, once removed of rubber, could be used to cultivate paddy or other highland crops (Hansard 1938, III, 3544). In 1943, the Executive Commission joined hands with the Executive Committee of Labour, Industry and Commerce to recommend that under-utilized rubber estates be taken over by the government under the Defence Regulations and be reallocated to village expansion (Hansard 1943, I, 378-79). Between 1939 and 1947, over 100,000 acres of Crown land and 11,000 acres of private property were allocated to the peasantry under village expansion schemes (Oliver Jr. 1957, 73).

The state measures on land precipitated a clash between the nationalists and other interest groups. The “Knavesmire incident” of 1946 best exemplifies the contentious nature of the policies. Knavesmire was a rubber estate in Kegalle District that was purchased by the government and was distributed among the landless Sinhala peasants. Though the government acquired this land, Indian Tamil workers of the estate were not provided alternative opportunities for their survival. Under these circumstances, the Ceylon Indian Congress, the premier Indian Tamil organisation advancing the rights of Indian Tamil workers, called a one-day strike action of all estate workers in the island. The strike action also had other political grievances, such as the exclusion of Indian Tamils from the Soulbury Commission of Constitutional reform in 1945. The strike action was ineffective as it did not have the support of the Marxist plantation trade unions, and it also presented Indian Tamils as a social group in negative light. There was an added insecurity about the Indian Tamil community in Sri Lanka in the years approaching the country’s independence. There was a fear that this community supported an expansionist

India. This played well into the deep-rooted suspicion of India, dating back to the glory days of the Sinhalese kingdoms that were invaded by South Indian leaders. These fears exacerbated the anti-Indian Tamil sentiments in the polity. The most discriminatory executive action against the Indian Tamils in newly independent Sri Lanka emerged with the enactment of legislation in 1948 and 1949 to revoke the civil and citizenship rights of Indian Tamils (Kodikara 1965).

In summary, state policies on land during the first part of the colonial period was geared towards 'freeing up' land for commercial purposes. It can be argued that commoditization and monetization of land in Sri Lanka took place during the growth of the plantation economy led by the British colonial administration. The large-scale acquisition of land from the rural peasantry came at the expense of displacing traditional livelihoods in the countryside. While the assumption was that the rural peasant would be absorbed as plantation labour, the reality turned out to be different. The reluctance of the rural peasants to become labourers in the commercial coffee, and later tea estates, had many dimensions. The wages were low, the peasants had other options in terms of subsistence agriculture, and the nature and duration of work in the plantations was alien to them. Hence, in order to address the labour shortage in the plantations, the colonial administration imported labour from Southern India. The immigration of Indian Tamils, their citizenship and land rights became particularly contentious during the first half of the 20th century when the dispossession of the rural peasant took centre stage in the backdrop of the struggle for more local representation in legislative bodies, and finally independence of Ceylon. Dry zone colonization schemes were presented as a way of redressing past injustices towards the rural peasantry, and peasants who had lost land during the colonial acquisition were given land and resettled in the Dry zone. By the 1940s, the state began acquiring 'under-utilized' estate land (using the same trope that the colonial administration deployed to acquire land belonging to the rural peasantry in the early part of the colonial period) with the intention of transferring the management of the estates (mainly rubber) to the peasants. This came at the expense of displacing scores of Indian Tamils workers in the estates. Furthermore, these events unfolded at a time when independence was approaching and there was a collective fear regarding Indian Tamils as "Fifth Columnists" for a possibly expansionist India. The ingrained suspicion of India coupled with the Indian Tamil demand for citizenship as well as right to land, fueled anti-Indian Tamil sentiments among the Sri Lankan polity. Such sentiments worsened as urban unemployment continued to rise and there was competition between Indian Tamil workers (who had migrated from the estates) and the 'Ceylonese' to secure jobs in cities. These trends culminated in a number of discriminatory legislations against Indian Tamils in Ceylon, with disenfranchisement policies in 1948 and 1949 bearing far-reaching consequences to this social group.

II. Post-colonial State Building and Land Policy

The political character of post-colonial Sri Lanka: some key aspects

As discussed in detail in Part I of this paper, the state structure of Ceylon during the colonial period was centralized. Although there was a political demand for a federal state in the 1920s, this was vehemently opposed in the movement towards independence. Ceylon became independent in 1948, however, as a dominion state of the British Commonwealth of Nations. The centralized nature of power in the Sri Lankan state intensified with the two constitutions in the post-colonial period. The first republican constitution of 1972 ended the dominion status of Sri Lanka. And the second republican constitution in 1978 which took place in the aftermath of a landslide electoral victory (five-sixths majority) of the United National Party (UNP), further consolidated power at the centre, by creating an all-powerful and directly elected President. The President was the head of state, head of the executive branch of government, and the commander of the armed forces.

Since the universal franchise in 1931, rural Sinhalese formed the majority of the electorate in Sri Lanka. As Bastian (2009) notes, this simple demographic factor continued to be important for electoral politics in the post-colonial period. As discussed in Part I of this paper, the first and the second generations of nationalists championed the cause of the rural peasantry as winning their support was essential to securing electoral power. And as Bastian (2009) contends, that the first-past-the-post electoral system that was in place until 1978, had a conscious bias towards rural areas, by giving a higher weightage to the rural voter. He argues that the state policy of privileging the rural areas positioned the rural Sinhalese at the centre of the state building project in post-colonial Sri Lanka (Bastian 2009, p.2). However, as discussed in the previous section, this privilege granted to the rural peasantry in the post-colonial period was a corrective to the past injustices against this social group by the colonial administration. The idea that rural areas, where the majority of Sinhala people lived, would not be neglected hereafter, was central to the state ideology. From this point onwards the political elite, regardless of their social background, could not ignore the collective electoral power assigned to the rural Sinhalese.

Bastian (2009) notes that the post-colonial state's thrust on the rural Sinhalese contributed to a significant shift in the social composition of the political elite (p.3). At the time of independence, the political elite constituted men from families that were well-integrated into the colonial economy. Over generations, they had changed into English-speaking, westernized and western-educated colonial bourgeoisie. However, with the establishment of a multiparty electoral system, coupled with the emphasis on the rural peasantry, likely contributed to broadening the social composition of political elite (ibid.). The push for greater representation from rural areas, created space for the rural political elite to enter parliament. As the influence of the rural elite classes in branches of the state became greater over time, they likely became indispensable to the ruling regimes in post-colonial Sri Lanka.

Ideas about development, both global and national, also contributed to the focus laid on rural areas (Bastian 2009). Similar to the colonial officers' accounts on the dispossession and corruption of the rural countryside of Sri Lanka during the colonial period, in the post-independence period too, a number of literary works and research published by state commissions painted a picture of decay of peasant agriculture and disintegration of the village community. This literature shed light on the social and economic evils ushered in by the market economy. The 1957 classic titled 'The Disintegrating Village' described the outcome of these processes as follows: "The picture revealed by our survey is that of a vast mass of landless under-employed labourers with no definite means of livelihood, continually growing in number not only through natural increase but also through victimization and exploitation of the middle classes, merchants and estate owners. The competitive laissez-faire economy as it operates in rural areas of Kandy (field work for the study was done in this area) today does not seem to achieve the best results for the community, but on the contrary, continually degenerates it, converting it into a machine that extracts more and more of rentier income rather than making greater and greater additions to output" (Sarkar & Thambaiyah, 1957; cited in Bastian 2009, p.3). Such studies, which also resonate with global discourses on rural development at the time, may have shaped the state development agenda with an emphasis on improving paddy agriculture. The push for supporting paddy agriculture likely gained momentum during this period in which most countries in the world anticipated food shortages. The policy objective of making the country self-sufficient in rice likely culminated in this context. In fact, the main purpose of the Dry Zone resettlement projects was to 'produce rice to feed the nation'. Bastian (2009) observes the push to making the country self-sufficient in rice was supported by all regimes even in the 1960s when Sri Lanka faced foreign exchange problems during the import substitution phase.

As the discussion thus far reveals, "preservation of the peasantry has remained one of the most persistent themes in agrarian policy in Sri Lanka for well over fifty years. It emerged out of the ferment of agrarian ideology of the 1920s and 1930s and represented a blend of perceptions found highlighted in many contemporary discussions of issues relating to the future course of national development" (Peiris, 1989). The framing of economic and social upliftment of the peasantry as the most crucial aspect of national resurgence was intrinsically tied to this ideology. Also salient was a certain romanticisation of the peasant, his values and behavioral norms, and his way of life as something worth preserving (ibid.). For these reasons, Bastian (2009) contends that safeguarding the peasantry and a commitment to develop paddy agriculture in Sri Lanka was not just another development goal, but the very foundation of Sri Lanka's post-colonial state (p.4). He further argues that consolidation of power to the centre was critical for this political project. The centralization of power in turn consolidated the relationship between the ruling class that controlled the state apparatus, and the rural Sinhalese who formed the majority of voters.

In the political economy of the immediate post-colonial period, the ideologically-charged concern of the rural peasant, likely manifested in the establishment of land settlement schemes where state owned land was developed and distributed among the landless peasantry. Bastian (2009) identifies land settlement and land reforms as the two most significant policies in the post-colonial period. The first set of policies distributed state owned land. The second aimed at reforming tenure arrangements. As discussed in the previous section, the beginnings of the settlement programmes in the dry zone date back to the late colonial period. The first Land Commission was established in 1927 and the Land Development Ordinance was passed in 1935. As Peter Bloch (1988) comments, “Land Development Ordinance of 1935 and Crown Land Ordinance of 1947 defined the system of permits and grants which regulate individual’s access to state land. Lands are distributed at Land Kachcheris. Successful applicants receive permits to occupy land. They have to pay an annual payment to retain the permit. After the land is developed, the holder is eligible to receive a grant, which is issued after the land has been completely surveyed. The grant is then registered with the Government Agent. While the grant has many characteristics of a property title and the owner is called the “owner of the holding” the land is still considered state land, because the grant holder cannot transfer title, or lease or mortgage the land without the approval of the Land Commissioner” (Bloch, 1988; cited in Bastian 2009, p.6).

