



The Intersectional Trends of Land Conflicts in Sri Lanka

August 2024

THE INTERSECTIONAL TRENDS OF LAND CONFLICTS IN SRI LANKA

A REPORT BY THE CENTRE FOR POLICY ALTERNATIVES

AUGUST 2024



The Centre for Policy Alternatives (CPA) is an independent, nonpartisan organisation that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

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Cover Image



Chandraguptha Thenuwara, "Landscape Undivided", 2024, Oil on Canvas, 92cmx 153 cm

Exhibited in the 'Meta-Real' solo exhibition of Chandraguptha Thenuwara at Saskia Fernando Gallery from 23rd July to 13th August 2024

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ACRONYMS

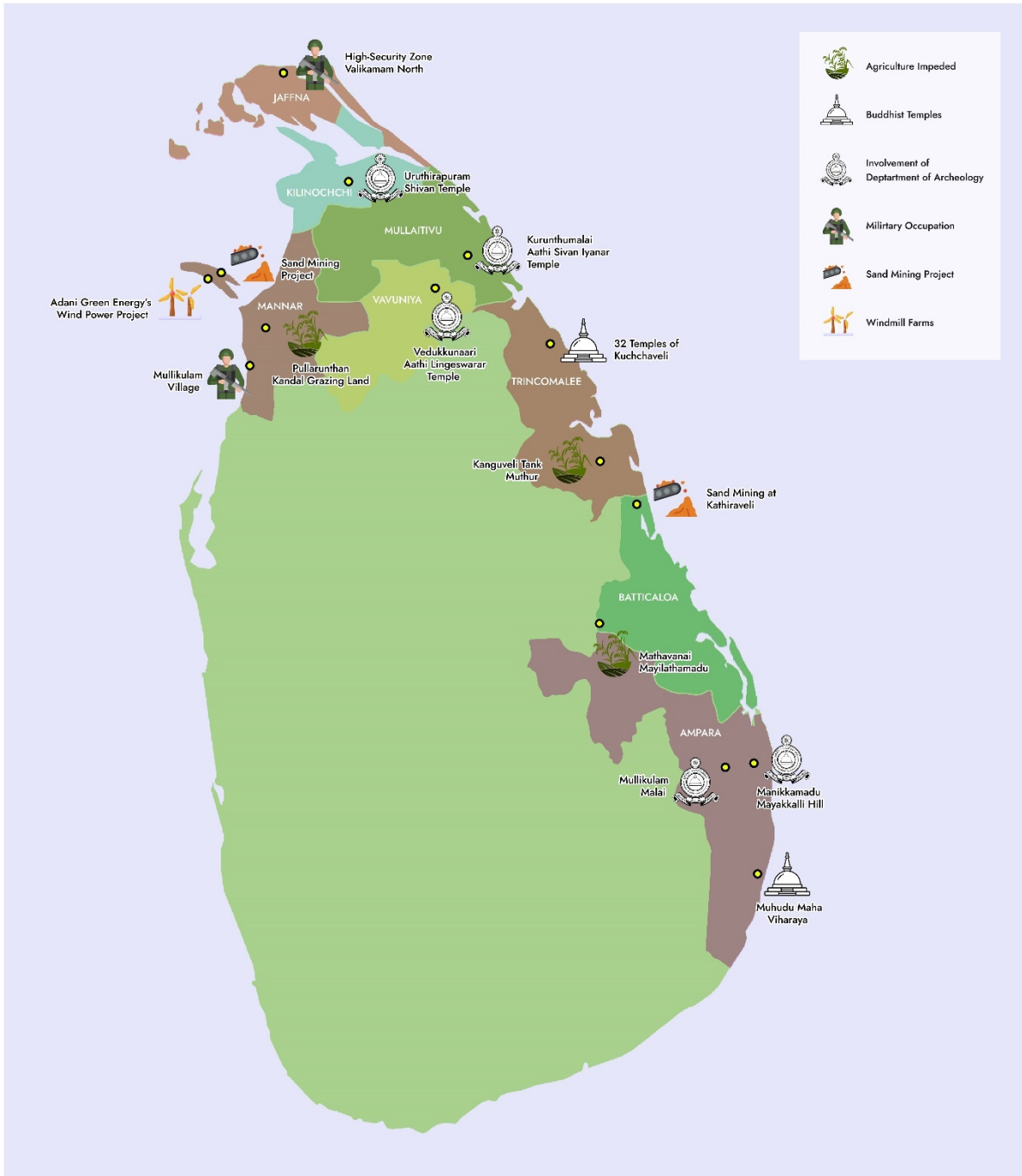
AHRC – AHAM Humanitarian Resource Center
BOI – Board of Investment
CEA – Central Environmental Authority
CEB – Ceylon Electricity Board
CPA – Centre for Policy Alternatives
CSO – Civil Society Organisation
DS – Divisional Secretariat
EIA – Environmental Impact Assessment
FDI – Foreign Direct Investment
GN – Grama Niladhari
GSMB – Geological Survey and Mines Bureau
HSZ – High-Security Zone
LAA – Land Acquisition Act
LDO – Land Development Ordinance
LLRC – Lessons Learnt and Reconciliation Commission
MSEDO – Mannar Social and Economic Development Organisation
MOU – Memorandum of Understanding
RTI – Right to Information
SLSEA – Sri Lanka Sustainable Energy Authority
SLTDA – Sri Lanka Tourism Development Authority
TSL – Titanium Sands Limited
UDA – Urban Development Authority

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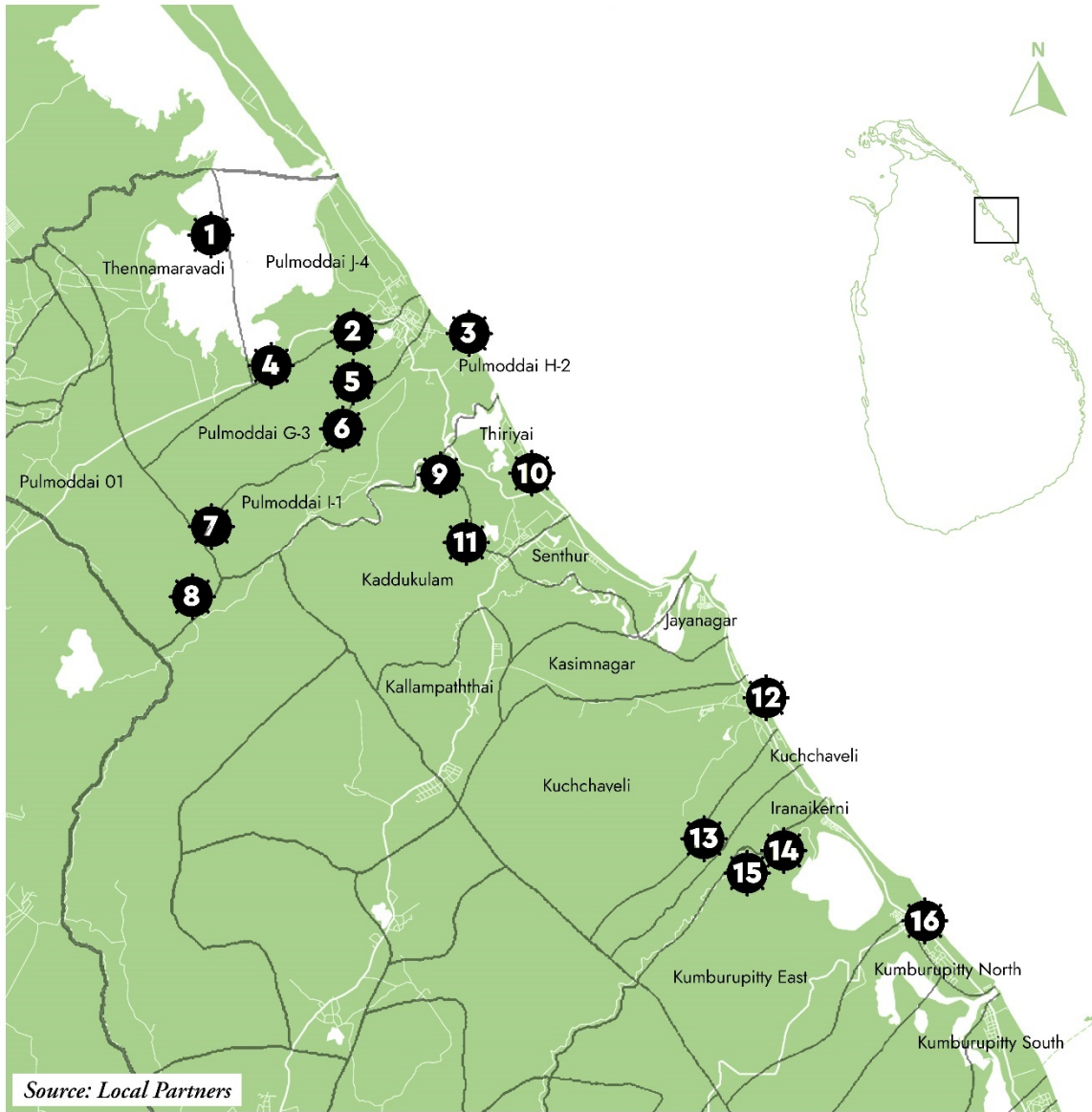
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Map 1: Cases of Land Conflict Across the North and East of Sri Lanka



*This map does not provide an exhaustive list of land conflict cases; it is an illustration of some of the cases discussed in the report

Map 2: The 32 Temple Cases of Kuchchaveli



*This map highlights 16 of the 32 temples. For more details, refer to the table in Chapter 2.7.5.

- | | |
|--|--|
| 1. Sankmale Purana Raja Maha Viharaya | 9. Sapthanaha Bapbatha Wana Senasutha |
| 2. Nagalena Raja Maha Viharaya | 10. Pathmaraja Papatha Vanasenagana |
| 3. Asirikantha Purana Raja Maha Viharaya | 11. Girikandu Saya Neeththu Pavana Raja Maha Viharaya |
| 4. Santhi Purana Raja Maha Viharaya | 12. Samuththiragiri Pichchamal Purana Raja Maha Viharaya |
| 5. Sri Saththarma Yuththika Wanasesasuna | 13. Cheiththiyagiri Purana Raja Maha Viharaya |
| 6. Yan Oya Purana Raja Maha Viharaya | 14. Bambarakala Purana Raja Maha Viharaya |
| 7. Aththanagi Kantha Purana Raja Maha Viharaya | 15. Debaragala Purana Raja Maha Viharaya |
| 8. Mihindulene Purana Raja Maha Viharaya | 16. Viththyaloga Raja Maha Viharaya |

1. Introduction

15 years after the end of the Civil War, Sri Lanka continues to experience deep ethnic divisions and has failed to address the root causes of the conflict that halt moving to a post-conflict society. Unfortunately, the decades-long problem of land has continued in the post-war setting, and new mechanisms of State intervention are creating divisions that deter the reconciliation processes. Land has been used to create an asymmetry of power in the Northern and Eastern regions for over three decades, and there is a growing trend of intrusive methods being employed in these regions, triggering fear amongst local communities. Therefore, the report's objective is to shed light on the multifaceted role of the State and non-state authorities in issues around land ownership, use, and access, and explore how local communities respond to this oppression. It highlights how the State co-opts legislature, Government agencies, the military, and private corporations, creating long-term consequences for communities and for the nation to achieve a successful post-conflict society. CPA recognises a series of key interrelated trends between the multitude of rights infringements, i.e. ethnonationalism, continued Government authority intervention, military expansion, and the profit-making objectives of private entities.

The report elaborates on how the ethno-majoritarian bent has violated basic rights that must be protected. Hostilities are further intensified by non-state actors, particularly by the growing involvement of Buddhist clergy. As noted in the present report, the clergy has entered lands belonging to minority religious communities, and have uprooted, renamed, and re-claimed land as 'sacred areas' or 'Buddhist sites', despite counterfactual evidence as was seen in Manikkamadu located in the Ampara District, the Chulipuram Paralai Murugan Temple located in Jaffna District, and the Kurunthumalai Aathi Shivan Iyanar Temple located in the Mullaitivu District which is elaborated on later in the report. The use of 'national heritage' to solely capture the majority views, demonstrates an ethnopolitical slant of such terminology that contains wide implications for how the nation perceives identity. The increasing involvement of the Buddhist clergy in land conflicts often suggests a level of collusion with State actors, who assist clergy in appropriating lands and providing physical protection through military and police personnel. The report argues that the State's agenda to increase ethnonationalist sentiment is being supported by the Buddhist clergy in the North and East that have far more political leverage to appropriate land, compared to the minority religious communities. Additionally, the report highlights observations of increased ethnonationalist sentiment, specifically of increased Sinhala-Buddhisisation and Hindutva nationalist rhetoric. Thus, the consolidation of ethnonationalist sentiments is often done by instilling power in non-state actors whose agenda complements that of the State.

The report further notes the use and abuse of legislation, especially within the context of impending national elections and against the backdrop of land appropriation that has altered the ethnic and religious composition in areas historically dominated by minorities. There is evidence in the report of State intervention by agents such as the Department of Archaeology, Mahaweli Authority of Sri Lanka, and the Department of Forest Conservation, among others. These agencies often enter lands

that have belonged to and been used by communities for centuries, frequently without notice, to prevent access to the land. Such action sparks fear and threats of violence in areas that have experienced decades of violence. Often, departments utilise the legal framework to extend their control over land, as is evident in cases such as Mullikulam village bordering South of Mannar and the Nilavarai Well in the Navagiri Village, which will be discussed further in the report. The arbitrary and unpredictable nature of State agents' intervention sparks fear within and among communities as to their ability to live on their lands and continue with their livelihood. Tensions between local communities and State authorities are consequently on the rise.

Even though State interventionist measures have evolved significantly over time, with both historical and contemporary tactics contributing to ongoing conflicts; earlier tactics of expanding military occupation continue to be employed in order to obstruct locals' access to their lands. CPA's engagement with cases such as Sampur in the East of Sri Lanka illustrates the dimensions by which the military has attempted to obstruct locals from entering and using their lands for decades.¹ The cases highlighted in the report display the impact of expanding military occupation which often leads to dispossession and displacement, and an inability to restart livelihood, including economic activity. Frequently, the effects of lacking access to land are immense, leading to increasing levels of poverty and alienation, drastically lowering the quality of life. The continued occupation of the military and State agents draws into question whether lands will be returned and validates the growing doubt amongst communities regarding State intentions behind such initiatives. Further, in the context of past colonisation schemes that have contributed to conflict, apprehension remains with new schemes such as the 'Urumaya Programme'. The full effects of these newer programmes are complex and yet to be seen but require continuous scrutiny.

Additionally, recent collaborations between the State and private corporations, in projects such as sand mining in the North and East, exemplify the severe environmental and economic impacts residents face when development projects are conducted with poor oversight and limited regulatory provisions. The case of Adani Green Energy's Wind Power Project, discussed later in the report, is one such example. In the backdrop of an economic and governance crisis, land issues capture the willingness to sacrifice the livelihoods of minority communities in the pursuit of foreign direct investment in the country. Furthermore, how State structures enable corporations to undermine land rights, degrade the environment, and extract resources disproportionately with significant implications for local communities will be highlighted.

These various trends are examined through cases illustrated in the report. Overall, the report lays out how land is a trigger for conflict and highlights the urgent attention required from all stakeholders to curb the increased tensions that are developing in the North and East.

¹ 'SAMPUR: Documentary' (Centre for Policy Alternatives, 6 April 2016) <<https://www.cpalanka.org/sampur-documentary/>> accessed 30 July 2024.

1.1. Research Objectives and Chapter Outline

The report has three research objectives, which will be individually addressed in the following chapters:

1. Provide an overview of land-conflicts in the North and East of Sri Lanka (Chapter 2).
2. Explain the roles of different Government authorities in land cases and the legal framework used in relation to land issues (Chapter 3).
3. Based on these cases, identify and elaborate on the intersectional trends that facilitate and sustain land conflict in Sri Lanka (Chapter 4)
4. Provide policy recommendations that may be adopted to combat those trends (Chapter 5).

1.2. Methodology

This report focuses on identifying issues around land ownership, its use and access in Sri Lanka, particularly in the Northern and Eastern regions, to assess the impact of the increasing role of State agents, the military, and clergy in areas that are largely composed of land owned by ethnic minorities. Methodologically, the report draws from an extensive combination of research, using a mixed-methods approach which included field research, interviews, and analysis of secondary data sources, and a more comprehensive overview of cases that CPA has closely monitored over the past few years.

A series of field visits and interviews were conducted by CPA researchers, including meetings with civilians whose land has been acquired, Government officials, and State Department authorities for an inclusive data collection approach to gathering primary source material. The research was supplemented through the secondary research of newspaper articles (for Chapter 2's land cases), Government authority websites (for recognising the Government structures in Chapter 3) and journal articles (for the analysis section in Chapter 4).

1.3. Limitations

1. A limited access to Government agents, due to the unresponsiveness to CPA's meeting requests. CPA made multiple attempts to contact Government authorities but, on most occasions, interviews were not granted.
2. CPA notes that the report is non-exhaustive, and recognises land conflict as an ongoing issue, which would require the persistent monitoring of new cases that may come up after the publication of the report. The intention of the report is to highlight key issues in this area.

2. The Cases of Land Conflict in the North and East of Sri Lanka

Land has been a catalyst for conflict in Sri Lanka for decades, with State authorities, various ethnonationalists, military proponents and profit-making entities becoming involved. Particularly where State complicity is apparent, those appropriating land attempt to justify that appropriation on the basis of a range of issues including ‘national heritage’, ‘national security’, and ‘development’, among others. These facets of land conflicts will be examined in this chapter.

As indicated in Map 1 of this report (refer to Page 8) the cases themselves span the 8 districts of the North and East of Sri Lanka, i.e. Ampara, Batticaloa, Jaffna, Kilinochchi, Mannar, Mullaitivu, Trincomalee and Vavuniya. Notably, the majority population of many of these districts comprise ethnic and religious minorities in the nation, although, as will be displayed in the cases, those affected by land conflicts consist of many different communities. Though the chapter does not contain an exhaustive list of cases of land conflict, it is meant to be demonstrative of the breadth of cases, and exhibit the active and tacit involvement of State entities and the other various actors involved. These cases would then form the basis of an evaluation of the various trends of land conflicts in Sri Lanka in Chapter 4 of this report.

2.1. Ampara District

2.1.1. Manikkamadu Mayakkalli Hill

Mayalakkalli Hill is located in Manikkamadu village, within the Irakkamam Divisional Secretariat in the Ampara District.² The Ampara District comprises Sri Lankan Muslims, Sinhalese, and Sri Lankan Tamils, with the majority being Muslim.³ The Department of Archaeology has officially recognised Mayalakkalli Hill in Manikkamadu village as an ‘archaeological site’ through Gazette notification.⁴

On the 29th of October 2016 (Tamil Diwali), a statue of Buddha was forcibly placed under the leadership of a monk, named Girinthivela Somaratna, with the support of the Department of Archaeology.⁵ The idol was forcibly placed despite the Ampara Magistrate’s Court issuing an injunction against the installation of the statue.⁶ On the 15th of December 2016, following the

² CPA interview with local community (Ampara District, 14 September 2023).

³ ‘Overview’ (*District Secretariat of Ampara Ministry of Home Affairs*)

<<http://www.ampara.dist.gov.lk/index.php/en/about-us/overview.html#:~:text=It%20consist%20of%2043.58%25%20Sri,a%20assistant%20government%20agent%20Division>> accessed 10 June 2024.

⁴ Gazette No.1884 dated 10 October 2014.

⁵ ‘Sri Lanka: Opposition to allotment of land to Mayakalli Malai Buddhist monastery’ *BBC News Tamil* (18 September 2018) <<https://www.bbc.com/tamil/sri-lanka-45498244>> accessed 1 September 2023.

⁶ Mohammad Thambi Marikar, ‘Mayakalli Malai: Persistence’ *Tamil Mirror* (11 September 2018) <<https://shorturl.at/WxAi0>> accessed 2 September 2023.

installation of the Buddha statue on Mayalakalli Hill, Girinthivela Somaratna (the principal monk of Vidyananda Maha Arapalli in Ampara) sent a letter addressed to the Land Commissioner of the Eastern Province.⁷ In this correspondence, he formally requested the allocation of land for the establishment of a Buddhist temple in the Irakkamam-Mayalakalli Hill region. On the 7th of August 2018, Eastern Province Land Commissioner, D.D. Anura Dharmadas, sent a reply to the above letter of Girinthivela Somaratna, conveying that an acre of land had been designated for the construction of a Buddhist monastery and its land survey and its allocation would be facilitated by the Divisional Secretary.⁸

In the meeting of the Irakkamam Regional Coordination Committee, it was collectively agreed that pending a definitive decision following discussions with the President and the Prime Minister, no land would be allocated for the construction of the Buddhist temple on Mayakkalli Hill.⁹ However, the temple known as the ‘Ancient Raja Maha Viharaya’ was constructed in 2018.¹⁰ This temple was constructed on privately owned land, despite people making many complaints.¹¹

Historically, the land owner’s father originally acquired the land in 1957 for purposes such as cattle rearing and brick cutting.¹² Ownership was transferred to his son in 1997.¹³ In 1965, 27 acres were allocated to 9 Tamils under the Galloya Scheme, with each receiving 3 acres.¹⁴ These lands were leased in 1981 to a Muslim person from Sammanthurai.¹⁵ During the war, this individual exploited the displacement of the original owners to change the ownership. Despite numerous complaints made to the Land Commissioner, no action was taken by the Land Commissioner or other authorities.

2.1.2. Mullikulam Malai

Mullikulam Malai is located in the Addalaichenai Divisional Secretariat, where the majority of the population is Muslim. The Department of Archaeology has claimed that Mullikulam Malai is an archaeological site under Section 16 of the Antiquities Act and it was Gazetted as such on the 15th

⁷ *ibid.*

⁸ *ibid.*

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ CPA interview (n 2), during this interview a member of the local community stated that “The land once boasted 55 coconut trees, which were 3 and a half years old. Unfortunately, most of these trees have since been destroyed, and only 2 acres of land remain intact”.

¹² *ibid.*

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ *ibid.*

of October 1999,¹⁶ and again under Section 15 of the Act, which was Gazetted on the 31st of December 1999.¹⁷

The foothills of Mullikulam Malai, known as Kadduvaddai and Malaiyadikandam,¹⁸ have been utilised for agricultural activities by Muslim people since the 1990s, who rely on this land for their livelihood.¹⁹ On the 16th of December 1998, former President Chandrika Bandaranaike Kumaratunga, granted 0.65 hectares of land under the Land Development Ordinance (LDO) to five Muslim persons.²⁰ These individuals had rights over the land for the next 10 years but during the war period, landowners were unable to access the land.²¹ In 2007, when they started to engage in agricultural activities, the Department of Archaeology claimed that Mullikulam Malai is an archaeological site.²² On the 1st of May 2007, the Department of Archaeology alleged that the said land was being illegally and forcefully possessed, due to which the possessor would be charged LKR 500 per month, as was informed to him by notice.²³ This led to a legal dispute, which resulted in the following timeline of events:²⁴

Landowners who were barred from cultivating their land filed a case in the District Court of Akkaraipattu (Case No. L/241/08) on the 29th of September 2008, seeking permission to continue their agricultural activities.

The Department of Archaeology has argued that the boundary stone was found on the said land and that the cut stone and chert stones found on the said stone were identified by the Ministry as materials to be protected from agricultural activities that may damage them (Case No.L/241/08).

However, the judgment was favourable to farmers in 2008. Since no claim has been made regarding the fact that there should be any reservation to the said mountain on the 8th of July 2013 (Case No L/241/08).

¹⁶ Gazette No.1102 dated 15 October 1999, states that “The monument to which the order relates shall be deemed to be an ancient monument and all the provisions of this ordinance relating to ancient monuments shall apply to that monument as if it were an ancient monument”.

¹⁷ Gazette No.1113 dated 31 December 1999, states that “Regulation may be made prohibiting or restricting, subject to the prescribed conditions, the erection of a building or the carrying on of mining, quarrying, or blasting operation on any land within the prescribed distance of any ancient monument situated on state land of any monument”.

¹⁸ Survey Plan Reference No.2768, surveyed on 28 January 2019.

¹⁹ CPA interview with a Civil Society Activist (Ampara District, 14 September 2023).

²⁰ Grant Reference No.AM/AT/S/R/737 dated 18 December 1998.

²¹ CPA interview (n 19).

²² *ibid.*

²³ Case No.L/241/08.

²⁴ *ibid.*

In 2022, a group of monks came to the site and made arrangements for the construction of a temple, creating tension amongst the local community as the construction of the temple caused encroachment of private land.²⁵ On the 22nd of March 2022, locals and politicians were able to impede the construction, through the Addalaichenai Divisional Secretary Vice President visiting the location along with a former Eastern Province Minister, a former provincial council member and many other regional politicians.²⁶ This occurred in the context of the Director-General of the Department of Archaeology promising that outsiders would not be allowed to carry out construction works without the necessary permissions on the grounds of the presence of antiquities and ancient symbols.²⁷

2.1.3. Muhudu Maha Viharaya

Muhudu Maha Viharaya is located in Pottuvil, where the majority of the population is Muslim. In the 1950s, it was a small temple with a single priest, maintained with support from the local community.²⁸ In 1951, the Department of Archaeology declared Manmalai as an ‘archaeological site’ and identified 72 acres for archaeological purposes without a land survey plan.²⁹ Notably, a Government Gazette notification issued in 1965 stated that the temple was granted 30 acres to be protected as an archaeological reserve.³⁰



Image Source: Hideaway

In 2020, contrastingly, a monk claimed that the 72 acres of land were granted in 1951, which was subsequently reduced to 32 acres in 1965 and even alleged that 42 families residing on the land were “encroaching” on temple property.³¹ Coinciding with this, the then-President Gotabaya Rajapaksa met with the Buddhist Maha Sangha to discuss his task force, led by the Defence

²⁵ ‘An attempt to build a Buddhist monastery in Ampara was prevented by local politicians and the public’ *Supeedsam* (9 March 2022) <<https://www.supeedsam.com/159473/>> accessed 20 September 2023.

²⁶ *ibid.*

²⁷ ‘Outsiders will not be allowed to carry out construction work in Ampara Mullikulam hill area - Director of General Archaeology Department Assurance to Hakeem (M.P)’ *Vidivelli* (27 March 2022) <<https://www.vidivelli.lk/article/12705>> accessed 20 September 2023.

²⁸ ‘Muhudu Maha Viharaya: Racial fire moving towards Pottuvil’ *Vidivelli* (8 September 2019) <<https://www.vidiyal.lk/post/--63>> accessed 21 September 2023.

²⁹ U.L. Mafrook, ‘Using Muslim land in the name of Buddhist Temples - Controversy in Sri Lanka’ *BBC News Tamil* <<https://www.bbc.com/tamil/sri-lanka->> accessed 21 September 2023.

³⁰ ‘Marvels of Muhudu Maha Vihara’ *Sunday Observer* (29 May 2022) <<https://archives1.sundayobserver.lk/2022/05/29/marvels-muhudu-maha-vihara>> accessed 21 September 2023.

³¹ ‘Damages to national heritage will not be tolerated - Sri Lanka’s Defence Secretary’ *Tamil Guardian* (23 May 2020) <<https://www.tamilguardian.com/content/%E2%80%9Cdammages-national-heritage-will-not-be-tolerated%E2%80%9D-%E2%80%93-sri-lanka%E2%80%99s-defence-secretary>> accessed 22 September 2023.

Secretary, aimed at protecting archaeological sites in the East.³² He pledged to protect these sites through the establishment of a naval sub-unit in Muhudu Maha Viharaya and enforce harsh punishments for “vandalism”.³³

On the 19th of June 2020, hundreds of policemen and soldiers gathered in the area. Under their protection, an attempt was made to measure and mark the 72 acres of land surrounding Muhudu Maha Viharaya.³⁴ Local communities staged a demonstration against this and opposed the work of the Survey Department officers, who began mapping the temple property and adjacent lands following a directive by the Presidential Task Force (PTF) for Archaeological Heritage Management in the Eastern Province.³⁵ The Divisional Secretary of Ampara has stated that 300 Muslim families live in this area and they legally own the land due to the fact that the land was given during the tenure of former President Chandrika Bandaranaike Kumaratunga under the ‘Jaya Boomi’ programme.³⁶

On the 15th of August 2023, Muhudu Maha Vihara was gazetted as ‘Ampara Muhudu Maha Viharaya Sacred Area’.³⁷ On the 15th of February 2024, the National Physical Planning Department officially designated 11 temples, including Muhudu Maha Viharaya, as ‘sacred sites’ in the Government Gazette, recognising their archaeological, historical, and sacred significance.³⁸ On the 25th of July 2024, it was reported by a Member of Parliament that a discussion was held in the Ministry of Urban Development and Housing about the Gazette notification related to Muhudu Maha Viharaya.³⁹ He highlighted that due to long-standing boundary issues with Muhudu Maha Viharaya, residents lost their lands and that these long-standing issues have now been resolved.⁴⁰

³² ‘Sri Lankan president pledges military will protect Buddhist sites in east’ *Tamil Guardian* (23 May 2020) <<https://www.tamilguardian.com/content/sri-lankan-president-pledges-military-will-protect-buddhist-sites-east>> accessed 23 September 2023.

³³ *ibid.*

³⁴ ‘Tense situation in Pottuvil following archaeological survey’ *Daily FT* (22 June 2020) <<https://www.ft.lk/News/Tense-situation-in-Pottuvil-following-archaeological-survey/56-701991>> accessed 24 September 2023.

³⁵ *ibid.*

³⁶ Mafrook (n 29).

³⁷ Gazette No.2345/37 dated 15 August 2023.

³⁸ ‘Several historical shrines designated as sacred sites’ (*President’s Media Division*, 25 June 2024) <<https://pmd.gov.lk/news/several-historical-shrines-designated-as-sacred-sites/>> accessed 26 June 2024, states that “These areas, now recognized as sacred sites, had their respective documents submitted to the Presidential Secretariat, presided over by Mr. Saman Ekanayake, the Secretary to the President”.

³⁹ ‘Pottuvil Muhudu Maha Viharaya: Discussion in Ministry of Urban Development’ *Thinakaran* (25 June 2024) <<https://www.thinakaran.lk/2024/06/25/local/68149>> accessed 26 June 2024.

⁴⁰ *ibid.*

2.2. Batticaloa District

2.2.1. Mathavanai, Mayilathamadu

Mathavanai, Mayilathamadu is a fertile grazing land bordering the Mandari River, a tributary of the Maduru Oya, on the outskirts of Batticaloa, under the Eravur Pattu Chenkalady and Koralai Pattu South Divisional Secretariat. This region is popular for cattle rearing whereby Tamil farmers from the Sithandi, Vantharmolai, Illupaiyadichenai, and Murakkaddan Chollai areas use this grazing land for their farming activities.⁴¹ Livestock farming is the main source of livelihood here, and according to 2023 statistical data, 1072 families, both registered and unregistered, are involved in animal husbandry farming practices in this area.⁴²

Since 2013, pasturelands in Mathavanai and Mayilathamadu have been occupied by Sinhalese settlers from districts like Ampara and Polonnaruwa,⁴³ with approximately 3150 hectares of pastoral land under threat due to thousands of new settlers.⁴⁴ From 2012 to 2023, 6948 livestock were affected, including those killed, injured, disappeared, or forcibly captured, as well as those impacted by judicial proceedings, electrification, and the spraying of herbicides.⁴⁵ Human Rights Watch stated that, according to local human rights defenders “retired soldiers settled in that area with the support of the Government, and they are using illegal weapons to kill cows”.⁴⁶

Mahaweli Development Program – System B

These problems with farming land have intersected with the Mahaweli Authority’s development of the surrounding areas. In 1979, 12,000 acres of grazing land in Mathavanai and Mayilaththampatti were acquired under the Mahaweli Authority's System B.⁴⁷ The Mahaweli B Scheme applies to Polonnaruwa and Batticaloa Districts.⁴⁸ According to reports, Sinhalese settlers from Polonnaruwa, Ampara, and other southern districts have been relocated to lands within

⁴¹ CPA interview with local community (Batticaloa District, 15 September 2023).

⁴² Letter dated 1 May 2023 written to the Governor of the Eastern Province Trincomalee.

⁴³ ‘Reprisal Against Peaceful Protesters Protesting against ongoing pasture land encroachment in Madhavani and Mayilathamdu, Batticaloa’ (*Defenders at Risk Active Cases*, 12 October 2023)

<<https://www.frontlinedefenders.org/en/statement-report/reprisals-against-peaceful-protesters-protesting-against-ongoing-pastureland>> accessed 19 October 2023, stated that “Tamil farmers who were searching for their missing cattle were abducted and brutally assaulted by armed Sinhalese. Additionally, these Tamil livestock farmers have been unfairly charged with baseless allegations by officials from Mahaweli Authority and the Department of Wildlife Conservation”.

