Evolution of Land Policies in Sri Lanka

Athula Senaratne
Research Fellow, IPS
Overview

– Major Land uses in Sri Lanka

– Historical evolution of land policy in Sri Lanka

– Key current policy challenges

– Major policy instruments
  • Legal enactments
  • Policy statements
  • Plans, programs, projects

– Institutional arrangements
## Land uses in Sri Lanka

<table>
<thead>
<tr>
<th>Main land use type</th>
<th>Sub land use type</th>
<th>2007 extent</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban lands</td>
<td>Built up land</td>
<td>31,000</td>
<td>0.5</td>
</tr>
<tr>
<td></td>
<td>Non agricultural</td>
<td>5,620</td>
<td>0.1</td>
</tr>
<tr>
<td></td>
<td><strong>Sub total</strong></td>
<td><strong>36,620</strong></td>
<td><strong>0.6</strong></td>
</tr>
<tr>
<td>Agricultural lands</td>
<td>Homesteads</td>
<td>1,028,600</td>
<td>15.7</td>
</tr>
<tr>
<td></td>
<td>Tea</td>
<td>189,800</td>
<td>2.9</td>
</tr>
<tr>
<td></td>
<td>Rubber</td>
<td>183,200</td>
<td>2.8</td>
</tr>
<tr>
<td></td>
<td>Coconut</td>
<td>313,700</td>
<td>4.8</td>
</tr>
<tr>
<td></td>
<td>Mixed &amp; Perennial crops</td>
<td>164,325</td>
<td>2.5</td>
</tr>
<tr>
<td></td>
<td>Paddy</td>
<td>844,000</td>
<td>12.9</td>
</tr>
<tr>
<td></td>
<td>Sugar cane</td>
<td>13,800</td>
<td>0.2</td>
</tr>
<tr>
<td></td>
<td>Sparsely used crop land</td>
<td>1,439,532</td>
<td>22.0</td>
</tr>
<tr>
<td></td>
<td>Other crop land</td>
<td>76,800</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td><strong>Sub total</strong></td>
<td><strong>4,253,757</strong></td>
<td><strong>65.0</strong></td>
</tr>
<tr>
<td>Forest lands</td>
<td>Dense forest</td>
<td>1,123,700</td>
<td>17.1</td>
</tr>
<tr>
<td></td>
<td>Open forest</td>
<td>403,975</td>
<td>6.2</td>
</tr>
<tr>
<td></td>
<td>Forest plantations</td>
<td>86,900</td>
<td>1.3</td>
</tr>
<tr>
<td></td>
<td>Scrubs</td>
<td>138,600</td>
<td>2.1</td>
</tr>
<tr>
<td></td>
<td>Grasslands</td>
<td>90,600</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td>Mangroves/ marsh</td>
<td>43,480</td>
<td>0.7</td>
</tr>
<tr>
<td></td>
<td><strong>Sub total</strong></td>
<td><strong>1,887,255</strong></td>
<td><strong>28.8</strong></td>
</tr>
<tr>
<td>Water</td>
<td></td>
<td>303,068</td>
<td>4.6</td>
</tr>
<tr>
<td>Barron land</td>
<td></td>
<td>80,300</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>6,561,000</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

*Source: Land Use Policy Planning Department (2007)*
Historical evolution of land policy in Sri Lanka

• Two major episodes
  
  — Pre-independence land policy:
    • Crown land encroachment ordinance: 1840
    • Acquisition of common property land to the state
    • Development of plantations
    • First Land Commission: 1927
    • Land Development Ordinance: 1935
    • Alienation of state land to landless peasants

  — Post-independence
    • Land settlement and irrigation development
    • Land Reform Law (1972)
    • Encroachment of state land by landless
Historical evolution of land policy in Sri Lanka

Crown Land Encroachment Ordinance - 1840

- Demand for land originated from plantation crops to meet global demand for agricultural commodities

- British introduced Crown Lands Encroachment Ordinance (1840) to acquire lands for plantation crops

- Initially, started with coffee subsequently followed by tea, rubber and coconut

- This has led to large scale conversion of natural forests in low-, mid- and up-country regions of wet zone for expansion of plantation crops.