The newly resettled peasants were given a number of concessions. Inputs in agricultural production was subsidized; they were offered credit facilities at low interest; and agricultural extension services and water for irrigation was provided free of charge. Furthermore, the agriculture sector was not taxed, and the state became the primary buyer in the paddy market so as to ensure a guaranteed price to the farmer. The state also provided infrastructure such as roads, tanks and other facilities that were needed to foster a rural community. As most of these land settlements were in the Dry Zone of Sri Lanka, they were commonly referred to as “Dry Zone Colonization” schemes. These areas were mostly thick jungles with human settlements few and far between. Hence, the mass influx of people into these areas created the imagery of ‘opening up of frontier lands’ to human civilization. However, the progress of colonization had been slow until 1947. Between 1931 and 1947 only 13 colonies involving 3,145 settlers had been established. Sanderatne (2004) observes that “peasant colonization gained momentum after independence as the spraying of DDT (dichlorodiphenyltrichloroethane) drastically reduced malarial deaths from 12,500 to 4,500 between 1946 and 1947. Between 1948 and 1953, 16 colonization schemes were inaugurated, and 10,426 colonists settled.” Land was also distributed to the middle classes to development agriculture and cash crops, as well as for youth settlement programmes (Bastian 2009, p.6). As the population grew over time, land became a scarce resource, and the size of land parcels that were distributed to settlers became smaller. Initially, the settlers were given 5 acres of wetland and 3 acres of highland. After 1953, this amount was reduced to 3 acres of wetland and 2 acres of highland, and in 1956 it was further reduced

to 2 acres of wetland and 1 acre of highland. In the newer settlements the uniform allotment is 2.5 acres of paddy and 0.5 acres of homestead. As pointed out earlier, these settlements were established at a time when the state increasingly consolidated its power at the centre. Putting in place a highly centralized bureaucracy to govern these settlements was part of the plan. Hence, these settlements do not mirror traditional villages that are part of the romantic imagination of the countryside of Sri Lanka. Rather, they are hierarchical, bureaucratically controlled entities.

The purpose of post-colonial land reform has been to alter the 'rules of the game' that determined rights that peasants had over land and produce from land. This links to a point made earlier about the post-colonial land policies being correctives to injustices against peasants during the colonial era. However well-intentioned they may have been, D.S. Senanayake's policy of colonization schemes, as many observe, did not change the structure of landholding in Sri Lanka (Samaraweera 1982; Samaraweera 1974). The landless from the wet zone were resettled in the dry zone and were given unexploited crown land away from centers of population concentration. This strategy effectively bypassed the equitable redistribution of land in the wet zone. The mandatory acquisition of land by the state or the establishment of new tenurial arrangements for people who resettled in colonization schemes did not challenge the status quo of property rights.

Paddy Lands Acts of 1953 and 1958

By the 1950s, the exploitative nature of the tenancy relations in paddy lands and the subsequent negative impact on paddy production had become salient issues in policy debates on land reform. One of the first land reforms laws to be enacted was the Paddy Lands Act of 1953. The Act was applied only to two districts – Hambantota and Batticaloa, where most of the land was owned by absentee landlords. Land was managed by middlemen. In Hambantota they were identified by the term 'Gambarayas' - custodians of villages who managed land for more than one owner. Gambarayas were the main beneficiaries of the 1953 Act. The Act "in effect reduced the rent paid by these middlemen to the landlords and improved their security as 'tenants'. Those who tilled the land were still treated as labourers and did not benefit from the reforms at all" (Sanderatne 2004).

The 1958 act introduced a certain degree of security to the tenant vis-à-vis his/her relationship with the owner of the land (Herring 1972). This policy was introduced at a pivotal political moment in Sri Lanka's history. The Mahajana Eksath Peramuna (MEP) led by S.W.R.D. Bandaranaike defeated the centre right United National Party, that inherited power from the British. With his powerful 'pancha maha balavega' trope which stirred up Sinhala nationalism and class-based discontent against the political elite of the UNP who had adopted western

lifestyles and were in close association with the former colonizer, Bandaranaike mobilised the electoral power of rural areas. The Viplawakari Sama Samaja Pakshaya (VLSSP) led by Philip Gunawardena was a coalition partner, and he was a champion of rural populism and Marxism. As the Minister of Agriculture, Philip Gunawardena laid the foundation to a new direction in agrarian reform. He developed a comprehensive set of policies covering land tenure reform, marketing, credit, and crop insurance. Under his direction, a new Department of Agrarian Services was established to oversee new programmes (ibid.).

The Paddy Lands Act of 1958 and its subsequent amendments primarily regulated the authority that landlords could exercise over tenants. Other objectives included the regulation of rents paid by tenants, and the provision of security of tenure of a permanent and heritable nature. The policy also had provisions to prevent further fragmentation of paddy lands for the consolidation of small sized holdings. Cultivation Committees were established in order to organize and regulate paddy cultivation. Simultaneously, interest rates on cash loans made to paddy cultivators, charges made for hire of implements and draft animals by cultivators were regulated, and wages for agricultural labourers were fixed. Bastian (2009) argues that the overall effect of land reforms in the mid-fifties resulted in consolidating policies that benefited Sinhala peasantry cultivating paddy on smallholdings on a firm basis. The Paddy Lands Act No. 1 of 1953 and the Paddy Lands Act No. 1 of 1958, which can be described as liberal and Marxist approaches to land reform, did not, however, address the exploitative aspects of tenancy relations.

Land Reform Law of 1972 and 1975 (Amendment)

The Land Reform Law of 1972 and the Land Reform (Amendment) Law of 1975 marked a critical turning point in state policy on land. These measures were enacted by the United Front (UF) government in Sri Lanka (1970-1977). The Land Reform Law of 1972 created a state agency – the Land Reform Commission (LRC) – with authority to expropriate, and mandated to administer the alienation of the expropriated land. Privately owned land in excess of 25 acres in the case of paddy land, and 50 acres in the case of other agricultural land was taken over by the LRC. The ceiling was applicable to all individual landholders over the age of 18 years and also those who held agricultural land as life tenants, owners of usufruct, co-owners, shareholders or private companies or cooperative societies which owned agricultural land (Samaraweera 1982, p.104). Those who leased public agricultural land were also subjected to the ceiling. Publicly held companies, however, were omitted from the 1972 legislation. The land ceiling was extended to these companies in the land reform amendments in 1975 and excess land that were in the possession of these entities was acquired by the LRC.

The Law of 1972 marked a significant departure from land policies that had been in force since independence in 1948. This law was enacted under a set of unique political conditions. First

it should be noted that the radical land reform was not part of the UF agenda. Neither the UF Common Programme the election manifesto for the 1970 elections, nor the major policy statements of the UF government mentioned land reforms of this nature. It seems like the violent insurrection in 1971 triggered this policy response from the coalition government. This was indicated by the Minister of Agriculture and Lands under whom the land reform machinery was later placed. The events of April 1971 which were popularly known as the “Insurrection of 1971” was led by the Janatha Vimukthi Peramua (JVP) The uprising led to the most traumatic events in the post-independence history of Sri Lanka. The movement depicted discontent of the youth of a government which was a coalition of major left parties – LSSP and the Community Party – with the Sri Lanka Freedom Party (SLFP). However, as pragmatism would have it, the “instant socialism” that was expected by young elements in the polity was going to be a long process. The insurrection questioned the socialist credentials of the UF government, and they needed to quickly salvage its legitimacy. The outcome was a “package deal” – a series of radical measures including the Law of 1972 (Samaraweera 1982).

The Land Reform Law of 1972 represented “an unprecedented erosion of private property rights in agricultural land” (Sanderatne 1972, 8). However, there was no outright dismissal of private property rights, as there was no explicit ideological departure from the assumption that land tenure should be based on a system of private rights (Samaraweera 1982, p.106). The newly-minted land policy, in many ways, carried the legacy from the pre-independent era when D.S. Senanayake, the first Prime Minister and the Minister of Agriculture and Lands under the Donoughmore Constitution (1931-1947) promoted colonization schemes as a way of utilizing crown land for the resettlement of the landless in the dry zone. This was true of the Land Reform Amendments in 1975 as well, even though the final outcome of these reforms was the nationalization of public companies in the plantation sector. This takeover was a long-established political demand of the Left, and it was shared by the nationalist camp as well, albeit for different reasons. The Left envisaged having key areas of the economy under state control, whereas for the nationalists, it was a means of redressing dispossession during the colonial period. Nationalist leaders had claimed that since the early 1830s, the plantation sector in the island’s interior, was the primary cause of problems faced by the peasantry.

The in the aftermath of independence, the leadership continued to target the foreign investors as the latter derived a noteworthy benefit from state measures. The foreign plantation companies also heavily depended on importation of labor. This does not mean that there were no local investors operating plantations. The local investors, unlike their foreign counterparts, operated in a private capacity through privately held companies, whereas the foreign investors operated through public companies. Though the more visible foreign-owned plantation companies were targeted by the Left, as Samaraweera (1974) notes, public companies were not included in the Land Reform law of 1972. He explains that foreign-investor-held public plantation companies were excluded from the law primarily due to the instability created by the JVP insurrection. In

the wake of significant economic dislocations and public expenditure caused by the insurrection, the state was hesitant to make drastic changes in the structure of the island's economy. By then, the revenue from plantations was a mainstay of the economy, providing 29% of the GNP and employed over one-fourth of the labour force (Peiris 1977).

There were two objectives of the 1972 land reforms. First, the reforms put in place specific ceilings on the ownership of agricultural land. Secondly, the aim was to utilize the alienated land to increase productivity and employment (Land Reform Law 1972, p.2). The 1972 Constitution, which coincided with the land reforms developed ideas on land ownership to include a collectivist ideology. Under the section "Principles of State Policy" of the Constitution, the state called for "the development of collective forms of property such as state property or cooperative property, in the means of production, distribution and exchange as a means of ending exploitation of man by man" (Constitution of Sri Lanka 1972, 16 e)). Despite the philosophy on land advanced by the Constitution, the state was not willing to dismantle the plantation economy. In a speech given by Hector Kobbekaduwa, the Minister of Agriculture and Lands in August 1974, he clarifies the intent of the government as follows: "many people conceive of land reform as a process of expropriation of land, and the distribution of such land among the landless peasants. I do not intend directing the land reforms programme towards that objective. I firmly believe that estates which are highly productive, and which are economically viable should remain as distinctive units" (Minister of Agriculture and Lands 1974, p.1-2). This view was reflected in the LRC when it asserted that "highly productive lands are being maintained as estates" (Land Reform Commission 1975, 6; cited in Samaraweera 1982, p.112). Observing the land reform policies of 1972, Nimal Sanderatne (1972) notes that the state in the United Front government clearly understood that the estates were the best method to produce export crops and was least interested in bringing the economically viable and profitable plantations under a different structure. The state also did not entertain the idea of encouraging the peasants to be producers of export crops either in an individual or collective capacity (Sanderatne 1972, p.15-16).

There was no redistribution of land on any large scale, as the reforms led to a mere transfer of ownership and management of the plantations. Two large statutory bodies were created – the Sri Lanka State Plantation Corporation (SLSPC) and Janatha Estate Development Board (JEDB) - that became the principal beneficiaries of the land reforms. Together they received 59.2% of the alienated land, and this figure further increased under the subsequent UNP government. Furthermore, expropriated land was claimed by other Government-owned enterprises such as the Sri Lanka Sugar Corporation, and government-sponsored research centers dedicated to the development of tea, rubber and coconut. One could then argue on how these reforms would address the grievances of the landless peasantry. It seems that the UF government was driven not only by local demands, but also by global trends such as population growth and food production. The Land Commission Report of 1975 states the government's rationale for land reform in the following way:

[To] provide additional employment to a growing population...the Government had to think in terms of getting as large an extent of land as possible which could be utilized for multiple cropping, food production, crop diversification, etc., in areas where infrastructural investment was not required and capital intensive development under major irrigation works, etc., were not basic requirements. In the studies that were undertaken both by the Foreign Experts such as the Seers Mission and local organizations and experts, it became evident that there was no alternative but to look for this land in the area which had hitherto been left untouched as the Plantation sector where the facilities referred to above were available (Land Reform Commission 1975, 5).