⁴⁴ Letter (n 42).

⁴⁵ *ibid.*

⁴⁶ ‘If We Raise Our Voices, They Arrest Us - Sri Lanka’s Proposed Truth and Reconciliation Commisison’ (18 September 2023) Human Rights Watch <<https://www.hrw.org/report/2023/09/18/if-we-raise-our-voice-they-arrest-us/sri-lankas-proposed-truth-and-reconciliation#3009>> accessed 30 September 2023.

⁴⁷ Oakland Institute, ‘Endless War – The destroyed land, life and identity of the Tamil People in Sri Lanka’ (7 March 2021) <<https://www.oaklandinstitute.org/tamils-sri-lanka-endless-war>> accessed 1 October 2023.

⁴⁸ Bhavani Fonseka and Uvin Dissanayake, ‘Sri Lanka’s Vistas of Prosperity and Splendour: A Critique of Promises Made and Present Trends’ (2021) Centre for Policy Alternatives <<https://www.cpalanka.org/sri-lankas-vistas-of-prosperity-and-splendour-a-critique-of-promises-made-and-present-trends/>> accessed 25 June 2024.

‘Mahaweli System B’.⁴⁹ In 2020, the problems were exacerbated by the Mahaweli Authority and the former Eastern Province Governor when she encouraged the agricultural development of corn and peanuts on the grazing lands.⁵⁰ Disputes have consequently been rife in this region.⁵¹ Thirteen cases were filed against the Divisional Secretary in Koralai Pattu South at the Valaichenai Magistrate's Court in 2012.⁵² The Karadiyanaru Police Station did not take any action regarding the complaints, since the farmers were unable to provide details of the assailant.⁵³

On the 21st of January 2021, a case was filed at the Court of Appeal with the case taken up by court on the 11th of February.⁵⁴ The Mahaweli Authority provided an undertaking in courts that illegal occupants would leave before the 28th of February 2021.⁵⁵ As a result, the courts ordered that all farmers involved in Chena cultivation on these lands must abscond on or before the 21st of July 2021,⁵⁶ but to date, the order has not been fully implemented. On the 15th of October 2023, a new Buddha statue was installed under the leadership of a monk with the participation of the former Governor of the Eastern Province.⁵⁷

On the 15th of October 2023, the President was urged by Members of Parliament from the Batticaloa district to prevent illegal encroachment on pasture lands and maintain Mayilathamadu for grazing.⁵⁸ At the meeting, the President agreed to allocate land for farmers outside Mayilathamadu and ordered the removal of illegal settlers through a court order.⁵⁹ These orders have been unimplemented with cattle farmers protesting for over 300 days demanding that authorities take action against those responsible for illegal encroachments and officially designate Mayilathamadu as pasture land. Whether these concerns will be addressed by the State is to be seen.

⁴⁹ Bhavani Fonseka and Dharsha Jegatheeswaran, ‘Politics, Policies And Practices With Land Acquisitions And Related Issues In The North And East Of Sri Lanka’ (2013) Centre for Policy Alternatives <<https://www.cpalanka.org/policy-brief-politics-policies-and-practices-with-land-acquisitions-and-related-issues-in-the-north-and-east-of-sri-lanka/>> accessed 25 June 2024, states that “Similar to Mahaweli B, in the Mahaweli L system, by 1985, almost all Tamil civilians in the Manal Aru area had been driven out due to violence and military pressure. In 1988, a reported 3364 families were given land in System L, with a large majority of the families being Sinhalese”.

⁵⁰ CPA interview (n 41).

⁵¹ *ibid.*

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ ‘Adjournment of hearing Mathavani and Mayilathamadu Case’ *Virakesari* (11 February 2021) <<https://www.virakesari.lk/article/100244>> accessed 4 October 2023.

⁵⁵ ‘Adjournment of hearing Mathavani and Mayilathamadu Case’ *Aruvi News* (23 February 2021) <<https://aruvi.com/article/tam/2021/02/24/22987/>> accessed 4 October 2023.

⁵⁶ CPA interview (n 41).

⁵⁷ ‘The ethnic, religious and cultural reconstruction taking place in the North and East will not end smoothly; Alan Keenan says history suggests the same’ *Virakesari* (17 October 2023) <<https://www.virakesari.lk/article/167123>> accessed 21 October 2023.

⁵⁸ ‘Presidential order to evict illegal settlers’ *Page Tamil* (15 October 2023) <<https://shorturl.at/eU943>> accessed 21 October 2023.

⁵⁹ *ibid.*

2.3. Jaffna District

2.3.1. Chulipuram Paralai Murugan Temple

Paralai Murugan Temple is located in Chulipuram East, under the Valikamam West Divisional administrative boundary in the Jaffna District, where the majority of the population are Hindu. It is an ancient Murugan temple in the district, where its temple tree (also referred to as ‘Thala Virutcham’) is a ‘Bo Tree’.

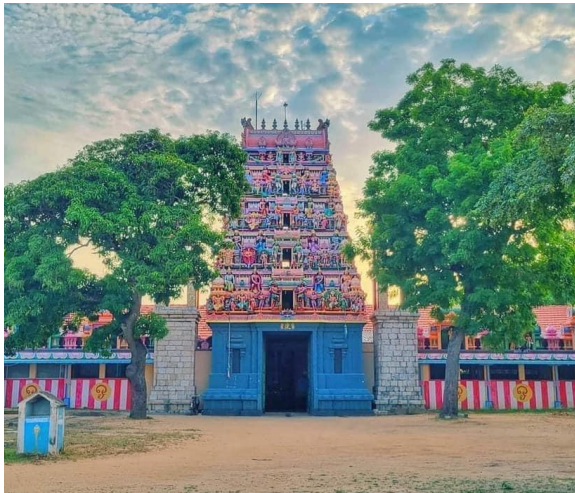


Image Source: Justice Voice for People

According to the temple administration, the temple deed was written in 1762.⁶⁰ The dispute stems from the fact that Sinhala-Buddhists believe that the tree stems from a branch with historical connections to the Bo Tree that Sanghamitta brought to Sri Lanka which is still standing as the Jaya Sri Mahabodhi Tree in Anuradhapura.⁶¹

The temple trustees and the devotees of Chulipuram Paralai Murugan Temple have jointly decided that they will not allow Buddha idols to be erected in the temple.⁶² This decision was made during a discussion at the temple after reports emerged that Buddhist monks were planning to

perform pooja under the Bo Tree in Chulipuram Paralai Murugan Temple.⁶³ Concerningly, a Gazette notification declared the status of ‘The Old Tree known as Sanghamitta Bodhiya’ located within the premises of the Murugan Kovil in the Paralai village, part of Grama Niladhari (GN) Division No. J/174 in the Chulipuram East area of the Valikamam West Divisional Secretary’s Division in the Jaffna District, Northern Province.⁶⁴ It’s important to note that, up to this point, neither the temple trustee board nor the Valikamam South Divisional Secretariat were aware of this Gazette notification. A protest took place in Chulipuram against the Government Gazette declaration of the Bodhi tree at Paralai Murugan Temple.⁶⁵

Several Members of Parliament have opposed these developments and met the President to request the retraction of the Gazette notification.⁶⁶ During this meeting, the President said that he did not

⁶⁰ ‘Challenges faced by the Paralai Murugan Temple’ *Page Tamil* (3 August 2023) <<https://shorturl.at/4hTRY>> accessed 7 October 2023.

⁶¹ ‘Paralai Bo Tree and Sangamitha’ *Virakesari* (13 August 2023) <https://www.virakesari.lk/article/162281#google_vignette> accessed 7 October 2023.

⁶² ‘Paralai Murugan temple is not allowed to place Buddha statue or perform Buddhist rituals’ *Tamil Win* (17 March 2022) <<https://shorturl.at/mZWl8>> accessed 7 October 2023.

⁶³ *ibid.*

⁶⁴ Gazette No.2317/57 dated 1 February 2023.

⁶⁵ ‘Chulipuram Paralai Murugan Temple issue: Protests are taking place!’ *Thinakkural* (2023) <<https://thinakkural.lk/article/266955>> accessed 1 July 2024.

⁶⁶ Sivagnanam Shrirathan (M.P.), ‘Requesting to retrieve the Gazette notices published regarding the forceful acquiring of Tamils Traditional Identities’, Reference No.MP/JF/KN/Si.Sh/President/2023 dated 8 August 2023.

believe that the Bo Tree in Paralai Murugan Temple was brought by Sanghamitta and that all the Bo Trees were destroyed during the Portuguese invasion.⁶⁷ He consequently ordered the authorities to scientifically estimate the age of the Bo Tree in Paralai Murugan Temple.⁶⁸

2.3.2. The Nilavarai Well

The Nilavarai Well is located in the Navagiri village, falling under the administrative division of the Valikamam East Divisional Secretariat and Kopay Divisional Secretariat. The historical significance of the Nilavarai Well stems from its depth, which mythologically was said to be up to the moon in the sky - hence the name 'Nilavarai'.⁶⁹ Furthermore, it is notable that the local community donated the land where the Well stands to the Navasaiva Eswaran Temple and it is believed to be the sacred source of the temple.⁷⁰ For an extended period, this site has been a prominent tourist attraction. The Valikamam East Divisional Secretariat has been responsible for its upkeep, including actions like installing a protective fence around the Well and issuing tenders for parking and lighting services.⁷¹ Additionally, the National Drainage System, under the name 'Varawatha Drinking Water Supply Scheme', manages the water supply for the Nilavarai Well. However, despite the effective management of the Well for an extended period, the Department of Archaeology officially declared it as an 'archaeological site'.⁷²

On the 21st of January 2021, officials from the Department of Archaeology conducted excavation work in the vicinity of the Nilavarai Well beneath a tree.⁷³ The Department of Archaeology reported that there was an ancient structure in that area, and the officials expressed their intention to initiate further research on this matter.⁷⁴ CPA was informed that no permission was obtained from the local authority. Subsequently, the Valikamam East DS decided at their council meeting that the Department of Archaeology must obtain prior approval from both the Regional Development Committee Meeting and the District Development Coordinating Committee Meeting

⁶⁷ *Virakesari* (n 61).

⁶⁸ *ibid.*

⁶⁹ 'Research about Nilavarai Well' *Vanakkam London* (24 September 2022)

<<https://vanakkamlondon.com/stories/research-stories/2022/09/171885/>> accessed 12 October 2023.

⁷⁰ Royal Asiatic Society of Sri Lanka, 'The Journal of the Ceylon Branch of the Royal Asiatic Society of Great Britain and Ireland' (1865), 123-127.

⁷¹ 'A case has been filed against the Chairman of the Valikamam East DS' *Virakesari* (1 February 2023)

<<https://www.virakesari.lk/article/147198>> accessed 12 October 2023.

⁷² Gazette No.1486 dated 23 February 2007.

⁷³ 'Sudden excavation work in Nilavarai Jaffna' *Virakesari* (21 January 2021)

<<https://www.virakesari.lk/article/98907>> accessed 12 October 2023.

⁷⁴ *ibid.*

before the conduct of research work.⁷⁵ Following this, the State Minister issued an order to the Department of Archaeology regarding this matter.⁷⁶

Regardless, on the 26th of March 2021, officials from the Department of Archaeology began cutting a foundation around the Well with military assistance.⁷⁷ In response, the local community, led by the Chairman of the Valikamam East DS, gathered at the site and obstructed the resumption of the Department's survey work.⁷⁸ After this incident, the Director of the Department of Archaeology stated that they are approaching the North, the East, and the South in identifying archaeological sites and dealing with excavations and conservation activities, with no efforts made to target any particular race or religion.⁷⁹ Pointedly, a case has been filed against the Chairman of the Valikamam East DS accusing him of the disruption of official archaeological work.⁸⁰ The case was then scheduled for trial on the 15th of December 2023 and was later rescheduled to the 12th of June 2024, due to information from the Acheveli Police, indicating a delay in obtaining advice from the Attorney General.⁸¹

Tensions continued to flare up when a Buddha statue was positioned beneath a Bo Tree on the eastern side of the Well.⁸² The statue was removed by the military after the Valikamam East Pradeshiya Sabha intervened due to protests but it has been claimed that the statue was erected by the army deployed in the region.⁸³ These concerns demonstrate the growing military involvement in land annexures and the continued role in expanding Sinhala-Buddhism in the North and East of Sri Lanka.

2.3.3. Mandaitivu

Mandaitivu is an island in the Jaffna Peninsula, extending 10.1 square kilometres, located under the Velanai Administrative Division. The concern in this case has been the pervasive militarisation of the island, with many military camps having been established in the Mandaitivu region in the

⁷⁵ Letter dated 8 April 2021 with Reference No.5/2021.04.08.

⁷⁶ 'Prior approval from the District Development Coordinating Committee (DCC) meeting is required to conduct archaeological research - State Minister Vithura Issued Order' *Valampuri* (2021) <<https://epaper.valampuri.lk/>> accessed 17 October 2023.

⁷⁷ Sivagnanam Shriharan, 'Occupying Missions Conducted in the North and East Provinces by the Department of Archaeology' (2023).

⁷⁸ 'At present, for the second time, the Department of Archaeology' *Page Tamil* (26 March 2021) <<https://shorturl.at/T6M6U>> accessed 14 October 2023.

⁷⁹ 'In the southern part of the Buddhist temple, there are Hindu temples inside - Misunderstanding Among Northern and Eastern Communities - Director, Department of Archaeology' *Virakesari* (28 March 2021) <<https://www.virakesari.lk/article/102900>> accessed 13 October 2023.

⁸⁰ Case No.B/421/PC/21.

⁸¹ 'Adjournment due to non-availability of advice from the Attorney-General for the Nilavarai case' *Page Tamil* (15 December 2023) <<https://pagetamil.com/2023/12/15/நிலாவரை-வழக்கு-சட்ட-மா-அத/>> accessed 1 May 2024.

⁸² 'A Buddha statue suddenly sprouted in the Nilavarai!' *Virakesari* (25 February 2023) <<https://www.virakesari.lk/article/149123>> accessed 14 October 2023.

⁸³ *ibid.*

aftermath of the Civil War. In the 1990s, residents were requested to vacate the area to make way for the establishment of the Welusumunai Navy Camp.⁸⁴ Consequently, private lands in the region have continuously been confiscated through land acquisitions by the army from time to time. Within this context, the Land Acquisition Officer, as part of the Lessons Learnt and Reconciliation Commission (LLRC), dispatched a letter dated the 2nd of November 2015 to 29 landowners, indicating that the land was slated for surveying and subsequent acquisition for a ‘public purpose’.⁸⁵

On the 10th of November 2020 Tamil politicians and locals in Jaffna protested against the Sri Lankan navy's attempt to set up a naval camp in Mandaitivu.⁸⁶ In line with these developments, a formal written notification has been issued to the aforementioned landowners as part of the preliminary steps in acquiring 49 acres, 7 roots, and 150 perches of land.⁸⁷ In the initial phase of this process, the Government Land Survey Office has sent letters dated the 30th of June 2023, to nine landowners.⁸⁸ These letters specify that 18 acres and 1 root of land located in J/07 would be measured on the 12th of July 2023 to establish a Naval Headquarters, with additional survey dates to be notified.⁸⁹ Due to the staunch protests of residents, local communities and political parties, land surveying activity was abandoned on the 13th of July 2023.⁹⁰

2.3.4. The High-Security Zone, Valikamam North

The Jaffna District's administrative Divisions of Valikamam North and East have a series of areas declared as High-Security Zones (HSZs).⁹¹ The history of these zones is crucial to understanding their modern context, whereby the Jaffna Peninsula has experienced various wars and displacements.⁹²

The Government's establishment of HSZs during the war was a strategic measure to secure military and economic centers.⁹³ The HSZs varied in size and restriction levels across different regions.⁹⁴

⁸⁴ ‘Navy plans acquisition of 18 acres in Mandaitivu’ *Tamil Guardian* (23 May 2018)

<<https://www.tamilguardian.com/content/navy-plans-acquisition-18-acres-mandaitivu>> accessed 15 October 2023.

⁸⁵ Notice of Land Acquisition with Reference No.ACQ/Q/J/D/222.

⁸⁶ ‘Tamil politicians and locals in Jaffna protest against Sri Lankan navy land grab efforts’ *Tamil Guardian* (10 November 2020) <<https://www.tamilguardian.com/content/tamil-politicians-and-locals-jaffna-protest-against-sri-lankan-navy-land-grab-efforts>> accessed 17 October 2023.

⁸⁷ ‘Public protests against Navy's land acquisition in Mandaitivu – Jaffna’ *Virakesari* (12 July 2023)

<<https://www.virakesari.lk/article/159817>> accessed 17 October 2023.

⁸⁸ Notice of Land Acquisition with Reference No.AA/Ys/VLN/2018/107.

⁸⁹ *Virakesari* (n 87).

⁹⁰ *ibid.*

⁹¹ Bhavani Fonseka and Mirak Raheem, ‘Land in the Northern Province: Post-War Politics, Policy, and Practices’ (2011) Centre for Policy Alternatives <<https://cpalanka.org/wp-content/uploads/2011/12/Land-Issues-in-the-Northern-Province-Post-War-Politics-Policy-and-Practices-.pdf>> accessed 31 July 2024.

⁹² Fonseka and Jegatheeswaran (n 49).

⁹³ Fonseka and Raheem (n 91).

⁹⁴ *ibid.*

Jaffna, in particular, had the highest concentration of HSZs, with about 16% of its land under severe military restrictions, limiting civilian access significantly.⁹⁵ Starting in the mid-1980s, the Government set up HSZs in crucial locations, including near key military bases, forward defence lines, and main supply routes. By May 2009, the HSZs in Jaffna had displaced over 65,000 people.⁹⁶ The largest HSZ in Jaffna was the Tellipallai/Valikamam HSZ, which covered 43 GN divisions and affected several DS divisions, with Tellipallai being the most impacted (35 out of its 45 GN divisions were occupied). Noteworthy progress in releasing HSZs began in the latter part of 2010, due to protests and legal cases initiated in courts.⁹⁷

Exemplarily, when the legal acquisition was initiated, cases were filed in both the Supreme Court and Court of Appeal. The Centre for Policy Alternatives supported the filing of a writ application.⁹⁸ The Petitioners (Arunasalam Kunabalasingham and 1473 others) were landowners of land located in the Northern Province in what was previously considered to be a HSZ.⁹⁹ The case was filed against steps by the Government to take over the traditional lands constituting approximately 6381 acres for a purported public purpose.¹⁰⁰ The reason for the supposed land requirement was to establish a ‘Defence Battalion Headquarters’ and resultantly, at present, the petitioners are being prevented from returning to their lands.¹⁰¹ Similar legal challenges were made by 702 individuals and consequently, the Court consulted with the relevant Security Forces and the District Secretary of Jaffna regarding the displacement of people.¹⁰²

A positive development in recent times has been the military returning some land to its rightful owners, although this has been a slow process with many still continuing to face challenges. Though the following visual captures recent events from 2024, CPA has been informed of continued impediments in legal owners accessing their lands:

⁹⁵ *ibid.*

⁹⁶ *ibid.*

⁹⁷ *ibid.*

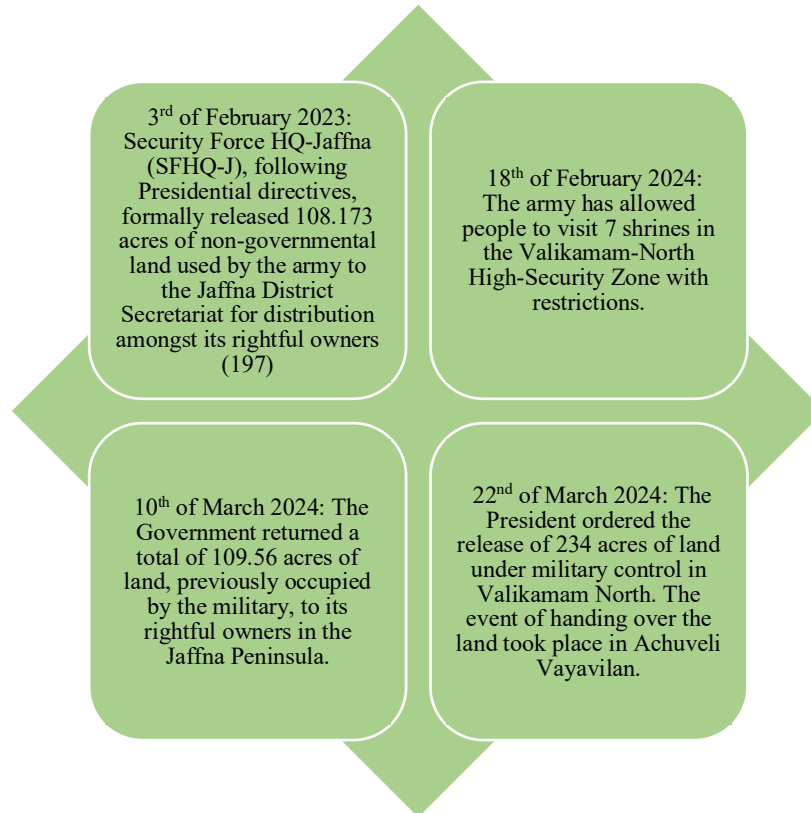
⁹⁸ *Arunasalam Kunabalasingham and 1473 others v A.Sivaswamy and 2 others* (15 May 2013) CA (Writ) No.125/2013.

⁹⁹ *ibid.*

¹⁰⁰ *ibid.*

¹⁰¹ *ibid.*

¹⁰² Fonseca and Raheem (n 91).



In recent months, there have been reports of Government authorities trying to conduct land surveys for various purposes.¹⁰³ Ultimately, however, much of the land still remains in control of the military. These land releases without compensation are the results of decades of dissent by stakeholders and further, demonstrate the impunity with which State proponents have acted where land appropriation is concerned.

2.3.5. The President’s House, Kankesanthurai

According to reports, the President’s House is a luxury “palace” built by the military in 2012 in the Naguleswaram and Valikamam areas of Kankesanthurai in Jaffna.¹⁰⁴ The land surrounding the building, encompassing around 12 hectares of land, was initially owned by 17 private owners.¹⁰⁵

¹⁰³ ‘Land grabbing attempt halted by resident protests in Jaffna's Valikamam North’ *Tamil Guardian* (12 February 2024) <<https://www.tamilguardian.com/content/land-grabbing-attempt-halted-resident-protests-jaffnas-valikamam-north>> accessed 3 March 2024.

¹⁰⁴ ‘Presidential palace built on occupied Jaffna land to be leased by government’ *Tamil Guardian* (24 October 2023) <<https://www.tamilguardian.com/content/presidential-palace-built-occupied-jaffna-land-be-leased-government>> accessed 1 December 2023.

¹⁰⁵ *ibid.*



Image Source: Daily News

At least 62 acres of the land used for the palace was also land that was part of the Kankesanthurai Cement Factory.¹⁰⁶ The building itself spans 9.95 hectares and contains 20 rooms and 2 swimming pools,¹⁰⁷ originally constructed at a staggering cost of LKR 3.5 billion. In 2015, former Sri Lankan President Mahinda Rajapaksa, who launched the construction, claimed the building would

not be a residential palace but rather an “international relations center” constructed to host foreign diplomats and dignitaries.¹⁰⁸ Pointedly, the usage of this land for the lavish tourist purposes of the State stands in contrast to a 2019 statement by the then-Northern Provincial Governor Suren Raghavan who admitted that around 16,000 people in the Northern Province remain landless, while 5000 people are embroiled in various land disputes.¹⁰⁹ However, with the change in State regimes in 2015, construction works were suspended.¹¹⁰

Historically, in the 1990s, the Sri Lankan military occupied this land, after which it was converted into a HSZ with restrictions over public entry (refer to Chapter 2.3.4).¹¹¹ On the 3rd of March 2023, for the first time in 32 years, the temple trustees of the Krishna Temple visited the site of the President's House with the Grama Niladhari for observations.¹¹² The relevant State authorities have however denied that there was any demolition of an ancient Shivan temple for the construction of the President's House.¹¹³

Though the land of the President's House had been controlled by the Sri Lankan military, the site was officially handed over to the Urban Development Authority in 2022.¹¹⁴ Currently, once the relevant lease agreement is finalised, the land is expected to be handed over to the Sri Lanka Institute of Information Technology (SLIIT), to expand educational facilities.¹¹⁵

¹⁰⁶ *ibid.*

¹⁰⁷ *ibid.*

¹⁰⁸ *ibid.*

¹⁰⁹ *ibid.*

¹¹⁰ ‘UDA to convert Rs.2 Bn Presidential Palace project in Jaffna to university’ *Daily News* (26 October 2023) <<https://www.dailynews.lk/2023/10/26/business/189815/uda-to-convert-rs-2-bn-presidential-palace-project-in-jaffna-to-university/>> accessed 1 December 2023.

¹¹¹ Fonseka and Raheem (n 91).

¹¹² ‘Has the President's House been built in the Keerimalai Temple? Response from Presidential Media Unit’ *Tamil Win* (10 March 2023) <<https://tamilwin.com/article/keerimalai-temple-president-s-house-sri-lanka-1678498146>> accessed 2 December 2023.

¹¹³ *ibid.*

¹¹⁴ ‘Is the Girimalai Shiva temple demolished and the Sri Lankan President's House built?’ *BBC News Tamil* (10 March 2023) <<https://www.bbc.com/tamil/articles/cpe7ee3exy4o>> accessed 2 December 2023.

¹¹⁵ ‘President's House premises in Jaffna for SLIIT’ *Sri Lanka Mirror* <<https://srilankamirror.com/news/presidents-house-premises-in-jaffna-for-sliit/>> accessed 20 July 2024.

More recently, on the 15th of December 2023, there was an attempt to survey 29 acres of land in Alvanmalai, Velarkadu, and surrounding areas for the Urban Development Authority's purposes.¹¹⁶ Local opposition led to the survey being halted,¹¹⁷ and by the 27th of March 2024 the locals protested and blocked land survey officials from seizing the same 29 acres in Jaffna for urban development, reinforcing their resistance against land appropriation attempts.

2.3.6. Tissa Maharama Thaiyiddi

Thaiyiddi is a coastal village in close proximity to the Kankesanthurai Harbor, where approximately 380 Tamil families reside.¹¹⁸ It was part of the HSZ until 2016, after which locals were permitted to resettle.¹¹⁹ During this time, the military established the 'Military Base 1st Battalion of the Galaba Regiment' in the area.¹²⁰ However, the Sri Lankan military, during their occupation, constructed a Buddhist temple (named the Tissa Raja Maha Viharaya), with part of the temple encroaching on land belonging to private Tamil landowners.¹²¹ It has been alleged that, initially, an ancient monastery known as Tissa Viharaya was located at Thaiyiddi.¹²²

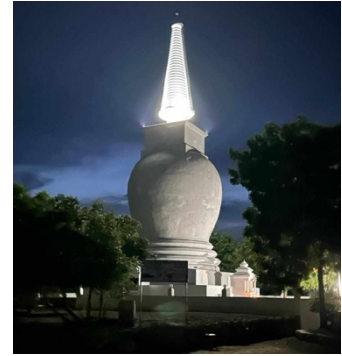


Image Source: CPA Field Visit

On the 4th of May 2023 residents engaged in protests, demanding the return of land owned by 14 Tamil families surrounding the illegal construction.¹²³ The Sri Lankan military is now attempting to further extend its presence by incorporating additional land.¹²⁴ The army has erected a barbed fence around this plot, restricting access to all areas except the temple. This has caused significant hardship for landowners, preventing them from engaging in agriculture on the restricted land. As

¹¹⁶ 'Surveying of Keerimalai President's House was abandoned due to public opposition' *Virakesari* (15 December 2023) <<https://www.virakesari.lk/article/171759>> accessed 2 January 2024.

¹¹⁷ *ibid.*

¹¹⁸ CPA interview with Government official conducted over telephone (Jaffna District, 17 October 2023).

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

¹²¹ 'More protests in Thaiyiddi over illegally constructed Sinhala Buddhist shrine' *Tamil Guardian* (23 April 2024) <<https://www.tamilguardian.com/content/more-protests-thaiyiddi-over-illegally-constructed-sinhala-buddhist-shrine>> accessed 25 April 2024.

¹²² *ibid.*, an official stated that "Buddhists believed that this is where the Bhikkuni Sangamitta some centuries ago waited for a pause en route to Anuradhapura after landing at Dambakola Patuna from Jambudeevpa during the reign of the King Devanampiyatissa (250-210 BC)".

¹²³ 'Protesters demand removal of Tissa Rajamaha Vihara in Thaiyiddi, Point Pedro' *Tamil Guardian* (4 May 2023) <<https://www.tamilguardian.com/content/protesters-demand-removal-tissa-rajamaha-vihara-thaiyiddi-point-pedro>> accessed 5 January 2024.

¹²⁴ This information was provided through an RTI request made to the Valikamam Northern Division Secretary in a letter dated 7 September 2018 (Reference No.VN/DS/EB/RTI/2018).

of 2023, the temple has not been listed as an archaeological site by the Department of Archaeology.¹²⁵

In a general meeting of the Valikamam North Pradeshiya Sabha, concerns were expressed about the construction of a monastery on private land without the necessary permissions. Consequently, Resolution No.14/21.07.2022 was passed at this meeting, calling for the immediate halt of such construction works. People have been protesting every Poya (full moon) day for almost a year, demanding the removal of the Buddhist temple.¹²⁶ On the 12th of March 2024, the Sri Lankan Oversight Committee on National Security issued a directive to the Valikamam North Divisional Secretary, requiring the transfer of private land to the temple.¹²⁷ The directive also suggests providing alternative land for Tamil residents whose properties are affected by this transfer.¹²⁸

2.4. Kilinochchi District

2.4.1. Uruthirapuram Shivan Temple

Uruthirapuram Shivan Temple is located in the Uruthirapuram Village, under the administrative division of Karachi in the Kilinochchi District. Uruthirapuram Shivan Temple is an ancient Shivan temple dating back around 2400 years.¹²⁹ This temple was established in 1958 under the Agama system, with the temple being managed by Iyampillai Gurus from Keerimalai.¹³⁰ Archaeological findings in Kilinochchi indicate the area's historical significance, this being corroborated by the Mahavamsa, which references two Hindu temples in Anuradhapura from 2400 years ago.¹³¹ The temple itself is situated on a 1.2 acre parcel of land.¹³² Notably, certain controversies surround the origins of the temple, such as the fact that initially, the area surrounding the temple was a forest area and developed into a settlement in 1952.¹³³ Further, according to a report by the Archaeology Commissioner from 1958, an ancient stupa was discovered here while clearing land to build a road to Uruthirapuram Wewa, but unfortunately, it was subsequently destroyed.¹³⁴ The question thus remains whether the land is of Buddhist or Hindu heritage.

¹²⁵ CPA interview with a Government official (Jaffna District, 2 November 2023).

¹²⁶ 'More protests in Thaiyiddy over illegally constructed Sinhala Buddhist shrine' *Tamil Guardian* (23 April 2024) <<https://www.tamilguardian.com/content/more-protests-thaiyiddy-over-illegally-constructed-sinhala-buddhist-shrin>> accessed 25 April 2024.

¹²⁷ Letter dated 12 March 2024.

¹²⁸ *ibid.*

¹²⁹ Letter dated 13 May 2023 from Member of Parliament Sivagnanam Shriharan with Reference No.MP/JF/KN/Si.Sh/President/2023.

¹³⁰ K. Kritharan, 'Do you know the historical antiquity of Kilinochchi Uruthirapuram Temple?' *Vanakkam London* (24 March 2021) <<https://vanakkamlondon.com/news/2021/03/105979/>> accessed 10 January 2024.

¹³¹ *ibid.*

¹³² *ibid.*

¹³³ *ibid.*

¹³⁴ 'Losing Heritage of Uruthirapuram Buddhist Ruins in Kilinochchi' (*Amazing Lanka*) <<https://amazinglanka.com/wp/uruthirapuram/>> accessed 15 January 2024.

Nonetheless, the temple was declared as an ‘archaeological site’ under a Gazette notification on the 24th of March 2016.¹³⁵ Concerns over State appropriation have thus manifested in disputes over the land, whereby on multiple occasions, army officers, police officers, Government officials from the Department of Archaeology, and Buddhist monks have visited the temple premises in army jeeps to inspect the land.¹³⁶ The intersectionality of various stakeholders is apparent here. On the 16th of March 2021, the Assistant Commissioner of the Department of Archaeology (Jaffna), arrived with officers for a site cleaning without prior notice, disrupting religious activities and driving away devotees.¹³⁷ Pointedly, they failed to give adequate notice to the temple board trustees.