- Continued even after gaining the independence until 1960s
Historical evolution of land policy in Sri Lanka

Expansion of plantation agriculture (1830-2012)
Historical evolution of land policy in Sri Lanka

Early twentieth century
- Rising pressure of landless masses in wet zone
- Poverty of dry zone peasants
- Rising cost of food imports

First Land Commission: 1927
- Recommended conversion of vast expanses of ‘underdeveloped crown land’ in the dry zone for food production

Land Development Ordinance: 1935
- Settlement of landless peasants from wet zone in colonization schemes under renovated irrigation facilities
Land settlements and encroachments (1935-1985)

Source: Ministry of Lands and Land Development (1975)
Growth of paddy extent (1950-2013)
Land use changes (1956-1984)
Expansion of rain-fed highland farming (2001-2012)

Source: Department of Census and Statistics (2014)
Current policy challenges in land sector

• Growing scarcity of land
  – Landlessness and Land fragmentation
  – Encroachment of state lands

• Poorly functioning land markets
  – Ownership and title issues
  – Legal restrictions and social barriers

• Land degradation
  – Agricultural land degradation
    • Soil erosion
    • Decline of fertility
  – Non-agricultural land degradation
    • Land degradation due to mining activities
    • Land degradation due to infrastructure
  – Land slides:
    • Due to agriculture and non-agricultural
Encroachments

– Agriculture
  • Chena Cultivation- Changing pattern of shifting cultivation and encroachments – E.g. Maize cultivation in Anuradhapura; Chena cultivation in Moneragala, Habanthota
  • Expansion of small-holder plantation crops

– Settlements in all districts
  • Two types (shifting settlements and resettlements)
    – Due to the shifting settlements (squatters) wells, perennial crops, fruit trees are found within forests. Often people claim for such land (including patches of forests or land inside forests) without any legal ownership.

– Mining for gems (Kandy and Ratnapura districts) and sand (in all districts)
Encroachments: Catalysts

- Population increase

- Government policies in land and agriculture sectors:
  - E.g. regularization of encroachments

- Weaknesses in current laws in land alienation, land acquisition and land grant procedures

- Political influence

- Weaknesses in forest laws and problems in demarcating boundaries

- Complex and inefficient procedures and poor coordination between implementing agencies
Survey of encroachments (1979)

Land markets

- Land markets are not perfectly competitive markets
  - Ownership issues: Inheritance laws; title issues
  - Social attitudes
    - e.g. wealth and land ownership; family and kinship relations
  - Legal barriers
    - Restriction on land uses: e.g. barriers on paddy land conversion
    - Ownership restrictions: Area restrictions; Restrictions on foreigners
Privately Owned Land: Legal pluralism

• Legal pluralism: co-existence of general laws and customary laws
  – Roman Dutch Law: General law applying to the entire country
  – Tesawalamai: Affecting the Tamil people in Jaffna peninsula
  – Traditional Kandyan Law: Applying to Sinhalese in upcountry areas
  – Muslim Koranic Law: Applying to Muslims

• Mainly controlling inheritance and transfer (markets) of lands

• Land (real estate) markets:
  – More dynamic in urban areas
Major policy instruments

• Legal enactments:
  
  – General (all land uses)
  – Specific land uses

• Policy statements

• Plans, programs & projects
Legal enactments: general

– This category of laws mainly deal with use and tenure of state lands

– They are concerned with
  • Alienation of state land for agricultural and settlement purposes
  • Land grants, transfers/leases of state lands
  • Recovery of state lands from unauthorized possession or occupation
  • Acquisition of land for public purposes

– Handled by the ‘Ministry of Lands’ and agencies coming under it
Legal enactments: general

– Land Settlement Ordinance (1931)
– Land Development Ordinance (1935)
– State Land Ordinance (1947)
– Land Acquisition Act (1950)
– Land Reform Law (1972)
– State Lands Act (Recovery of Possession Act) (1979)
– Land Grants Act (1979)
– Title Registration Act (1998)
Legal enactments: Specific land uses

– This category of legal enactments try to address problems associated with specific land uses

– Problems they attempt to address include
  • Soil erosion
  • Conversion of land uses
  • Land fragmentation
  • Unauthorized uses in environmentally sensitive locations
  • Urban land use problems