Furthermore, the ‘theory of change’ in creating employment through land reform is clearly articulated in the report to the UF government by the Inter-Agency Mission of the International Labour Organization led by Dudley Seers in 1971 (International Labour Office, 1971).

The logic of creating employment through land reform in the LRC policies and associated measures of the UF government was two-fold. First, the young, unemployed peasants were to be recruited to work on estates. Samaraweera (1977) notes that this was a clear departure from the thinking of the previous leadership of the Donoughmore era that romanticized the peasantry, and vehemently protested them being downgraded to “estate coolies”. The employment opportunities were to be created via a process of diversification of the estates and replanting crops. The underlying implication, though not articulated clearly in the policy of the UF, was to displace the immigrant Indian Tamil labour force in the plantation sector. The Indian Tamil labourer was to be replaced by the rural peasant. Sanderatne (1972) notes that the Land Reform Law of 1972 omitted a previous legal provision on employment which stated that priority in recruitment to the estates should be given to those who are already either resident or employed on the land. The omission excluded the imperative to employ Indian Tamils in estates under the UF government. With the takeover of estates under the Land Reform (Amendment) Law of 1975, a substantial proportion of Indian Tamil labourers were displaced by peasant labour, either through sweeping measures by the corporations or through interventions of local politicians. The local politicians used the freed-up employment opportunities in the estates as a means of doling out patronage (Bastian 2009).

The LRC’s second strategy of alleviating unemployment through land reform was to establish “cooperative-type settlements” in order to absorb unemployed peasant youth. Youth cooperative settlements were set up under the guidance of Government Agents, and they took the form of electorate-level cooperatives, cooperative janavasas (people’s settlements) and district development projects. In 1975, the LRC estimated that a total of 50,000 acres was allocated for the purpose of settling 15,000 unemployed peasant youth in the countryside (Land Reform Commission 1975, 5). However, as Samaraweera (1982) notes, this allocation consisted only

5.1% of total land vested in the LRC, which in turn questions the collectivist ideological goals that the UF government set out to pursue.

The politics of land reforms of the seventies grappled with whether the alienation of land should be individualistic or collectivist. This question was not only an ideological one, but also one that sought answers for efficient use of resources as the central issue in the country's economic development was productivity of peasant agriculture. However, as Pieris (1975) notes, only a small amount of paddy land (18,407 acres or 1.2% of the total land devoted to paddy) was acquired by the LRC. Though the government set off on a path to reach self-sufficiency in food by increasing rice production, the UF government seemed to have struggled with generating economic growth through land reform in this sector. As a recourse measure to satisfy the needs of landless peasants, it seemed to have turned towards acquiring and exploiting lands belonging to the plantations. The net effect was to increase the state ownership of land rather than distribution of land to the landless.

It also protected a certain class of landowners. The Land Reform Law of 1972 permitted a titleholder to transfer land in excess of the ceiling to a child or a parent "by way of sale, gift, exchange or otherwise: (Land Reform Law 1972, 14 (1)). It also allowed the LRC to sell to a person who was a minor, land which had been taken from the minor's parents as excess land (Land Reform Law 1972, 22 (1) (b)). Moreover, the compensation for those who lost land was quite generous. Sanderatne (1972) notes that the capitalization of land values for purposes of compensation was at a favourable rate and the Land Reform Bonds, the principle form of compensation, carried a high interest rate of 7%. On this basis, he concludes that "it might be thought, considering that expropriation taken place only about a ceiling which is high, seen in the context of the country's land holding structure, that the effectiveness of the reform could have been increased by a greater confiscatory element" (Sanderatne 1972, p.15). Evidently, the government swiftly compensated both individuals and companies, and by the end of 1979, a total of Rs. 239 million was paid under the Land Reform Law of 1972 and Rs. 159 million was paid to foreign companies by the Land Reform (Amendment) Law of 1975 (Central Bank of Ceylon 1979, p.16). The 1972 law, by having a high ceiling on the size of the paddy lands that was taken over, ensured that it did not affect most of the owners of paddy land. In addition, the entire subsidy structure and state support for paddy agriculture continued. The Land Reform Law of 1972 did not interfere with the tenancy relations, except in the case of tenants under the Paddy Lands Acts of 1958, who were assured that they would not be affected by a change of ownership of agricultural land (Land Reform Law 1972, 10). In order to enhance the productive capacities in the paddy sector, a series of legal measures, such as the Agricultural Productivity Law No. 1 of 1972 and the Agricultural Insurance Law No. 27 of 1973 were taken. However, the extent to which that the two main aspects of the agrarian structure – ownership and/control of the land, and the physical and human resource use in relation to the pattern of cultivation and the scale of operation, was addressed by the land reforms of 1972 and 1975 still remains a

question. In other words, the status quo of an agrarian structure was maintained by the state. Samaraweera (1982) contends that the marginal gains of land reform in Sri Lanka under the UF government can be attributed to the lack of a distinctive ideological thrust, which in turn resulted in surface-level reforms (Samaraweera 1982).

The biggest national programme planned during the UF government was the Mahaweli Ganga Development, which envisaged the development of approximately 900,000 acres of land in the Dry Zone (246,000 of which were already cultivated), and the production of 970 megawatts of power (Mahaweli Development Board, 1972). The investment was Rs. 6,700 million, spread over 30 years (Schickele, 1970). The planners of Mahaweli decided to view the economic return from this project by the productivity of its use and not by the investment cost. The Mahaweli Ganga Development project was not entirely the brainchild of the United Front. It was in 1969, when a UNP government was in power under the leadership of Prime Minister Dudley Senanayake, that an agreement was signed between the Government of Ceylon and the World Bank to develop the Mahaweli river basin, a multi-purpose irrigation project which sought to modernize irrigation and agriculture in Sri Lanka. Towards the end of 1969, Dr. N.M. Perera, then a member of the opposition, made the longest speech in his parliamentary career opposing this collaboration. His scathing critique of the Mahaweli project was based on a well-researched critique of the Gal Oya development scheme written by B.H. Farmer. Several months after N.M. Perera's oratorical fireworks in parliament against the Mahaweli project, and the subsequent debate on it, the UNP lost the 1970 election and the United Front government came to power. The UF government, however, did not walk away from the Mahaweli agreement, though they attacked it throughout the election campaign. They took the project on board and conducted the initial planning and implementation sketch by bringing together various stakeholders – the Mahaweli Development Board, State Engineering Corporation, State Development and Construction Corporation, and Ceylon Development Engineers.

The master plan for the project included three phases, and the first phase included three projects and a feasibility study. The cropping pattern proposed by the Mahaweli programme included paddy and highland crops such as chilies, onions, soya beans, pulses and cotton. The conditions for land distribution and tenure was that each settler was allocated a family farm of 3 acres, including either lowland or highland or both. The settlers were given land use permits subjected to several conditions laid out by the Project Authority. New settlers had to buy their allotments at the rate of Rs. 7,500 per acre in 25 annual installments of Rs. 300. The farmers who were already living in areas earmarked for the Mahaweli only paid for any additional land allocated to them (Mahaweli Development Board, 1972). The criteria for selecting settlers included experience of growing crops proposed by the Project, homogeneity of settler groups applying collectively, age and working capacity. Attempts were made to settle people from the same geographical area together. The clearing and levelling of land, and basic irrigation facilities were completed prior to the arrival of the new settlers. Once the settlers arrived, they had to build temporary

houses, prepare for the agricultural season and set up cooperatives. The government estimated that the preliminary settlement period would be two months, and during this time, the settlers were given daily in-kind allowances worth Rs. 5. While the planning stage was in a consultative manner, engaging with many stakeholders, the negative fallout was the delay in implementation of the plan and its individual projects. When the UF government eventually broke up to become an SLFP government towards the mid to the latter part of the 70s, they had nothing to show for its Mahaweli achievements. Though they hurriedly took action to transport water through the irrigation tunnel in Bowatenna even before the tunnel construction was completed, they could not achieve much more before the election of July 1977.

With the monumental victory of the UNP in the 1977 general election, primarily due to the unpopular policies and internal crises in the UF coalition government, the movement towards the collectivist approach to agricultural land use was swiftly dispensed. Most of the innovative and experimental initiatives of the UF government such as the cooperatives that managed large estates, were abandoned. The land that was managed by the cooperatives were vested in the two main state corporations in plantation agriculture – the JEDB and SPC. The incumbent UNP government's thinking on land is best exemplified in the enactment of the Land Grants (Special Provisions) Act in 1979. In the latter part of 1979, the government began alienating land previously acquired for the use of peasants, on an individual and family basis. This move by the UNP government, which came under heavy criticism for its unethical nature, was not surprising, given directives of the new Constitution in 1978 and the general orientation of the government which had more than two-thirds majority in parliament. Under the section "Directive Principles of State Policy and Fundamental Duties" of the 1978 Constitution, the state calls for "the rapid development of the whole country by means of [both] public and private economic activity...and the establishment of a just social order in which the means of production, distribution and exchange are not concentrated and centralized in the State, State agencies or in the hands of a privileged few" (Constitution of Sri Lanka 1978, 27 (2) (d) and (f)).

The Open Economy, Liberalisation and the Accelerated Mahaweli Programme

With the landslide victory of the UNP in the 1977 election, sweeping political and economic reforms were initiated in the country. The liberalization of the economy marked a clear rupture in the structure of the economy in the past two decades (1956 – 1976) which was centred upon heavy government regulation of private sector companies, banking and the nationalization of key industries including finance, ports, and oil. Compared to the state dominated and inward-looking phase of capitalism that existed before 1977, the open economy policies reduced the protection given to the peasantry and the role played by the state in agriculture (Bastian 2009). The most significant policy change during this period was the reduction of subsidies

for production of paddy, and the removal of the fertilizer subsidy in 1989. Simultaneously, the private sector stepped into fill the vacuum of providing various inputs such as agro-chemicals and machinery. The gradual privatization of agricultural inputs took various forms. One such method was to privatise state-owned corporations that sold agricultural inputs. The privatization of the Fertilizer Corporation is a case in point. Another method was to lift restriction for the private sector to enter into areas which were previously controlled by the state. The production and sale of seed paddy is one such example (Bastian 2009). The state also limited its role as the main buyer in the paddy market. The functions of the Paddy Marketing Board, the state agency that previously purchased paddy from farmers, was drastically reduced and the notion of a “guaranteed price” for the paddy farmer was quickly dismantled. With the emergence of these domestic reforms, and in the face of global market forces, smallholder paddy agriculture in Sri Lanka began its descent.