The Assistant Commissioner had informed individuals at the site that excavation activities would begin on the 23rd of March 2021, and semi-permanent tents would be set up in the temple's compound.¹³⁸ However, initial excavation and survey efforts were halted due to strong public protests.¹³⁹ On the 24th of March 2021, a Parliamentary session discussed the Uruthirapuram Temple.¹⁴⁰ Several Members of Parliament strongly opposed the Department of Archaeology's excavation activities, demanding their immediate halt.¹⁴¹ Though the President discussed these issues with Tamil Members of Parliament and promised to halt such land annexures on the 11th of May 2023, the actions to grab this land have not ended.¹⁴² Notably, the Assistant Director of the Department of Archaeology in Jaffna sent an official letter on the 4th of May 2023 to relevant parties, including the Divisional Secretary and temple trustee board, about a land survey to demarcate the land where the archaeological monument is located.¹⁴³

Minister Vithura Wickramanage announced the suspension of the Department of Archaeology's surveying work at the Uruthirapuram Temple on the 25th of May 2023.¹⁴⁴

¹³⁵ Gazette No.1960 - 2016/03/24

¹³⁶ ‘People of the Uruthirapuram Area Raise Concern About the Disturbing Activities Taking Place in the Sivan Kovil Premises in Kilinochchi’ *Center for Human Rights and Development* (19 March 2021) <<https://srilankachrd.org/dynamic.php?news=216>> accessed 16 January 2024.

¹³⁷ Letter (n 129).

¹³⁸ *ibid.*

¹³⁹ *Center for Human Rights and Development* (n 136).

¹⁴⁰ ‘Excavation Work at Uruthirapuram Shiva Temple Should Be Stopped Immediately: T.N.F in the Parliament’ *Thinakkural* <<https://thinakkural.lk/article/115950>> accessed 31 July 2024.

¹⁴¹ *ibid.*

¹⁴² Letter (n 129).

¹⁴³ *ibid.*

¹⁴⁴ ‘Survey Work of Uruthirapuram Shiva Temple Will Be Stopped - Minister Vidura Confirms’ *Virakesari* (25 May 2023) <<https://www.virakesari.lk/article/156155>> accessed 20 January 2024.

2.5. Mannar District

2.5.1. Adani Green Energy's Wind Power Project

In recent times, development projects initiated by private corporations have provided a new threat to land for local communities in the North and East.¹⁴⁵ Such concerns are captured in the case of Adani Green Energy's wind power project. The Thambapavani Wind Farm, Phase I of the Mannar Wind Farm project, erected 30 wind turbines along the southern coast of Mannar in the Nadukkuda village and its surroundings.¹⁴⁶ Reports from 2020 indicate that this project was funded by the Asian Development Bank.¹⁴⁷

Following this, the Adani wind farm project has faced significant opposition from the local community.¹⁴⁸ In February 2023, Adani Green Energy (Sri Lanka) Ltd received provisional approval for two wind power projects: one with a capacity of 250 MW in Mannar and another with 234 MW in Pooneryn. The proposed project site in Mannar covers 250 acres in an environmentally sensitive area. This project began in 2014 when the Sri Lanka Sustainable Energy Authority (SLSEA) declared an 'Energy Development Area' on Mannar Island,¹⁴⁹ while the Urban Development Authority re-zoned this area as an 'Industrial Area' to support the development of fisheries, tourism, and wind parks.¹⁵⁰ Cabinet approval was granted in 2022 to enter into a Memorandum of Understanding (MOU) with Adani Green Energy Limited of India for developing wind power stations in Mannar and Pooneryn, just three months after its application.¹⁵¹



Image Source: CPA Field Visit

Later, on the 7th of July 2022, the SLSEA Chairman issued preliminary approval to Adani Green Energy and instructed stakeholders to facilitate the project.¹⁵² By the 16th of August 2022, Minister Kanchana Wijesekara announced Sri Lanka's provisional approval for Adani Green Energy to

¹⁴⁵ CPA interview with a Civil Society Organisation (Mannar District, 25 April 2024).

¹⁴⁶ 'Could "greenwashing" Adani wind project help save Mannar?' *The Island* (9 April 2024) <https://island.lk/could-greenwashing-adani-wind-project-help-save-mannar/#google_vignette> accessed 3 May 2024.

¹⁴⁷ 'Wind Farms: The Death of Mannar' Groundviews <<https://sway.cloud.microsoft/A10FmhFK7KqjBKY?ref=Link>> accessed 3 May 2024.

¹⁴⁸ *ibid.*

¹⁴⁹ Extraordinary Gazette No.1858/2 dated 17 April 2014.

¹⁵⁰ Ceylon Electricity Board, 'Sri Lanka: Wind Power Generation Project - Resettlement Plan' (September 2021) <https://www.adb.org/sites/default/files/project-documents/49345/49345-002-rp-en_1.pdf> accessed 31 July 2024.

¹⁵¹ Namini Wijedasa, 'Official letters show CEB Chairman was instructed to facilitate Adani projects' *The Sunday Times* (19 June 2022) <<https://www.sundaytimes.lk/220619/news/adani-to-expand-still-further-in-sri-lanka-through-wind-and-solar-power-projects-486419.html>> accessed 10 May 2024.

¹⁵² Niranjala Ariyawansa, 'CEB says approval for Adani project illegal' *The Sunday Times* (18 September 2022) <<https://www.sundaytimes.lk/220918/news/ceb-says-approval-for-adani-project-illegal-496165.html>> accessed 10 May 2024.

invest over \$500 million in two wind projects in the northern province.¹⁵³ The project faced hurdles with the Ceylon Electricity Board (CEB) though, whereby on the 18th of September 2022, the CEB General Manager declared the provisional approval for the 234-megawatt wind-power project in Pooneryn illegal as it violated the mandate of the SLSEA.¹⁵⁴ These legal concerns coupled with criminal allegations against Adani Green Energy are ongoing in 2023.¹⁵⁵ Regardless of these concerns, in 2023, the Sri Lankan Board of Investment (BOI) green-lit the Adani Group's involvement in the USD 442 million renewable energy project and granted provisional approval for wind power projects in Mannar and Pooneryn.¹⁵⁶

The process underlying the BOI approval is seemingly problematic whereby on the 4th of January 2023, the Right to Information Commission directed the BOI to clarify responses to an information request by the Environmental Foundation Limited (EFL).¹⁵⁷ The RTI request asked if an MOU had been signed and the exact location of the project due to environmental concerns.¹⁵⁸ The BOI had previously refused this information, citing confidentiality under Section 29 of the RTI Act but now confirmed an MOU was signed, preliminary approval was granted, and clearances from relevant Ministries and State entities were obtained.¹⁵⁹ However, contrary to the BOI confirmation, land for the project was yet to be identified in Mannar and Pooneryn, meaning environmental approvals from the Central Environmental Authority (CEA) were still pending.¹⁶⁰

Finally, on the 28th of January 2024, the CEA produced its Environmental Impact Assessment report for the proposed Mannar Wind Power Project (Phase II), with the Government acquiring 201.98 hectares of mostly privately owned land for the Adani project.¹⁶¹ On the 4th of February

¹⁵³ 'Sri Lanka grants Adani Green Energy approvals for wind projects' *The Economic Times* (16 August 2023) <<https://economictimes.indiatimes.com/industry/renewables/sri-lanka-grants-adani-green-energy-approvals-for-wind-projects/articleshow/93600715.cms?from=mdr>> accessed 11 May 2024.

¹⁵⁴ Ariyawansa (n 152).

¹⁵⁵ Hannah Ellis-Petersen and Simon Goodley, 'Modi-linked Adani family secretly invested in own shares, documents suggest' *The Guardian* (31 August 2023) <<https://www.theguardian.com/world/2023/aug/31/modi-linked-adani-family-secretly-invested-in-own-shares-documents-suggest-india>> accessed 15 May 2024.

¹⁵⁶ 'Sri Lanka approves \$442-million wind power project of Adani Group' *The Hindu* (24 February 2023) <<https://www.thehindu.com/news/international/sri-lanka-approves-442-million-wind-power-project-of-adani-group/article66544744.ece>> accessed 15 May 2024.

¹⁵⁷ 'A Power Project In The Dark; RTI Voices Concern Regarding Transparency Around The Adani 'Green Energy' Project' *Colombo Telegraph* (8 January 2024) <<https://www.colombotelegraph.com/index.php/a-power-project-in-the-dark-rti-voices-concern-regarding-transparency-around-the-adani-green-energy-project/>> accessed 15 May 2024.

¹⁵⁸ *ibid.*

¹⁵⁹ *ibid.*

¹⁶⁰ *ibid.*

¹⁶¹ 'Land acquisition begins for Adani wind power project; hi-tech system to protect birdlife' *The Sunday Times* (28 January 2024) <<https://www.sundaytimes.lk/240128/news/land-acquisition-begins-for-adani-wind-power-project-hi-tech-system-to-protect-birdlife-546772.html>> accessed 16 May 2024.

2024 there were protests by local communities in Mannar highlighting issues against the first project phase.¹⁶² The primary concerns surrounding the process include:

- The windmills built would be in the path of various species of migratory birds who would be consequently killed.¹⁶³
- There would be a negative impact on marine ecosystems as the disturbances caused by the project would impact fish behaviour. Resultantly, those in Mannar relying on fishing for their livelihood would be harmed.¹⁶⁴
- Economically speaking, Sri Lanka's payment of USD 8.26 cents per kilowatt is far higher than the global average of 3 cents.¹⁶⁵ The aforementioned secret and unsolicited process thus causes deeper concern.
- With land acquisition notices beginning in June 2023,¹⁶⁶ there were concerns that landowners did not know or understand the notices, with allegations that the process was illegal. Informants have stated that the local communities were unaware of the legal processes and were unwilling to come forward to fight due to previous instances of intimidation.¹⁶⁷
- The project could potentially cause the loss of habitable lands.

Nonetheless, following a technical review and public consultation, the SLSEA approved the Mannar solar power project on the 6th of May 2024.¹⁶⁸ On the 3rd of June, the Environmental Foundation Limited filed a fundamental rights application in the Supreme Court, raising concerns about environmental impacts and the lack of competitive bidding for this 'development project'.¹⁶⁹ By the 23rd of June 2024 though, the Public Utilities Commission of Sri Lanka refused approval for the Adani project, citing inadequate information from the Ceylon Electricity Board.¹⁷⁰ Ultimately, the timeline elucidated upon above displays a concerted effort by different arms of the State to implement the Adani Green Energy project and only time will tell 'when' the project will begin. An analysis of trends around development projects and related issues is discussed in Chapter 4.4.

¹⁶² 'Gone with the wind: Mannar fisherfolk fear of being blown away by turbine project' *The Sunday Times* (4 February 2024) <<https://www.sundaytimes.lk/240204/news/gone-with-the-wind-mannar-fisherfolk-fear-of-being-blown-away-by-turbine-project-547275.html>> accessed 16 May 2024.

¹⁶³ CPA interview (n 145).

¹⁶⁴ CPA interview (n 145).

¹⁶⁵ Disna Mudalige, 'TISL Demands Transparency in Adani Wind Power Project: Files Right to Information Applications' (*Transparency International Sri Lanka*, 5 June 2024) <<https://www.tisrilanka.org/tisl-demands-transparency-in-adani-wind-power-project-files-right-to-information-applications/>> accessed 30 June 2024.

¹⁶⁶ CPA interview with a local informant (Mannar District, 16 May 2024).

¹⁶⁷ *ibid.*

¹⁶⁸ 'Adani Green Energy's wind power project undergoes technical review' *The Sunday Times* (31 March 2024) <<https://www.sundaytimes.lk/240331/business-times/adani-green-energys-wind-power-project-undergoes-technical-review-553313.html>> accessed 17 May 2024.

¹⁶⁹ Case No.SCFR149/2024, this case is currently ongoing.

¹⁷⁰ Namini Wijedasa, 'Regulator refuses approval for Adani wind power project' *The Sunday Times* (23 June 2024) <<https://www.sundaytimes.lk/240623/news/regulator-refuses-approval-for-adani-wind-power-project-561878.html>> accessed 20 July 2024.

2.5.2. Mullikulam

Mullikulam village, bordering the South of Mannar, is under the jurisdiction of the Musali Divisional Secretariat. Notably, approximately 1200 acres of land in this area has been used for cultivation purposes, while the rest of the land has been occupied by people.¹⁷¹ The concerns here centre on the appropriation of private land for military purposes, the roots of this State land acquisition originating in the Civil War.¹⁷² Mullikulam is a coastal fishing village in South Mannar, and they are largely peasant farmers and dependent on a land-based economy that includes paddy cultivation and cattle farming.¹⁷³ The following timeline elaborates on the incidents that took place on important occasions:¹⁷⁴

1983	}	Mullikulam witnessed its first act of armed violence when six individuals from three families were allegedly killed by the army. Their homes were destroyed and the bodies were set on fire on the seashore. This led to widespread fear, prompting villagers to flee to nearby forests and seek refuge in bordering villages.
2002	}	With the ceasefire agreement in 2002, many displaced individuals returned home in 2003. Unfortunately, they found their houses in ruins, belongings looted, and livelihood equipment worth millions of rupees missing.
2007	}	400 families were forcibly evicted from Mullikulam by the State. The people never returned to Mullikulam and were displaced. They moved to Thalvupadu, Valkaipetrakandal, Talaimannar, Nanattan, and Madukkarai, while some also lived in Mannar town.

When the evictions began, the military who started occupying private lands promised that the land would be returned within three to four days.¹⁷⁵ Nonetheless, the military later announced that “*The entire extent of land was taken over by the Sri Lanka navy for the establishment of a permanent military base*”.¹⁷⁶ Subsequently, a base was established titled the ‘North-Western Command Headquarters’, with a Naval Institute called ‘SLNS Bharana’, on the 14th of May 2009 along with two other bases in Vankalai and Silavathurai.¹⁷⁷ Later the North-Western Naval Headquarters in

¹⁷¹ Ruki Fernando, ‘The Struggle to Go Home in Post-War Sri Lanka: The Story of Mullikulam’ *Groundviews* (1 August 2012) <<https://groundviews.org/2012/08/01/the-struggle-to-go-home-in-post-war-sri-lanka-the-story-of-mullikulam/>> accessed 1 November 2023.

¹⁷² *ibid.*

¹⁷³ ‘Civil Society Urges The President To Revoke Musali Gazette’ *Colombo Telegraph* (26 April 2017) <<https://www.colombotelegraph.com/index.php/civil-society-urges-the-president-to-revoke-musali-gazette/>> accessed 2 November 2023.

¹⁷⁴ Fernando (n 171).

¹⁷⁵ *ibid.*

¹⁷⁶ *ibid.*

¹⁷⁷ *ibid.*

Puttalam was shifted to Mullikulam and was ceremoniously declared open by the then-Defence Secretary Mr. Gotabaya Rajapaksa on the 2nd of September 2010.¹⁷⁸

In mid-2011, navy officers in Mullikulam seemed to express interest in allowing residents to return to the village.¹⁷⁹ Several visits were arranged, during which a navy officer indicated that the navy intended to dismantle their base in Mullikulam, the plan including a three-month period during which the village would remain under military control, after which the villagers would be permitted to return.¹⁸⁰

During this period no real solutions had been provided by the State for those displaced by the increased militarisation.¹⁸¹ In December 2012, the Government proposed relocating the villagers to the 750-metre boundary outside of Mullikulam, with access to their church and school located within navy-occupied lands.¹⁸² In addition, the people requested that they also be provided with free access and a secure road to their church and school, void of any navy presence or checkpoints.¹⁸³ On the 29th of April 2017, after a sit-in overnight protest for more than a month outside the entrance to the navy-occupied village, the Navy Commander promised to release 100 acres of land by the end of the year.¹⁸⁴ To date, 77 acres of land have been released but 27 houses occupied by the navy are yet to be released.¹⁸⁵ The battle to recover these lands continues, whereby Tamils from five divisional secretariats including Mannar, Nanaddan, Musali, Manthai West and Madhu have sent 5000 postcards to Sri Lankan President Ranil Wickremesinghe demanding the return of their land which is currently occupied by the military.¹⁸⁶

The legal problems surrounding this land are multidimensional, with it being clear that the Government did not sufficiently adhere to the Land Acquisition Act No.9 of 1950 to acquire land for public purposes nor had the procedures to cancel permits and grants under the LDO been followed. Additionally, Mullikulam was never gazetted as a HSZ, raising questions about the legality of the occupation. Legal concerns in terms of the requisite process of land acquisition will be elaborated upon in Chapter 3 of this report.

¹⁷⁸ *ibid.*

¹⁷⁹ *ibid.*

¹⁸⁰ *ibid.*

¹⁸¹ CPA interview with a Civil Society Organisation (Mannar District, 26 April 2024).

¹⁸² Fernando (n 171).

¹⁸³ Fernando (n 171).

¹⁸⁴ 'Initial success of Mullikulam area release: Minister Swaminathan' *Virakesari* (1 May 2017) <<https://www.virakesari.lk/article/19584>> accessed 4 November 2023.

¹⁸⁵ 'Order to release Mullikulam lands' *Yaal* (29 April 2017) <<https://shorturl.at/yd6jB>> accessed 4 November 2023.

¹⁸⁶ "'Give us our lands back!' - Tamils in Mannar send 5,000 postcards to Sri Lankan president demanding return of land' *Tamil Guardian* (4 March 2024) <<https://www.tamilguardian.com/content/give-us-our-lands-back-tamils-mannar-send-5000-postcards-sri-lankan-president-demanding>> accessed 5 November 2023.

2.5.3. Pullarunthan Kandal Grazing Land

The Kandal grazing land, located in Pullarunthan in Mannar, has faced usurpation by many entities, including the Department of Irrigation, and thus, its intended usage of cattle grazing has been impeded. Cattle farmers in the Mannar-Nanatan Divisional Secretary informed CPA of the recurring challenge of insufficient grazing land for their cattle. Each year, due to this lack of grazing land, cattle farmers are compelled to take their cattle to the Manthai West, Iluppakkadavai area, resulting in various hardships such as loss of livestock and substantial economic losses.¹⁸⁷ For example, in 2023, 15,000 cows were transported in the western part of Manthai and about 3500 cows were washed away by floods but no compensation was given to the cattle owners by the local authorities who took no action over the land annexures, even though complaints were submitted to them.¹⁸⁸

Historically, people have been living in the Kattukkaraikulam area where the grazing land is located since 1899.¹⁸⁹ An estimated 34 villages were established,¹⁹⁰ but problematically, in 1901, people were evicted from these areas by the Government with the aim of clearing Kattukkaraikulam, with land given to those evicted in other places.¹⁹¹ Later, in 1938, the Government carried out a land survey to declare the 34 villages formerly inhabited by the people up to the forest area on the northern side of the villages (present-day Isimalaithalvu Village) as a bird sanctuary.¹⁹² In 1954, 9985 acres, 1 root, and 19 perches of land were gazetted as a bird sanctuary. However, one family encroached upon the sanctuary land, and their descendants deforested and converted part of it into cultivable paddy fields.¹⁹³ The remaining land gradually faced appropriation by various parties, including State departments.¹⁹⁴

Amidst the land disputes, the then-Prime Minister of Sri Lanka, Ranil Wickremesinghe, attended a meeting held at the Mannar District Secretariat in 2019.¹⁹⁵ The Nanatan Pradeshiya Sabha discussed the deforestation of the bird sanctuary within Kattukkaraikulam and resultantly, in May 2019, the District Secretary instructed that an investigation into the matter was necessary and a complete report should be submitted to the Prime Minister.¹⁹⁶ As per the then Prime Minister's instructions on the 1st of June 2019, the Department of Irrigation, the Department of Forest, the Department of Wildlife Conservation, the Department of Agrarian Development, the Mannar District Citizens Committee, journalists, the Nanatan Divisional Secretary and others visited the area. Upon investigation, it was reported that the Irrigation Department deforested an estimated

¹⁸⁷ CPA interviews with cattle farmers (Mannar District, 26 April 2024).

¹⁸⁸ *ibid.*

¹⁸⁹ CPA interview (n 181).

¹⁹⁰ Katukkarai Survey Reference No.62683 and No.82684.

¹⁹¹ CPA interview (n 181).

¹⁹² Katukkarai Survey (n 190).

¹⁹³ CPA interview (n 181).

¹⁹⁴ *ibid.*

¹⁹⁵ CPA interviews (n 187).

¹⁹⁶ *ibid.*

800 to 1000 acres of forest land but although details and pictures were sent to the District Secretary on the 3rd of June 2019,¹⁹⁷ and to the Governor of the Province on the 15th of October 2019,¹⁹⁸ the relevant authorities have taken no action.

However, on the 11th of August 2020, a field inspection was conducted and a report was prepared by an Irrigation Engineer, confirming the prevalence of deforestation in the area.¹⁹⁹ This report was then sent to the concerned authorities, including the Director of the Department of Irrigation, and a request was made to cease annexures of this forest land on the pretext of agriculture.²⁰⁰ No action has been taken regarding this request.

2.5.4. Sand Mining Projects

The Mannar District, encompassing a total area of 2002 square kilometres, holds the fourth largest ilmenite deposits in the world.²⁰¹ As per the Geological Survey and Mines Bureau (GSMB), the island is estimated to have 53 million tons of mineral soil, containing valuable minerals such as ilmenite, leucoxene, zirconium, rutile, titanium oxide, granite, sillimanite, and orthoclase found in alkaline soil.²⁰²

Problematically, since 2015, different companies have been involved in the initial stages of a mineral exploration project on Mannar Island. This project has sparked significant controversy and opposition from local communities and environmentalists due to the potential negative environmental and social impacts.²⁰³ The GSMB of Sri Lanka granted nine licences to five local companies for mineral exploration on Mannar Island.²⁰⁴ These companies were Kilsythe Exploration, with one licence issued in September 2015; Hammersmith Ceylon, with two licences issued in September 2015; Supreme Solution, with two licences issued in November 2015; Sanur Minerals, with two licences issued in September 2015; and Orion Minerals, with two licences issued in July 2015.²⁰⁵ Subsequently, these local companies were acquired by two Mauritian shell companies, Bright Angel Limited and Srinel Holdings, which were ultimately taken over by an

¹⁹⁷ CPA interviews (n 187).

¹⁹⁸ *ibid.*

¹⁹⁹ *ibid.*

²⁰⁰ *ibid.*

²⁰¹ 'Sand Excavation in Sri Lanka's Mannar Will Lead To Destruction' *Earth Journalism Network* (28 February 2022) <<https://earthjournalism.net/stories/sand-excavation-in-sri-lankas-mannar-will-lead-to-destruction>> accessed 26 May 2024.

²⁰² *ibid.*

²⁰³ CPA interview (n 145).

²⁰⁴ 'Australian Company destroying Mannar Island' *Ceylon Today* (1 October 2022)

<<https://ceylontoday.lk/2022/10/01/australian-company-destroying-mannar-island/>> accessed 27 May 2024.

²⁰⁵ Kamanthi Wickramasinghe, 'Spotlight on Mineral exploration project: Alarming ilmenite project threatens Mannar community, biodiversity' *Daily Mirror* (28 September 2022) <<https://www.dailymirror.lk/print/news-features/Spotlight-on-Mineral-exploration-project-Alarming-ilmenite-project-threatens-Mannar-community-biodiversity/131-245718>> accessed 2 June 2024.

Australian company named Titanium Sands Limited (TSL). Initially, TSL indicated that it had no plans for mining minerals in Sri Lanka.²⁰⁶

The project has faced continuous protests from locals and environmentalists who are concerned about the adverse impacts on the environment and the livelihoods of the island's residents. Key concerns include environmental degradation, as Mannar Island is 63% below sea level and over-extraction could lead to flooding, negatively affecting agriculture and fishing activities. Additionally, excessive drilling and mining activities could lead to substantial saltwater intrusion, contaminating the drinking water supply.²⁰⁷ These environmental issues could severely disrupt the lives of tens of thousands of residents who depend on fishing and agriculture for their livelihoods.²⁰⁸

In response to the continuous protests, the GSMB cancelled all exploration licences for the Mannar mineral sands project in April 2021.²⁰⁹ However, the licences were mysteriously reissued in December 2021, allowing TSL to recommence its exploration and drilling activities in January 2022.²¹⁰ Despite the Australian company's promises to compensate the locals and rectify the negative impacts of their activities, no substantial measures have been taken to date.²¹¹ Protestors have claimed that more than 4500 boreholes, each dug below 50 feet, have been created by the Government and private organisations operating on Mannar Island.²¹² Among these, TSL completed a scoping study that involved drilling over 4000 exploratory holes, some as deep as 12 metres, reportedly without obtaining permission from private landowners.²¹³ CPA was informed by local Civil Society Organisations (CSOs) that they had received multiple complaints regarding land occupation by various agents for sand mining.²¹⁴ As the case demonstrates, the issuing of licences that allows for resource extraction and the subsequent destruction of livelihoods is a key challenge that requires attention.

²⁰⁶ R.Ramakumar, 'Sand Excavation in Sri Lanka's Mannar Will Lead To Destruction' *Earth Journalism Network* (28 February 2022) <<https://earthjournalism.net/stories/sand-excavation-in-sri-lankas-mannar-will-lead-to-destruction>> accessed 30 May 2024.

²⁰⁷ CPA interview (n 145).

²⁰⁸ *ibid.*

²⁰⁹ *Ceylon Today* (n 204).

²¹⁰ Wickramasinghe (n 205).

²¹¹ CPA interview (n 145).

²¹² 'Stop sand mining or Mannar will go under water, warn protestors' *Tamil Guardian* (26 January 2024) <<https://www.tamilguardian.com/content/stop-sand-mining-or-mannar-will-go-under-water-warn-protestors>> accessed 1 June 2024.

²¹³ *ibid.*

²¹⁴ CPA interview with a Civil Society Organisation conducted over telephone (Mannar District, 18 July 2024).

2.5.5. Silavathurai

Silavathurai is a small village, spanning 2.95 square kilometres, southwest of Mannar in the Musali Division. In the 1990s, 250 families were residing in this village.²¹⁵ In 1990, the Muslim population was displaced when the Liberation Tigers of Tamil Eelam expelled them from the North.²¹⁶ At that time more than three hundred students studied at the school in Silavathurai.²¹⁷ Some former residents, many of whom had settled in Puttalam, Katpiddy, Pallivazalthurai, Kurinchupitty, Nuraicholai, Palavi, Anuradhapura and Colombo.²¹⁸ Nearly 50 families were displaced to India.²¹⁹

At the time, these families relied on pearl fishing as an active trade constituting their livelihoods, although they later gradually turned to paddy cultivation and farming as well.²²⁰ On the 22nd of May 2002, Muslim persons visited Silavathurai village but they found that during that period, the village had turned into a forest.²²¹ Again when they went back to their homeland in 2009, the number of families had increased to 750.²²² Upon returning to Silavathurai with the aspiration of rebuilding their lives, they found a navy camp occupying the entire 36-acre area where they once lived.²²³ However, by the end of 2009, 6 acres of land were released from the southern and northern corners of the navy camp, while 36 acres of the originally private land continued to be occupied by the Sri Lankan navy.²²⁴ This 36-acre land, located in the heart of the town, includes an ancient mosque, Amman Temple, post office, Divisional Secretary, library, ice factory, the Sri Lanka Fishing Corporation, a pre-school, over 60 shops, and more than 120 settlements.²²⁵ This public purpose of ‘national security’ is the continued justification for militarily occupied lands, and in this instance, the navy has stated that compensation would be paid for the private lands acquired.²²⁶

Housing scheme projects were implemented, and some affected families were settled under these schemes.²²⁷ However, all these places lacked proper facilities, including drinking water.²²⁸ Therefore, people have considered moving back to their original lands, which has resulted in a series of protests over the years.²²⁹ For example, in 2011, 20 community members protested during

²¹⁵ Letter dated 22 February 2019 from MSED0 to the Human Rights Commission of Sri Lanka.

²¹⁶ *ibid.*

²¹⁷ *ibid.*

²¹⁸ *ibid.*

²¹⁹ *ibid.*

²²⁰ Piyumi Fonseka, ‘Bitter homecoming for Muslims in Mannar’ *Daily Mirror* (3 April 2019) <<https://www.dailymirror.lk/print/plus/Bitter-homecoming-for-Muslims-in-Mannar/352-164909>> accessed 20 November 2023.

²²¹ Letter (n 215).

²²² Fonseka (n 220).

²²³ *ibid.*

²²⁴ Letter (n 215).

²²⁵ ‘Silavathurai Village Land Case Study’ *Tamil Mirror* (5 April 2017) <<https://shorturl.at/o5gOJ>> accessed 21 November 2023.

²²⁶ *ibid.*

²²⁷ CPA interview (n 145).

²²⁸ *ibid.*

²²⁹ Letter (n 215).

the Economic Minister's visit to open a hospital and later that year, 56 families received 20 perch plots under the Indian Housing Project.²³⁰

In 2013, Land Development Ordinance permits were issued to people in the area, but the release of 6 acres and 88 perches from the Silavathurai camp did not happen. In a meeting with the Prime Minister in 2019, Minister Rishad Bathiuddin highlighted these issues,²³¹ but unfortunately, no progress was made in land releases. This led to a 61-day protest beginning on the 20th of February 2019, involving politicians and religious leaders.²³² On the 15th of March 2019, around 1000 Muslim persons from Musali and Puttalam protested in front of the Silavathurai Navy Camp, demanding the return of nearly 36 acres of land.²³³ The Defence Secretary consequently promised to discuss the issue with the President whereas Member of Parliament, Kader Masthan, pointedly vowed to secure the land's release by the end of April 2019.²³⁴ A wall has recently been constructed at the entrance of the camp.²³⁵

2.6. Mullaitivu District

2.6.1. Kurunthumalai Aathi Shivan Iyanar Temple



Image Source: CPA Field Visit

Kurunthumalai is a hill covering an area of 78 acres, located on the northern side of the Thannimurippu Pond,²³⁶ where the majority of the population are Tamil-Hindus.²³⁷ The village tradition of worshipping deities through the installation of idols has been ongoing for generations in this area, and the practice persists to this day.²³⁸ Kurunthumalai Temple was first gazetted on the 12th of May 1933 through the British-run Ceylon Government Gazette demarcating 78 acres of land as an 'archaeological site'.²³⁹ Notably, the Department of Archaeology identified the site using GPS in 2013.²⁴⁰

²³⁰ CPA interview (n 145).

²³¹ 'Various issues of Mannar district will be examined in the review meeting led by the Prime Minister!' *Tamil Fast News* (15 February 2019) <<https://tamil.fastnews.lk/66970/>> accessed 22 November 2023.

²³² 'Muslims protest Sri Lanka navy occupation in Mannar' *Tamil Guardian* (21 February 2019) <<https://www.tamilguardian.com/content/muslims-protest-sri-lanka-navy-occupation-mannar>> accessed 22 November 2023.

²³³ *ibid.*

²³⁴ Maneshka Borham, 'Promises to release land yet to be fulfilled: Silavathurai residents to fight tooth and nail to regain ancestral land' *Sunday Observer* (7 April 2019) <<https://archives1.sundayobserver.lk/2019/04/07/news-features/promises-release-land-yet-be-fulfilledsilavathurai-residents-fight-tooth>> accessed 22 November 2023.

²³⁵ CPA interview with a social activist conducted over telephone (Mannar District, 5 August 2024).

²³⁶ Human Rights Watch (n 46).

²³⁷ Case No.AR/673/18.

²³⁸ *ibid.*

²³⁹ Gazette No.7981 dated 12 May 1933.

²⁴⁰ Case (n 237).

On the 4th of September 2018, a group including two Buddhist clergy members attempted to erect a Buddhist statue, leading to a dispute with local residents.²⁴¹ A court case was filed against such actions arguing that this would disturb local peace and requesting a ban on Buddhist monks and others from entering the area and installing the statue.²⁴² Later, in 2018, the Courts declared Kurunthumalai a Hindu religious site, allowing Hindu priests to continue pooja, and further instructed the police to prevent disturbances.²⁴³

CPA was informed by locals that the area was historically peaceful, with significant archaeological findings indicating its rich cultural heritage.²⁴⁴ A survey of the land took place in the area, resulting in a survey report dated the 14th of December 2020 mentioning a ‘Kurundhi Viharaya’.²⁴⁵ This marked the beginning of archaeological activities in Kurunthumalai in January 2021 by the Department with aid from the military.²⁴⁶ Interconnectedly, it has been reported that the Governor of the Northern Province and the Secretary of Karaithuraipatru have been subjected to intense pressure to give up the land to the Archaeological Department.²⁴⁷ Moreover, Buddhist monks were reportedly threatening and intimidating Tamil farmers from Thannimurippu who tried to return to their land.²⁴⁸ The Kurunthumalai archaeological area has many cases, petitions, field surveys and orders to prevent social harmony and disturbance of peace in this area, whereby for example:²⁴⁹

²⁴¹ ‘Ban on going to Kurunthur hill: Court orders’ *Virakesari* (7 September 2018), <<https://www.virakesari.lk/article/39925>> accessed 1 February 2024.