– Handled by various ministries and line agencies responsible for respective land use activities
Legal enactments: Specific land uses

- Temple Land (compensation) Ordinance (1944) – Religious lands
- Irrigation Ordinance (1946) – Agricultural
- Soil Conservation Act (1951) - Agricultural
- Tea and Rubber Lands Fragmentation Act (1958)
  - Tea and Rubber
- Urban Development Authority Act (1978) – Urban land uses
- National Housing Development Authority Act (1979) – Housing
- Mahaweli Authority Act (1979) – Land uses in Mahaweli Areas
- Coast Conservation Act (1981) – Coastal lands
Land Reform Act

• First introduced 1972
  – Amended 1975

• Major focus
  – Established the limits on private ownership of land by imposition of land ceiling
  – Vested the power to acquire land above the ceiling and dispose the property

• Institutional responsibility
  – Land Reform Commission (LRC)
Agrarian Development Act

• First introduced 1958 (Paddy Lands Act)
  – Amended 1979 and 2000

• Major focus
  – Offered more secure tenure rights to tenant farmers
  – Restricts the conversion of paddy lands to other uses
  – Provisions to undertake various land use planning functions

• Institutional responsibility
  – Agrarian Development Department
Major policy instruments

• Policy statements
  – National Land Policy (Under preparation)
  – National Land Use Policy (Draft: 2007)

• Plans, programs and projects
## Institutional Arrangements: Ministry of Lands

<table>
<thead>
<tr>
<th>Line agency</th>
<th>Legal enactments/Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Commissioner’s Department</td>
<td>Land Development Ordinance (1935)</td>
</tr>
<tr>
<td></td>
<td>State Lands Act (1947)</td>
</tr>
<tr>
<td></td>
<td>Land Grants Act</td>
</tr>
<tr>
<td></td>
<td>State Lands (Recovery of Possession) Act</td>
</tr>
<tr>
<td></td>
<td>Conservation and development of state lands and alienation to public</td>
</tr>
<tr>
<td>Department of Land Settlement</td>
<td>Land Settlement Act (1931)</td>
</tr>
<tr>
<td></td>
<td>Title Registration Act (1998)</td>
</tr>
<tr>
<td></td>
<td>Determination of ownership issues of private and state lands</td>
</tr>
<tr>
<td>Land Use Policy Planning Department</td>
<td>National Land Use Policy</td>
</tr>
<tr>
<td></td>
<td>Preparation of land use plans</td>
</tr>
<tr>
<td>Survey Department</td>
<td>Surveying and mapping services</td>
</tr>
<tr>
<td></td>
<td>Maintaining standards and procedures relating to land surveying</td>
</tr>
</tbody>
</table>
Legal Enactments on Specific Land Uses

• **Soil Conservation Act (1951)**
  – Provisions to control the problem of soil erosion
  – Poorly implemented law
  – **Responsibility**: Department of Agriculture

• **Coast Conservation Act (1981)**
  – Control of coastal erosion and degradation of coastal lands
  – Preparation and implementation of Coastal Zone Management Plan
  – **Responsibility**: Coast Conservation Department

• **Forest Ordinance (1885) and Fauna and Flora Protection Ordinance (1937)**
  – Conservation and protection of forest lands and wildlife
  – Maintenance of protected areas
  – **Responsibility**: Forest Department and Department of Wildlife Conservation
National Land Policy

• Currently under preparation

• Stage wise formulation
  – Presently at the fourth phase

• District level information gathering and stakeholder consultation
  – Series of workshops

• Responsible agency: Ministry of Land

• **Principles**
  – Zoning, balanced regional development, integrated land management

• **Focus areas of policies**
  – Land and people
  – Agriculture and food security
  – Land and nature

• Yet to receive the cabinet approval

• Responsible agency: Land Use Policy Planning Department (LUPPD)

- **Focus areas of policies**
  - Identifying, demarcating boundaries, protection and conservation of water sources
  - Empowering the institutions related to the conservation and protection of water sources
  - Monitoring of activities and follow up action
  - Awareness and participation
  - Granting financial provision and facilities

- Yet to receive the cabinet approval

- Responsible agency: Ministry of Land
Thank You