The most notable policy change in terms of land rights during this period was the new agrarian law – the Agrarian Services Act No. 58 of 1979. This law, which tended to restructure agrarian relations to reinforce the rights of and interests of landlords, worked in favour of farmers who were already better off, but removed the protection provided to smallholder peasant farmers. This law explicitly linked the productivity of the tenant to the security of tenancy. The de facto share of production to the landlord was significantly increased, and any legal obstacles to entrepreneurs controlling large tracts of peasant land were lifted (Gunasinghe 1986). Cumulatively, this law created favourable conditions for the land-owning classes in rural areas. The state took quick action to facilitate private ownership and markets in relation to land. One example is the transfer of outright ownership of land (vested in the state, but given to farmers) under Land Development Ordinance permits (Bastian 2009). The farmers that had user rights to this state land could not sell nor use the land as collateral to obtain bank loans. When the state offered outright purchase of state land, the better off farmers began to acquire large tracts of land.

The post-1977 shift in state policy towards increasing the efficiency and the vibrancy of land markets was influenced by multilateral agencies such as the World Bank (Bastian 2009). The ideological and political economic departure from a relatively socialist model to neoliberalism was readily supported by the international donor community. The World Bank was at the forefront of helping the Sri Lankan government develop a more competitive land market. This was spelt out in the Non-Plantation Sector policy paper of the World Bank (World Bank 1996; also cited in Bastian 2009). The paper problematizes the existence of the paddy sector in Sri Lanka as the main obstacle for poor performance of the non-plantation crop sector in Sri Lanka. The report blames the inefficient land market, which is excessively controlled by the state and allocated primarily to paddy farmers as the main issue in developing other agricultural sectors in the country: “If the land market was working efficiently, able farmers would increase farm size and farming activities and make the most of commercial opportunities available to diversify

a part of their cropping activities and so increase their income. Those with more advantage in off-farm activities would phase out of farming, specialize in off-farm activities and by doing so increase their income too” (World Bank 1996, p.i).

The government continued to pursue the agreement with the World Bank and other multi-lateral agencies on developing the Mahaweli river basin. The Prime Minister J.R. Jayawardena who became the Executive President of Sri Lanka after the passage of the 1978 Constitution wanted to accelerate the Mahaweli scheme as one of his signature initiatives. The programme was retitled as the “Accelerated Mahaweli Development Programme” and the government deviated from the multilateral aid scheme in favour of bilateral arrangements for funding (ibid.). Different donor countries sent their own firms to undertake the projects with minimal participation by the local engineering industry. With regard to land rights, the Accelerated Mahaweli Development Programme faced considerable controversies. By the time Mahaweli was expedited into an accelerated programme, Tamil claims for a separate state was already put forward as an official demand. A few years after the implementation of the programme according to a revised master plan, the civil war broke out in the country. Given the primary theatre of war was in the northern part of the island, Mahaweli schemes in the Northern Province were postponed, and the settlement in Mahaweli ‘B’ zone which spread from North Central Province to the Eastern Province became a point of ethnic tension. Mahaweli ‘B’ zone was designed to be for both Sinhalese and Tamil settlers, but some commentators note that the ethnically-mixed settlement structure was opposed by extremist elements among the Sinhalese, and also supported by some officials of the Mahaweli bureaucracy (Gunaratna, 1988). Furthermore, a report compiled by the Jaffna-based University Teachers for Human Rights (1993) allege that there was widespread evacuation of the Tamil population and settlement of Sinhalese in certain strategic regions such as Manal Aru or Weli Oya (in Mullaitivu District), as part of a military strategy of the government. Manal Aru was taken under the Mahaweli Authority in 1983 and was declared as part of Mahaweli ‘L’ zone (UTHR, 1993). This area, though part of the Mullaitivu district, served as a transit point to enter districts of Vavuniya and Trincomalee, and was a strategically important during the intervention by the Indian Peace Keeping Force (IPKF) in the Sri Lankan civil war. Manal Aru was officially changed to ‘Weli Oya’ in 1988 by an extraordinary gazette notification and was proclaimed as the 26th district in Sri Lanka, directly under the jurisdiction of Anuradhapura, and any administrative officials from Vavuniya, Trincomalee and Mullaitivu entering Weli Oya were required to obtain military clearance (ibid.).

The Eastern Province became another hotbed of violence during civil war years, and this was primarily due to contested claims over its land by the state and the Tamil political leadership in the North. The Eastern Province was created in 1833 when the British colonial administration reconstituted Ceylon after capturing power of the Kandyan kingdom. Originally, the Eastern Province included Tamankaduwa and Bintenna of the Kandyan Kingdom, which under the colonial administration became Trincomalee and Batticaloa (Perera, 1999). At present, the

Eastern Province includes another district – Ampara – which was carved out in 1961. Ampara, formerly a part of Batticaloa District was central to the Gal Oya Colonization Scheme in the immediate post-independence era. Within a couple of decades, as noted by G.H. Pieris (1991) and Patrick Peebles (1990), the population of Ampara had significantly increased, and the composition of the Sinhalese which was previously 8% had increased to 38%. One implication of this increase in population and change in the ethnic composition of the area was the demarcation of Ampara as a separate district, delineating administrative divisions of Panama (Lahugala and Potuvil), Akkarai Pattu, Nintavur, Karaivaku and Sammanturai, and a large part of the former Bintenna Division (now Wevgam Pattu) (Peiris 1991). This directly challenged the Northern Tamil leadership's claim to the Eastern Province as an area belonging to "Tami-speaking people" (referring to the Tamils and the Muslims in the East). This claim over land and its people became a point of contention during the establishment of a system of provincial councils in 1987 as a direct outcome of the 1987 Indo-Sri Lanka Peace Accord. Initially, the Northern and Eastern Provinces were amalgamated as one administrative entity in 1988 (better known as the "North-East merger"), but by a ruling of the Supreme Court, they separated into two spatial and administrative units in 2007.

Another implication of changes to the landscape in the Eastern province was in the area of electoral politics. The demographic changes mentioned above in Trincomalee and Ampara districts resulted in two new electorates where the majority of the population is Sinhalese – Seruwila (Trincomalee) and Ampara (Ampara) – and over time, mainstream, Sinhala-dominated political parties represented these districts in parliament, which in turn altered the electoral balance of power in the region (Bastian 2009). These developments gained salience particularly after the general election of 1977. By the time of this election, the Tamil United Liberation Front (TULF) was the primary representative of Sri Lankan Tamils. Relations between the central state in Colombo and Tamil political leadership had deteriorated to the extent that the TULF contested on an explicitly separatist platform. While they won a landslide victory in the Northern Province, the results in the East were different. The Colombo-based UNP won in the two new electoral districts (Seruwila and Ampara), as all Muslim representatives were also from the UNP. Various political elements that opposed the TULF's separatist claim effectively used the electoral outcome in the Eastern province as evidence that there is no consistent demand for a separate state. Cumulatively, the state's control over land and its people in the Eastern Province, vis-à-vis Gal Oya and the Accelerated Mahaweli Programme seemed to have deepened the insecurity of the Tamil minority about the state's encroachment into a space they consider to be part of their homeland. Bastian (2009) contends that the central state's use of development programmes to reconstitute the ethnic composition of the East eventually led to a shift in the political power that the Tamil community wielded in the region for a long time. The monumental change in the country's political trajectory that emerged with the 1977 election, thus resulted in key changes. The country now had a new Constitution with an extremely powerful Executive Presidency; the

steps were taken to liberalise the economy, albeit maintaining welfare programmes provided by the state; the 13th Amendment to the Constitution introduced Provincial Councils that devolved power to govern certain subject areas; the electoral system was changed from the First-Past-the-Post system to one of Proportional Representation; and the Accelerated Mahaweli Programme became a developmental juggernaut that changed the country's physical and social infrastructure. All this took place in the context of a full-fledged civil war, primarily in the North and East, but with attacks taking place in other parts of the island such as Colombo. To add to the complexity, the Janatha Vimukthi Peramuna (JVP) led by Rohana Wijeweera, instigated a second violent insurrection against the government which took over all but North and East of the country.

The government led by Chandrika Kumaratunga continued the open economy reforms that was begun in 1977 which had implications for land policy. The process of privatizing state-owned plantations began in 1992. These were the plantations that were taken over by the state in 1975 by the United Front government and turned over to the two largest state-owned plantation corporations: JEDB and SPC. The privatization initiative of the estate sector was part of the structural adjustment programmes advocated by the World Bank and the International Monetary Fund (IMF). This move was intended to balance the national budget by removing government subsidies and privatizing state-owned enterprises. The idea was to boost efficiency and equity by reallocating funds that previously went to inefficient bureaucratic agencies for the purpose of infrastructure and other social protection programmes, and for the private sector to operate freely without political interference and heavy regulation by the government. In its first stage, the privatization initiative divided estate land into 23 units and the ownership was transferred to state-owned Regional Plantation Companies (RPCs). The management of RPCs were privatized on a profit-sharing basis for five years. Next, 51% of the ownership of RPCs was sold to the managing companies. Finally, the remaining shared held by the state were sold in the stock market. The land allocated to the RPCs came under a lease agreement for 50 years with options for renewal (Mendis, 1992). With this step, the private sector once again took control over the plantation industry.

In 1998, the Registration of Title Act was passed in parliament, introducing a simplified system of land registration. The system introduced by this legislation is similar to the system in the United Kingdom since the introduction of the Land Registration Act of 1925. Under the 1998 legislation, the state initiated the "Bim Saviya" programme which introduced the process of replacing the old method of registration of land deeds with issuing title certificates to such lands. Although the legislation was passed in 1998, the national programme of issuing registration titles took off much later in 2007. Under this programme, lands were surveyed, demarcated, ensured ownership and issued a Title Certificate free of charge. The state guaranteed the title and it was intended as an incentive for investment in land particularly for commercial and trade purposes. By the time this legislation passed in Sri Lanka in 1998, countries such as

Thailand, Malaysia, Australia and New Zealand had already transitioned to this type of land administration systems, and the World Bank together with the United Nations recommended that Sri Lanka too moves in the direction of an efficient land registration system (Fernando, n.d.). Further important changes to land policies came around 2002, soon after the shift of power in the parliament. While Mrs. Kumaratunga continued to be President, the UNP secured a majority in the parliament and Ranil Wickramasinghe was appointed the Prime Minister. The maiden budget of the newly elected parliament took place in 2002 and the language was explicit about the need to liberalise land markets. In his budget speech, K.N. Choksy, the Minister of Finance stated that land and land titles are “another area which requires to be liberalized from stringent and archaic rules. State land, which is not required for state purposes, but is commercially viable, will be made available to the private sector at commercial prices. Vesting of absolute title (subject to constraints against fragmentation) in those presently in occupation of state land under permits, will be completed so that such land also becomes commercially transactable” (Budget Speech 2002).