²⁴² *ibid.*

²⁴³ Case (n 237).

²⁴⁴ N.K.S. Thiruchelvam, ‘It is unacceptable to believe that only Buddhism existed on Kurunthur Hill’ *Virakesari* (2 March 2023) <<https://www.virakesari.lk/article/149538>> accessed 4 February 2024, stated that “Studies on Kurunthumalai reveal conflicting views on its origins and significance. Hindus believe it has ancient Hindu worship, while Buddhists claim it has significant Buddhist artefacts like the Yuppa Kala. British explorers found evidence of both Hindu and Buddhist worship, with ruins suggesting a blend of influences. Professor Padmanathan identified a Naga Lingam from the Pallava period, and other scholars noted a mix of Buddhist and Hindu elements”.

²⁴⁵ CPA interview with local community (Mullaitivu District, 14 September 2023).

²⁴⁶ ‘Sri Lanka’s archaeological department and Buddhist monks attempt another land grab in Mullaitivu’ *Tamil Guardian* (26 March 2021) <<https://www.tamilguardian.com/content/sri-lankas-archaeological-department-and-buddhist-monks-attempts-another-land-grab>> accessed 5 February 2024.

²⁴⁷ ‘Kurunthoormalai’ (People’s Alliance for Right to Land (PARL), March 2021) <<https://www.parlsl.com/land-disputes?province=8&district=21&issue=12#>> accessed 5 February 2024.

²⁴⁸ *ibid.*

²⁴⁹ Case (n 237).

On the 9th of September 2020, the board of trustees of the Kurunthamalai Adi Iyanar Temple filed a case due to concerns that construction work scheduled for the 10th of September 2020, would breach previous agreements and disrupt communal peace.

On the 12th of October 2020, the Assistant Superintendent of the Archaeology Department stated that he had taken steps to build a defensive wall with the help of the Divisional Secretariat, Karaithuraipattu and that no religious measures were taken.

A submission on behalf of the trustee board and on behalf of the Prosecution was made in courts on the 12th of October 2020. Here, it was mentioned that Governmental or non-governmental organisations should not put any restrictions on worshipping at the Saiva place of worship and **the construction of Buddhist idols and temples is a violation of the fundamental rights of the people.**

The Courts, by the 14th of July 2022, ordered that the temple and its associated structures should be removed from Kurunthur Hill and that no further constructions must occur there.²⁵⁰ On the 2nd of March 2023, a motion deed was filed in the Mullaitivu Magistrate Court with photographic evidence submitted to the Court regarding the violation of the court order and demonstrating that construction works were being carried out.²⁵¹ It was established that construction work had been carried out in disregard of the orders already issued by the Mullaitivu Magistrate Court in the Kurunthur Hill issue.²⁵² Later, on the 31st of August 2023, the Mullaitivu Magistrate Court issued an order, highlighting the Archaeological Department officials' failure to adhere to court orders, resulting in the Director-General of Archaeology being held in contempt of court and a court order to remove all constructions at Kurunthumalai completed after the 14th of July 2022.²⁵³ Despite the Attorney General's concerns about causing unrest, the Court reaffirmed this decision by emphasising that previous orders had not been followed.²⁵⁴

On the 20th of June 2024, more than 200 people, including Buddhist monks and the majority ethnic group from Mihinthale, visited Kurunthur Hill as a pilgrimage site and worshipped there.²⁵⁵ Despite court orders, Kurunthumalai Aathi Ayyanar Temple idols were removed and a Buddhist stupa is reportedly being constructed at the same place.²⁵⁶ Recently it has been reported a group of Buddhists are engaged in burning and cutting trees within the Kurunthur Hill

²⁵⁰ Case (n 237).

²⁵¹ Case (n 237).

²⁵² 'Kurunthur Hill Issue - Historic Order of the Court' *IBC Tamil* (2023) <<https://ibctamil.com/article/kurundur-mala-case-judgment-1693476038>> accessed 6 February 2024.

²⁵³ 'Contempt of Court in Kurunthumalai incident: Archaeological Department official held accountable' *Tamil Guardian* (2 September 2023) <<https://www.tamilguardian.com/content/contempt-court-kurunthumalai-incident-archaeological-department-official-held-accountable>> accessed 6 February 2024.

²⁵⁴ *ibid.*

²⁵⁵ 'The state machinery that supports the majority ethnic Buddhists does not respect the law' *Virakesari* (24 June 2024) <<https://www.virakesari.lk/article/186816>> accessed 30 June 2024.

²⁵⁶ *ibid.*

archaeological site without adhering to the conservation regulations imposed on the site.²⁵⁷ According to media reports, the Archaeology Department nor the Forest Department has taken any action against these illegal activities.²⁵⁸ CPA was informed by locals in the area that the State machinery, including the Archaeology Department, Forest Department, Attorney General's Department, and the police, are actively supporting the majority community in these activities and that the grievances of the locals in the area are being ignored.²⁵⁹

2.7. Trincomalee District

2.7.1. Boralukanda Raja Maha Viharaya

Boralunkanda Raja Maha Viharaya is located on private land on the border of the Town and Gravets Division and Kuchchaveli Division and is surrounded by the Illupaikulam and Periyakulam villages. The majority of the population are Tamil (536 families) and only 4 Sinhala families reside near this temple.²⁶⁰ The construction for the Buddhist temple began in 2018 and was later registered under No.1315–024 with the Velgama principal monk, Ampitiya Selavanka Thissa, and 7 other monks on the 9th of December 2021 under the Ministry of Buddhasasana.²⁶¹

Several attempts were made to provide land for the construction of this Buddhist temple. Approval was given by the Divisional Secretary of the Trincomalee Town and Gravets for the usage of certain lands on the 22nd of November 2021.²⁶² Local communities and political bodies were not aware of this development, resulting in a protest on the 3rd of September 2023 against the illegal construction of the Buddhist temple in the Tamil-Hindu village.²⁶³ A large number of people participated in this protest along with several Members of Parliament. Although the Governor halted this ongoing construction work, a name board with the name 'Boralukanda Raja Maha Viharaya' was erected overnight in the said area amid public protests on the 9th of September 2023.²⁶⁴

Subsequently a Buddhist monk was involved in land clearing works in order to obtain possession.²⁶⁵ This resulted in the protests by local communities, leading to the Governor of the Eastern Province instructing the Divisional Secretary to issue an injunction against the Buddhist monk from entering and residing in this land.²⁶⁶ Despite this, Buddhist monks blocked the A6 road in front of the District Secretariat on the 12th of September and again on the 28th of September

²⁵⁷ *ibid.*

²⁵⁸ *ibid.*

²⁵⁹ *ibid.*

²⁶⁰ CPA interview with a Civil Society Organisation (Trincomalee District, 2 May 2024).

²⁶¹ Certificate with Registration No.13/15/024 issued by the Ministry of Buddhasasana.

²⁶² Divisional Secretary Approval Reference No.DTG/ADM/M/MUDAF/TRG/06.

²⁶³ CPA interview (n 260).

²⁶⁴ *ibid.*

²⁶⁵ 'The Governor of Eastern Province has no power!' *Tamil Win* (2023) <<https://tamilwin.com/article/vidura-wickramanayake-regarding-senthil-thondaman-1692938633>> accessed 2 March 2024.

²⁶⁶ *ibid.*

2023.²⁶⁷ Locals continued to protest the construction of a Buddhist temple, arguing that the village is historically Tamil-Hindu. Locals also noted the existence of an archaeological site next to the land the Buddhist temple is being built on and the aim of the development can be to merge Boralukanda Viharaya with the Velgama Viharaya on the archaeological site.²⁶⁸

On the 28th of August 2023, the Divisional Secretary of Trincomalee Town and Gravets sent a letter to the Boralukandha Raja Maha Viharaya cancelling a previous letter granting the land under ‘Pooja Boomi’.²⁶⁹ However, the construction of Boralukanda Raja Maha Viharaya is still in progress and on the morning of the 6th of November 2023, two Buddha statues were erected at the location by Buddhist monks and Sinhalese individuals, despite opposition from the Tamil community.²⁷⁰

2.7.2. Malai Neeli Amman Temple

The Malai Neeli Amman Temple, an ancient structure dating back to before 1865, is located under the Verugal Divisional Secretariat. It was officially designated as an ‘archaeological site’ by the Department of Archaeology in Gazette No.67 dated the 14th of December 1979, with regulations prohibiting various activities under the Antiquities Act.²⁷¹ During the Civil War, the temple suffered damage from an airstrike, displacing local communities.²⁷² After resettlement in 2007, the temple was occupied by the army.²⁷³ This led to the removal of its ruins and the subsequent establishment of a Buddhist temple by monks in 2009.²⁷⁴

With the consequent construction works, more than 50 acres of surrounding farmland, where villagers had cultivated rice for generations, were confiscated, impacting people's livelihoods severely.²⁷⁵ Local communities have alleged discriminatory actions by the Department of Archaeology for allowing the construction of a Buddhist temple within the archaeological site while denying permission to rebuild the Malai Neeli Amman temple.²⁷⁶ In response to these concerns, the Regional Assistant Director of the Department of Archaeology sent a letter to the

²⁶⁷ ‘Demonstration by Buddhist monks in Trincomalee’ *Virakesari* (28 August 2023) <<https://www.virakesari.lk/article/163348>> accessed 2 March 2024.

²⁶⁸ CPA interview (n 260).

²⁶⁹ Special Grant Pooja Boomi No.DTG/LND dated 9 July 2023.

²⁷⁰ ‘Two Buddha Statues in Illupaikulam’ *Virakesari* (7 November 2023) <<https://epaper.virakesari.lk/newspaper/Daily/main/2023-11-07#page-3>> accessed 3 March 2024.

²⁷¹ Gazette No.67 dated 14 December 1979.

²⁷² ‘The Neeli Amman Temple is being transformed into a Buddhist site’ *Voice of People* (August 2023) <[https://ahrc.lk/index.php/news-stories-2?view=frontlist&catid\[0\]=](https://ahrc.lk/index.php/news-stories-2?view=frontlist&catid[0]=)> accessed 5 March 2024.

²⁷³ ‘Sinhala-Buddhist temple to replace Kaali temple in Trincomalee’ *TamilNet* (24 April 2013) <<https://www.tamilnet.com/art.html?catid=13&artid=36253>> accessed 10 March 2024.

²⁷⁴ *Voice of people* (n 272).

²⁷⁵ *ibid.*

²⁷⁶ ‘Give the Hindu temples in Tirumala to the local people’ *Kuriyeedu* (12 October 2016) <<https://www.kuriyeedu.com/?p=18510>> accessed 10 March 2024.

Divisional Secretary of Muthur prioritising the re-survey of the archaeological site.²⁷⁷ The matter is yet to be resolved.

2.7.3. Muthur 64 Milepost (Malaiyadi Pillayar - Rajavanthan Hill)

Rajavanthan Hill situated within the Ginnanagr GN Division, falls under the jurisdiction of the Muthur Divisional Secretariat.²⁷⁸ Hindu idol worship, as well as Shiva Linga worship, had taken place on top of this mountain by Tamil persons for decades.²⁷⁹ Pointedly, the north side of this hill is a residential area consisting of private land with land owners having deeds to prove ownership.²⁸⁰

At the foot of the hill there is an old Pilliyar temple called ‘Malayadi Pillayar Temple’. The 64-mileposts Malayadi Pillayar Temple has been worshipped for many years by the nearby villagers and the general public travelling on the Trincomalee-Batticaloa road.²⁸¹ The dispute here arose when an idol of Buddha was placed on top of the Pillayar statue in the Malayadi Pillayar Temple in December 2021.²⁸² The next morning, local communities began a protest in response to this.²⁸³ Subsequently, the Buddha statue was removed with the intervention of the police but a few days later a Buddha statue was re-established near the temple premises amid strong protests from the people.²⁸⁴

The principal monk of the temple has asserted ownership over surrounding private lands through ‘Pooja Boomi’, claiming that all the territory extending from the top of the mountain to the visible horizon belongs to this Buddhist monastery.²⁸⁵ On the 6th of April 1908, 15 acres 3 roots and 19 perch of agricultural land were surveyed and given to farmers who resided there.²⁸⁶ This site is not yet gazetted as an archaeological site but initial steps have already begun for this process, whereby a surveying requisition letter was sent by the Muthur Divisional Secretary to the Senior Surveyor Superintendent of the Department of Land Survey in Trincomalee on the 28th of September 2019.²⁸⁷

²⁷⁷ Letter dated 27 October 2021.

²⁷⁸ CPA interview (n 260).

²⁷⁹ ‘Muthur Rajavantan is a Hindu At the Place of Buddhist Dominance?’ *Elakku Weekly Newspaper* (23 July 2022) <<https://www.ilakku.org/wp-content/uploads/2022/07/ilakku-Weekly-ePaper-192-July-23-2022.pdf>> accessed 11 March 2024; see also ‘President Ranil is Indirectly Pushing a Sinhalese Chauvinistic Agenda - Selvarasa Gajendran’ *Virakesari Online* (10 August 2022) <<https://www.virakesari.lk/article/133345>> accessed 11 March 2024.

²⁸⁰ CPA interview (n 260).

²⁸¹ ‘Sinhalaisation Continues as Sri Lankan Army Helps Construct Buddhist Shrine in Tamil Area of Muthur’ *Tamil Guardian* (2 June 2022) <<https://www.tamilguardian.com/content/sinhalaisation-continues-sri-lankan-army-helps-construct-buddhist-shrine-tamil-area-muttur>> accessed 12 March 2022.

²⁸² *ibid.*

²⁸³ *ibid.*

²⁸⁴ *ibid.*

²⁸⁵ CPA interview (n 260).

²⁸⁶ Survey Plan No.250950; see also Donation Certificate No.4747.

²⁸⁷ CPA interview (n 260).

Following this, construction work for a ‘Kottiyarama Shri Badra Thaathu Raja Maha Viharaya’ commenced on the hill,²⁸⁸ and with it, the agricultural activities of other communities began.²⁸⁹ Later, on the 22nd of April 2022, a Buddhist monk, accompanied by Sri Lankan police officers, reportedly tried to prevent Hindu worshippers and priests from visiting the historic Rajavanthan shrine in Muthur, Trincomalee.²⁹⁰ It has been alleged that the monk continued to make threats against Hindu worshippers who continued to visit the shrine.²⁹¹ Today, the construction work of this Viharaya has reached its completion stage through the work of the army and navy.²⁹²

2.7.4. Kanguveli Tank, Muthur

Kanguveli Tank is located in the Muthur Divisional Secretariat in the Trincomalee District. Being crucial to agricultural activities in that region, Kanguveli Tank has an extent of 350 acres and is registered under the Department of Irrigation.²⁹³ It serves the Kanguvelli and Puliyancholai Tamil villages, with more than 750 people engaged in agriculture activities reliant on the tank.²⁹⁴ After the end of the war, 11 Sinhalese farmers encroached on around 180 acres of land to the west of the tank, cutting tank bunds in many places and breaking the air gates to drain water for their usage.²⁹⁵ This has resulted in many local communities being impeded in their agricultural activities.²⁹⁶

On the 19th of December 2019, the Vice President of the Muthur Pradeshiya Sabha Council brought forward a motion for the initiation of legal actions against those responsible and their subsequent expulsion.²⁹⁷ This motion was unanimously approved and subsequently, the tank was then renovated in 2019 at a cost of LKR 24 million.²⁹⁸ During this reconstruction process, it was reported that perpetrators made progress in encroaching farming activities while damaging the embankments of the tank and the canals with heavy machinery.²⁹⁹ In this regard, a case was also filed in the Supreme Court in July 2019 by the said victims who requested to be allowed to farm

²⁸⁸ *ibid.*

²⁸⁹ Statement from the Peoples Collective for Climate Justice, Eastern Province (14 October 2021).

²⁹⁰ ‘Sinhala Buddhist monk hurls racist abuse at Tamils in Trincomalee’ *Tamil Guardian* (27 April 2022) <<https://www.tamilguardian.com/content/sinhala-buddhist-monk-hurls-racist-abuse-tamils-trincomalee>> accessed 2 August 2024.

²⁹¹ CPA interview (n 260).

²⁹² *ibid.*

²⁹³ *ibid.*

²⁹⁴ Request letter to ‘Prohibit encroachment of Kanguveli pond’ dated 10 October 2023 from the President of the Thirukkaraisayampathy Farmers’ Association, Kanguveli to Members of Parliament M. Sumanthiran and R. Shanakiyan.

²⁹⁵ CPA interview with local community (Trincomalee District, 25 October 2023).

²⁹⁶ Letter dated 6 October 2023 from Secretary, Thirukkaraisayampathy Farmers Association, Kanguveli to the Governor of the Eastern Province.

²⁹⁷ ‘Muthur Kanguveli Pond Encroachment: Farmers of the area are worried that the pond is being damaged’ *Virakesari* (11 October 2023) <<https://www.virakesari.lk/article/166632>> accessed 17 March 2024.

²⁹⁸ *ibid.*

²⁹⁹ *ibid.*

for their livelihood.³⁰⁰ The Thirakaraisaiyampati Farmers Association later submitted a request to the Presidential Secretariat, requesting to resolve the issue and reconstruct the Kanguveli tank, to which the Presidential Secretariat responded on the 22nd of September 2023.³⁰¹

Many Government officials, including the Director of the Department of Irrigation who visited the area on the 5th of December 2019, informed that they would provide alternative land (1.5 acres of land) in the Srimangala Pura area to the 11 people who were involved in illegal encroachments.³⁰² However, to date, the referred-to land has not been distributed to the concerned persons.³⁰³ Due to this omission to act by the State, there has been an increase in encroachment of land by the 11 Sinhalese people, along with other farmers.³⁰⁴ More recently, in September 2023, farmers illegally trespassed onto the tank, resulting in damage to approximately five locations within this area.³⁰⁵ In response to this incident, the Kanguveli Thirukaraisayampathy Farmers Association complained to the police stations in Muthur and Cherunuvila but no action was taken by the police.³⁰⁶

Later, a letter dated the 6th of October 2023, was sent by local communities to the Governor of the Eastern Province, stating that if no solution is found regarding disputes over Kanguveli Tank before the 31st of October 2023, a protest would be carried out.³⁰⁷ This matter, though also raised with the Director of the Trincomalee Regional Irrigation Department and Members of Parliament, is yet to be addressed by the State.³⁰⁸

2.7.5. The 32 Buddhist Temples of Kuchchaveli

The Trincomalee District is divided into 11 Divisional Secretariat divisions: Kuchchaveli, Padavi-Sripura, Gomarankadawala, Morawewa, Town and Gravets, Thambalagamuwa, Muthur, Kinniya, Kantala, Seruvila, and Verugal.³⁰⁹ In recent years the Kuchchaveli division has seen the construction of 32 Buddhist temples initiated at the Kuchchaveli Divisional Secretariat in the Trincomalee District epitomising concerns over ‘Sinhala-Buddhisisation’ (refer to Chapter 4.1) in the North and East. The necessary construction work has already begun for the 32 temples, with more than 2506.5 acres of private land belonging to Tamils in the Kuchchaveli region alleged to have been acquired.³¹⁰ The following list containing details of the 32 temples was shared with CPA during meetings in the area in 2023.³¹¹

³⁰⁰ *ibid.*

³⁰¹ Letter Reference No.PS/DPR/21/12/02.

³⁰² *Virakesari* (n 297).

³⁰³ *ibid.*

³⁰⁴ CPA interview with a Civil Society Organisation (Trincomalee District, 25 October 2023).

³⁰⁵ *Virakesari* (n 297).

³⁰⁶ *ibid.*

³⁰⁷ *ibid.*

³⁰⁸ Request Letter (n 294).

³⁰⁹ ‘Overview’ (*District Secretariat of Trincomalee Ministry of Home Affairs*)

<<http://www.trincomalee.dist.gov.lk/index.php/en/>> accessed 18 March 2024.

³¹⁰ CPA interview with local community (Trincomalee District, 10 May 2023).

³¹¹ *ibid.*

GN Division	Name of the Temple	Captured Land	Registered
Nilaveli	Kandal Kaadu Purana Raja Maha Viharaya ³¹²	2.0234 Ha	
Kumburupitty North	Kokkaradi Malai Budharaja Wana Senasuna ³¹³	400 A	
Kumburupitty North	Kottikulam Sangaraya Wana Senasuna ³¹⁴	400 A	
Kumburupitty North	Maduwakkulam Dharmaya Wana Senasuna ³¹⁵	400 A	
Kumburupitty East	Bambarakala Purana Raja Maha Viharaya ³¹⁶	102.408 Ha	2013
Kumburupitty East	Bhahiya Pabatha Wana Senasuna ³¹⁷	16.8417 Ha	2018
Kumburupitty East	Mahabodhi Buddhist Foundation ³¹⁸	0.8094 Ha	2022
Kumburupitty East	Debaragala Purana Raja Maha Viharaya ³¹⁹	4.0469 Ha	2018
Kumburupitty East	Diyana Mandapam ³²⁰	5A	
Kumburupitty East	Viththyaloga Raja Maha Viharaya ³²¹	0.1064 Ha	2020
Kumburupitty East	Athpokuna Purana Raja Maha Viharaya ³²²		2018

³¹² ibid, this location has been predominantly Tamil, with 96% of the population adhering to Hinduism. This temple was officially registered under the Kuchchaveli Divisional Secretariat on 18 May 2021 with 6.3888 hectares of land allocated under the Department of Archaeology under Reference No.1496 whereby local residents have historically utilised this land for agricultural purposes, especially paddy cultivation.

³¹³ ibid, a registered Buddhist temple (Registration No.13/06/025) under the Kuchchavelli Divisional Secretariat was designated a total of 161.943 hectares of land.

³¹⁴ ibid, a registered Buddhist temple (Registration No.13/06/027) under the Kuchchaveli Divisional Secretariat

³¹⁵ ibid, a registered Buddhist temple (Registration No.13/06/026) under the Kuchchavelli Divisional Secretariat

³¹⁶ ibid, this temple was officially registered (Registration No.13/06/011) on 15 May 2015. Initially provided on a lease basis, the temple's land later underwent a conversion to a grant under No.3287. The board of the temple made a formal request for the change of land ownership from "Pooja Grant" to "Pooja Boomi" in 2022. The Kuchchaveli Divisional Secretariat prepared the necessary documentation for this purpose dated the 4 March 2020, with Reference No.DS/Ku/LND/Pooja/4/4-15.

³¹⁷ ibid, a registered Buddhist temple (Registration No.13/06/15) on 30 May 2018. The total extent of land for the temple is 29.5125 hectares which includes Pooja Boomi (Lot No.3274) and Pooja Grant (Grant No.4/6/8419 dated 8 January 2021). The allocated land consists of private land therefore, DS sent a letter to the Provincial Land Commissioner for a recommendation (DS/KU/LND/Pooja/4/4-13 dated 4 March 2020).

³¹⁸ ibid, a registered temple under the Kuchchaveli Divisional Secretariat (G/A00255575) on 29 March 2022. The Mahabodhi Buddhist Foundation has requested 0.8094 hectares in Kumburupitiya Village (240B) based on a lease, thus this land was transferred to Pooja Boomi under No.DS/KU/LND/Pooja/4/4-30 on 30 November 2022.

³¹⁹ ibid, a registered Buddhist temple on 30 May 2018 with 20.080 hectares allocated for religious activities which include a Pooja Grant (4.04 hectares), a lease (16.034 hectares) and 83.16 hectares of land reserved for the Department of Archaeology.

³²⁰ ibid, the total extent of the land is 2.024 hectares.

³²¹ ibid, a registered Buddhist temple (Registration No.13/06/24) dated 20 August 2020 with the total extent of land for the temple being 0.1064 hectares.

³²² ibid.

Kuchchaveli	Samuththiragiri Pichchamal Purana Raja Maha Viharaya ³²³	0.9315 Ha	2011
Kuchchaveli	Cheiththiyagiri Purana Raja Maha Viharaya ³²⁴	24.1341 Ha	2011
Jayanagar	Sakarapura Samuththiragiri Vanasenasuna ³²⁵	36.0596 Ha	2014
Jayanagar	Purana Gallena Raja Maha Viharaya ³²⁶		
Kasimnagar	Masangawewa Pinkaththugama Raja Maha Viharaya ³²⁷	152.679 Ha	2011
Kallampaththai	Sri Keththarama Viharaya ³²⁸		2020
Kaddukulam	Girihandu Seya Neeththu Papan Raja Maha Viharaya	102.5766 Ha	2015
Thiriyai	Pathmaraja Papatha Vanasenagana	44.325 Ha	2020
Thiriyai	Thapasubaluga Vanasenagana	2.4598 Ha	2020
Thiriyai	Sapthanaha Bapbatha Wana Senasutha	20.2343 Ha	2018
Pulmoddai 01	Aththanagi Kantha Purana Raja Maha Viharaya	88.6966 Ha	2012
Pulmoddai 01	Asirikantha Purana Raja Maha Viharaya	109.986 Ha	2012
Pulmoddai 01	Sri Saththarma Yuththika Wanasenasuna ³²⁹	1.0438 Ha	2018
Pulmoddai 01	Mihindulene Purana Raja Maha Viharaya	20.2343 Ha	2014
Pulmoddai 01	Maimuni Raja Maha Viharaya		
Pulmoddai 01	Yan Oya Purana Raja Maha Viharaya	147.318 Ha	2012
Pulmoddai 03	Nagalena Raja Maha Viharaya	59.0255 Ha	2002
Pulmoddai 04	Santhi Purana Raja Maha Viharaya ³³⁰	40.4206 Ha	2014

³²³ *ibid*, the temple was registered (Registration No.13/06/003) on 24 August 2011 with a total extent of 24.9614 hectares including 0.93 hectares of Pooja Grant. This area consists of private land, thus, construction works were halted and the Divisional Secretary (DS/KU/LND/Pooja/4/4/03 dated 22 March 2022) has sent a letter to the Provincial Land Commissioner. (EP/28/LB/LS/Pooja/42 dated 7 April 2022).

³²⁴ *ibid*.

³²⁵ *ibid*, this temple has been officially gazetted and it was officially registered (Registration No.13/06/012) on 10 December 2014 through the Kuchchaveli Divisional Secretariat.

³²⁶ *ibid*.

³²⁷ *ibid*, the temple is situated on a 152.79 hectare parcel of privately owned land, which has been primarily utilised for agricultural purposes by the farming community residing in the village for an extended period. It was formally registered (Registration No.13/06/002) as a Buddhist temple at the Kuchchaveli Divisional Secretariat on 22 August 2011.

³²⁸ *ibid*.

³²⁹ *ibid*.

³³⁰ *ibid*, this temple was registered (Registration No.13/06/014) in the Kuchchaveli Divisional Secretariat on the 10 December 2014. This temple was declared as an 'urban development area' under the Town and Country Planning Ordinance. The total land extent of this temple is 20.2216 hectares and 20.199 land is registered under the Department of Archaeology (Registration No.4/6/8448 dated 30 March 2021). Out of this, 100 acres of land consists of private land and as a result, the Kuchchavelli DS sent a letter to the Attorney General on 4 March 2023 with Reference No.DS/KU/LND/Pooja/4/4-15 for a consultation.

Pulmoddai 04	Sri Tharmothaya Thagam Pasala		
Thennamaravadi	Sankmale Purana Raja Maha Viharaya	62.3434 Ha	2012
Thennamaravadi	Mega Wewa ³³¹		

The number of Buddhist temples in this area, an area historically comprising mostly of both Muslim and Tamil communities, is demonstrative of a political agenda to alter the demographics in the East of Sri Lanka with significant implications for identity politics and electoral results. Below are details of some of the key cases in this area:

A) Asirikantha Purana Raja Maha Viharaya

Asirikantha Purana Raja Maha Viharaya, located in Arisi Malai in Pulmoddai 2, holds significant historical importance. Over 45 years ago, this village was inhabited by locals, but following the war, the navy established a camp in the area and erected a statue of Lord Buddha for worship.³³² In 2013, a Buddhist monk founded a stupa in the village, named ‘Asirikantha Purana Raja Maha Viharaya’, which was officially registered on the 12th of January 2012, under the Kuchchaveli Divisional Secretariat.³³³ The Department of Archaeology subsequently recognised the site as an ancient monument under Section 16 of the Antiquities Act, issuing a Gazette notification.³³⁴ In this regard, many complaints, protests and appeals were organised by the locals.³³⁵ The monk who initiated the construction of the stupa was also notably involved in appropriating agricultural lands belonging to six Muslim families in the Pulmoddai area, specifically within the Pulmoddai Village Officer Division.³³⁶

Asirikantha Purana Raja Maha Viharaya was later declared a ‘sacred area’ through the Town and Country Planning Ordinance (Chapter 269) under Section 6(2) and Section 21(2)(b) and this was gazetted on the 22nd of March 2022.³³⁷ This area, now a ‘sacred area,’ was allocated 109.9858 hectares of land. The Kuchchaveli District Secretary has said that the Arisi Malai Temple has requested an additional 500 acres for the temple premises.³³⁸ It has since been decided that 25 acres of further land would be provided for the temple, while 500 acres of land around the temple would

³³¹ *ibid*, a registered Buddhist temple (Registration No.13/06/010) with 1562.02 hectares of land under the name of Pooja Boomi, Pooja Grant and the Department of Archaeology allocated for this temple. Due to the extensive land allocation for this temple, which includes private land as well, the construction of the temple has been halted.

³³² ‘Secret of Arisi Malai’ *Tamil Mirror* (15 August 2021).

³³³ Registration No.13/06/006.

³³⁴ Gazette No.1823/73 dated 16 August 2013.

³³⁵ ‘Arismalai monk, appropriating the native land of Pulmoddai villagers’ *Virakesari* (24 September 2023) <<https://www.virakesari.lk/article/165309>> accessed 5 April 2024.

³³⁶ *ibid*.

³³⁷ Gazette No.2272/32 dated 22 March 2022.

³³⁸ ‘Buddhist Temple And Residents Fight Over Land in Sri Lanka’ *Buddhist Art News* (25 May 2014) <<https://buddhistartnews.wordpress.com/2014/05/25/buddhist-temple-and-residents-fight-over-land-in-sri-lanka/>> accessed 5 April 2024.

be declared as an “Archaeological Forest Reserve”.³³⁹ Amidst a tense atmosphere, attempts by the Department of Survey to survey the area were halted by protests by local communities.³⁴⁰

B) Cheiththiyagiri Purana Raja Maha Viharaya

CPA was informed that a Shivan temple known as Chembeeswarar used to be situated on the disputed hill but this ancient temple was destroyed,³⁴¹ and a new Viharaya called ‘Cheiththiyagiri Purana Raja Maha Viharaya’ was constructed at that place.³⁴² The registration of this Buddhist temple took place on the 24th of August 2011 at the Kuchchaveli Divisional Secretariat.³⁴³ Over 50 hectares of land, comprising both private and public holdings are now registered under the names of ‘Pooja Boomi’ and the Department of Archaeology.³⁴⁴ A letter dated the 19th of July 2023 (DS/KU/LND/COURT/5) was sent by the Divisional Secretariat of Kuchchavelli to the Attorney General for consultation on this matter.

C) Girihandu Seya Neeththu Pavana Raja Maha Viharaya

Girihandu Seya is a Buddhist temple located in Thiriyai on a small mountain top. After investigations by the Department of Archaeology, the alleged historical existence of the temple with the hair relic of Buddha was made public by a Gazette notification in 1930.³⁴⁵ Although the ‘chetiya’ and the ‘vatadage’ of the temple was refurbished during the period of 1951-1952, with rising ethnic violence, the Sinhala population living in that area, along with the priest residing at the temple, left in 1982.³⁴⁶

Pointedly, unlike many other cases, this Buddhist temple has a documented historical presence in the area. The concern however lies in the fact that steps have been taken to expand the land mass the temple occupies. For example, on the 18th of July 2014, Girihandu Seya was opened to the public and the “Urumayaka Ulpatha” programme under the Milinda Moragoda Foundation initiated a project to build pilgrims restrooms in Girihandu Seya.³⁴⁷ More recently, the chief

³³⁹ ‘Sinhalization of the North and East’ (*PEARL*) <<https://pearlaction.org/sinhalization-of-the-north-east-pulmoaddai/#:~:text=District%20Secretary%20Pushpakumara%20Nissanka%20said,as%20an%20Archaeological%20Forest%20Reserve>> accessed 30 July 2024.