It is important to note that these fundamental changes to land policies in the post-1977 period marks a clear departure from the previous policy focus on the rural peasantry towards neoliberalism. It is clear that these policies were influenced by multilateral aid agencies such as the World Bank and the IMF as components of their structural adjustment programmes. Local commentators, both in the past and currently in relation to the MCC agreement, infer that these changes are part of an international conspiracy against Sri Lanka. Such a position is limiting as this is part of a global political economic trend. Sri Lankan government’s eagerness to open up land and property markets at the time, was seen in many other developing and developed parts of the world where global super-rich elite was snapping up property, pushing up costs for all, and displacing the poor to the periphery of cities. Furthermore, this transition served the interests of Sri Lanka’s own elite classes who needed such policies to promote capitalism in agriculture and reinforce class interests. As Bastian (2009) notes, it is a combination of both external and internal factors that ushered in these changes in land reform in Sri Lanka. Processes of neoliberal globalization that swept Sri Lanka with the open economy reforms of 1977 continue to govern land policies in the country to-date, however, not without resistance from various quarters of society. The most recent public outcry over the Government of Sri Lanka’s agreement with the Millennium Challenge Corporation (MCC) is a case in point.

III. The Debate over the Millennium Challenge Corporation Agreement

Background about the Millennium Challenge Corporation (MCC)

The Millennium Challenge Corporation (MCC) is a relatively new international aid disbursement agency. It was created by the United States government in 2004, in a manner similar to the establishment of the United States Agency for International Development (USAID). MCC disburses grants to developing countries that are eligible for development projects that are geared towards improving the wellbeing of people. Eligibility to receive a grant from MCC is primarily based on whether a country is categorized as a lower-middle-income country or below. A prospective grantee country has to pass 20 different tests covering three key areas: economic freedom, good governance and investment in their citizens (US Embassy Sri Lanka, 2019). The ‘theory of change’ envisaged by MCC is that a country’s improvement in policy indicators under each core area would lead to sustainable economic growth and poverty reduction.

The core area of “economic freedom” has six sub-components: fiscal policy, inflation, trade policy, how women are treated as actors and contributors to the economy, land rights and access, access to credit and the ease of start-up businesses. The “good governance” category also has six sub-components: political rights, civil liberties, control of corruption, government effectiveness, rule of law, and freedom of information. The third and the final core area – investing in people – has the following sub-components: health expenditures, primary education expenditure, natural resource protection, immunization rates, girls’ secondary education enrollment rates, and child health.

A country becomes eligible to for grants if it gets through at least 12 out of the 20 tests on the policy indicators. Based on the performance on these indicators in the evaluation at inception, MCC prepares a country “scorecard”. Based on the scorecard, a country may qualify to receive one of the three types of grants offered by the MCC: compacts, threshold programmes and concurrent compacts for regional investment (ibid.). Compacts are five-year agreements between MCC and the government of a qualifying country to fund specific programmes targeted at reducing poverty and stimulating economic growth. If a country does not pass the eligibility test for compact funding, but demonstrates firm commitment to improving policy performance, it may be awarded a threshold grant, which are smaller in scale. Concurrent compacts are signed in the event of regional cross-border integration, trade and collaboration, such as in the case of the African Growth and Opportunity Act and Millennium Challenge Act Modernization, or the AGOA and MCA Modernization Act in April 2018 (ibid.).

MCC is a corporation headed by a Chief Executive Officer (CEO) and a nine-member public-private Board of Directors. The Board of Directors is chaired by the Secretary of States of the United States (currently Mike Pompeo), and members include the Secretary of the Treasury (Steven Terner Mnuchin), the U.S. Trade Representative (Robert E. Lighthizer), the USAID Administrator (Ambassador and Congressman (ret.) Mark Green) and MCC’s CEO (Sean

Cairncross) and four private sector representatives (Senator Mike Johanns, Susan M. McCue, Congressman Ander Crenshaw and George M. Marcus). MCC expects selected countries to identify priorities for the grants and helps refine the programmes. When a country is awarded an MCC compact, it sets up a local accountable entity to manage and oversee all aspects of implementation. Monitoring of funds is rigorous, transparent and often managed through independent fiscal agents.

To-date, MCC has approved \$13.3 billion in compacts in 29 countries in Africa, Central America, Pacific islands, Southeast and South Asia and the Middle East. Most of the grantees are from Africa (66%, 16 countries), and Nepal is the only country from South Asia that has been awarded an MCC compact. MCC has approved \$631 million in threshold programmes worldwide and 28 countries have qualified for these grants. Currently, MCC is working with eight eligible countries to develop compacts. They are Burkina Faso, Indonesia, Kosovo, Lesotho, Malawi, Sri Lanka, Timor-Leste and Tunisia (US Embassy Sri Lanka, 2019). In Sri Lanka's latest engagement with the MCC, the country passed 13 qualifying tests. Although the country received a failed grade for fiscal policy, gender in the economy, land rights and access, freedom of information, health expenditures, and primary education expenditures, Sri Lanka qualified for the MCC company. Sri Lanka attempted MCC funding as far back as 2005 but did not receive a 'pass' for the minimum of 12 tests.

MCC Timeline in Sri Lanka

The Government of Sri Lanka (GoSL) qualified for the MCC threshold programme (the smaller grant) in 2015. In 2016, between January and November, GoSL, Harvard University and MCC identified weak transport infrastructure and land administration as binding constraints to economic growth. A kick-off event of this collaborative exercise was the Sri Lanka Economic Forum, which was held under the patronage of the former President Maithripala Sirisena, former Prime Minister Ranil Wickramasinghe and distinguished international and local economists including, George Soros (Open Society Foundation), Prof. Joseph Stiglitz (Nobel Laureate and Professor at Columbia University), Prof. Ricardo Hausman (Director, Center for International Development, Harvard University), and late Dr. Saman Kelegama (Executive Director of IPS (Fernando, L., 2016).

Nearly 11 months after this engagement, in December 2016, the MCC Board of Directors selected Sri Lanka as eligible for the compact grant and notified the government of its decision on the 13th (Millennium Challenge Corporation, 2019). Between February and April 2017, GoSL and MCC conducted a constraints analysis of the transport and land sectors, and the government submitted its report in May 2017. By 2017 September, GoSL completed a study to identify the most binding constraints that prevent private sector led growth in Sri Lanka, and in November the government submitted a detailed project proposal to MCC with short-listed activities. In December 2017, the MCC Board approved the government's Project Proposal Assessment Memo and reselected Sri Lanka to continue development a compact. In

January 2018, GoSL and MCC conducted pre-feasibility studies of short-listed projects and in July, the MCC management approved GoSL's proposal with final projects. In September 2018, during the former President Sirisena's visit to the 73rd Session of the United Nations General Assembly, where his address focused on protecting the sovereignty of Sri Lanka against western interference, he met the CEO of MCC in New York and offered support to sign the MCC compact. Immediately after that and prior to the constitutional crisis that ousted former Prime Minister Ranil Wickramasinghe from his position, a GoSL delegation visited Washington D.C. from October 1-5, 2018 to negotiate the MCC compact. Several senior public officials such as Dr. R.H.S. Samararatunga (former Secretary to the Treasury), Mr. J. Charitha Ratwatte (Senior Adviser to the former PM), Mr. Wimalendra Raja (Director General, Dept. of Fiscal Policy), Mr. Priyantha Rathnayake (Director General, Dept. of External Affairs) and Mr. P.M.P. Udayakantha (Surveyor General of Sri Lanka) participated in the negotiations.

The 2018 constitutional crisis in Sri Lanka began when the former President Maithripala Sirisena appointed former President and Member of Parliament Mahinda Rajapaksa as the PM on 26th October 2018 before sacking Ranil Wickramasinghe from the position of the Prime Minister. The volatile political situation lasted for 7 weeks and 2 days until December 16th, 2018. The political instability caused by the former President's move caused a delay in signing the MCC compact. The official minutes from the November 5th, 2018 MCC Advisory Council meeting includes an update on Sri Lanka (Millennium Challenge Corporation, 2018) by Caroline Nguyen, the Acting Deputy Vice President for Europe, Asia Pacific and Latin America. In her update, Ms. Nguyen states that given the fluid situation regarding the change in Prime Ministers in Sri Lanka, that MCC has paused their activities in the country.

In March 2019, MCC came back on the agenda, when it appeared for Cabinet approval. It was soon after this Cabinet discussion that MP Wimal Weerawansa took up the MCC issue in Parliament on March 18th, 2019. When Weerawansa claimed that an office belonging to the MCC has been set up at Temple Trees, the former Minister of Ports and Shipping, Sagala Ratnayake swiftly denied the charge, challenging Weerawansa to either prove his claim or resign from parliament (Kurukulasuriya, 2019). In April 2019, the MCC Board approved US\$ 480 million to Sri Lanka, pending approval from the cabinet. By August 2019, the former President Maithripala Sirisena, who had been involved (perhaps ceremonially) in the MCC compact process from its inception, changed his position saying that signing the agreement should be left to a new government to handle and rejected the pressure by the UNP for its early finalization (Daily Financial Times, 2019). While there was criticism against the MCC as a "conspiracy of the United States" in the months that followed by various civil society actors and organisations, the most notable resistance campaign was launched by Ven. Ududumbara Kashyapa thero on November 5th, 2019, roughly ten days before the Presidential election (which was held on November 16th, 2019) (Ada Derana, 2019).

A Fundamental Rights petition was also filed before the Supreme Court seeking an interim injunction against the signing of certain agreements with the U.S. including MCC, Acquisition

and Cross-Servicing Agreement (ACSA), and the Status of Force Agreement (SOFA) by the government (ibid.). The arguments in the resistance narrative against the MCC were that the agreement compromises Sri Lanka's sovereignty and territorial integrity. The opposition to MCC is not on the transport component, but on the land administration component on which the MCC has not yet indicated any room for negotiation. Resistance against the MCC halted the previous government's process of signing the agreement and put pressure on the two main contenders in the Presidential election of 2019 – Mr. Gotabhaya Rajapaksa and Mr. Sajith Premadasa – to agree to reconsider and renegotiate the compact. After the election of the current President Gotabhaya Rajapaksa, he appointed a special committee to study the MCC, and based on the committee's advice, on December 19th, 2019, the Cabinet suspended the MCC process.

Sri Lanka became a higher-middle-income country by June 2019 (Daily FT, July 8, 2019) and there was a deadline for the government to sign it before the end of the year 2019 because after that the country would no longer be eligible to receive MCC support on the basis that it had passed the threshold of the lower-middle-income country category. If Sri Lanka was still to be considered for the grant, the compact had to be signed before the last Board meeting of the MCC in 2019. This explains the hurry to sign the agreement prior to the Presidential election of 2019.

The MCC Sri Lanka Compact: Transportation and Land

The MCC Sri Lanka compact includes two key areas: transportation and land. The greater proportion of the \$480 million grant is allocated for road development. \$350 million is allocated towards alleviating traffic and congestion in the Western Province, and activities of this component are to improve eight arterial roads and 132 junctions that connect to the city of Colombo. A related activity is to construct overhead bridges or underground crossings for pedestrians in 50 selected locations. The understanding here is that the existing pedestrian crossings are not only dangerous to the people who are crossing the roads, but also, they slow down traffic. There is a related activity to modernize both the government-owned SLTB and private bus services by using advanced information and communication technology such as e-tickets and better coordination of timetables. The third component in the transport sector reforms is the development of a ring road network connecting major towns like Dambulla, Mahiyangana, Bibile, Moneragala, Ratnapura, and Kegalle with a class 'A' road network connecting them to Colombo in the Western Province, the main commercial hub of the country. In terms of land reform, the agreement advocates modernization of land titles, by introducing e-titles and improving the valuation capacity of the Valuation Department. The project is designed to help the government identify "underutilized" state land that can be put to more productive use, and to increase tenure security and tradability of land for smallholders, women and firms.