³⁴⁰ *Buddhist Art News* (n 338).

³⁴¹ ‘The Sembiswaram Expedition in Kuchaveli: Sembimalai - Part 1’ (*N.K.S. Thiruchelvam*, 27 June 2020) <https://nksthiru.blogspot.com/2020/06/1_27.html> accessed 7 April 2024.

³⁴² CPA interview with local community (Trincomalee District, September 2023)

³⁴³ Registration No.13/06/001.

³⁴⁴ CPA interview (n 342).

³⁴⁵ Ama Vanniarachchy, ‘Sri Lanka’s First Stupa, Girihandu Seya’ (*Amazing Sri Lanka*, 5 June) <<https://amazingsrilanka.lk/sri-lankas-first-stupa-girihandu-seya/>> accessed 10 July 2024.

³⁴⁶ CPA interview (n 342).

³⁴⁷ ‘Rest Room for Pilgrims at Girihandu Seya’ (*Tobacco Unmasked*, 15 June 2021) <https://tobaccounmasked.com/index.php/Rest_Room_for_Pilgrims_at_Girihandu_Seya> accessed 10 July 2024.

Sinhala-Buddhist monk of the temple claims that in 2010, approximately 3600 acres of land surrounding the temple were legally demarcated for its use.³⁴⁸

By April 2022 though, the Divisional Secretariat of Kuchchaveli received a letter from the Presidential Secretariat to allocate another 3065 acres for Girihandu Seya as requested by the chief monk, including private residential and agricultural lands.³⁴⁹ Further, 25 acres of land were allocated under the Department of Archaeology and 253 acres of land were allocated under the ‘Pooja Boomi’ Grant.³⁵⁰

D) Nagalena Raja Maha Viharaya

Nagalena Raja Maha Viharaya is located in the Kanneeravu Pulavu Village in Pulmoddai 03 in the Kuchchaveli Administrative Division. The village itself comprises cave inscriptions, the ruins of ancient buildings and other ruins with archaeological evidence and thus, the Department of Archaeology, these have been declared as ‘ancient monuments’ through Gazette notification.³⁵¹ Later, the board of trustees of Nagalena Raja Maha Viharaya requested State land allotments in the extent of 6.0956 and 10.6882 hectares in Pulmoddai 03 for ‘religious purposes’ and the subsequent requisition was publicised through Gazette notification.³⁵² By 2022 the land the temple was situated on was declared a ‘sacred area’,³⁵³ containing an extent of 63.54 hectares of land.³⁵⁴

E) Pathmaraja Papatha Vanasenagana

The temple was officially registered in the Kuchchaveli Divisional Secretariat on the 20th of August 2020.³⁵⁵ Although the specific land of the temple was surveyed on the 23rd of December 2020, indicating a total land extent of 44.325 hectares,³⁵⁶ the Department of Archaeology has marked a larger area of 194.06 hectares for the temple. Subsequently, this expanded area was officially designated as ‘Pooja Boomi’ on the 3rd of February 2021.³⁵⁷ Furthermore, the conversion was registered with the Provincial Land Commission on the 8th of February 2021.³⁵⁸ Pointedly, a monk has gone on to obtain permission for 370 acres of land in this area and erected stone barriers on the lands historically possessed by Tamil persons, cleared the area, and is currently engaged in

³⁴⁸ ‘Tamil MPs Hold Discussion with Thiriyai Residents Over Land Grabbing Attempt by Sinhala Buddhist Monk’ *Tamil Guardian* (13 April 2023) <<https://www.tamilguardian.com/content/tamil-mps-hold-discussion-thiriyai-residents-over-land-grabbing-attempt-sinhala-buddhist>> accessed 11 July 2024.

³⁴⁹ CPA interview (n 342).

³⁵⁰ CPA interview with a social activist (Trincomalee District, 21 November 2023).

³⁵¹ Gazette No.1823/73 dated 16 August 2013.

³⁵² Gazette No.2196 dated 2 October 2020.

³⁵³ Gazette No.2272/32 dated 22 March 2022.

³⁵⁴ This area comprises Lot No.1459 (2.2397 hectares), Lot No.1460 (6.0956 hectares), Lot No.1461 (10.6862 hectares), Lot No.1464 (36.5515 hectares), Lot No.1467 (4.5207 hectares), Lot No.1468 (3.4525 hectares) with the Survey Plan FTP dated 16 September 2019.

³⁵⁵ Registration No.13/06/023.

³⁵⁶ Survey Plan Topo PP32.

³⁵⁷ Reference No.DS/Ku/LND/Pooja/4/4-26 and allocated 59A 2R and 3 perches of land.

³⁵⁸ Reference No.Arch/ES/Tri/EXP/Pooja Boomi/01/2021.

agricultural activities, including leasing out the cultivated land.³⁵⁹ Challenging the unlawful seizure of land, local farmers have lodged a case in the Trincomalee Magistrate's Court.³⁶⁰

F) Sankamale Purana Raja Maha Viharaya

Sankamale Purana Raja Maha Viharaya, located in the Thennamaravadi Village, was declared a 'sacred area' under the Town and Country Planning Ordinance on the 17th of June 2022.³⁶¹ In 2020, the temple trustee board requested 20.2343 hectares for their 'religious purposes' but an additional 42.1091 and 3.3748 hectares of land were granted under the name of 'Pooja Boomi'.³⁶² This land, portions of which include private land, now comprises approximately 65.9322 hectares of land and has been a registered Buddhist temple in the Kuchchaveli Divisional Secretariat since the 12th of December 2012.³⁶³

Recently Sri Lankan police prohibited Tamils from attending a monthly festival at Kandaswamy Kovil.³⁶⁴ The police have stated that the area where the temple is located is an archaeological site of Sankamale Buddhist Viharaya and engaging in Hindu worship or any activities that may lead to protests is prohibited.³⁶⁵ Consequently, the event was disrupted when Sri Lankan police and special task force (STF) officers accompanied by the Sri Lankan army, entered the temple premises while preparations were being carried out by the villagers and detained villagers, while preventing others from entering the area.³⁶⁶ The Pulmoddai Police have filed an application in the Trincomalee Magistrate's Court to prevent activities at the site that may lead to protests or conflict.³⁶⁷

G) Sapthanaha Bapbatha Wana Senasutha

Sapthanaha Bapbatha Wana Senasutha is located in Thiriyai Village in Kuchchaveli. The temple's board of trustees requested 20.2343 hectares of State land for the temple and this request was granted through Gazette notification on the 2nd of October 2020.³⁶⁸ 50 acres of land allocated under the Pooja Grant.³⁶⁹ Due to this, individuals affected by this situation have initiated legal proceedings at the Trincomalee Courts.³⁷⁰ The situation remains without resolution and the operations of the Buddhist temple continue unhindered.

³⁵⁹ CPA interview (n 342).

³⁶⁰ Case No.HCT/WRIT/649/20.

³⁶¹ CPA interview (n 342).

³⁶² *ibid.*

³⁶³ Registration No.13/06/009.

³⁶⁴ 'Sri Lankan Police Prevent Tamils from Attending Monthly Festival at Trinco Temple' *Tamil Guardian* (23 February 2024) <<https://www.tamilguardian.com/content/sri-lankan-police-prevent-tamils-attending-monthly-festival-trinco-temple>> accessed 20 April 2024.

³⁶⁵ *ibid.*

³⁶⁶ *ibid.*

³⁶⁷ CPA interview (n 342).

³⁶⁸ Gazette No.2196 dated 2 October 2020.

³⁶⁹ Letter dated 11 February 2020 with Reference No.DS/Ku/LND/Pooja/4/4-1.

³⁷⁰ Case (n 360).

H) Yan Oya Purana Raja Maha Viharaya

Yan Oya Raja Maha Viharaya is located in the Pulmoddai 01 GN Division of Kuchchavelli. The State's involvement in this village stems from the Postgraduate Institute of Archaeological Research which, through research spanning the period of 2011 to 2015, found the existence of archaeological ruins in Yan Oya village.³⁷¹ In 2013, the ruins of a stone bridge located in the forest area of the Yan Oya Village were declared an 'ancient monument'.³⁷²

Yan Oya Raja Maha Viharaya was established in that period and registered as a Buddhist temple under the Kuchchaveli Division.³⁷³ This land was then declared an 'urban development area' under the Town and Country Planning Ordinance (Chapter 269) on the 15th of August 2023 through Gazette notification.³⁷⁴ Later, on the 15th of February 2024, the National Physical Planning Department officially designated Yan Oya Raja Maha Viharaya as a 'sacred site' in the Government Gazette, recognising its archaeological, historical, and sacred significance.³⁷⁵

It is worth noting though, that cases in the Kuchchaveli Division are not only restricted to the imposition of temples by the Department of Archaeology. The involvement of Government actors demonstrates a much wider web of State intervention in land appropriation and conflicts, the following situation of Thennamaravadi being demonstrative:

2.7.5.1. Thennamaravadi

Thennamaravadi is an ancient Tamil village situated between the Northern and Eastern Provinces on Kandaswamy Hill. The area the village itself is located consists of 248 acres of settlements and 900 acres of paddy land, with the inhabitants relying primarily on farming and fishing for their livelihoods, while also owning some livestock which graze in the nearby forests.³⁷⁶

Although there are records of 95 families in Thennamaravadi Village, the number of families currently living in South Maravadi village is 57.³⁷⁷ Various development projects like Kanthalai, Pathavaya, Moraveva, and Mahathivulla have been introduced by different political parties aimed at altering the current ethnic composition of Trincomalee.³⁷⁸ As a result, Tamil people began relocating from Thennamaravadi during the 1980s.³⁷⁹ Since then, the surrounding Sinhalese

³⁷¹ CPA interview (n 342).

³⁷² Gazette No.1823/73 dated 16 August 2013.

³⁷³ Registration No.13/06/007 dated 11 January 2012.

³⁷⁴ Gazette No.2345/39 dated 15 August 2023.

³⁷⁵ President's Media Division, 'Several Historical Shrines Designated as Sacred Sites' (16 February 2024) <<https://pmd.gov.lk/news/several-historical-shrines-designated-as-sacred-sites/>> accessed 30 April 2024, this states that "These areas, now recognized as sacred sites, had their respective documents submitted to the Presidential Secretariat, presided over by Mr. Saman Ekanayake, the Secretary to the President".

³⁷⁶ AHRC, 'Ancient Tamil Village Thennamaravadi, General Information and Land Issues Report' (23 March 2022).

³⁷⁷ *ibid.*

³⁷⁸ *ibid.*

³⁷⁹ *ibid.*

community has attempted to acquire this area, often citing ‘Pooja Boomi’ when attempting annexure. With the entrance of newer proponents to the area, reports indicate that ancient inscriptions were being defaced, particularly those on the Murugan temple on the top of Kandaswamy Hill, and many Tamil farm villages were handed over to the Sinhalese.³⁸⁰ In 2013, the Government declared Kandaswamy Hill as a protected ‘archaeological site’,³⁸¹ but it is apparent that the Department of Archaeology has taken no action so far to protect the Murugan temple on that hill. There are 8 acres of paddy land surrounding the temple, this being occupied by a Buddhist monk.³⁸²

On the 24th of September 2022, the people of Thennamaravadi questioned the officials of the Department of Archaeology after the Department had acquired 358 acres of land from the beginning of Panikawayal to Thennamaravadi,³⁸³ including fields historically possessed by Tamil persons.³⁸⁴ The local community of Thennamaravadi has since reported to CPA that the Department of Archaeology has acquired the land in their village at the request of a Buddhist monk from the surrounding Arisimale area.³⁸⁵

It is noteworthy that many of those displaced people who returned to Thennamaravadi after the war came back to find most of their paddy field lands were taken by different departments of Government and Sinhalese people without any legal documents.³⁸⁶ Although a Gazette notification has also been issued to return these lands to their rightful owners, such returns have not taken place.³⁸⁷ Consequently, legal recourse has been sought, whereby five people filed cases in the Trincomalee High Court and submitted complaints to the Human Rights Commission of Sri Lanka as well.³⁸⁸ The difficulties attached to these legal battles stem from the fact that some families do not have valid legal documentation, while others are not able to afford lawyers to fight their cases.³⁸⁹ There was a writ (HCT/Writ/650/20) filed by three petitioners against the Department of Archaeology and the Land Commissioner General’s Department in the High Court of the Eastern Province. Similarly, another writ application (HCT/Writ/649/20) was filed in the High Court of

³⁸⁰ ‘Ancient Murugan temple in Thennamaravadi has also been appropriated by the Archaeological Department - Reporter for Global Tamil News’ *Global Tamil News* (10 December 2018)

<<https://globaltamilnews.net/english/ancient-murugan-temple-in-thennamaravadi-has-also-been-appropriated-by-the-archaeological-department-reporter-for-global-tamil-news/>> accessed 23 April 2024.

³⁸¹ Gazette No.1823/73 dated 16 August 2013.

³⁸² AHRC (n 376).

³⁸³ ‘Sinhalese of North-East: 358 acres of land from Panikkanvayal to Thennamaravadi confiscated’ *Tamil Guardian* (14 October 2020) <<https://www.tamilguardian.com/content/sinhalese-north-east-358-acres-land-panikkanvayal-thennamaravadi-confiscated>> accessed 24 April 2024.

³⁸⁴ ‘Trinco’s Thennamaravadi residents face land, housing issues’ *The Morning* (27 June 2022) <<https://www.themorning.lk/articles/208685>> accessed 27 April 2024.

³⁸⁵ CPA interview with local community (Trincomalee District, 2 May 2024).

³⁸⁶ AHRC (n 376).

³⁸⁷ *The Morning* (n 384).

³⁸⁸ ‘12 Years Later: The War-Affected in the East Struggle On Without Land and Housing’ *Groundviews* (15 April 2021) <<https://groundviews.org/2021/04/15/12-years-later-the-war-affected-in-the-east-struggle-on-without-land-and-housing/>> accessed 27 April 2024.

³⁸⁹ CPA interview (n 385).

the Eastern Province by 17 petitioners against the Department of Archaeology and the Land Commissioner General's Department. Both cases were dismissed.³⁹⁰

Thus, these affected communities face many hardships. This includes facing threats and restrictions from the Department of Forests.³⁹¹ Alternatively, the Department of Archaeology has declared 200 acres of a part of Thennamaravadi (Koddadiyan Kandasamy Malai) as an archaeological site, even though this land was owned privately by 4 families.³⁹² Another 125 acres of land in Thennamaravadi is in legal dispute, whereby 24 individuals have initiated legal proceedings against the Department of Wildlife Conservation so as to reclaim land historically held by Tamil persons.³⁹³ At the time of writing, many of these legal proceedings are ongoing, with only some land being returned to Tamil farmers.³⁹⁴

2.8. Vavuniya District

2.8.1. Andiya Puliyankulam

Andiya Puliyankulam, situated in the Chettikulam Divisional Secretariat in Vavuniya, consists of 160 acres of agricultural land that has become contentious due to military presence post-war.³⁹⁵ The military has occupied this agricultural land and implemented a series of camps across it.³⁹⁶ A 12-acre section designated by the Divisional Secretariat for community facilities like a playground, school, and health centre has also been claimed by the military, who marked it for their own usage.³⁹⁷ Despite objections from the local Tamil population in 2014, the land remains under military control without being returned to its original owners. Adding to the complexity is the absence of legal documents that have allowed the Muslim communities in the area to take over the land amid ongoing disputes.³⁹⁸ This situation highlights the ongoing challenges and unresolved issues regarding ownership and use of the land in Andiya Puliyankulam. During a discussion between the Government officials of Chettikulam and CPA researchers, a Government official alleged that many of the disputed lands belong to the State.³⁹⁹

³⁹⁰ Case No.HCT/Writ/650/20 and No.HCT/Writ/649/20.

³⁹¹ AHRC (n 376).

³⁹² The land was privately owned by a Ponnaiyah Kanagasabai (2A), Kanagasabai Thuraiyapah (2A), Nagappar Sinnaiyah (2A), and Sellaiyah Navasivayan (2A).

³⁹³ AHRC (n 376).

³⁹⁴ *ibid.*

³⁹⁵ Seelan, 'Vavuniya Andiapuliyankulam People Protest Against Army' *Senbagama* (7 December 2014) <<https://senpakam.org/%E0%AE%B5%E0%AE%B5%E0%AF%81%E0%AE%A9%E0%AE%BF%E0%AE%AF%E0%AE%BE-%E0%AE%86%E0%AE%A3%E0%AF%8D%E0%AE%9F%E0%AE%BF%E0%AE%AF%E0%AE%BE%E0%AE%AA%E0%AF%81%E0%AE%B3%E0%AE%BF%E0%AE%AF%E0%AE%99%E0%AF%8D%E0%AE%95/>> accessed 30 April 2024.

³⁹⁶ CPA interview with a Government official (Vavuniya District, 10 April 2024).

³⁹⁷ CPA interview with local community (Vavuniya District, 10 April 2024).

³⁹⁸ *ibid.*

³⁹⁹ CPA interview (n 396).

2.8.2. Karkulam Vishnu Temple

Karkulam Vishnu Temple is located within the Asikulam GN Division, falling under the administrative jurisdiction of the Vavuniya Divisional Secretariat. The Karkulam Vishnu Temple, located on a hill in Vavuniya with a Sunday school,⁴⁰⁰ was officially registered under the Department of Hindu Religious and Cultural Affairs on the 13th of September 2001.⁴⁰¹ The community had plans to construct a Vishnu Kovil on the hill, as the local community had been practising their rituals on the hill for many years.⁴⁰²

These practices were impeded when a person of Sinhalese ethnicity entered the land and initiated a stone quarry operation near the hill.⁴⁰³ People suspect that it was only after his arrival that an archaeological board was placed at the foothill in 2020.⁴⁰⁴ Upon the community's request for the Department of Archaeology to construct a Hindu temple on the hill, the Department responded by sending archaeological officers to inspect the land.⁴⁰⁵ It was determined that the area holds archaeological significance, prompting the Department to advise against any construction on the land due to its historical importance.⁴⁰⁶

In 2022, the Divisional Secretariat made a request to build the temple on behalf of the people, but the Department of Archaeology had declined.⁴⁰⁷ As a result, the community found another temporary piece of land for the temple, i.e. the hill and the adjacent lands, where the Rural Development Society (RDS) had granted land parcels to seven families.⁴⁰⁸ These alternative lands fall under the jurisdiction of the Department of Forests though and presently, the Department is restricting any new development in the area and has requested that these families vacate the land.⁴⁰⁹ CPA filed an RTI request to determine whether the land belongs to the Department of Archaeology,⁴¹⁰ and the Department of Forest.⁴¹¹ The RTI responses in July 2024 from the Department of Archaeology (Reference No.ARCH/NP/VA/PRO/01/2024) and the Department of Forest Conservation (Reference No.RTI/30/2024) revealed that the location hasn't yet been declared an 'archaeological site' or 'forest reserve'.

⁴⁰⁰ Sunday School Registration No.HA/7/56/08/36.

⁴⁰¹ Registration No.HA/5/VA/217 dated 13 September 2001.

⁴⁰² CPA interview (n 397).

⁴⁰³ *ibid.*

⁴⁰⁴ *ibid.*

⁴⁰⁵ *ibid.*

⁴⁰⁶ Letter dated 26 October 2022 from the Department of Archaeology.

⁴⁰⁷ Request Letter dated 22 September 2022 from the Divisional Secretariat of Vavuniya to the Department of Archaeology.

⁴⁰⁸ CPA interview (n 397).

⁴⁰⁹ CPA interview (n 397).

⁴¹⁰ RTI Registration No.ARCH/INFO/252.(04 June 2024)

⁴¹¹ RTI Registration No.RTI/30/2024. (23 July 2024)

2.8.3. Vedukkunaari Aathi Lingeswarar Temple

The Vedukkunaari Aathi Lingeswarar Temple is located within the Nainayamadu Forest Reservation, situated in the Nedunkerny Divisional Secretariat of the Vavuniya District. An ancient Shivan temple, adorned with a self-standing lingam, called Veddukkunari Aathi Lingeswarar Temple is located at the bottom of Vedukkunaari Hill.⁴¹² Presently, the temple itself comprises symbols inscribed that reflect Naga worship, emphasising its rich historical connections.⁴¹³



Image Source: CPA Field Visit

The local community has been venerating this temple for approximately five generations.⁴¹⁴ During a CPA interview with Mr. Poopalasingam (a resident and a member of the temple's trustee board), he explained that his family had been visiting this temple for generations and that they used to ascend to the hilltop by navigating the tree roots.⁴¹⁵ However, Buddhists believe that the temple belongs to Buddhism, under the name of ‘Vaddamana Pabbathaya Viharaya’ or ‘Vaddunagala Viharaya’.⁴¹⁶ Consequently, and questionably, this land was discovered and re-identified by the Department of Archaeology which led to the temple being gazetted as an ‘archaeological monument’.⁴¹⁷

On the 8th of August 2018, the Department of Archaeology conducted a field visit to the Vaddamana Pabbatha Viharaya (also known as Vedukkunaari Temple). Based on historical evidence, they explored the Vaddamana site with the help of the Sri Lankan army and observed only Buddhist monastic ruins, with no traces of Hindu religious monuments.⁴¹⁸ The Assistant Director of the Department of Archaeology then informed the public to halt construction work at the temple and reported the matter to the Divisional Secretariat of Vavuniya North, filing a complaint at the Nedunkerny Police Station.⁴¹⁹ The Archaeology Department declared that Vedukkunaari Malai was under their control and that locals were forbidden from entering the

⁴¹² ‘Vedukkunari Hill’ *Valvettithurai.Org* (29 March 2023) <<https://www.valvettithurai.org/an-article-about-vedukku-nari-malai-sivan-temple-13854.html>> accessed 30 April 2024.

⁴¹³ CPA interview (n 397), it was found that when it comes to worship at Vedukkunaari Hill, one can find idols of deities such as Pillaiyar, Murugan, Naga, Vairavar, and Natar enshrined at the base of the hill. As one ascends to the mountaintop, there is a Shivalinga known as Adi Lingeswarar, alongside goddess-like idols and a substantial vertical stone structure resembling the form of a lingam, representing Adi Lingeswarar.

⁴¹⁴ CPA interview with local community (Vavuniya District, 24 July 2023).

⁴¹⁵ *ibid.*

⁴¹⁶ CPA interview (n 397).

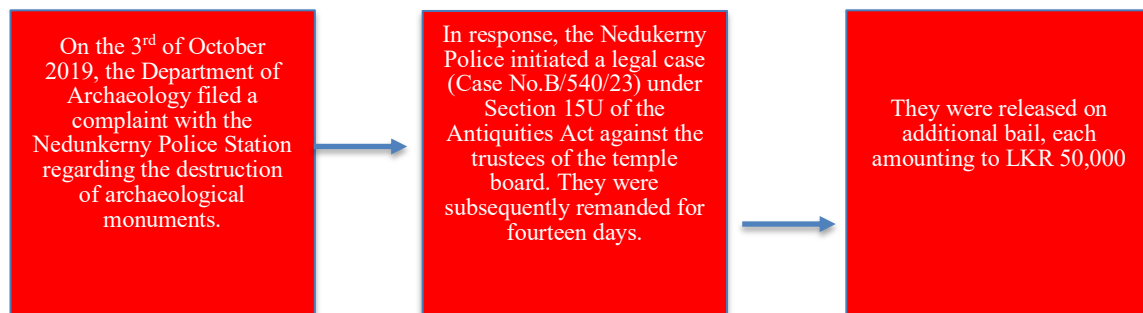
⁴¹⁷ Ama Vanniarachy, ‘Vidunnagala Pabbatha Vihara Vandalized’ *Ceylon Today* (30 January 2023) <<https://uploads.ceylontoday.lk/epapers/files/CT-30-01-2023-CT.pdf>> accessed 30 May 2024.

⁴¹⁸ Case No.SCFR133/2023.

⁴¹⁹ Complaint No.MOB/12/18.

area.⁴²⁰ Officials also informed that anyone attempting to access the site, including the temple grounds, would face arrest.⁴²¹

On the 10th of August 2018, the Ministry of Education, Cultural Affairs, and Sports and Youth Affairs allocated LKR 400,000 for the construction of a road to the temple.⁴²² However, Case No.B/2084/19 was filed in the Vavuniya District Court on the allegation that the members of the temple trustee board have acted contrary to the Antiquities Act (this statute is the basis of the Department of Archaeology discussed in Chapter 3.1 of this report) by setting up an iron-based staircase through the removal of an archaeologically significant ladder on Vedukkunari Hill on the 4th of September 2019, leading to the following events:⁴²³



In 2020, the Nedukerny Police filed a case against the temple trustee board alleging grave damage to ancient monuments including the burning and damaging of the rock plan where caves are located, between the 17th of September and the 27th of September.⁴²⁴ This case has been referred to the Attorney General's Department.

On the 26th of March 2023, an incident occurred when the statues within the Vedukkunaari Aathi Lingeswarar Temple, including the revered Moolasthan Lord Shiva, were subjected to demolition, and the idols were discarded.⁴²⁵ The primary deity of the temple, Aathilingam, was brutally uprooted and thrown out towards an adjacent bus.⁴²⁶ Additionally, other sacred idols, including Pillaiyar, Amman, and Vairavar, were also reported as missing.⁴²⁷ In response to this,

⁴²⁰ 'Sri Lanka's Archaeology Department Takes Over Tamil Temple Lands in Vavuniya' *Tamil Guardian* (12 August 2018) <<https://www.tamilguardian.com/content/sri-lanka%E2%80%99s-archaeology-department-takes-over-tamil-temple-lands-vavuniya>> accessed 2 June 2024.

⁴²¹ *ibid.*

⁴²² Reference No.V/DPS/DCC/F.U dated 10 August 2018.

⁴²³ CPA interview (n 414).

⁴²⁴ *ibid.*

⁴²⁵ 'Vedukkunari Malai Idols Subjected to Demolition' *Virakesari* (26 March 2023) <<https://www.virakesari.lk/article/151432>> accessed 10 June 2024.

⁴²⁶ Shriritharan (n 77).

⁴²⁷ *ibid.*

on the 27th of March 2023, the temple association lodged a formal complaint with the Human Rights Commission in Vavuniya, seeking justice for the demolition of the Aathi Lingeswarar Temple.⁴²⁸

Later, the Nedunkerny Police summoned the priest and temple members for further investigations relating to the vandalism of the Aathi Lingeswarar Temple in March by the building of a plinth with bricks.⁴²⁹ They were later arrested and taken to Vavuniya Magistrate Court where the judge presiding over the case released them on bail.⁴³⁰ The judge clarified that, contradictory to what was reported in the media earlier, while the police have to provide security for the poojas and the worshippers at the temple, no restorations or changes are to be made to the temple itself.⁴³¹



Image Source: Tamil Guardian

By the 11th of February 2024, a group of monks visited the Vedukkunaari Aathi Shivan Temple, while being accompanied by the Archaeology Department and the army.⁴³² Problematically, the monks claimed that the area where the temple is located belongs to them but the temple management denied this on the basis that their ancestors worshipped at this location.

On the 8th of March 2024, the Shivaratri observance at Vedukkunaari Hill Aathi Shivan Temple was disrupted by police violence, resulting in the arrest of 8 worshippers.⁴³³ This incident sparked numerous protests in the North and East, condemning the actions surrounding Shivaratri, such as Human Rights Watch calling on Sri Lanka's Archaeology Department to end

⁴²⁸ Complaint No.HRC/VAV/61/2023.

⁴²⁹ Case No.B/630/23.

⁴³⁰ *ibid.*

⁴³¹ 'Aathi Lingeswaran Temple Priest and Member Released on Bail Following Arrest by Sri Lankan Police' *Tamil Guardian* (11 May 2023) <<https://www.tamilguardian.com/content/athi-lingeswaran-temple-priest-and-member-released-bail-following-arrest-sri-lankan-police>> accessed 11 June 2024.

⁴³² 'Vedukunanimalai - A Group Including a Buddhist Monk Entered the Adi Lingeswarar Temple Area with Sandals' *Tamil Win* (6 February 2024) <<https://tamilwin.com/article/buddhist-suddenly-entered-vedukunanimalai-temple-1707642656>> accessed 12 June 2024.

⁴³³ 'Sri Lankan Police Unleash Violence in Vedukkunaari During Shivaratri; MP Assaulted; 8 Tamils' *Tamil Guardian* (8 March 2024) <<https://www.tamilguardian.com/content/sri-lankan-police-unleash-violence-vedukkunaari-during-shivarathri-mp-assaulted-8-tamils>> accessed 13 June 2024.

discriminatory interference in minority religious sites.⁴³⁴ The Court later released the 8 Tamils arrested on Shivaratri.⁴³⁵

This case is demonstrative of how various State actors and ethnonationalists intersect to infringe on religious freedoms. At the time of writing the report disputes at Vedukkunaari Aathi Shivan Temple continue.

Conclusion

Overall, the cases in the 8 districts demonstrate multiple methods used to impact the ownership, use and control of land. Though the dissent of local communities impacted by these land appropriations has placed hurdles for the State and other entities, it is clear that the State and other actors are capable of appropriating land using different tactics. Although the affected communities have sought legal recourse, which while infrequently successful in recovering property, for the most part is without resolution, particularly where Government departments have actively participated in appropriating land. The key question then becomes ‘What laws empower Government authorities to appropriate land in an arbitrary manner?’ This question and other questions are critically assessed in Chapter 3 of this report.

⁴³⁴ ‘Human Rights Watch Calls on Sri Lanka to End Discriminatory Interference’ *Tamil Guardian* (20 March 2024) <<https://www.tamilguardian.com/content/human-rights-watch-calls-sri-lanka-end-discriminatory-interference>> accessed 13 June 2024.

⁴³⁵ ‘Complaint lodged at Human Rights Commission over Vedukkunaari arrests’ *Tamil Guardian* (2 April 2024) <<https://www.tamilguardian.com/content/complaint-lodged-human-rights-commission-over-vedukkunaari-arrests>> accessed 13 June 2024.

3. Fragmented and Flawed State Structure

The post-colonial vision of the Sri Lankan State prioritised political security, control of State power, and the elimination of perceived threats from ethnic minorities, whereas extremist proponents of the North and East sought regional autonomy to address the ethnonationalist nature of post-colonial Sri Lanka.⁴³⁶ In this context, where land conflicts are concerned, the role of the State requires a delicate balance between conflict mitigation and escalation. Unfortunately, present research indicates that State structures have often been employed, both tacitly and actively, to perpetuate land conflicts. This not only exacerbates issues of land ownership, access and control but also undermines efforts toward social cohesion and reconciliation. With support from the military and various Government departments, the State is accelerating operations driven by ethnonationalistic agendas to ‘recover’ lands with contested histories, while dually furthering profit-driven motives.

The primary aim of this chapter is to shed light on the State structures that sustain ongoing land conflicts. The chapter will do so by first analysing the legal structures and legislation in place, empowering various Central Government actors to appropriate land, such as the Department of Archaeology, the Mahaweli Authority of Sri Lanka, and the Irrigation Department. CPA will then offer a brief comment on the newest land alienation scheme being implemented by the current Government of Sri Lanka, i.e. the ‘Urumaya Programme’, which potentially comprises various ramifications for land ownership and potential new conflicts. Finally, this chapter will provide a brief analysis of the powers of Provincial Councils pertaining to land.

3.1. The Department of Archaeology

As research demonstrates, the Department of Archaeology has facilitated land appropriations under the guise of heritage preservation, often advancing political narratives through a selective version of history. Archaeological exploration and monument conservation projects have increasingly become tools to reinforce social hierarchies, empowering majorities while further marginalising minorities. The Department’s approach to ‘recovering’ heritage continues to disempower communities in the North and East. A prime example is the Kurunthumalai Aathi Aiyandar Temple, a local Tamil Hindu shrine in Mullaitivu (refer to Chapter 2.6.1). This site has become a flashpoint for ethnic and communal tensions, with different communities claiming it as part of their heritage amid contentious archaeological excavation and restoration efforts. The involvement of multiple actors, including the Central Government and Buddhist clergy, adds to the complexity of the situation.

⁴³⁶ Jayadeva Uyangoda, ‘Ethnic Conflict in Sri Lanka: Changing Dynamics’ (2007) Policy Studies 32 East-West Center Washington <<https://www.files.ethz.ch/isn/35338/PS032.pdf>> accessed 20 May 2024.

Since its inception, the Department has focused on identifying, conserving, and enhancing Sri Lanka's archaeological heritage and implementing the Antiquities Act.⁴³⁷ This includes coordination of work between the Department of Archaeology, the Police Department, and the Attorney General's Department.⁴³⁸ The Antiquities Act presumes all antiquities and ancient monuments discovered on any unowned land are the absolute property of the State, with provisions for compensating the finder or landowner.⁴³⁹ However, disputes with the Archaeological Commissioner, who holds custody of antiquities on behalf of the State, are common. Moreover, the ease of obtaining a licence to excavate another's land is concerning. The State is absolved from liability for any loss or damage during excavations, making excavation decisions the sole responsibility of the Department of Archaeology, with limited recourse for affected individuals.⁴⁴⁰ This can create community apprehension and perceptions of unequal power dynamics, potentially leading to land acquisitions motivated by ethnic bias.

Based on CPA's interviews with officials from the Department of Archaeology, the Department acquires land based solely on its historical or archaeological significance, particularly related to ancient monuments found on both State and private lands, including temples, mosques, and Buddhist temples.⁴⁴¹ Ownership of the land is secondary to the importance of preserving archaeological monuments. Under the law, the Department may acquire land with monuments, imposing a 400-metre buffer zone in some cases. Private land with such monuments may also be acquired, ensuring compensation while allowing landowners to retain unaffected areas. During projects like Yan Oya, where 20 to 30 archaeological sites were managed on State lands, affected individuals were relocated with provisions for alternative accommodations.⁴⁴²

The processes of reconstruction and heritage conservation can thus become tools for the continued persecution of one ethnicity by another. This was starkly evident in 2020 when then-President Gotabaya Rajapaksa established a now-defunct special archaeological task force to survey and preserve sites in the North and East.⁴⁴³ As previously noted by CPA, the task force was initially mono-ethnic, with all its clergymen representing a single religion, despite the diverse population of the Eastern Province and the complex issues at hand.⁴⁴⁴ In this contested and sensitive context, it was concerning to see a predominantly Sinhala task force, led by a retired major general, given

⁴³⁷ 'Vision and Mission' (*Department of Archaeology*) <<https://www.archaeology.gov.lk/index.php/about/vision-mission>> accessed 1 August 2024.

⁴³⁸ 'Law Section' (*Department of Archaeology*) <<https://www.archaeology.gov.lk/index.php/about/sections/law>> accessed 1 August 2024.

⁴³⁹ Antiquities (Amendment) Act No.24 of 1998, Section 3.

⁴⁴⁰ *ibid.*, Section 13.

⁴⁴¹ CPA interview with Government officials (Colombo District, 4 July 2024).

⁴⁴² *ibid.*

⁴⁴³ 'Statement on the Presidential Task Forces' (*Centre for Policy Alternatives*, 15 June 2020) <<https://www.cpalanka.org/statement-on-the-presidential-task-forces/>> accessed 31 July 2024.

⁴⁴⁴ Statement on 'The Appointment of two Presidential Task Forces' (*Centre for Policy Alternatives*, 5 June 2020) <<https://www.cpalanka.org/the-appointment-of-two-presidential-task-forces/>> accessed 30 July 2024.

broad authority to potentially shape policies that could significantly impact identity politics, demographics, land control and use and reconciliation.⁴⁴⁵

3.2. The Urban Development Authority

Eviction in the name of ‘development’ is a powerful form of displacement that perpetuates and amplifies socioeconomic, ethnic and religious inequalities. The present research provides evidence of the State’s use of the Urban Development Authority (UDA) Law to declare land historically belonging to communities in the North and East as urban development areas, such as the situation of the President’s House in Kankesanthurai (refer to Chapter 2.3.5). Such overarching schemes, which overlook the vulnerabilities of affected communities and the history of the land, leave room for many to be dispossessed.

The UDA seeks to promote integrated planning and implementation of economic, social and physical development of certain areas declared as ‘urban development areas’.⁴⁴⁶ This law has witnessed multiple amendments over time.⁴⁴⁷ The Minister can declare any area suitable for development,⁴⁴⁸ and vest land in the UDA through a Gazette order if deemed necessary.⁴⁴⁹ The land can be acquired under the Land Acquisition Act No.09 of 1950, which has its own flaws (refer to Chapter 3.3.).

In an interview with UDA officials, CPA was informed that approximately 39% of Sri Lanka has been declared as urban development areas.⁴⁵⁰ These officials explained that once an area is designated as such, the UDA undertakes development projects and an officer is then assigned to provide approvals to local authorities. Further, these officials defended the UDA process by noting that if a development project is deemed necessary, it is State land that is usually acquired, whereby it is only in exceptional cases that private land is acquired under the Land Acquisition Act.⁴⁵¹

However, there is a clear imbalance in power between local communities in the North and East and the State empowered with arbitrary statutes. This imbalance in power between the State and private individuals is demonstrated by Section 2 of the UDA Projects (Special Provisions) Act.⁴⁵² This section stipulates that if the President, upon the Minister's recommendation, deems certain lands urgently required for an urban development project meeting the “just requirements of the general welfare of the People”, the President may declare through a Gazette order that such land is needed. What constitutes ‘urgent’ or ‘just’ remains undefined. Section 3 of the same Act allows

⁴⁴⁵ Centre for Policy Alternatives (n 443).

⁴⁴⁶ Urban Development Authority Law No.41 of 1978.

⁴⁴⁷ ‘UDA Acts and Amendments’ (*Urban Development Authority of Sri Lanka*) <https://www.uda.gov.lk/uda-acts-and-amendments_2021.html> accessed 27 January 2024.

⁴⁴⁸ UDA Law (n 446), Section 3.

⁴⁴⁹ *ibid*, Section 15.

⁴⁵⁰ CPA interview with Government officials (Colombo District, 11 July 2024).

⁴⁵¹ *ibid*.

⁴⁵² Urban Development Authority Projects (Special Provisions) Act No.2 of 1980, Section 2.

the State to evade liability by stating that no aggrieved person is entitled to any remedy, permanent or interim injunction, or stay order restraining the acquisition of such land. Extensive powers are granted to the State, with inadequate recourse for aggrieved parties to appeal against the seizure of their property. The UDA statutes grants the State broad discretion to appropriate land with limited to no checks to prevent abuse.

3.3. The Land Acquisition Act

In Sri Lanka, the right to land and property is not a constitutionally guaranteed right although there has been a strong push for its elevation as a fundamental right in constitutional reform processes in the past.⁴⁵³ The legal framework governing land is complex. Most of the laws were enacted several decades ago and were not drafted using a rights-based approach. Hence, many of these laws are not compliant with international human rights standards and obligations.⁴⁵⁴ Where private lands and servitudes are required for a ‘public purpose’ the Land Acquisition Act No. 9 of 1950 (LAA) makes provision for acquisition of private lands according to a specified procedure upon payment of compensation.

The Act has been amended on several occasions to accommodate the needs of the State but without providing durable solutions to those affected.⁴⁵⁵ As per Section 2 of the Act, the Minister has the power to decide in his discretion to declare lands which are subjected to be acquired and notice of land acquisition is to be made publicly available (in conspicuous places) and to be displayed in all three official languages.⁴⁵⁶ Section 4 adds to this by stating that if the land in question is suitable for public purposes, the acquiring officer may be directed by the Minister to provide a notice to the owner/s of the land of the acquisition. Both these provisions raise concerns as to what constitutes ‘public purpose’, particularly as the statute itself does not provide a definition.⁴⁵⁷

CPA has previously examined how Sri Lankan courts have interpreted the term ‘public purpose’,⁴⁵⁸ ensuring that any land acquisition serves a public utility and employs the public trust doctrine to protect the rights of landowners. The weight of judgments suggests that for land acquisition it is best if the public purpose is disclosed without merely being stated as required.⁴⁵⁹

⁴⁵³ Attempts have been made to include the right to land and property in the Constitution Bill 2000 and the Draft Bill of Rights 2009. Recommendations of the presidential Lessons Learned and Reconciliation Commission (2011) and the Report on Public Representations on Constitutional Reform (2016) have also recommended protection of land rights in the 1978 Constitution.

⁴⁵⁴ Pubudini Wickramaratne, ‘*Securing Land Rights of Displaced and Evicted Communities in Northern And Eastern Sri Lanka*’ (Oxfam 2020).

⁴⁵⁵ Fonseka and Jegatheeswaran (n 49).

⁴⁵⁶ Land Acquisition Act No.9 of 1950, Section 2(1).

⁴⁵⁷ Fonseka and Jegatheeswaran (n 49).

⁴⁵⁸ Bhavani Fonseka and Nivedha Jayaseelan, ‘Rights over Land vs National Security: Examining the Impact of Public Interest Litigation’ in Bhavani Fonseka and Luwie Ganeshathasan (eds) *Salient Aspects of Public Interest Litigation Jurisprudence in Sri Lanka* (CPA 2023).

⁴⁵⁹ Judicial decisions affirm that private land can be acquired only for public purposes under the Act, which should ideally be disclosed as per Section 2 Notice of the Land Acquisition Act No.9 of 1950.

Mendis et al. v. Perera et al. provides a more explicit definition of the term ‘public purpose’ as it portrayed it to mean that the Act requires the primary object of the acquisition to be for the “*public utility and benefit of the community as a whole*” and “*contemplates a benefit of a sufficiently direct nature*”.⁴⁶⁰

The absence of any legislative or constitutional provision relating to due process in the context of the acquisition of privately owned property fails to address the economic impact of such a Ministerial declaration (that the land is required for a public purpose) on the owner of the affected land and the extent to which such a declaration interferes with investments on the security of his property based on his/her legitimate expectations regarding the future use of his property. In this regard, the Supreme Court sought to respond to due process when a private owner’s land was sought to be acquired by the State, wherein it was held (per Justice Mark Fernando) in *Manel Fernando v. Jayarathne* that, where a Minister declared that land is required for a public purpose he must disclose what that purpose is.⁴⁶¹ Notably in *Horana Plantations Ltd. v. Minister of Agriculture and others*, this point was further clarified by deciding that where there is a proven collateral purpose, the requirement set out in *Manel Fernando* is not met.⁴⁶² How far these decisions would be adhered to in the modern context of an increasingly politicised judiciary is questionable. The worry surrounding this statute is only reiterated by the fact that many other State departments utilise LAA to acquire property.⁴⁶³

The arbitrary nature of the Act persists with Section 38 which allows the State to take immediate possession of any land on the grounds of ‘urgency’. Section 38A adds to this by providing that where any land is being acquired for a local authority and the preliminary valuation of that land made by the Chief Valuer of the Government does not exceed the specified sum, the immediate possession of such land on the ground of urgency would be deemed to have become necessary. Although the statute refrains from specifying what constitutes ‘urgency’, the case of *Marie Indira Fernandopulle v. E.L. Senanayake* specified that the burden of proof to demonstrate ‘urgency’ is on the State.⁴⁶⁴ Nonetheless, it remains that without clarity as to urgent grounds, the Government is capable of exploiting this provision to discretionarily acquire private land for its own invasive purposes from innocent landowners. This ability is only augmented by the lack of criteria in the ‘public purposes’ for which land is acquired and the lack of impact assessment of such land acquisitions.⁴⁶⁵

⁴⁶⁰ *Mendis and others v Perera and others* [2007] SC (FR) 352.

⁴⁶¹ *Manel Fernando v D.M.Jayarathne, Minister of Agriculture and Lands and others* (2000) S.L.R. 112.

⁴⁶² *Horana Plantations Ltd. v Minister of Agriculture and others* (2009) SC Appeal No.06.

⁴⁶³ This includes the UDA Law (n 446), Tourism Act No.38 of 2005, Sri Lanka Sustainable Energy Authority Act No.35 of 2007, Mines and Minerals Act No.33 of 1992, Irrigation Ordinance No. 32 of 1946, Mahaweli Authority Act No.23 of 1979, Town and Country Planning Ordinance No.13 of 1946.

⁴⁶⁴ *Marie Indira Fernandopulle and Another v E.L.Senanayake, Minister of Lands, and Agriculture* 79 (II) N.L.R. 115.

⁴⁶⁵ *Fonseka and Jegatheeswaran* (n 49).

Public purposes for land acquisition can stem from development programmes initiated by various Government departments and agencies across sectors such as transport, ports, aviation, and agriculture. When lands are seized for national security purposes, they are frequently designated as HSZs.⁴⁶⁶ Although Section 2 of the LAA outlines the procedure for acquiring private land, the declaration of lands as HSZ often occurs through Emergency Regulations issued by the Executive via Gazette notifications.⁴⁶⁷ Additionally, several cases filed in superior courts have challenged attempts to acquire or seize land under the pretext of national security, revealing that some of these lands were ultimately used for economic activities and tourism development.⁴⁶⁸ Thus, the justification of ‘national security’ for land appropriation has shifted from purely military purposes to include economic interests.⁴⁶⁹

In what can be characterised as a ‘land grab’, the military forcibly displaced the villagers of Ashraf Nagar from their lands in November 2011 and began encroaching on their property for commercial purposes.⁴⁷⁰ In response, two residents from Kasangkeni village filed a Fundamental Rights petition with the Supreme Court, challenging this occupation and, consequently, the Court issued an interim order halting any further development on the land.⁴⁷¹

Circulars have also been employed to control land or implement measures that effectively dispossess people of their property. For instance, Land Circular No.2011/04 was criticised for circumventing constitutional and legal safeguards.⁴⁷² This Circular was contested through both a writ Application and a Fundamental Rights petition in the Supreme Court. Among other provisions, the Circular suspended land releases, except those related to national security or special development projects. It was challenged for infringing on various constitutional and statutory protections,⁴⁷³ both in substance and procedure, including Articles 12 and 14 of the 1978 Constitution.

Therefore, it is necessary to define what the ‘public purpose’ is in the LAA itself. Guidance for such a definition can be found in various other jurisdictions. For example, Section 2(1) of the Land Acquisition, Rehabilitation and Resettlement Act No.30 of 2013 of India defines the public purpose based on ‘the proportionality principle’. The Federal ‘Expropriation Act’ of Canada

⁴⁶⁶ Fonseka and Jayaseelan (n 458).

⁴⁶⁷ *ibid.*

⁴⁶⁸ *ibid.*

⁴⁶⁹ Fonseka and Jayaseelan (n 458).

⁴⁷⁰ ‘Sri Lanka: Government Slow to Return Land’ *Human Rights Watch* (9 October 2018) <<https://www.hrw.org/news/2018/10/09/sri-lanka-government-slow-return-land>> accessed 25 January 2024.

⁴⁷¹ Women’s Action Network, ‘Ashraf Nagar: The Courageous Struggle of Peasants against the Forcible Land Acquisition in Ampara District’ *Groundviews* (19 January 2013) <<https://groundviews.org/2013/01/19/ashraf-nagar-the-courageous-struggle-of-peasants-against-the-forcible-land-acquisition-in-ampara-district/>> accessed 31 December 2023.

⁴⁷² Bhavani Fonseka and Mirak Raheem, ‘A Short Guide to ‘Regulating the Activities Regarding Management of Lands in the Northern and Eastern Provinces’ Circular: Issues & Implications’ (2011) Centre for Policy Alternatives <<https://www.cpalanka.org/a-short-guide-to-%E2%80%98regulating-the-activities-regarding-management-of-lands-in-the-northern-and-eastern-provinces%E2%80%99-circular-issues-implications/>> accessed 25 February 2024..

⁴⁷³ CA (Writ) No.620/2011.

adopts a different approach and focuses on the ‘fiduciary duty’ owed by the Government to the people of the relevant area. After careful consideration of all these legislations, the Food and Agriculture Organisation of the United Nations has recommended following the Polish method of defining public purpose which contains a list of permissible purposes along with an open-ended clause that allows for flexibility.⁴⁷⁴

3.4. The Mahaweli Authority of Sri Lanka

The Mahaweli Authority was established through the Mahaweli Authority Act No.23 of 1979 for the implementation of the Mahaweli Ganga Scheme, and to provide for the establishment of corporations to assist in that development.⁴⁷⁵ The Authority comprises a Land Use Planning Division which, amongst other roles, identifies areas of land for further development, prepares resettlement plans and engages in environmentally sensitive boundary demarcation.⁴⁷⁶ CPA has previously documented the Mahaweli Authority's role in land alienation within the Mahaweli L Scheme in the Weli Oya area, now part of the Mullaitivu District.⁴⁷⁷ While land acquisitions are intended to pertain to private land, the Weli Oya case illustrates the complexities and confusion surrounding the actual status of the land.⁴⁷⁸ This raises questions about whether the Government is legally able to alienate such lands and whether these questionable practices amount to land grabs. The fact that the alienation primarily benefits the majority community suggests an ethnicisation of land issues, potentially leading to demographic changes through land settlement schemes.

Section 3 of the Mahaweli Authority Act sets out that the Minister may, with the approval of the President, declare any area which in the opinion of the Minister can be developed with the water resources of the Mahaweli Ganga or of any major river to be a ‘special area’. From the get-go, there is a lack of process because the Minister’s discretion is sufficient to begin the process of declaring land as being suitable for the functions of the Authority.

Section 23 then recognises that where any land or interest therein in any Special Area is required by the Authority for any of its purposes, that land or interest may be acquired under the Land Acquisition Act by the Government for the Authority. This in itself is problematic due to the identifiable lacunas within the LAA. Alternatively, Section 24 of the Mahaweli Authority Act notes that the Authority may take possession of land without the usage of the LAA.

⁴⁷⁴ Simon Keith, Patrick McAuslan, Rachael Knight, Jonathon Lindsay, Paul Munro-Faure and David Palmer, ‘Compulsory acquisition of land and compensation’ (2009) FAO Land Tenure Studies Rome <<http://www.fao.org/tenure/resources/collections/landtenurestudies/en/>> accessed 25 January 2024.

⁴⁷⁵ ‘Master Plan’ (*Mahaweli Authority of Sri Lanka*) <<https://mahaweli.gov.lk/master%20plan.html>> accessed 26 January 2024.

⁴⁷⁶ ‘Land Use Planning Division’ (*Mahaweli Authority of Sri Lanka*) <<https://mahaweli.gov.lk/land%20use%20planning.html>> accessed 26 January 2024.

⁴⁷⁷ Fonseka and Raheem (n 91).

⁴⁷⁸ *ibid.*

Section 25 of the Act specifies that once the Authority takes possession of the land, it will vest absolutely in the Authority, free from all encumbrances. Notably, any person with a right or interest in the land may take action against the Authority in a competent court or seek compensation from the Authority for that land.⁴⁷⁹ Nonetheless, a clear power imbalance exists within the statute itself. There are no real impediments to prevent the Mahaweli Authority from acquiring or possessing land it desires, except for a requirement of notice and the possibility of challenges once possession and work on the land have begun.⁴⁸⁰ The lack of public debate or awareness of activities stemming from these provisions facilitates State-implemented human rights infringements. Although CPA had reached out to the Mahaweli Authority of Sri Lanka to field these concerns, officials were unable to make arrangements to have discussions.

3.5. The Central Environmental Authority

The Central Environmental Authority (CEA) was established through the National Environmental Act No.47 of 1980. In 2001, the Ministry of Environment was established to integrate environmental concerns into the nation's development process and was thus bequeathed control over the CEA. The process created by the National Environmental Act has in place sufficient checks and balances to maintain transparency and this is only enhanced by consultation with experts, as well as the public.⁴⁸¹ The system in practice does raise concerns though, whereby as per Wijerathna and Abeynayake, some key concerns include the influence of external politics on the Environmental Impact Assessment (EIA) process, the inadequacy of funds to administer a Project Approving Agency and the fact there is a lack of professional ethics with EIA consultants.⁴⁸² These issues would certainly skew the reliability of any impact assessment report leading to a series of adverse impacts on the environment.

The National Environmental Act is crucial due to the rise in development projects in the North of Sri Lanka, like the Adani Green Energy Wind Power Project (refer to Chapter 2.5.1). These projects impact land, livelihoods, and local communities, causing fear and potentially triggering conflicts during the reconciliation period. Moreover, the interplay of climate change, economic implications and uncertainty is manifested in several ways. The EIA report for this controversial project highlights several concerns.⁴⁸³ The proposed Mannar Wind Power Project (Phase II) includes 52 wind turbines alongside the existing Thambapawani wind farm (Phase I), which has

⁴⁷⁹ Mahaweli Act (n 463), Section 25(3).

⁴⁸⁰ *ibid.*

⁴⁸¹ See 'Steps in EIA Process' (*Central Environmental Authority*) <<https://www.cea.lk/web/steps-in-eia-process>> accessed 1 February 2024.

⁴⁸² B.V.M.K. Wijerathna and M.D.T.E. Abeynayake, 'Challenges and Issues of Environmental Protection Instruments Related to Infrastructure Development Projects in Sri Lanka' in Y.G. Sandanayake, S. Gunatilake and K.G.A.S. Waidyasekara (eds), *Proceedings of the 9th World Construction Symposium* (2021), 171-182.

⁴⁸³ Consulting Engineers and Architects Associated Pvt Ltd, 'Environmental Impact Assessment for the proposed 250 MW Mannar Wind Power Project Phase II Final Report' (*Sri Lanka Sustainable Energy Authority*, January 2024) <[EIA for the proposed 250 MW Mannar Wind Power Project \(Phase II\)](#)> accessed 10 February 2024.

30 turbines.⁴⁸⁴ An additional extension (Phase III) proposes 21 more turbines across Mannar Island's width, covering about 15,000 acres, or 40% of the island's land mass.⁴⁸⁵ If all phases proceed, 103 turbines will span the island, irreversibly altering its topography and biodiversity. Despite widespread criticism due to its positioning within one of the main bird migratory corridors in the Central Asian Flyway (CAF - one of the four major global terrestrial flyway systems recognised by the United Nations Convention of Migratory Species (CMS)), the project was allowed to proceed.⁴⁸⁶ There is also recorded evidence of negative impacts of other power and energy projects in the Mannar region on avifaunal species.⁴⁸⁷ Moreover, the EIA reveals that the Ministry of Power and Energy awarded the project to Adani Green Energy before conducting the assessment, implying that the EIA itself was only a formality that would eventually green-light the project.

Adani Green Energy defends the process, citing a year-long field study and data from the Ceylon Bird Club, Field Ornithology Group of Sri Lanka, and Ramsar, while claiming that modern technology will minimise environmental impact.⁴⁸⁸ However, the process remains shrouded in mystery, with little expert or public consultation. The State has turned a blind eye to these activities, raising questions about the effectiveness of the CEA and the National Environmental Act. An EIA is merely environmental approval, not project approval, offering no real barrier to development.⁴⁸⁹ There is an urgent need to transform the fragmented approach to development design and delivery. Sri Lanka must shift towards building environmental resilience without jeopardising economic goals. This requires enhancing capabilities, resources, and institutions to effectively balance human and environmental well-being.

3.6. The National Physical Planning Department

Previously known as the Town and Country Planning Department, the National Physical Planning Department focuses on national-level planning and regional and local-level plans based on the National Physical Plan.⁴⁹⁰ The Department engages in 'sacred area' planning and certain development activities following the provisions of the Town and Country Planning Ordinance No.13 of 1946.⁴⁹¹ This statute has been applied to various private lands, particularly in cases of

⁴⁸⁴ *ibid.*

⁴⁸⁵ *ibid.*

⁴⁸⁶ Professor Sampath Seneviratne, 'Proposed Wind Farm in Mannar is a Death Trap for Migratory Birds' *Groundviews* (2 February 2024) <<https://groundviews.org/2024/02/09/wind-farm-in-mannar-is-a-death-trap-for-migratory-birds/>> accessed 10 February 2024.

⁴⁸⁷ Consulting Engineers and Architects Associated Pvt Ltd (n 483).

⁴⁸⁸ *The Sunday Times* (n 168).

⁴⁸⁹ Kanthi de Silva, 'Environmental Impact Assessment (EIA) Process in Sri Lanka' (University of Peradeniya, 7 October 2023).

⁴⁹⁰ 'Overview' (National Physical Planning Department)

<https://nppd.gov.lk/index.php?option=com_content&view=article&id=15&Itemid=114&lang=en> accessed 15 July 2024.

⁴⁹¹ *ibid.*

Buddhist temple impositions in the North and East, such as Muhudu Maha Viharaya (Ampara), Sankamale Purana Raja Maha Viharaya (Trincomalee), and Sri Saththarma Yuththika Wannasenasuna Temple (Trincomalee).

Key provisions of this statute for validating such land acquisitions include the Minister's authority, through an order published in the Gazette, to declare any town or area as an 'urban development area',⁴⁹² any area within a specified distance on either side of any principal thoroughfare as a 'trunk road development area',⁴⁹³ or any area as a 'regional development area'.⁴⁹⁴ Once such an order is made, a series of restrictions on the land come into effect under Section 47 of the Ordinance.⁴⁹⁵ These restrictions prohibit unauthorised individuals from:

“(a) erecting, re-erecting, demolishing, altering, or repairing any structure in that area; or

(b) laying out, constructing, widening, extending, or closing, or attempting to lay out, construct, widen, extend, or close, any road in that area; or

*(c) developing any land in that area, or subdividing, conveying, assigning, or otherwise disposing of or dealing with any such land in a manner that constitutes any part of the land as a separate holding...”*⁴⁹⁶

In implementing these orders, the State may utilise the provisions of the LAA to appropriate the property. As noted before, the LAA contains ambiguous provisions,⁴⁹⁷ and its recurrent application by various Government departments is concerning. In the case of the National Physical Planning Department, land acquired for 'public purposes' has been gazetted as a 'sacred area' under Section 6(2)(b), as evident in the Muhudu Maha Viharaya case (refer to Chapter 2.1.3).⁴⁹⁸ It seems that the legal term 'urban development area' is being used interchangeably with 'sacred area', suggesting that the Minister's declarations are more religiously motivated rather than purely developmental. The vague zoning terminology and the absence of proper processes in declaring land as an 'urban development area,' 'trunk road development area,' or 'regional development area' without expert consultations or impact assessments lead to concerns about anti-democratic land acquisitions.

3.7. The Irrigation Department

The Irrigation Department has been acrimoniously involved in isolated cases, such as that of Kanguveli Tank in Muthur (refer to Chapter 2.7.4). The Department sets out its mission as being *“to harness, develop, conserve, regulate, allocate and manage water resources in the country to*

⁴⁹² Town and Country Ordinance (n 463), Section 6.

⁴⁹³ *ibid*, Section 7.

⁴⁹⁴ *ibid*, Section 8.

⁴⁹⁵ *ibid*, Section 6.

⁴⁹⁶ *ibid*, Section 47.

⁴⁹⁷ *ibid*, Section 58.

⁴⁹⁸ Gazette No.2345/37 dated 15 August 2023.

secure and enhance the returns it produces, directly in the sphere of agriculture and indirectly in other spheres such as environmental, domestic, industrial and power in collaboration with other organisations".⁴⁹⁹ This would include functions such as constructing irrigation and settlement projects for the conservation and distribution of water and the construction of drainage, flood protection and saltwater extrusion projects to protect cultivable land for food crop production.⁵⁰⁰

The Commissioner is responsible for the general supervision and control of Government agents in the execution of their duties under the Ordinance.⁵⁰¹ The Commissioner has the authority to issue general or special directions to Government agents regarding their duties and may address any doubts or difficulties related to these duties.⁵⁰² Government agents are required to comply with any directions or decisions made by the Commissioner.⁵⁰³ Although the Commissioner is subject to the Minister's direction and control, it may be observed that the broad nature of the Commissioner's powers allows for extensive instructions to Government agents, who must adhere to them. This authority is further reinforced by Section 113, which deems land required for the Ordinance's purposes as land needed for a 'public purpose' under the LAA.

The Ordinance specifies offences for obstructing or misusing irrigation works, such as blocking or encroaching on channels, cutting any part of the works, wasting conserved water, and diverting water for personal use.⁵⁰⁴ While this provision may need updating, particularly regarding the amount of the fine, it is not semantically flawed. The primary concern lies with the selective enforcement of these offences. In the Kanguveli Tank case, for example, Sinhala farmers who diverted water, disadvantaged Tamil farmers, and were not held criminally liable under Section 93. This issue extends beyond the Irrigation Ordinance and underscores the need for a broader evaluation of the rule of law in Sri Lanka.

3.8. The Department of Forest Conservation

Falling under the purview of the Ministry of Forest and Wildlife Conservation, the Department of Forest Conservation uses the Forests Ordinance No.16 of 1907 and the National Heritage and Wilderness Areas Act No.03 of 1988 to ensure effective forest conservation and management.⁵⁰⁵ Of growing concern has been the implementation of the Forests Ordinance which has been utilised in cases of land conflict, such as Mayilathamadu (refer to Chapter 2.2.1) and Thennamaravadi

⁴⁹⁹ 'Overview' (*Irrigation Department of Sri Lanka*)

<https://www.irrigation.gov.lk/web/index.php?option=com_content&view=article&id=15&Itemid=114&lang=en> accessed 30 January 2024.

⁵⁰⁰ *ibid.*

⁵⁰¹ Irrigation Ordinance (n 463), Section 1A.

⁵⁰² *ibid.*

⁵⁰³ *ibid.*

⁵⁰⁴ *ibid.*, Section 93.

⁵⁰⁵ 'About Us' (*Forest Department Sri Lanka*) <<http://www.forestdept.gov.lk/index.php/en/>> accessed 20 May 2024.

(refer to Chapter 2.7.5.1). These issues are rooted in the State’s ability to declare land as a ‘reserved forest’ under Section 3 of the Ordinance.

Section 3A specifies that the Minister, through Gazette order, may declare a specified area of State land or the whole/part of any reserved forest as a ‘Conservation Forest’. Such a declaration may be made for a variety of different reasons. The area has a unique ecosystem or genetic resources, the area is the habitat of rare species of flora, fauna and micro-organisms and threatened species, the area needs to be preserved to achieve ecological balance by preventing salinisation or the need to prevent the drying up of rivers, ensuring adequate rainfall, or preventing landslides and fires hazardous to human life.⁵⁰⁶

The declared land itself would be under the control of the Conservator-General of Forests and this would be subject to a series of restrictions, such as Section 6 preventing any person from entering a Conservation Forest unless a permit is obtained from the Conservator-General. The powers of the Minister to simply discretionarily declare land to be of a certain nature extends with Section 12 of the Ordinance. This sets out that the Minister may constitute any portion of forest a ‘village forest’ for the benefit of any village community or group of village communities, and may even vary or cancel any such order. There appears to be a lack of safeguards in place to curb the arbitrary exercise of the Minister’s power to declare land.

Although Section 16 clarifies that such declarations would not affect any existing rights of any person, the practical concerns of communities, who rely on the land for their livelihoods and cherish its cultural and religious significance, are disregarded. These issues are compounded by a lack of documentation to prove ownership resulting in competing claims.⁵⁰⁷

Section 46 of the Forests Ordinance is an additional challenge as it lays down that any forest officer or police officer who unnecessarily seizes any property under the Ordinance, will be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand rupees or to both. Objectively, this is a relatively weak punishment (particularly the maximum fine amount) for officers who may illegally evict persons off of a property and cause the loss of the victim’s access to religion, to their home and even to their means of income. Thus, the Ordinance is in dire need of amendment to accord to contemporary standards.

Notably, interviews conducted by CPA with officials from the Department of Forest revealed that the Department has been making efforts to de-Gazette particular forests.⁵⁰⁸ Nonetheless, these concessions ignore the structural concerns in the law which could potentially arm Government officials with the ability to arbitrarily acquire land.

⁵⁰⁶ *ibid.*

⁵⁰⁷ CPA interview (n 396).

⁵⁰⁸ CPA interview with Government officials (Colombo District, 5 July 2024).

3.9. The Tourism Section

The Ministry of Tourism and Lands was established under Gazette Extraordinary No. 2187/27 on the 9th of August 2020, and amended by Gazette Extraordinary No. 2196/27 on the 6th of October 2020. The Ministry differentiates between its Tourism Section and Land Section, each overseeing a range of institutions.⁵⁰⁹

The Ministry itself recognises a few special priorities to be fulfilled, such as identifying new attractive destinations for local/foreign tourists and the provision of investments and other facilities to the private sector for the development of the tourism industry.⁵¹⁰ To achieve its many aims, the primary legislation utilised by the Tourism Section of the Ministry is the Tourism Act No.38 of 2005. This statute provides the basis for the various institutions within the Tourism Section's purview. Notably, as the goal of improving tourism has been cited by perpetrators infrequently within particular land conflict cases (such as the President's House in Kankesanthurai), the main concerns of this report lay with the Sri Lanka Tourism Development Authority.