The two sectors – transport and land – were identified based on the results of the Constraints Analysis report prepared by GoSL and the MCC (in partnership with Harvard University's

Centre for International Development). The three binding constraints that are identified as serious obstacles to Sri Lanka's economic growth are: 1) policy uncertainty, especially regarding revenue collection and tax policy; 2) transport bottlenecks, particularly in the Western Province; and 3) the difficulty of the private sector in accessing land for commercial purposes. The public outcry against the MCC agreement has been centred upon the Land Compact, which has five activity components.

1. Formulation of a map of land parcels and a complete inventory of state land, providing data to be entered into the Government's e-State Lands Information Management System (eSLIMS);
2. Enhance the capacity to value state- and private lands by improving data collection in support of a computerized mass appraisal system, building on government efforts to strengthen the Valuation Department;
3. Enhance the Deeds Registry by digitizing existing records and linking them to digital parcel information, building on the Government's e-Land Registry Initiative;
4. Improve the security of tenure by moving properties from deeds to formal and tradable titles, expanding the government's Bim Saviya programme; and
5. Support research on mechanisms and processes that would improve land administration.

The MCC's seemingly well-intentioned logic explains that these activities, conducted together, will help GoSL identify under-utilized state land that can more productively be used. The MCC explains that this technologically-advanced new system will help the government maximize rents from lands that the government has leased out; increase tenure security and tradability of land for smallholder farmers, women and firms; and strengthen the capacities of the Valuation Department by improving data collection and by moving to a computerized mass appraisal system. The US Government also puts a 'rights spin' on the Land Compact by saying that it will increase access to land rights information.

While seemingly harmless, the Land Compact needs to be analyzed with a longer-term view, not only from a land-use perspective, but from a rural development, environmental, natural resource, heritage and national security perspectives. There is a heavy emphasis in the MCC Land Compact on increasing the efficiency of underutilized state land in Sri Lanka. The Compact particularly aims at the districts of Trincomalee, Anuradhapura, Polonnaruwa, Kurunegala and Matale as places where most of this land is concentrated. The MCC compact calls for rapid agricultural expansion in these areas by stimulating efficient land markets. It is not specific about how private sector driven commercial agriculture (both global and local) in these areas can coexist with the traditional smallholder agriculture driven landscape mosaics. It is highly likely that the smallholder farmers with losses in agriculture, will sell off their land to lucrative buyers when they are able to trade land for money. Converting state land permits into tradable

titles will invariably lead to this outcome. The concern for the future of smallholder agriculture is that eventually, the private-sector agriculture companies would displace smallholder production and that the farming population will be absorbed as agricultural labour by these companies, in a manner similar to Moneragala district where its land and labour arrangements are rapidly changing with global agribusiness companies (such as Dole) moving to the area. Moreover, commercial agriculture enterprises have gained notoriety for shifting (externalizing) the burden of environmental and social costs to the local population all over the world. Agribusiness also competes with local smallholders for natural resources that are necessary for agriculture, such as water. Existing evidence points to the scarcity of water for local smallholder farmers simply because they cannot compete with agribusinesses that tap into the water systems with the use of sophisticated machinery and by paying off local bureaucrats to turn a blind eye to exploitative use of natural resources, and simultaneously contributing to ground water pollution from heavy use of agrochemicals in commercial plantations. The district of Matale, which is part of the MCC Land Compact borders the Knuckles range in the central highlands, where numerous water sources are available and cascade down to other areas of the island. It is likely that rapid and extensive expansion of agriculture in the bordering areas would drain these water sources which in turn would have a devastating impact on the environment as well as people's livelihoods. The labeling of land as "underutilized" is central to the neoliberal logic underlying land and property. As Tania Li (2014) notes, this categorization facilitates and justifies the wholesale dispensation of rural smallholder livelihoods in return for more 'productive' and profitable agricultural enterprises as seen in Cambodia, Panama, Philippines and some countries in Sub-Saharan Africa.

Another point of contention has been that the compact calls for removing constraints on accessing both government and privately owned land in the dry zone of the North Central Province where there is a high concentration of small tanks and river basins. The areas surrounding these small tanks and river basins have ensured livelihood security to the local population for centuries. Moreover, the cascaded Tank-Village systems, or locally known as "ellanga gammana" which have been internationally appreciated as "Globally Important Agricultural Heritage System (GIAHS) by the FAO in April 2018, in the districts of Anuradhapura, Polonnaruwa, Matale and Kurunegala are currently being restored by the government (Gunatilleke, 2019). These restoration initiatives are considered as adaptive mechanisms for agriculture in the context of climate change, and also as measures that reduce pollution caused by excessive use of agrochemicals. Why, then, is this area being considered for medium- and large-scale private sector development projects? The same argument can be made with regard to the large concentration of sites with archaeological importance that fall within the territory earmarked for the MCC Land Compact. The Compact is unclear about the conservation of such heritage sites. Neither does it address the conservation of forests, wildlife and the many elephant corridors that fall within this area. Already there are several ecosystem restoration programmes taking place in these areas, some of which are public-private-partnerships. Labelling land as "underutilized" also discounts the land's ecological and heritage value, which cannot easily be valued under modern

land valuation methods. For instance, what monetary value can be given to the biodiversity in and around the Minneriya National Park, and its seasonal elephant 'gathering' during the driest months of the year? The high probability of global and local agribusiness externalizing their environmental costs, such as excessive use of water for the plantations, will undoubtedly throw off the ecological balance in these areas. There are other ambiguous parts of the MCC such as the legal framework that governs the new occupants of the land area earmarked for the project, and the role of the entity referred to as the Millennium Challenge Account (MCA) in Sri Lanka, which is a corporation staffed and largely managed by country nationals.

Complicating the speculations surrounding the MCC Agreement in Sri Lanka are two other (and seemingly unrelated) bilateral agreements between the United States and GoSL. These agreements are: Acquisition and Cross-Servicing Agreements (ACSA) of 2007 and 2017. The basic negotiation of ACSA is to allow the US to use Sri Lankan land for combined exercises, training, operations, or deployments and allow its military forces to obtain food, fuel, transport, ammunition and equipment, and collectively termed logistical supplies. In return, the US will compensate in cash or in kind. While the 2007 ACSA permits US military vessels to anchor in Sri Lankan ports on a one-off basis, the 2017 ACSA appears to be open-ended (David, 2019). The Status of Forces Agreement (SOFA) entail more far reaching consequences that are not confined to goods and services. The terms include rules governing US military personnel on Sri Lankan soil. It is not an 'open end' agreement where the GoSL cannot refuse the entry of American troops into the island. But it covers entry and exist, criminal jurisdiction, custody-access-confinement-visitation, discipline, security, tax exemptions and customs-free imports. SOFA, in a nutshell, allows US forces, dependents and associated civilians (non-military staff and contractors) to enter and leave the island as diplomats with immunity. In the event of a criminal act committed by an individual or a party that fall under SOFA, GoSL will not have jurisdiction over them. The alleged criminal will have to be tried under US law. The income from US sources will not be taxed, and the importation of food and personal goods will be free of custom duty. These provisions in the SOFA agreement are potentially dangerous as the US military is likely to use the air waves free of charge to operate their telecommunication other information systems.

All this sounds too familiar, particularly in countries like Cambodia, Philippines and Panama where similar development activities have taken place, primarily with the involvement of the World Bank. The Bank's advice to developing countries on how to attract foreign investment risked opening up land markets which led to large-scale land grabbing, amounting in total over USD 1.5 billion per year (Stoddart 2013). Last September, the Bank invested USD 7 million for a Land Administration Project in Liberia. The objective of the project is to "develop requisite land laws and regulations, conduct awareness raising campaigns on land rights and usage, and establish an inventory of tribal land certificates" (World Bank 2017). Similarly, the Millennium Challenge Corporation (MCC), which seemed to have been close to the former Prime Minister and a coterie of his supporters in the cabinet, has a similar portfolio "clarifying laws that define property ownership, setting up or strengthening the institutions where property rights

are recorded and create record-keeping mechanisms for those rights” in 17 countries, spread across Africa and Asia. MCC’s website states that the company has spent nearly half a billion US dollars on land-related country programmes between 2008 and 2017 (Millennium Challenge Corporation 2017). MCC’s optimism about the potential for economic growth created by moving towards a more ‘efficient’ property rights regime was shared by the former Finance Minister. In fact, the Budget’s language of the proposed land and property reforms as ushering in “accelerating growth in a fair, equitable manner” (Minister of Finance 2017, 2), has striking similarities with MCC’s language on the topic, providing more evidence to Kalupahana’s (2017) expose on the authorship of Sri Lanka’s Budget 2018 by MCC.

It is possible to interrogate the recent position of the GoSL on land and property reforms on two levels. On one level, we must question the push for private property creation in the absence of proper valuation, transparency and accountability, which, some argue, will inevitably lead to “asset-stripping” (Kalupahana 2017). Others argue that the technologies deployed in this effort by the state and its former extra-territorial advisers expose people of this country to global surveillance on land and the movement of people (given that surveying functions were outsourced to an MNC). Being counted in the global industry of “big data” is reminiscent of Nicholas Blomley’s (2003) discussion about technologies that enable land to be seized in the mind well before it is seized on ground and put to new use (Blomley 2003, 128). The neoliberal logic that directs the many axes of the assemblage discussed thus far is steered by the promise of capital and technology to realize the full potential of land. On another level, the ideas that underpin land and property reforms in the 2018 Budget marks a clear, and official departure from Sri Lanka’s developmental state which extended the right to occupy public land to the poor as a type of social welfare. “In urban or peri-urban areas, ownership of a small building or other property asset can provide a poor family with shelter or space for entrepreneurial activities,” gushes MCC about its philosophy on land and property (Millennium Challenge Corporation 2017).

Toby Carroll (2012) views the MCC as the latest neoliberal reform programme of the Post-Washington Consensus (PWC), an attempt by established interests to expand patterns of accumulation. He charts out the first phase of neoliberalisation as evidenced through the structural adjustment programmes of the 1980s and 1990s. The second phase emerged in the early 2000s with an emphasis on strengthening institutions for ‘good governance’. The intention of these institutions in the second phase was that they assist the functioning of markets. Carroll points to the current period in which MCC plays a major role in the global development landscape as the third phase of ‘deep marketisation’ that entrenches “competitive capitalist social relations on a truly global scale” (Carroll 2012, p.381). He argues that the benchmarks and performance indicators that drive MCC agenda are “oriented specifically towards the state and its progress towards establishing conditions thought to be most conducive to the private sector” (ibid. p.384). Hence, there is reason to interrogate the much touted ‘mutual benefit’ that MCC promises in the countries they work in.