Section 12 of the Act outlines the powers, duties, and functions of the Sri Lanka Tourism Development Authority (SLTDA). These include enhancing tourist facilities and developing Sri Lanka as a premier tourist destination.⁵¹¹ The SLTDA is also empowered to acquire, hold, lease, hire, pledge, or dispose of movable or immovable property as needed.⁵¹² Additionally, the Authority is responsible for liaising with Provincial authorities when necessary,⁵¹³ and has the authority to levy fees or charges for services, facilities, or equipment it provides.⁵¹⁴

Under Section 26, the SLTDA may recommend to the Minister the declaration of any area as a 'Tourist Development Area' through a Gazette order. Although the Authority may conduct a public hearing before making such a recommendation and the Minister may prescribe regulations for declared areas,⁵¹⁵ the process does not include mandatory criteria or transparency requirements. This may lead to arbitrary declarations harming those living within or around those areas. The connecting provision is Section 70 of the Act, stipulating that where any land or interest is required by the Authority for any of its purposes, that land or interest may be acquired under the LAA by the Government for the Authority.

⁵⁰⁹ 'About the Ministry of Tourism and Lands (Lands Section)' (*Ministry of Tourism and Lands: Lands Section*) <<https://landmin.gov.lk/web/en/about-the-ministry/>> accessed 1 August 2024; see also 'Overview of the Ministry' (*Ministry of Tourism and Lands*) <<https://www.tourismmin.gov.lk/web/index.php/en/about-us/overview-of-the-ministry>> accessed 31 January 2024.

⁵¹⁰ *ibid.*

⁵¹¹ Tourism Act (n 463), Section 12(b).

⁵¹² *ibid.*, Section 12(f).

⁵¹³ *ibid.*, Section 12(h).

⁵¹⁴ *ibid.*, Section 12(o).

⁵¹⁵ *ibid.*, Section 26.

3.10. The Urumaya Programme

The ‘Urumaya Programme’ is a recent State policy launched in early 2024 which allegedly aims to resolve land ownership uncertainties through the granting of freehold deeds to land licensees who only possess lands (these licences are held under entities such as Ran Boomi, Jaya Boomi, and Swarna Boomi).⁵¹⁶ As of June 2024, multiple regions of Sri Lanka have been bequeathed freehold land deeds, such as the awarding of 1524 deeds in the Mahaweli Walawa Region on the 17th of June 2024,⁵¹⁷ and the approximately 600 persons who received deeds in the Monaragala District on the 30th of June 2024.⁵¹⁸ Though the Urumaya Programme has also seen implementation in the North and East of Sri Lanka (E.g. 408 individuals receiving freehold deeds in Jaffna on the 22nd of March 2024),⁵¹⁹ the programme's long-term implementation and impacts on land appropriation concerns remains to be seen. In the context of previous land alienation schemes by the State,⁵²⁰ the Urumaya Programme has raised many concerns for those in the North and East.⁵²¹ Though CPA has reached out to the Land Commissioner General’s Department for further clarification regarding the implementation of this programme, a response was not provided.

The systematic alienation of State lands began with the Land Development Ordinance in 1935, aimed at developing State lands and addressing landlessness among the rural peasantry. Although the Urumaya State policy seeks to uplift rural communities by linking land to agriculture, it is crucial that such measures are transparent and include due process safeguards to ensure compliance with the constitutional and legal framework.

Earlier laws, such as the Crown Lands Encroachment Ordinance No. 12 of 1840 and the Waste and Unoccupied Lands Ordinance No. 1 of 1897, allowed the British Crown to claim unoccupied land, leading to evictions.⁵²² The Land Reform Commission in 1927 began allocating State land to aid the landless, and the LDO facilitated land allocation with restrictions on selling or transferring, thereby protecting the land and peasantry.⁵²³ Notably, the Urumaya Programme was

⁵¹⁶ ‘Urumaya Program to Solve Land Issues for 2 Mn. People’ *Daily News* (31 January 2024)

<<https://www.dailynews.lk/2024/01/31/admin-catagories/breaking-news/376561/urumaya-program-to-solve-land-issues-for-2-mn-people/>> accessed 20 February 2024.

⁵¹⁷ ‘Urumaya land deeds within 2 months to all who are eligible - President Ranil assures’ *Lankasara* (17 June 2024)

<<https://lankasara.com/news/urumaya-land-deed-to-all-who-are-eligible/>> accessed 30 June 2024.

⁵¹⁸ ‘‘Urumaya’’: Over 41,000 land deeds granted to Monaragala District residents’ *Adaderana* (30 June 2024)

<<https://www.adaderana.lk/news/100198/urumaya-over-41000-land-deeds-granted-to-monaragala-district-residents->> accessed 15 July 2024.

⁵¹⁹ ‘Sri Lankan President Ranil Wickremesinghe releases 234 acres of land in Jaffna for farmers' use’ *The Hindu* (22 March 2024)

<<https://www.thehindu.com/news/international/sri-lankan-president-ranil-wickremesinghe-releases-234-acres-of-land-in-jaffna-for-farmers-use/article67980134.ece>> accessed 15 July 2024.

⁵²⁰ N.C. Wickramaarachchi and T.Rathnamalala, ‘Consequences of the State Land Alienation Programme in Sri Lanka’ (2021) 7(4) *Journal of Social Sciences and Humanities Review*, 248.

⁵²¹ CPA discussions with Civil Society Organisations and social activists (Gampaha District, 20 June 2024).

⁵²² ‘British-inspired land laws that deprived Kandyans of their right to land’ *Daily FT* (20 September 2019)

<<https://www.ft.lk/Opinion-and-Issues/British-inspired-land-laws-that-deprived-Kandyans-of-their-right-to-land/14-686027c>> accessed 24 July 2024.

⁵²³ Dinusha Rathnayake and others, ‘Land Development Ordinance in Action: Achievements and Prospects of Highland Alienation’ (2021) Hector Kobbekaduwa Agrarian Research and Training Institute

<https://www.harti.gov.lk/images/download/research_report/new/report_for_web_244.pdf> accessed 25 July 2024.

launched during a Presidential election year, adding complexity to its implementation and the political landscape.

3.11. Provincial Councils

The 13th amendment to the 1978 Constitution, which was enacted after the Indo-Lanka Accord 1987,⁵²⁴ introduced the decentralisation of power from the Central Government to Provincial Councils.⁵²⁵ The amendment has been criticised by many Tamil political parties because the decentralisation framework falls short of their demands and aspirations. The division of power between the centre and the provinces is unclear. Provincial Councils can be controlled or have their powers reduced by the Central Government acting unilaterally and further, there is no subject over which Provincial Councils can claim to exercise exclusive competence or jurisdiction.⁵²⁶ Pointedly, a constitutional prohibition has been imposed over judicial review of legislation and there is no independent public service or second chamber to facilitate provincial representation at the centre.⁵²⁷ The 13th amendment also permits important sections including those dealing with police powers and land, to remain unimplemented.⁵²⁸ This hybrid system is inadequate to accommodate the demand for local autonomy. Historically, as each promise was reneged on by the Central Government the gap between the two sides widened considerably and still contributes to the escalation of conflict and is a major impediment to conflict resolution.⁵²⁹

The 13th amendment specifies the matters upon which Provincial Councils have the power to legislate.⁵³⁰ Item 18 allows Provincial Councils to legislate on land rights, tenure, transfer and alienation of land, land use, land settlement and land improvement as detailed in Appendix II.⁵³¹ However, Appendix II restricts Provincial Councils' power by stating that State land remains under the Republic's control and is governed by Article 33(d) and relevant laws.⁵³²

The extent to which land powers were devolved to the Provincial Councils and the extent to which it was retained by the centre was a question before the Supreme Court in the *Superintendent*,

⁵²⁴ In regard to constitutional reforms, it contained a joint declaration of the broad principles of a new settlement, and it committed Sri Lanka to establish a system of devolution to Provincial Councils.

⁵²⁵ Asanga Welikala, 'Devolution Under The Thirteenth Amendment: Extent, Limits, And Avenues for Reform' (2023) Centre for Policy Alternatives <<http://constitutionalreforms.org/wp-content/uploads/2016/06/Working-Paper-10.pdf>> accessed 10 May 2024.

⁵²⁶ *ibid.*

⁵²⁷ *ibid.*

⁵²⁸ Luwie Ganeshathasan and Michael Mendis, 'A Policy Brief: Devolution in the Northern Province: September 2013 – February 2015' (March 2015) Centre for Policy Alternatives <<https://www.cpalanka.org/wp-content/uploads/2024/02/CPA-Devolution-in-the-Northern-Province.pdf>> accessed 25 July 2024, 51.

⁵²⁹ Rohan Edrisinha, 'Multinational Federalism and Minority Rights in Sri Lanka' in Will Kymlicka and Baogang He (eds.), *Multiculturalism in Asia* (OUP 2005), 245.

⁵³⁰ The Constitution of the Democratic Socialist Republic of Sri Lanka 1978, List 1 of the Ninth Schedule (Provincial Council List).

⁵³¹ *ibid.*, Appendix II – Land and Land Settlement.

⁵³² *ibid.*

Stafford Estate v. Solaimuthu Rasa case.⁵³³ Justice Mohan Peiris’ analysis concluded that land continued to vest with the Central Government.⁵³⁴ His opinion on the demarcation of land power between the Government and Provincial Councils was two-fold.⁵³⁵ Firstly, when the Central Government requires State land in a Province, consultation with the relevant Provincial Council does not imply the Council’s concurrence. It only means that there will be discussions between the Central Government and the Provincial Council to work towards an agreement. Secondly, the term ‘advice’ in Item 18 of List 1 of the Ninth Schedule (Provincial Council List), as stated in Appendix II, which specifies that “*alienation or disposition of State land within a Province to any citizen or any organisation shall be by the President on the advice of the relevant Provincial Council in accordance with the laws governing the matter*” (section 1:3 of Appendix II),⁵³⁶ was interpreted as non-binding. According to the Court, the omission of the word ‘only’ before the phrase “*on the advice of the relevant Provincial Council*” implies that the advice is not mandatory.⁵³⁷ However, this decision is a departure from previous case law and has created uncertainty regarding the nature and scope of land powers devolved to Provincial Councils.⁵³⁸

Item 3 of Appendix II of List I, on Land and Land Settlement, establishes a National Land Commission responsible for formulating national policy regarding the use of State land. Although the National Land Commission is required to include representatives from the Provincial Councils,⁵³⁹ it would be predominantly under State control if implemented. Chief Justice Peiris highlights this in his judgement referencing Paragraph 3 of Appendix II: “*It is clear that Provincial Councils must follow the directions issued by the National Land Commission, which further supports the argument that State Lands are under the authority of the Centre, not the Provincial Councils.*”⁵⁴⁰

It is important to note that despite the framework for devolution, the centralised State retains powers allowing intervention in Provincial affairs, such as the requirement of Presidential approval for Provincial Council procedures.⁵⁴¹ Even the legislative process of Provincial Councils is hindered by its subordinate status within the constitutionally recognised legislative hierarchy and the requirement for the Governor’s assent to pass statutes.⁵⁴² The hope that Provincial Councils

⁵³³ *The Superintendent, Stafford Estate v Solaimuthu Rasa* (2013) SC Appeal 21.

⁵³⁴ *ibid*, the Judgment of Chief Justice Mohan Peiris in this case is available at <https://www.colombotelegraph.com/wp-content/uploads/2013/09/Supreme-Court-29-09.pdf> accessed 2 August 2024.

⁵³⁵ *ibid*.

⁵³⁶ Appendix II (n 530), Paragraph 1:3.

⁵³⁷ Ganesathasan and Mendis (n 528).

⁵³⁸ See *Re the Land Ownership Bill* (2003) SC. SD. No.26/2003-36/2003; see also *Vasudeva Nanayakkara v K.N. Choksy and Others* (2008) I S.L.R 134.

⁵³⁹ Fonseka and Jegatheeswaran (n 49).

⁵⁴⁰ Appendix II (n 530).

⁵⁴¹ Lionel Guruge and Asanga Welikala, ‘Devolution in the Eastern Province: Implementation of the Thirteenth Amendment and Public Perceptions’ (2008-2010) Centre for Policy Alternatives https://www.cpalanka.org/wp-content/uploads/2023/08/Devolution-in-the-EPC_English.pdf accessed 5 May 2024.

⁵⁴² *ibid*.

would then provide a means of recourse to arbitrary central institutional oversight in land conflicts is somewhat lost.

The existence and operation of pre-devolution colonial structures and the creation of new institutions at a district and sub-district level only serve to undermine the authority of Provincial Councils. This problem is exemplified by the creation of Divisional Secretaries in 1992,⁵⁴³ operating within provincial jurisdictions as extensions of Presidential powers but not accountable to Provincial Councils.⁵⁴⁴ This has resulted in competing administrative structures, rendering Provincial Councils unable to exercise their legislative and executive powers effectively to represent local communities' issues, including land conflicts. Each proposal for power-sharing has been watered down by alternative proposals that have proved eminently unhelpful.⁵⁴⁵ Overall, as exhibited above, Central Government actors have consistently overexerted their powers, resulting in Provincial Councils being powerless to counterweight centrifugal forces. This is indicative of the failure of successive governments to accommodate the demands of the local communities. For any future schemes to bear fruit, Sri Lanka's elected representatives must be willing to raise awareness on the issue, negotiate in good faith and offer greater powers and concessions to lower tiers of Government to empower marginalised communities.

Conclusion

The research highlights the various State structures that operate with broad mandates that are often manipulated to serve ethnopolitical agendas. Considering the issues highlighted, there is a need for comprehensive laws and regulations supported by a serious commitment to tackle these challenges holistically. Whether such change is forthcoming remains questionable.

Ultimately, with the legal context explored in this chapter laying the foundations for abuses in the North and East, it is recognisable that these State actors continue to intertwine with other proponents involved in land appropriations, such as Sinhala-Buddhist nationalists, the Tri-Forces of Sri Lanka and private corporations with a 'development' agenda. The following chapter will evaluate these growing repressive trends and the intersectional collaboration between various perpetrators.

⁵⁴³ Transfer of Powers (Divisional Secretaries) Act No.58 of 1992.

⁵⁴⁴ Guruge and Welikala (n 541).

⁵⁴⁵ Minna Thaheer, Pradeep Peiris and Kasun Pathiraja, *'Reconciliation In Sri Lanka: Voices From Former War Zones'* (International Centre for Ethnic Studies 2013).

4. The Intersectional Trends in Land Conflicts

Through further analysis of cases elucidated in Chapter 2 and the statutory framework in place complicit in allowing these conflicts explained in Chapter 3, CPA recognises a series of key interrelated trends between the multitude of rights infringements, i.e. ethnonationalism, continued Government authority intervention, military expansion and the profit-making purposes of private entities.

CPA posits that each trend operates under the overarching umbrella of rising political willingness to spread an ‘ethnonationalist’ narrative, and other insidious motivations correlate with that overall agenda. The resulting harms associated with the loss of land that leads to the eradication of livelihoods, religion, culture, and environment, often go unreported in mainstream media. At the same time, the affected parties continue to demonstrate resistance to these schemes, albeit with mixed results. These issues have permeated through the use of legal structures and State agents, as mentioned in the previous chapters, who are appropriating such mechanisms to fuel ethnic and religious tensions in the Northern and Eastern regions of Sri Lanka, laying the groundwork for rising divisions that can lead to future conflicts. Disregarding its obligation to mitigate these conflicts, the State has aggravated the situation with the entrenched militarisation of the North and East and, more recently, with the permission offered to multinational corporations to extract and commodify the natural resources of these regions.

This chapter will first begin by exploring the rise of ‘ethnonationalist’ sentiments in the North and East that are being exacerbated by land conflicts and how these are driven by both State and non-state actors. Secondly, predicated on the legal structures espoused in Chapter 3 of this report, CPA expands on the numerous ways by which State agencies use institutional structures to implement these narratives in these regions. Thirdly, the report sheds light on the underlying concurrent motives forwarded through the different military proponents, and finally, the recent trend of the ‘development’ agenda is discussed, giving attention to a facet of land conflict that is often unaddressed due to the complex structures the State utilises to implement such schemes.

4.1. Ethnonationalist Narratives

‘Ethnonationalism’ has proved a daunting challenge to reconciliation and peacebuilding in the aftermath of the Civil War.⁵⁴⁶ Nations predicated on ethnonationalism require the framing of one ethnic community as superior to all others in a State, and this in turn leads to the marginalisation of all other minorities, which results in multiple rights infringements and the passing of policies

⁵⁴⁶ Michael D. Levin, ‘Introduction’ in Michael D. Levin (eds) *Ethnicity and Aboriginality: Case Studies in Ethnonationalism* (UOT Press 1993) defines ethnonationalism as an “extreme political expression of ethnicity”.

and legislation that directly affect people's ability to live.⁵⁴⁷ This story is shared by many in the North and East and has been documented by CPA over the decades including in cases such as Sampur,⁵⁴⁸ where the sudden and arbitrary nature of losing one's land, often means that ethnic minorities lose their right to practise their religion in centuries-old sacred sites, or are now unable to grow vegetation or rare cattle in their lands. This directly impacts their access to economic activity propagating poverty in the context of Sri Lanka's fragile economy. While a significant portion of the ethno-majoritarianism narrative is fuelled by those of Sinhala-Buddhist proponents, who have co-opted State authorities and played a key role in the repression of minorities in many land conflicts,⁵⁴⁹ ethnonationalism must be viewed as a diverse concept emanating from different major ethnic groups in Sri Lanka. Through the evaluation of contemporary land conflicts in the North and East, it is apparent that ethnonationalism manifests in these cases through efforts of Sinhala-Buddhisisation by State-backed entities and, conversely, the Hindu nationalist 'Hindutva' movement by local entities.

Beginning with 'Sinhala-Buddhisisation',⁵⁵⁰ the prominence provided by the State to the Sinhalese ethnicity and Buddhist religion has been well documented by various sources.⁵⁵¹ Historically, this ethno-majoritarian approach drove divisions within communities,⁵⁵² and the 26-year Civil War was the crescendo of these ethnic and religious tensions created over the decades.⁵⁵³ In the land conflicts identified in Chapter 2, CPA recognises the weaponisation of the Sinhalese ethnicity and Buddhist religion by both State and non-state actors to appropriate land from primarily underprivileged minorities.⁵⁵⁴ In the post-war context of Sri Lanka, the concern lies with the fact that ethnic tensions are once again being reignited by the State through land conflicts. CPA's research in Mayilathamadu is demonstrative of the State's role in perpetuating ethnonationalist narratives in land conflicts (refer to Chapter 2.2.1). There, through the facilitation of the then Governor of the Eastern Province, a series of Sinhala settlements were implemented within what

⁵⁴⁷ Ayesha Zuhair, 'Dynamics of Sinhala-Buddhist Ethnonationalism in Post War Sri Lanka' (April 2016) Centre for Policy Alternatives, <<https://www.cpalanka.org/wp-content/uploads/2016/04/Dynamics-of-Sinhala-Buddhist-Ethno-Nationalism-in-Post-War-Sri-Lanka.pdf>> accessed 25 January 2024.

⁵⁴⁸ Centre for Policy Alternatives (n 1).

⁵⁴⁹ Fonseka and Dissanayake (n 48).

⁵⁵⁰ Neil DeVotta, 'Sinhalese Buddhist Nationalist Ideology: Implications for Politics and Conflict Resolution in Sri Lanka' (2007), defines 'Sinhala-Buddhisisation' as a concept that "privileges Sinhala-Buddhist superordination, justifies subjugation of minorities and suggests that those belonging to other ethnoreligious communities live in Sri Lanka only due to Sinhala-Buddhist sufferance".

⁵⁵¹ Thomas K. Gugler, 'Buddhist Zion: Sri Lanka's Sinhalisation Politics toward its Muslim Minority' (January 2013); PEARL, 'State Sponsored Sinhalisation of the North-East' (March 2022) <<https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>> accessed 30 June 2024, this interprets the revival of the Buddhist culture and religion as being a "return to Sinhala".

⁵⁵² T.J. Bartholomeusz and C.R. de Silva, 'Buddhist Fundamentalism and Minority Identities in Sri Lanka' (NYU Press 1998); K.M. De Silva (1993) 'Religion and the state' in K.M. De Silva (eds), *Sri Lanka: Problems of Governance* (Center for Policy Research 1993), pp. 303-320.

⁵⁵³ A.R.M. Imtiyaz, 'Buddhism and Electoral Politics in Sri Lanka: Politicization, Tensions and Depoliticization of Buddhism' (2013) *Journal of Asian and African Studies* <https://www.researchgate.net/publication/228275661_Politicization_of_Buddhism_and_Electoral_Politics_in_Sri_Lanka> accessed 3 March 2024.

⁵⁵⁴ K.M. De Silva, 'Ethnic Conflict in Buddhist Societies: Sri Lanka, Thailand, and Burma' (LP 1988).

is now the ‘Mahaweli System B’, resulting in local Tamil communities reliant on that land for cattle farming losing their livelihoods.⁵⁵⁵ This shows the State-sponsored displacement of ethnic minorities through the inertia of law-enforcing bodies to remove illegal occupants from these settlements.

The intersection of the Sinhalese identity with the Buddhist religion is explicit in CPA’s research into the conflicts resulting from the 32 temples of Kuchchaveli (refer to Chapter 2.7.5.) where an excuse of preserving an alleged ‘national heritage’ has been utilised by the Department of Archaeology. There, the construction of 32 temples began in the Divisional Secretariat of Kuchchaveli on over 2500 acres of private land which had been forcefully acquired by the State from Tamil and Muslim communities.⁵⁵⁶ The imposition of Cheiththiyagiri Purana Raja Maha Viharaya is an undisputable example (refer to Chapter 2.7.5), whereby, an ancient Hindu Shivan temple called ‘Chembeeswarar’ was destroyed and replaced by a Buddhist temple registered for over 50 hectares of both private and public land.⁵⁵⁷ In this case, the Department of Archaeology ensured the registration of lands to build the temple, typifying the State's ethno-majoritarian agenda in these cases. Notably, the use of State agents in these various cases displays the sequenced programming by the State, to weaponise law and policy against ethnic minorities, and propagate an ethnonationalist narrative in the North and East.

However, it must also be recognised that such a process is not consistently initiated by Government actors. The agenda of Sinhala-Buddhisisation is also pursued by private persons as opposed to State proponents. This is typified by the case of Chulipuram Paralai Murugan Temple (refer to Chapter 2.3.1) where in 2022 a few Buddhist monks attempted to impose a Buddhist statue under the Bo Tree of the Hindu temple and were supported by State agencies.⁵⁵⁸ A commonality between most cases is the support offered to non-state actors by State agencies to spread a Sinhalese-Buddhist agenda at the cost of Tamil-Hindu and Muslim concerns.

Nonetheless, it must be recognised that challenges to reconciliation come from various nationalists on different sides of the divide.⁵⁵⁹ Recently, the intensification of land conflicts has been fuelled not only by the State but by a surge of extremist Hindu nationalist rhetoric in the North and East – an issue that remains alarmingly underreported. These sentiments have been fuelled by Hindutva

⁵⁵⁵ CPA interview (n 41).

⁵⁵⁶ CPA interview (n 310).

⁵⁵⁷ *N.K.S. Thiruchelvam* (n 341).

⁵⁵⁸ *Virakesari* (n 61).

⁵⁵⁹ *Zuhair* (n 547).

influence,⁵⁶⁰ whereby the formation of the Hindu ‘Siva Senai’ movement,⁵⁶¹ has amplified the worries of local communities.⁵⁶² The lead organiser of this movement, Maravanpulavu Sachchithananthan, has stated that the group intends to safeguard “*Hindu temples from encroachments by other religions*” and enable Hindus to face “*threats*” from other religions, which are sparking concern from Tamil-based parties who fear that such influence can increase tensions in an already fraught society.⁵⁶³ This also indicates a separation of this religious nationalism from an ethnic counterpart.⁵⁶⁴

In its interviews with local communities, CPA has now identified that similar Hindu nationalist rhetoric has now begun to manifest in the land conflicts espoused in Chapter 2. A key example of this is provided by Kurunthumalai Aathi Iyanar Temple in Mullaitivu (refer to Chapter 2.6.1). In this case, the land was declared as an ‘archaeological reserve’ but the historical origins were in dispute whereby Sinhala-Buddhists referred to it as “Kurundi Viharaya” whereas Hindus referred to it as “Kurunthumalai”.⁵⁶⁵ The Department of Archaeology however, began reclaiming this land from 2020 onwards and, as has been a trend in many cases, a stupa was built on this land during the pandemic lockdowns.⁵⁶⁶ This caused a rise in ethnic and religious tensions, whereby the Sinhala-Buddhist proponents were met with strong dissent from local communities, who claimed that the Buddhist monuments lying within the land revealed evidence of Hindu practice as well.⁵⁶⁷ The Hindu nationalist influence in these discussions becomes apparent through the aforementioned

⁵⁶⁰ ‘What is Hindutva and why does it matter?’ *Middle East Eye* (27 June 2024) <<https://www.middleeasteye.net/explainers/what-hindutva-india-rss-bjp-modi>> accessed 3 May 2024, this stated that the modernly growing Hindutva influence advocates for Hindu hegemony within India. It is a controversial movement that has been utilised by paramilitary groups, such as the RSS, in India whereby allegations have been levelled against such organisations for involvement in the burning of mosques and riots in India; see also ‘What is Hindutva, the ideology of India’s ruling party?’ *The Economist* (7 March 2024)

<<https://www.economist.com/the-economist-explains/2024/03/07/what-is-hindutva-the-ideology-of-indias-ruling-party>> accessed 7 May 2024; Virendra Prakash, ‘Hindutva’ Demystified’ (New Delhi VP, 2002).

⁵⁶¹ Maneshka Borham, ‘Rising Hindutva Influence: Social Media Divide in Sri Lanka’s North and East’ *Hashtag Generation* (27 March 2024) <<https://hashtaggeneration.org/rising-hindutva-influence-social-media-divide-in-sri-lankas-north-and-east/>> accessed 20 May 2024; Ama Korlage, ‘How Social Media is Fuelling Sri Lanka’s Ethnoreligious Issues’ *Groundviews* (2 May 2024)

<<https://groundviews.org/2024/05/02/how-social-media-is-fuelling-sri-lankas-ethnoreligious-issues/#:~:text=It%20is%20widely%20believed%20that,conflict%20encountered%20in%20Sri%20Lanka>> accessed 25 May 2024.

⁵⁶² Lakmal Harischandra, ‘Siva Senai’s Anti-Muslim Tirade – Buddhists & Hindus Should Be Careful’ *Colombo Telegraph* (4 June 2018)

<<https://www.colombotelegraph.com/index.php/siva-senais-anti-muslim-tirade-buddhists-hindus-should-be-careful/>> accessed 30 January 2024.

⁵⁶³ P.K. Balachandran, ‘Siva Senai’ formed in Sri Lanka to enable Hindus to face threats from other religions’ *The New Indian Express* (13 October 2016) <<https://www.newindianexpress.com/world/2016/Oct/12/siva-senai-formed-in-sri-lanka-to-enable-hindus-to-face-threats-from-other-religions-1527283.html>> accessed 30 January 2024.

⁵⁶⁴ ‘Siva Senai in Sri Lanka gets Shiva Sena Support, Colombo Worried’ *Adaderana* (14 October 2016) <<https://www.adaderana.lk/news.php?nid=37389>> accessed 30 January 2024.

⁵⁶⁵ CPA interview (n 245).

⁵⁶⁶ *Virakesari* (n 255).

⁵⁶⁷ ‘Sri Lankans are squabbling over monuments’ *The Economist* (30 November 2023)

<<https://www.economist.com/asia/2023/11/30/sri-lankans-are-squabbling-over-monuments>> accessed 20 January 2024.

‘Siva Senai’ lead organiser’s visit to the Kurunthumalai Aathi Iyanar Temple, where he held discussions with monks, laying claim to the site.⁵⁶⁸

A precarious situation begins to emerge, wherein State-backed ethnonationalism is intertwining with the extremist rhetoric of Hindu nationalists, laying the groundwork for future conflict. Although State agencies are expected to actively mitigate these potential triggers, the ethnoreligious discrimination inherent in Government interventions is exacerbating land conflicts.

4.2. Government Authority Intervention

The umbrella of ethnonationalist sentiments looms over various land conflicts, but it is apparent that these narratives are pushed by various actors, of which the primary perpetrators are State agencies. Initially, land tenure policies were the main concern where the characteristic of excessive control over land was displayed by the State.⁵⁶⁹ Today, this excessive control has extended to disputed or private lands which see conversion to ‘State’ lands through the involvement of different Government actors. This ‘eminent domain’ of the State continues to detrimentally appropriate private land to establish ethnonationalist narratives, advance military development and commodify land, all based on an alleged “public interest”.⁵⁷⁰

Today, multiple departments have participated and, in some cases, instigated land conflicts, as was explained in Chapter 2, and are capable of seamlessly acquiring land with the statutory framework in place, as was elaborated upon within Chapter 3. Across the variety of cases though, it is clear that the reasoning and methods by which these authorities extend their control over land vary. For instance, a frequent perpetrator is the Department of Archaeology, which engages in land acquisitions through usage of the Antiquities Act, as follows;

1. Firstly, the Department could claim that a specific area of land is an ‘archaeological reserve’ in accordance with Section 33 of the Act, as was demonstrated in Mullikulam Malai in Ampara (refer to Chapter 2.1.2).⁵⁷¹

⁵⁶⁸ ‘Sachidanandan visited Kurundur Hill Buddhist Vihara’ *Tamil Win* (2023)

<<https://tamilwin.com/article/maravanpulau-sachithanandam-at-kurundur-hill-1690153908>> accessed 4 August 2024 ; see also ‘An Attempt to ward off international pressure? Clandestine meeting between Buddhist monks and Shiv Sena in Kurunthumalai’ *Tamil Guardian* (18 January 2024)

<<https://www.tamilguardian.com/content/attempt-ward-international-pressure-clandestine-meeting-between-buddhist-monks-and-shiv-sena>> accessed 3 August 2024.

⁵⁶⁹ Kavindra Parange, ‘The consequences of restricting rights to land: understanding the impact of state-land tenure policies in Sri Lanka’ (2019) Taylor and Francis Online

<<https://www.tandfonline.com/doi/full/10.1080/15487733.2018.1545556>> accessed 20 May 2024.

⁵⁷⁰ Iromi Perera, Deanne Uyangoda and Ermiza Tegal , ‘The Making of a World Class City: Displacement & Land Acquisition in Colombo’ (January 2017) Centre for Policy Alternatives <<https://www.cpalanka.org/the-making-of-a-world-class-city-displacement-and-land-acquisition-in-colombo/#:~:text=1%20February%202017%2C%20Colombo%2C%20Sri,continuity%20under%20the%20yahapala%20government>> accessed 28 April 2024.

⁵⁷¹ Gazette No.1884 dated 10 October 2014.

2. Secondly, the Department may utilise the Antiquities Act to carry out excavations on any land once they have obtained a licence from the Archaeological Commissioner who may arbitrarily grant such permission, as seen in Nilavarai in Jaffna (refer to Chapter 2.3.2).⁵⁷²
3. Thirdly, the Department has even rarely occupied land under the pretence that a land survey is necessary for that land, as witnessed in Manikkamadu in Ampara (refer to Chapter 2.1.1).⁵⁷³

A point of analysis in these instances is that many State actors seem to prioritise the protection of alleged Buddhist and Sinhala culture/heritage at the expense of Hinduism and Tamil culture. The excuse of maintaining an alleged ‘national heritage’ is thus utilised to forward an ethnonationalist narrative. Illustratively, in the Vedukkunaari Hill Aathi Lingeswarar Temple case (refer to Chapter 2.8.3), the Department of Archaeology notably conducted a survey and exploration of the disputed archaeological site with the assistance of the Sri Lankan army, to conclude there was no trace of Hindu religious monuments or ruins on the site, even though it is alleged that there are relics of Hindu deities located at the base of the Hill.⁵⁷⁴ Further, in some instances, when the Department of Archaeology has declared an ‘archaeological site’, CPA has monitored private actors such as Buddhist monks occupying the declared land to place a Buddhist statue or construct a Buddhist temple. For example, at Manikkamadu in Ampara (refer to Chapter 2.1.1), Buddhist monks attempted to install a Buddhist statue, despite the site's designation as an archaeological site.⁵⁷⁵ The inaction of State mechanisms to enforce laws against Buddhist monks here underscores the disparities in legal enforcement and protection of cultural heritage between Buddhists and Hindus, raising concerns about biased State interventions.