Concluding Remarks

Using primarily archival methods, this paper has outlined pivotal moments in state policy on land in the colonial and post-colonial periods in Sri Lanka. The objective of charting out these critical policy 'ruptures' was to argue that such changes do not happen in a vacuum, and are produced and reproduced as part of an assemblage of broader political economic continuities, at the national level as well as globally. Hence, an attempt was made to study the political and economic conditions of the country during times when different 'logics' inveigled into state policies on land.

In line with previous research on land policies in Sri Lanka, this paper contends that state policies on land during the colonial period was aimed at 'freeing up' land for commercial purposes. With colonial conquest, the capitalist process was accelerated, particularly with the expansion of the plantation economy. Commoditization and monetization of land was central to the growth of the plantation economy led by the British colonial administration. This led the colonial administration to formulate and enforce monumental policies such as the Wastelands Ordinances that set in motion the large-scale acquisition of land by the Crown. These policies invariably came at the expense of displacing traditional livelihoods of the rural peasantry. And contrary to the assumption that rural peasants dispossessed of their land, would be available as a source of plantation labour, the colonial administration had to import labour from India, adding a new dimension to social relations in the island.

In the early 20th Century, the local leadership that was working in the colonial administration put forward Dry Zone colonization schemes as a way of redressing past injustices towards the rural peasantry. This was an astute political move by the frontline leaders, especially during the independence era. The rural Sinhala peasantry of Sri Lanka composed the majority of the electorate, and their votes became a source of political power for the Sri Lankan political elite. Hence, reversing the mass acquisitions carried by the British colonial government and returning the land to the peasantry became a key objective in post-colonial political mobilization. Beginning in the latter part of 1920s, peasants who had lost land during the colonial acquisition were given land and resettled in the Dry zone. The state further accelerated land acquisition, and by the 1940s, the state began acquiring 'under-utilized' estate land with the intention of transferring the management of the estates to the peasants. By this time, the Indian Tamil labourers that were imported as indentured labour, had settled in the island for nearly a century. They were organized as workers and struggles for citizenship and workers' rights were already underway. The acquisition of estate land by the government at the expense of displacing scores of Indian Tamils workers in the estates. The political trends of the culminated in a number of discriminatory legislations against Indian Tamils in Ceylon, with disenfranchisement policies in 1948 and 1949 bearing far-reaching consequences to this social group.

Politics in the 1950s revolved around the exploitative nature of the tenancy relations in paddy lands and the subsequent negative impact on paddy production. In the broader context of the fear of the world food shortage, the Green Revolution and the emergence of the centre-left Mahajana Eksath Peramuna (MEP), the Sri Lankan state introduced a certain degree of security to the tenant vis-à-vis his/her relationship with the owner of the land. With a mandate to restore the rightful place of the rural peasantry, the MEP laid the foundation to a new direction in agrarian reform. The government developed a comprehensive set of institutional reforms covering land tenure reform, marketing, credit, and crop insurance. Steps were taken to regulate the authority that landlords could exercise over tenants, rents paid by tenants, and the provision of security of tenure of a permanent and heritable nature. The cumulative effect of land reforms in the mid-fifties was the consolidation of state policies on land in reversing the past discrimination against the (mostly Sinhala) rural peasantry.

As the state moved towards a socialist style economy and in the face of a violent insurrection in 1971, the state swiftly adopted radical measures with regard to land policies. The 1971 insurrection questioned the socialist credentials of the UF government, and they needed to salvage its legitimacy. The pressing needs of the time were to create employment opportunities for the youth and increase food production. In response, the state initiated aggressive ceilings on land ownership and two statutory bodies were created – the Sri Lanka State Plantation Corporation (SLSPC) and Janatha Estate Development Board (JEDB) – unto which the ownership and management of plantations was transferred. The state envisaged that the young, unemployed peasants could be recruited to work on the nationalized plantations, marking a clear departure from the thinking of the previous leadership that romanticized the peasantry, and vehemently protested them being downgraded to “estate coolies”. The government also took measures to address unemployment by establishing “cooperative-type settlements” in order to absorb unemployed peasant youth.

Sri Lanka entered the neoliberal phase with the monumental victory of the UNP in the 1977 general election. The structure of the economy shifted from heavy government regulation of private sector companies, banking and the nationalization of key industries including finance, ports, and oil, to loosening regulations imposed on the private sector. The open economy policies moved away from protectionism, and as a result, the state reduced its intervention in the agriculture sector. The key changes during this period were the reduction of subsidies for production of paddy, and the removal of the fertilizer subsidy in 1989, both of which sidelined the rural paddy farmer. The state policies on land acted favourably towards the land-owning classes in rural areas, as they facilitated private ownership with the intention of improving the competitiveness of land markets.

However, the state also took a 'developmentalist' form with the initiation of Accelerated Mahaweli Development Programme funded through bilateral arrangements with a number of donor countries. With regard to land rights, the Accelerated Mahaweli Development Programme continued the idea that underpinned Dry Zone colonization in the 1930s and 40s, of creating agricultural settlements. However, in the context of the civil war in Sri Lanka and official demand for a separate Tamil state, the Mahaweli Programme faced considerable controversies in expanding to the Northern and Eastern areas of the island. The land policies in the 1990s further accelerated neoliberal processes within the country with increasing emphasis on private property rights.

Charting out key policies on land threading through the colonial and post-colonial periods indicates that political economic trends, both national and global, have significantly shaped the decisions of the Sri Lankan state. After 1977, the state has consistently followed a neoliberal trajectory with regard to land, with an emphasis on increasing the efficiency of land markets. The MCC agreement, if followed through, will mark Sri Lanka's entry into the third phase of the post-Washington Consensus. With MCC, there is greater propensity for Sri Lanka to be absorbed into global power structures that govern 'deep marketisation' that may compromise its sovereignty as a nation. In a scathing critique of the MCC, Susan Soederberg (2004) describes its underlying logic as "safeguarding neoliberal globalization and American imperial dominance...[forcing states to] wholeheartedly embrace the same neoliberal discipline that has led to high levels of insecurity in the first place" (Soederberg 2004, p.297). In her view, the MCA in the guise of 'doing development' "twists the means to serve the ends of the American empire" (ibid.).

In the face of a major liquidity crisis, the Sri Lankan government seems to be reconsidering its position on the MCC, as the large grant could potentially serve as temporary relief to the fiscal issues. For those who oppose MCC as a tool of American imperialism, the only other alternative is the new cooperative and 'mutually beneficial' path offered by China. Sri Lanka maintains solid bilateral ties with China and the rising superpower has invested heavily in the island's post-war development projects. If the Government of Sri Lanka follows through with signing the MCC agreement, it would be interesting to study how interests of the two superpowers are played out in the island.

References

- Ada Derana. (2019, November 5). *Ven. Ududumbara Kashyapa Thera begins protest fast against MCC deal*. Retrieved from Ada Derana: <http://www.adaderana.lk/news/58766/ven-ududumbara-kashyapa-thera-begins-protest-fast-against-mcc-deal>
- Aluvihare, B. (n.d.). *Matale 1936 to 1937*. Colombo: Davidson.
- Anseeuw, W., Boche, M., Breu, T., Giger, M., Lay, J., Messerli, P., & Nolte, K. (2012). *Transnational land deals for agriculture in the global south: analytical report based on the land matrix database*. Bern/Montpelier/Hamburg: CDE/CIRAD/GIGA.
- Bandaranaike, S. (. (1928). *The Handbook of the Ceylon National Congress*. Colombo: Cave.
- Bandaranaike, S. (1928). *The Handbook of the Ceylon National Congress, 1919-1928*. Colombo: Cave.
- Bloch, P. (1988). *Land Tenure Issues in Sri Lanka: A Brief Overview*. Colombo: Mimeo.
- Brohier, R. (1941). *The Tamankaduwa District and the Elahara-Minneriya Canal*. Colombo: Government Printing Office.
- Brohier, R. (1955/56). D.S. Senanayake as Minister of Agriculture and Lands. *Ceylon Historical Journal*, 68-80.
- Carroll, T. (2012). Working on, through and around the state: The deep marketisation of development in the Asia-Pacific. *Journal of Contemporary Asia*, 42 (3): 378-404.
- Ceylon Daily News. (2002, March 23). Budget Speech 2002.
- Chamikara, S. (2017). *Government prepares to legitimize Dole Lanka's illegitimate endeavors: company allowed to retails forest land illegally encroached?* Retrieved from Movement for Land and Agricultural Reform (MONLAR): https://monlar.lk/dolecompany_english.html
- Coomaraswamy, A. (1905). Notes on Paddy Cultivation in the Ratnapura District (Nawadun and Kukul Korales). *Journal of the Ceylon Branch of the Royal Asiatic Society*, XVIII, 413-428.
- Daily Financial Times. (2019, August 29). *Sirisena says no to early MCC agreement signing*. Retrieved from Daily Financial Times: <http://www.ft.lk/front-page/Sirisena-says-no-to-early-MCC-agreement-signing/44-684803>
- Daily Financial Times. (2019, July 8). *Sri Lanka's Elevation to Upper Middle Income Status: Attainment is welcome, but challenges are more*. Retrieved from Daily Financial Times: <http://www.ft.lk/columns/Sri-Lanka-s-elevation-to-upper-middle-income-status-Attainment-is-welcome-but-challenges-are-more/4-681449>
- David, K. (2019, July 6). *A simple guide to SOFA and ACSA*. Retrieved from The Island: http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=207028

- de Silva, K. (1961). Indian Immigration to Ceylon - the First Phase, c. 1840-1855. *Ceylon Journal of Historical and Social Studies*, IV, 106-137.
- de Silva, K. (1973). The History and Politics of Transfer of Power. In *University History of Ceylon* (pp. 381-407).
- de Silva, K. (1973). The Reform and Nationalist Movement in the Early Twentieth Century. In *University History of Ceylon* (pp. 381-407).
- de Silva, S. (1962). *Investment and Economic Growth in Ceylon*. London: London University.
- Department of International Development (DFID). (2010). *Building Peaceful States and Societies: A DFID Practice Paper*. London: DFID.
- Farmer, B. (1957). *Pioneer Peasant Colonization in Ceylon*. Oxford: Oxford University.
- Fernando, L. (2016, February 8). *Hausmann enlightened our business leaders*. Retrieved from Daily Financial Times: <http://www.ft.lk/article/523638/Hausmann-enlightened-our-business-leaders>
- Fernando, W. (n.d.). *Game of Titles: The Effectiveness of the Implementation of the Land Title Registration programme under the Registration of Title Act No.21 of 1998 in Sri Lanka*. Retrieved from <http://ir.kdu.ac.lk/bitstream/handle/345/1758/041.pdf?sequence=1&isAllowed=y>
- Gunaratna, M. (1988). *For a Sovereign State*. Colombo: Sarvodaya.
- Gunatilleke, N. (2019, July 15). *MCC Land Compact Grant – more knowledge and study*. Retrieved from The Island: http://island.lk/index.php?page_cat=article-details&page=article-details&code_title=207504
- Hansard . (1933, I). Government of Ceylon.
- Hansard. (1932, I). Government of Ceylon.
- Hansard. (1932, I). Government of Ceylon.
- Hansard. (1933, III). Government of Ceylon.
- Hansard. (1938, III). Government of Ceylon.
- Hansard. (1943, I). Government of Ceylon.
- Harvey, D. (2005). *A Brief History of Neoliberalism*. Oxford: Oxford University Press.
- Harvey, D. (2007). Neoliberalism as Creative Destruction. *The Annals of the American Academy of Political and Social Science*, 22-44.
- Herring, R. (1972). The Forgotten 1953 Paddy Lands Act in Ceylon. *Modern Ceylon Studies*. 99 (3).