The propagation of this ethnonationalist Sinhala-Buddhist agenda extends to the actions of the National Physical Planning Department as well, through the Town and Country Planning Ordinance. This was evident in Chapter 2 through cases such as the Sri Saththarma Yuththika Wanasesasuna, Asirikantha Purana Raja Maha Viharaya, Muhudu Maha Viharaya, etc. (refer to Chapter 2.1.3) where Hindu/Muslim lands were declared as ‘sacred areas’ under Section 6 of the Ordinance.⁵⁷⁶ Although Section 6 only refers to ‘urban development areas’ it is evident that the Government department is interchangeably applying two terms which are distinct in definition. This interchangeable application of urban development can be identified as a guise for a more sinister agenda of furthering ethnic-religious colonisation in regions where the majority population (Tamil and Muslim persons) comprises minority religions (Hinduism and Islam). The long-term endgame could be identified as the pervasive change of electoral compositions in the Northern and Eastern regions of the nation, which is ultimately beneficial to a State constituted by the ethnic majority (Sinhala-Buddhist persons).

⁵⁷² *Virakesari* (n 73).

⁵⁷³ Marikar (n 6).

⁵⁷⁴ Vanniarachy (n 417).

⁵⁷⁵ Marikar (n 6).

⁵⁷⁶ AHRC (n 376).

On the flip side, ethnoreligious motivations are imposed under different banners by other Government authorities. For example, the Department of Forests or Wildlife has been seen to impede Tamil livelihoods under the distinct guise of forest or wildlife conservation. For instance, in Thennamaravadi (refer to Chapter 2.7.5.1), a historically Tamil village, restrictions have been imposed by the Department of Forests in conjunction with the Department of Archaeology.⁵⁷⁷ Though the village is highly forested, many Tamil residents and those returning displaced persons needed to create space for their agricultural activities which constitute their livelihoods.⁵⁷⁸ Yet, they have faced threats and arrests from the Department of Forests, which denied residents their right to an adequate standard of living and their right to develop agrarian systems in a manner efficient to utilising natural resources.⁵⁷⁹ It is noteworthy that the Department of Wildlife managed to seize 125 acres of land in this region without any real impediment. Despite complaints being filed in courts and even with bodies such as the Human Rights Commission, the situation remains unresolved.⁵⁸⁰ The impunity with which State authorities operate in comparison to the victims is stark and is an indication of the unfair treatment experienced by minority communities.

During CPA's discussions with CSOs, it was revealed that many people were displaced from their lands, including agricultural areas, during the war.⁵⁸¹ In the post-war period, when people returned to their lands, they found that many of these areas had turned into forests and when attempting to clear and reclaim their lands, the Forest Department subsequently prohibited the original landowners from re-entering and utilising them.⁵⁸² To clarify these issues, CPA conducted an interview with officials of the Department of Forest Conservation. Quite importantly, these officials confirmed that in the immediate aftermath of the Civil War in 2009, many different State institutions did possess lands without adhering to due process and even engaged in the process of deforestation on the premise of 'development' projects.⁵⁸³ The Department did however deny any involvement on their part in processes of 'land grabbing' or the harm of local communities and instead, noting that since 2012, using GPS, the Department gazetted multiple forests to ensure their protection.⁵⁸⁴ The officials did confirm that discussions to release land acquired are ongoing at the instruction of the current President but the necessary processes for such release are incomplete.⁵⁸⁵

While it may be true that the primary goal of the State authorities has been to alter the narrative of the historically Hindu and Muslim regions of the North and East to one of Sinhala-Buddhism, these motivations have coupled with profit-making interests following the economic crisis in

⁵⁷⁷ *ibid.*

⁵⁷⁸ *ibid.*

⁵⁷⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, Article 11.

⁵⁸⁰ AHRC (n 376).

⁵⁸¹ CPA interview (n 508).

⁵⁸² CPA interview (n 181).

⁵⁸³ CPA interview (n 508).

⁵⁸⁴ *ibid.*

⁵⁸⁵ *ibid.*

2022.⁵⁸⁶ A route adopted by the State to remedy the crisis has been to increase foreign direct investment (FDI),⁵⁸⁷ which led to the appropriation of large plots of land to claw back a dire economic strait. What is concerning is that multinational corporations attempting to invest face no real State-imposed hurdles when investing which is necessary to prevent the risks posed to those in the surrounding areas. The ethnonationalist agenda rears its head in this instance as well because it is apparent that the lands of specifically vulnerable communities in the North are targeted by the State for this ‘development’ agenda. The State then accrues further responsibility as there has been a failure to appropriately monitor investment and safeguard existing resources.

Exemplarily, questions surrounding unsolicited bidding processes and inadequacies pertaining to the environmental impact assessment are demonstrated by the Adani Green Energy Wind Farms (refer to Chapter 2.5.1), i.e. a development program that has catastrophic impacts on bird and fish ecology, energy sovereignty and habitable lands. The ecological impacts here are those that the Central Environmental Authority is responsible for identifying, yet, it has cleared the project of having any significant harm.⁵⁸⁸ In the context of land conflicts, it is apparent that the State instigator of the Adani project was the Sri Lanka Sustainable Energy Authority which declared the land as an ‘Energy Development Area’ and although land acquisition notices were reportedly issued in June 2023 for the project,⁵⁸⁹ much of the process was shrouded in secrecy to reduce scrutiny over the hurdles that the Adani group was allowed to jump through. The questions surrounding the project even extend so far as possible criminal allegations against those approving the project.⁵⁹⁰ Although certain Government approvals remain to be obtained,⁵⁹¹ CPA has found that past experiences of subsequent intimidation by State authorities and a lack of knowledge of the process by residents in surrounding areas have allowed the project to be green-lit without significant community protest.⁵⁹² In the effort to spur macro-economic growth, socially vulnerable

⁵⁸⁶ ‘Economic conditions in debt-stricken Sri Lanka improving, IMF says’ *Al Jazeera* (22 March 2024) <<https://www.aljazeera.com/economy/2024/3/22/economic-conditions-in-debt-stricken-sri-lanka-improving-imf-says#:~:text=The%20Indian%20Ocean%20island%20nation,a%20bailout%20package%20last%20year>> accessed 24 May 2024.

⁵⁸⁷ ‘Govt. confident of attracting USD 2.3 by end of 2023’ *The Island* (18 December 2023) <<https://island.lk/govt-confident-of-attracting-usd-2-3-by-end-of-2023/>> accessed 20 May 2024; ‘Sri Lanka strongly expects to sign up US\$3.0 FDI in 2024, with China refinery’ *Economy Next* (12 May 2024) <<https://economynext.com/sri-lanka-strongly-expects-to-sign-up-us3-0-fdi-in-2024-with-china-refinery-162667/>> accessed 20 May 2024.

⁵⁸⁸ ‘EIA green light for Adani wind power plants’ *The Sunday Times* (12 March 2023) <<https://www.sundaytimes.lk/230312/news/eia-green-light-for-adani-wind-power-plants-514506.html>> accessed 26 January 2024.

⁵⁸⁹ Vibuda Wijebandara, ‘Concerns raised over Adani Group’s engagement in wind power project’ *Centre for Environmental Justice* (10 February 2023) <<https://news.ejustice.lk/concerns-raised-over-adani-groups-engagement-in-wind-power-project/>> accessed 9 April 2024.

⁵⁹⁰ ‘Adani power project in SL: SJB accuses of financial fraud’ *Newswire* (27 June 2024) <<https://www.newswire.lk/2024/06/27/adani-power-project-in-sl-sjb-accuses-of-financial-fraud/>> accessed 24 July 2024.

⁵⁹¹ Wijedasa (n 170).

⁵⁹² CPA interview (n 145).

persons and communities have been harmed, and the State is responsible for enabling such consequences.

The pursuit of monetary interest is also apparent through the State departments and military intervention of the tourism and agriculture industry in the North and East, where lands around the President's House in Jaffna were utilised for tourism development projects (refer to Chapter 2.3.5).⁵⁹³ This case shows how the repeated complicity of State authorities in arbitrary land acquisitions is for-profit and illustrates how the police and military are used as tools of enforcement.

Additionally, the inability of Provincial Councils in the North and East to impede the process has been made clear. Although the 13th amendment to the 1978 Constitution of Sri Lanka aims to devolve powers over land to the Provincial Councils, in practice these powers have been constrained by Central Government oversight of Provincial Council activity. With the undermining district system (refer to Chapter 3.11) adding to the problem, zoning disputes are resolved with the Central Government's ethnonationalist interests in mind as opposed to the vulnerable local communities unable to rely on their local Council. The full implementation of the 13th amendment to the Constitution is imperative in this context and powers over land would need to be devolved across the Provinces through a Land Commission to adequately deal with these land conflicts. Whether such legislative action is forthcoming is questionable.

Overall, the tools of arbitrary statutes, military personnel and law-enforcing bodies are effectively utilised by State authorities to acquire lands in the pursuance of a predominantly ethnoreligious objective, with monetary interests infrequently being involved. When the broader picture is viewed, the aftermath of State actions is the continued push of minority communities to the fringes of society, which - while harming the lives of many innocents - breeds ethnic and religious extremism in Tamil-Hindu and Muslim communities. Consequently, in contemporary land conflicts, the modern State continues to repeat the mistakes of past regimes. How the continued presence of the Tri-forces in these regions exacerbates these mistakes will be analysed next.

4.3. Militarisation

The mindset of maintaining a militarised state in the North and East, despite 15 years after the end of the Civil War, impedes Sri Lanka's ability to transition to a post-conflict context. As recognised in previous CPA publications,⁵⁹⁴ the Tri-forces have seen consistent involvement in cases of land conflict across the North and East, this involvement occurring in two frequently interrelated ways; first, the State acquires land on behalf of the military under the guise of 'national security' and second, the military acts in a supporting role on behalf of Sinhala-Buddhist nationalists, particularly in pursuance of an idea of 'national heritage'.

⁵⁹³ *BBC News Tamil* (n 114).

⁵⁹⁴ Fonseka and Dissanayake (n 48); see also Fonseka and Jegatheeswaran (n 49).

Principally, it must be recognised that the trend towards ‘militarisation’, with a specifically Sinhala-Buddhist tenor, in the North and East was amplified during the Civil War,⁵⁹⁵ through which the military created a series of HSZs, built different military headquarters and imposed multiple checkpoints at various locations.⁵⁹⁶ The mentality of a militarised State persists with the continued occupation of private lands by the Sri Lankan navy, airforce and army, and on occasion with the assistance of the police in the North and East. This has resulted in the mass displacement of an already underdeveloped and underprivileged section of Sri Lankan society, exacerbating an already tense ethno-religious situation.⁵⁹⁷ A clear depiction of these concerns is provided by the aforementioned case of Sampur, where State-sponsored actions to restrict people’s access to their properties were challenged by local communities.⁵⁹⁸ This case shows how the concept of ‘national security’ is used as a pretext to continue the exile of communities that have been living in displacement camps 15 years after the end of the war. With State and military reluctance to release this occupied land, the transition of Sri Lanka from a ‘post-war’ State to a ‘post-conflict’ State is made difficult.

As demonstrated in Chapter 2 of this report, the land occupied by the military could encompass large swathes of land that cover different administrative divisions but could even include smaller portions of land that only include a farm. For example, Andiya Puliyankulam in Vavuniya (refer to Chapter 2.8.1) illustrates these concerns, whereby 160 acres of originally agricultural land, now comprises multiple navy camps.⁵⁹⁹ Similarly in the case of Mullikulam in Mannar (refer to Chapter 2.5.2), the Naval Headquarters named ‘SLNS Bharana’ was built on contested land, although the land was originally used by local communities for cultivation purposes.⁶⁰⁰ Although the military has conceded to the demands of the local communities and released some lands, the occupation continues.

In these cases, there is an apparent mismatch in how the land acquisition legal process is followed. CPA’s research demonstrates a different reality from the acquisition process stated in the statutes, where the legal owners of the land are often not informed of acquisition efforts or find out through

⁵⁹⁵ K.M. De Silva, ‘Sri Lanka: Political-Military Relations’ (November 2001) <https://www.clingendael.org/sites/default/files/pdfs/20011100_cru_working_paper_3.pdf> accessed 24 January 2024; see also Daniel W. Kent, ‘Onward Buddhist Soldiers: The Sri Lankan Civil War through the Eyes of Buddhist Military Personnel’ (2005) International Conference on Sri Lanka Studies <<http://repository.kln.ac.lk/handle/123456789/5777>> accessed 25 June 2024.

⁵⁹⁶ Oakland Institute, ‘*The Long Shadow of War*’ (2015), alleges that as of 2020 there is one military personnel for every six citizens in the North and East.

⁵⁹⁷ ‘Why Can’t We Go Home?’ (9 October 2018) Human Rights Watch <<https://www.hrw.org/report/2018/10/09/why-cant-we-go-home/military-occupation-land-sri-lanka>> accessed 3 June 2024, reported that 40,000 persons remained displaced in the wake of the war, consisting largely of persons from Jaffna.

⁵⁹⁸ Centre for Policy Alternatives (n 1).

⁵⁹⁹ Seelan (n 395).

⁶⁰⁰ Fernando (n 171).

an ad-hoc manner of such acquisitions.⁶⁰¹ Even more problematically, where the military has made assurances of land releases, the victims have returned to their homes to only find their land still occupied by the security forces or only partially released.⁶⁰² The situation is then made more difficult by the fact that many displaced persons lack the land documentation necessary to dispute the militarisation.⁶⁰³ In these circumstances, the only workable recourse the victims have had are protests to deter the arbitrary land acquisition procedure. This was manifest in the case of Mandaitivu in Jaffna (refer to Chapter 2.3.3) where land surveying before establishing the Naval Headquarters was abandoned due to protests from landowners, social activists, and political parties.⁶⁰⁴

The key question in this context is ‘why?’ The pursuit of land acquisitions in the interests of military expansion seems to occur for numerous reasons. Nonetheless, as elucidated in Chapter 4.1.1, grave concern lies with Sinhala-Buddhisisation whereby the military seems to actively act as the enforcement arm of the State popularisation of an ethnic and religious narrative.⁶⁰⁵ In these cases, CPA observes that ‘national heritage’ is prioritised over ‘national security’.⁶⁰⁶ As mentioned above, the military itself maintains a Sinhala-Buddhist ethos, a simple exemplification being that of Tissa Maharama Thaiyiddi in Jaffna (refer to Chapter 2.3.6), where a Buddhist temple was built in a HSZ based on private land belonging to Tamil landowners and in an area that is predominantly comprising Tamil communities.⁶⁰⁷ This priority offered to Sinhala-Buddhism then extends to the support of nationalist proponents. A pertinent case study is provided in the Nilavarai case in Jaffna (refer to Chapter 2.3.2), where the Department of Archaeology began forming a foundation at an excavation site with military assistance, while a Buddhist statue was later erected on that site allegedly by the army.⁶⁰⁸ Additionally, a more recent example is provided by Vedukkunaari Aathi Lingeswarar Temple where in February 2024 Buddhist monks travelled with army personnel

⁶⁰¹ Bhavani Fonseka, ‘Legal and Policy Implications of Recent Land Acquisitions, Evictions and Related Issues in Sri Lanka’ (17 November 2014) Centre for Policy Alternatives <<https://www.cpalanka.org/legal-and-policy-implications-of-recent-land-acquisitions-evictions-and-related-issues-in-sri-lanka/>> accessed 15 July 2024.

⁶⁰² Fernando (n 171); see also S.Rubatheesan, ‘Nearly one year on, these resettled families still groping in the dark’ *The Sunday Times* (21 July 2024) <<https://www.sundaytimes.lk/240721/news/nearly-one-year-on-these-resettled-families-still-groping-in-the-dark-564605.html>> accessed 25 July 2024.

⁶⁰³ Fonseka (n 601).

⁶⁰⁴ *Virakesari* (n 87).

⁶⁰⁵ M.Rasaratnam, *Tamils and the Nation: India and Sri Lanka Compared* (Hurst and Co. 2016), identifies the changing persona of the military over time through the naming of different military units after Sinhalese kings, the integration of Buddhist rituals into everyday-military life and the close relationship developed between the military and the Buddhist clergy.

⁶⁰⁶ B.Blodgett, *Sri Lanka's Military: The Search for a Mission* (Aventine Press 2004), recognises a recruitment policy in the military of only Sinhala-Buddhists from 1962 onwards; see also D.L. Horowitz, ‘Coups Theories and Officers Motives: Sri Lanka in Comparative Perspective’ (PUP 2014), the proportion of Tamil persons in the military and police plummeted from 40% in 1956 to a meagre 4% by 1980.

⁶⁰⁷ CPA interview (n 118).

⁶⁰⁸ *Virakesari* (n 73).

assistance to a Shivan temple and, despite denials from the temple management, claimed the land as being significant to Buddhist heritage.⁶⁰⁹

Meanwhile, this military expansion has also concurrently occurred at the cost of the economic development of local communities in the North and East. Of note is the fact that the military has entrenched itself within the daily activities of civilian life, particularly in the areas of tourism and agriculture. In these instances, land acquisitions have occurred for profit under the guise of ‘national security’ in the North and East and thus, the military has been able to drown out Tamil-Hindu and Muslim narratives in the regions. A possible reason for this military growth is what Venugopal has termed ‘military fiscalism’, whereby the high salaries and benefits available to military personnel have resulted in a counterintuitive rise in military recruitment of persons,⁶¹⁰ which in turn has led to greater encroachment of different aspects of civilian life.⁶¹¹ Thus, commercial gain through military land acquisitions is also a concern. An example in this regard is the previously discussed President’s House in Jaffna (refer to Chapter 2.3.5).⁶¹² Conversely, regarding agriculture, the aforementioned case of Andiya Puliyankulam in Vavuniya (refer to Chapter 2.8.1) exemplifies the imposition of military camps across agricultural land.⁶¹³

The harms surrounding such military endeavours are various, where in addition to the displacement of communities in the region, there is a loss of transparency surrounding military expenses and profits which consequently undermines their administrative mandate.⁶¹⁴ Furthermore, the monopolisation of the tourism industry by the military in the North and East has ensured that there is no room given for localised socio-economic development.⁶¹⁵ Though commitments have been made by the State to reduce the commercialisation of military activity,⁶¹⁶ the implementation of measures has been scarce. The palpable reason is the ‘garrison society’ apparent here,⁶¹⁷ whereby the State’s dominant ethno-religious and economic goals continue to be complemented by the military’s goals of national security, national heritage and fiscalism.⁶¹⁸ This trend of fiscal interests intersecting with the overall narrative of ethno-majoritarianism continues where private corporations see involvement, as will be explored in the following section.

⁶⁰⁹ *Tamil Win* (n 432).

⁶¹⁰ ‘Overview’ (*The World Bank*) <<https://www.worldbank.org/en/country/srilanka/overview>> accessed 24 January 2024, reported that the number of Sri Lankan armed forces personnel grew from 223,100 in 2009 to 317,000 in 2017.

⁶¹¹ R. Venugopal, ‘The Politics of Market Reform at a Time of Civil War: Military Fiscalism in Sri Lanka’ (2011) *Economic and Political Weekly* (49) 67-75 <<https://www.jstor.org/stable/41319460>> accessed 24 January 2024.

⁶¹² *Tamil Guardian* (n 104).

⁶¹³ CPA interview (n 396).

⁶¹⁴ Human Rights Watch (n 597).

⁶¹⁵ PEARL (n 551).

⁶¹⁶ ‘Sri Lanka aims to demilitarise island by 2018’ *AFP* (6 July 2016) <<https://www.straitstimes.com/asia/south-asia/sri-lanka-aims-to-demilitarise-island-by-2018>> accessed 31 January 2024.

⁶¹⁷ Øivind Fuglerud, *Militarisation and Impunity in Sri Lanka* (Routledge Handbook 2021), a ‘garrison society’ is one in which dominant institutions holding military, economic and political power have found their goals and interests to be complementary and have intertwined for the benefit of the ruling class.

⁶¹⁸ *ibid.*

4.4. Private Entity Monetary Interest

A more recent trend identified in CPA's research is the collaboration between the State and private corporations in natural resource extraction and commodification. In such cases, land is converted into a market tool which propagates grave environmental damage and the violation of human rights. Natural resources being exploited through private lands, while already limiting the access of local communities to resources and their livelihoods, can also exacerbate economic inequalities by placing the burden of environmental pressures on the communities living in surrounding areas. In the context of a nation in economic turmoil, these newer schemes prioritise financial gain over the human rights of underprivileged persons in the name of 'development'. The frequent perpetrators tend to be multinational corporations that capitalise on existing gaps in the legal framework of Sri Lanka. At the same time, a compliant Sri Lankan Government welcomes this FDI and redirects these harmful investments into regions that continue to witness conflicts. This serves to feed into the ethnonationalist State agenda, whereby underprivileged communities continue to be weakened through the harms propagated by profit-driven corporations.

An illustrative report of these harms is presented by the sand-mining projects of the Australian company Titanium Sands Limited in Mannar (refer to Chapter 2.5.4). In this case, the private corporation has reportedly acquired 296 acres in Mannar Island for sand mining, raising multiple concerns.⁶¹⁹ First, relating to land conflicts itself, concerns exist here regarding the process where Titanium Sands has been capable of acquiring land from any person who has created a 'declaration deed' which claims ownership over any disputed land.⁶²⁰ Though uncertainty surrounds the history of the land, a private entity can exploit the loopholes in the land acquisition system to utilise the land for profit. What results are circumstances such as that of a resident of Olaitthoduvai who lost 35 acres of Palmyrah land to surrounding landlords who annexed the property and began natural resource extraction.⁶²¹ The tactics adopted by the corporation to acquire these lands can also be called into question, whereby in CPA's research, local communities alleged that persons have caused intentional flooding to force residents to evacuate and have even enlisted the assistance of the police to intimidate those who dissent.⁶²² The victims of these deceptive tactics see their right to adequate housing, food, water and health all impugned.

The consequent environmental damage by multinationals once the land has been acquired can also be viewed as an emerging trend. For example, in the case of sand mining in Mannar, local

⁶¹⁹ Mimi Alphonsus and S.Rubatheesan, 'Australian company's multi billion sand mining project mired in Mannar protests' *The Sunday Times* (16 June 2024) <<https://www.sundaytimes.lk/240616/news/australian-companys-multibillion-sandmining-project-mired-in-mannar-protests-560380.html>> accessed 3 May 2024.

⁶²⁰ *ibid.*

⁶²¹ *ibid.*

⁶²² 'Landlocked Part II: A Visual Narrative of Some of the Land Conflicts in Northern and Eastern Provinces in Sri Lanka' (*Centre for Policy Alternatives*, 13 May 2024) <https://new.express.adobe.com/webpage/luo0aAcCdNfFZ?fbclid=PAZXh0bgNhZW0CMTEAAaYpcCnoWB0LwXjJuCEeoucDGv89XoY9oDwu9cH5L0CSKAEShCS4hR-hPAs_aem_AWAIVcYemjByyFW_VnjhmQMj57zC2ST4ODQz72BDzGSo_KS-7hJyTf-ox9lf7T_ouUmzKZ_uNY10MjFloekf3> accessed 3 May 2024.

communities have pointed out that such activities would lead to saltwater contamination, the flooding of the island and the subsequent destruction of the existing soil.⁶²³ The risks of residents losing their livelihoods and even facing displacement due to profit-making purposes increase daily and the Geological Survey and Mines Bureau of Sri Lanka has permitted such circumstances by bequeathing the corporation with a mining licence.⁶²⁴ The corporation has predictably attempted to conceal these harms, an example being a Titanium Sands commissioned consultant, who claimed that there would be "no saltwater intrusion" and even assured landowners that they would replant any vegetation the landowner preferred once the project was completed.⁶²⁵ Yet, the physical evidence points to probable loss of land and further, no effective legal mechanisms are in place to ensure that the corporation upholds its promises.

These problems share similarities with Adani Green Energy's Wind Power Project (refer to Chapters 2.5.1 and 4.1.2), whereby discussions conducted by CPA with local communities and CSOs in the area revealed major concerns. This included the imposition of wind turbines risking great damage to bird migratory patterns, although an Adani spokesperson has defended this by noting that the SLSEA has conducted a Birds and Bats study and that new high-tech radar systems would be placed to accord with ecological standards.⁶²⁶ Allegedly, these systems would detect incoming flocks of birds and immediately shut down the turbines during ornithological periods of high risk.⁶²⁷ However, no designs for these systems have been made available to date. The non-specificity of the project details, the emphasis on the attributes while ignoring the negative externalities, and the lack of credible environmental protection plans indicate the 'greenwashing' of Mannar's development projects.⁶²⁸

Certainly, such projects would not be possible without the willingness of State institutions to approve projects and the recognisable inadequacies in the statutory framework that allow flagrant disregard of what is in the best interests of the public. So far, the only successful deterrent to these FDI's are the active protests of the local communities and the public. This was evidenced by the Central Environmental Authority's inability to conduct an EIA assessment in Mannar regarding the sand mining project due to residents' strong opposition to the project.⁶²⁹ Ultimately though, relying on the public to consistently and actively dissent against the State's expanding and

⁶²³ CPA interview (n 145).

⁶²⁴ Alphonsus and Rubatheesan (n 619).

⁶²⁵ *ibid.*

⁶²⁶ 'Indian Adani Group says "vicious campaign" against its Sri Lanka wind project' *Economy Next* (21 March 2024) <[Indian Adani Group says "vicious campaign" against its Sri Lanka wind project | EconomyNext](#)> accessed 3 May 2024.

⁶²⁷ *The Sunday Times* (n 168).

⁶²⁸ 'Greenwashing – the deceptive tactics behind environmental claims' *United Nations Climate Action* <<https://www.un.org/en/climatechange/science/climate-issues/greenwashing#:~:text=Being%20purposely%20vague%20or%20non,and%20can%20be%20easily%20misinterpreted>> accessed 6 May 2024.

⁶²⁹ Alphonsus and Rubatheesan (n 619).

dangerous ‘development’ agenda targeted towards lands in the North and East of Sri Lanka is unsustainable. What is necessary is a legal and policy shift from the State en masse. The following section addresses some of the next possible steps.

5. The Way Forward

5.1. Recommendations

On the whole, the interrelated trends of land conflicts revealed by this report demonstrate a wide range of legal and policy concerns where land conflicts occur. Followingly, this section provides a broad series of policy recommendations for State authorities and other actors to combat State-sponsored colonisation schemes, eliminate the perpetuated ethnic and religious divisions in land conflicts entrenched by military actors and provide greater checks and balances to the implementation of the recent ‘development’ agenda. The following include wide concerns CPA has highlighted in past reports, as well as recommendations to combat newer rising trends:

1. Good Governance

Based upon the wide variety of cases and statutes analysed, the procedures behind land acquisitions for various purposes need to be reformulated to enhance transparency and accountability, whereby the State must acknowledge the context of contemporary Sri Lanka which is still in the aftermath of the Civil War and a governance crisis. As previously highlighted, certain land acquisitions tend to be shrouded in secrecy, with limited information regarding the reasoning, legal process and subsequent impacts of the acquisition ever reaching the public. The State must address this lack of clarity in acquisitions by being more open regarding the “public purpose” they acquire lands for and by divulging the methods by which people work at a district and divisional level to identify lands for potential acquisition. Dually, those Government agents who act ultra vires in the land acquisition process must be made accountable.

The issue of transparency is particularly stark where militarised lands are concerned. CPA interviews with local communities noted that the stakeholders would prefer a publicly accessible online database created by the State which clearly identifies the lands currently occupied by the Tri-Forces in the North and East under the premise of ‘national security’ and which extent of land have and will be released to its rightful owners.

Additionally, the recent spate of ‘development’ projects emulates this governance concern, whereby the environmental impacts of imposing wind energy farms or projects of sand mining have been subject to minimal scrutiny by State authorities. The lack of information publicly available regarding the procurement process behind such projects must also be addressed for any future ‘development’ projects. These issues intersect with newer land grant schemes, such as the Urumaya Programme which also comprises limited information in the public sphere. The long-term impacts of such projects become difficult to assess, while the harms they propagate go unreported. Thus, future acquisitions propagated by both State and non-state actors need to be subject to greater expert and public consultations prior to commencing the acquisition process.

In furthering good governance, issues of accessibility must also be tackled. In many arbitrary land acquisitions, the parties whose land is being acquired are provided with insufficient notice and in some instances, language has proven to be a barrier to communication between the land-acquiring

State and those at grassroots levels being impacted by the acquisitions. The State must thus ensure that information regarding land acquisitions, such as notices before acquisition, are clearly displayed and made available to the affected communities in all three languages. Though most statutes already require such notice, its implementation in practice is scarce.

2. Addressing Conflict Triggers

As highlighted in Chapter 4.1, land conflicts propagated by both State and non-state actors are driving ethno-religious tensions between various communities, particularly from extreme nationalist proponents. These potential triggers for future conflicts must be addressed by the State. The first aspect of avoiding conflict in this regard is resolving conflicts over lands whose religious history is in dispute and concerns of ‘national heritage’ intertwine. In these instances, the various Government departments’ clear policy prioritisation of Sinhala-Buddhist heritage at the expense of minorities’ culture and religion must come under immediate review. The second aspect is for the State to undertake more cohesive peacebuilding measures, such as transitional justice-specific outreach campaigns, to address rising Hindu nationalist rhetoric in the North and East of Sri Lanka.

3. Law Reform

As explored in Chapter 3, it is apparent that there exist multiple gaps within the legal framework relating to land acquisitions and conflicts. The first key change necessary in this regard is in relation to the 13th Amendment to the 1978 Constitution and the Provincial Council’s powers. Notably, land administration continues to be maintained by the Central Government with no real devolution of powers over land to representatives of Provincial Councils. As identified in previous CPA reports, to resolve the multitude of land conflicts across the North and East, there should be full implementation of the 13th amendment to the 1978 Constitution and greater independence must be delegated to Provincial Councils. It follows that land-related policy would be formulated by a National Land Commission composed of representatives of these Provincial Councils as set out within the 13th amendment. This would provide Provincial Land Commissioners with a meaningful role in ameliorating land conflicts, instead of their ability to deal with land being circumvented by the Land Commissioner General and the broader Central Government agenda.

Other wide-ranging statutes, such as the Land Acquisition Act, require reform to offer greater definitions to arbitrary language such as “public purpose”, “urgency”, etc. These amendments must be coupled with provisions created to foster greater expert and public consultation prior to acquiring land. Finally, where competing claims exist, these statutes could potentially implement and expand mediation boards across the districts to resolve those disputes.

4. Reparations and Land Restitution

In the interests of transitional justice, the series of problematic land acquisitions initiated by State proponents (including Government departments and the military) with a lack of notice, compensation or alternative lands entitle the displaced victims to compensation. Pointedly, it is the State's responsibility to provide for a comprehensive reparations package, both individual and collective, for those negatively impacted by the spate of land acquisitions.⁶³⁰ In order to identify those affected by these land conflicts, the State would need to create a land registry with clear criteria as to who would qualify to be entitled to the compensation package stated therein.

Further, it can be said that restitution of the land unjustly acquired is a part of this reparations process, whereby the re-vesting of the land in its rightful owners would restore their residence, their religions and their livelihoods.⁶³¹ The grave challenge to implementing the restitution of lands is the political resistance imposed by attaching ethnic tensions and economic concerns related to that land.⁶³²

5.2. Conclusion

The report highlights multiple challenges in relation to land confronting local communities in the North and East. The research examines a series of cases around land conflict and the role of the State and other actors with land appropriation in the name of 'national heritage', 'development' and other issues. Furthermore, the report explains the growing role of non-state actors, particularly the role of the Buddhist clergy and private corporations. Moreover, the report expresses concern over the limited hurdles and regulations imposed on private actors that are appropriating private property belonging to local communities for development, which is causing permanent damage to livelihood and the environment and are harming people's quality of life.

Fifteen years after the war, the numerous challenges confronting local communities in the context of heightened ethnonationalism and militarisation speak to Sri Lanka's fragile peace. In this regard, and as the research attests, land continues to be a trigger for conflict with urgent attention required from all stakeholders. The inability or unwillingness to address these trends and bring sustainable solutions will exacerbate conflict and further impede Sri Lanka's efforts at rebuilding and reconciliation.

⁶³⁰ Bhavani Fonseka, Luwie Ganeshathasan and Marjorie Tenchavez, 'Land Occupation In The Northern Province: A Commentary On Ground Realities And Recommendations For Reform' (March 2016) <<https://www.cpalanka.org/land-occupation-in-the-northern-province-a-commentary-on-ground-realities-and-recommendations-for-reform/>> accessed 27 June 2024.

⁶³¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Humanitarian Law (adopted 15 December 2005) UNGA Res 60/147, see <<https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>> accessed 28 July 2024.

⁶³² Fonseka, Ganeshathasan and Tenchavez (n 630).