International Labour Office. (1971). *Matching Employment Opportunities and Expectations: A Programme of Action for Ceylon*. Geneva: International Labour Office.

Jayawardena, V. (1972). *The Rise of the Labour Movement in Ceylon*. Durham: Duke University.

Kalupahana, D. (2017, December 6). *To Ruin or Rule the State: Bi-Partisan Corruption, Development "Aid", and the Bailout Business*. Retrieved from Colombo Telegraph: <https://www.colombotelegraph.com/index.php/to-ruin-or-rule-the-state-bi-partisan-corruption-development-aid-the-bailout-business/>

Kodikara, S. (1965). *Indo-Ceylon Relations Since Independence*. Colombo: Institute of World Affairs.

Kurukulasuriya, L. (2019, April 1). *MCC has an office under the PM's nose!* Retrieved from The Island: http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=201981

Land Commission. (1927). *The First Interim Report of the Land Commission. Sessional Paper XVIII of 1927*.

Land Reform Commission. (1975). *Land Reform in Ceylon*. Press release, April 7th, 1975.

Land Reform Law. (1972). *Land Reform Law No.1 of 1972 of the National State Assembly*. Colombo.

Land Reform Law. (1975). *Land Reform (Amendment) Law No.39 of 1975 of the National State Assembly*. Colombo.

Li, T. (2014). What is Land? Assembling a resource for global investment. *Transactions of the Institute of British Geographers*, 589-602.

Mahaweli Development Board. (1972). *Feasibility Study for Mahaweli Ganga Development, Project 1, Stage II*. Colombo: Ministry of Irrigation, Power & Highways, Sri Lanka.

Mapa, R., Kumaragama, D., Gunarathne, W., & Dassanayake, A. (2002). Land Use in Sri Lanka: Past, present and the future. *17th World Congress of Soil Science, Volume: 31* (pp. 974-4 - 974-7). Bangkok: World Congress of Soil Science.

Mendis, P. (1992). *Human Environment and Spatial Relationships in Agricultural Production: The Case Study of Sri Lanka and Other Tea Producing Countries*. New York: Peter Lang Publishing.

Millennium Challenge Corporation. (2019). *Sri Lanka Compact*. Retrieved from Millennium Challenge Corporation: <https://www.mcc.gov/where-we-work/program/sri-lanka-compact>

Millennium Challenge Corporation. (2018, December 11). *Official Minutes from the November 5, 2018 MCC Advisory Council Meeting*. Retrieved from Millennium Challenge Corporation: <https://www.mcc.gov/resources/doc/report-november-2018-advisory-council-meeting-minutes>

Minister of Agriculture and Lands. (1974). The Completion of the First Phase of Land Reforms. Press release.

Minister of Finance, Sri Lanka. (2017). *Budget Speech*. Sri Jayawardenapura Kotte: Parliament of Sri Lanka.

N.A. (2019, November 26). ñf,akshĩ .súiqu fyd|o@ krlo@ Retrieved from Lankadeepa Online: <http://www.lankadeepa.lk/features/%E0%B6%B8%E0%B7%92%E0%B6%BD%E0%B7%9A%E0%B6%B1%E0%B7%92%E0%B6%BA%E0%B6%B8%E0%B7%8A-%E0%B6%9C%E0%B7%92%E0%B7%80%E0%B7%92%E0%B7%83%E0%B7%94%E0%B6%B8-%E0%B7%84%E0%B7%9C%E0%B6%B3%E0%B6%AF--%E0%B6%B1%E0%B6%BB%E0%B6%9A%E0%B6%AF->

Oliver, J. H. (1957). *Economic Opinion and Policy in Ceylon*. Durham: Duke University.

Ong, A. (2007). Neoliberalism as a mobile technology. *Transactions of the Institute of British Geographers*, 3-8.

Peiris, G.H. (1972). Agricultural Growth through 'Decentralisation and popular participation', A Survey of DDC farm projects in Kandy District, 1971-1973. *Modern Ceylon Studies*. 60.

Peiris, G.H. (1975). The current land reforms and peasant agriculture in Sri Lanka. *South Asia*. 78.

Peiris, G. (1989). Peasant Agriculture and Irrigated Agriculture in the Dry Zone of Sri Lanka. *Ethnic Studies Report, Vol. VII (2)*.

Perera, N. (1999). *Decolonizing Ceylon, Colonialism, Nationalism and politics of space of Sri Lanka*. Oxford: Oxford University Press.

Ramachandran, N. (1963). *Foreign Plantation Investment in Ceylon, 1889-1958*. Colombo: Central Bank of Ceylon.

Ramachandran, N. (1963). *Foreign Plantation Investment in Ceylon, 1889-1958*. Colombo: Central Bank of Ceylon.

Roberts, M. (1961). Indian Estate Labour in Ceylon during the Coffee Period. *Indian Economic & Social History Review*, 1-52, 101-130.

Roberts, M. (1961). Indian Estate Labour in Ceylon during the coffee period, 1830-1880. *Indian Economic & Social History Review*, III, 1-52, 101-30.

Roberts, M. (1970). The Impact of the Waste Land Legislation and the Growth of Plantations on the Techniques of Paddy Cultivation in British Ceylon: A Critique. *Modern Ceylon Studies*, I, 157-98.

Roberts, M. (1973). Aspects of Ceylon's Agrarian Economy in the Nineteenth Century. In *University History of Ceylon* (pp. 146-164).

Samaraweera, V. (1973). Land Policy and Peasant Colonization, 1914-1948. In *University History*

of Ceylon (pp. 446-60).

Samaraweera, V. (1977). Land as Patrimony: Nationalist response to immigrant labour demand for land in the early 20th century Sri Lanka. *Indian Economic & Social History Review*, XIV, 341-362.

Samaraweera, V. (1981). Land, Labor, Capital and Sectional Interests in the National Politics of Sri Lanka. *Modern Asian Studies*, 127-162.

Samaraweera, V. (1982). Land Reform in Sri Lanka. *Third World Legal Studies*, Vol 1, Article 7.

Sanderatne, N. (2004). Agricultural Development: Controversial Issues. In S. Kelegama, *Economic Policy in Sri Lanka: Issues and Debates*. Colombo: Vijitha Yapa Publications.

Sarkar, N., & Thambaiyah, S. (1957). *The Disintegrating Village, Part I*. Colombo: University of Ceylon Press Board.

Schickele, R. (1970). *The Mahaweli Scheme: Success or Failure?* Colombo: University of Sri Lanka.

Senanayake, D. (1935). *Agriculture and Patriotism*. Colombo: Cave.

Senaratne, A. (2017, March 31). *Evolution of Land Policies in Sri Lanka*. Retrieved from Institute of Policy Studies: http://www.ips.lk/images/News/2017/31_03_2017_Land/Athula_LandPolicy_IPS.pdf

Sessional Paper XXII. (1932). Government of Ceylon.

Sessional Paper XXIII. (1944). Report on Rural Reconstruction. *Sessional Papers*. Government of Ceylon.

Soederberg, S. (2004). American Empire and 'Excluded States': The Millennium Challenge Account and the Shift to Pre-Emptive Development. *Third World Quarterly*. 25 (2): 279-302.

Solicitor-General in the Legislative Council. (1926, I). *Hansard*.

Stapleton, D. (2017, December 6). *Will changes in Sri Lanka's property laws open the floodgates to developers?* Retrieved from Financial Times : <https://www.ft.com/content/16e7e398-d5c6-11e7-ae3e-563c04c5339a>

Stoddart, H. (2013, April 15). *The World Bank and Land Grabs*. Retrieved from Oxfam Policy and Practice: <https://policy-practice.oxfam.org.uk/blog/2013/04/the-world-bank-and-land-grabs>

The Sunday Times. (2013, August 25). *Bank of Ceylon Launches "Diyawara Diriya - 2" to Uplift Fisheries Sector in the Country*. Retrieved from The Sunday Times: <http://www.sundaytimes.lk/130825/banking/bank-of-ceylon-launches-diyawara-diriya-2-to-uplift-the-fisheries-sector-in-the-country-59340.html>

US Embassy Sri Lanka. (2019, May). *Fact Sheet: MCC at a Glance*. Retrieved from US Embassy - Sri Lanka: <https://lk.usembassy.gov/wp-content/uploads/sites/149/2010-002-0147-23-factsheet-mcc-at-a-glance.pdf>

US Embassy Sri Lanka. (2019, May). *US Embassy Sri Lanka*. Retrieved from MCC by the Numbers: <https://lk.usembassy.gov/wp-content/uploads/sites/149/2013-002-1369-25-fact-sheet-mcc-by-the-numbers.pdf>

UTHR. (1993). *From Manal Aru to Weli Oya and the spirit of 1983*. Colombo: University Teachers for Human Rights.

Valentine, D. (2015). *Solving the UK Housing Crisis: An analysis of the investment demand behind the UK's housing affordability crisis*. London: The Bow Group.

Wijemanne, S. (1926). *Land policy of Government of Ceylon critically examined by the Kalutara Maha Jana Sabha*. Colombo: Maha Jana.

Wijewardena, W. (2019, November 18). *A child's guide to MCC Compact Sri Lanka*. Retrieved from Daily Financial Times: <http://www.ft.lk/columns/A-child-s-guide-to-MCC-Compact-Sri-Lanka/4-689753>

World Bank. (2017, September 28). *World Bank Approves \$7 Million Grant to Support Land Administration Reforms in Liberia*. Retrieved from World Bank: <http://www.worldbank.org/en/news/press-release/2017/09/28/world-bank-approves-7-million-grant-to-support-land-administration-reforms-in-liberia>

This commentary maps out pivotal state policies on land in Sri Lanka and discusses the politics and the philosophies that underpin them. Taking the 2018 National Budget, particularly its propositions to loosen regulation over land in Sri Lanka, as a point of departure, this paper discusses attempts to ‘neoliberalise’ the way we think about land in Sri Lanka. Focusing on a selected set of policies starting from the pre-colonial era, the analysis points to specific political economies shaping state policy during several historical periods. The paper argues that neoliberal ideas have inveigled into policy and law-making on land over the past four or five decades, not as a “neoliberal takeover”, but as a logic of governing that is selectively taken up in diverse political economic contingencies.

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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.

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