

# LANDMARKS IN LANKA'S

by  
O.C. Jayawardana

Within four years of occupation of the maritime provinces, the British in 1800, established the Survey Department of Ceylon to undertake systematic land surveying. The objective was to assess the land resource potential of the occupied territory and also to facilitate the collection of land revenue.

The entire Island came under British rule with the signing of the Kandyan Convention in 1815, which provided for the continuity of certain traditions and customs that prevailed under the Sinhala Kings. The real consolidation of British power began with the Proclamation of 1818 following the Great National Rebellion. This uprising created a sense of insecurity among the rulers, and they decided to open up the central provinces which harboured the liberation fighters skilled in guerilla warfare. It is this background that led to the formulation of the colonial land policy which finally received statutory backing through the notorious Crown Lands Encroachments Ordinance of 1840. This devastating piece of legislation is in marked contrast with the liberalism of the Kandyan Convention. Section 7 of this Ordinance declared that "all forest, waste, unoccupied or uncultivated land shall be presumed to be the property of the Crown until the contrary thereof be proved, and all chenas and other lands which can be cultivated after intervals of several years shall, if the same be situate within the districts formerly comprised in the Kandyan provinces, be deemed to belong to the Crown and not the property of any private person claiming same against the Crown."

The real reason that prompted the Colonial regime to introduce this law was to destroy the rural economy of the liberation fighters of the

Kandyan and Wellassa provinces, who owned and cultivated land on the basis of customary tenure and practices, and to superimpose a system of plantation agriculture and a system of land tenure unknown to the natives. That was how the Colonial rulers transformed the great national rebels, of the land of one hundred thousand paddy fields (Wellassa), who dared to challenge their authority within three years of its imposition, to untold misery and poverty.

## CUSTOMARY OWNERSHIP

The Waste Lands Ordinance No. 1 of 1897 further consolidated the presumptions in favour of the Crown with regard to land held by the peasantry. Section 24 of this Ordinance declared that,

"The occupation by any person of one or more portions or parcels of land shall not be taken as creating a presumption of ownership against the Crown in his favour for any greater extent of land than that actually occupied by him."

The 'settlements' proceeded under the provisions of this Ordinance, driving like a steam-roller over the rights of customary ownership, deprived the peasant of his ancestral holdings, and paved the way to transfer with an unimpeachable Crown title, their land to capitalists, both foreign and native. Without stop-

ping at that they imported Tamil labour from South India, and planted them on the Estates, thus creating an obstacle against rectification of this great injustice. The British cannot compensate for their crimes against the Kandyan peasantry even by building a thousand "Victoria reservoirs."

The consequences of the colonial land policy, particularly landlessness and agrarian poverty began to surface by the turn of the century. By then the English educated elite, and the more liberal minded British Governors like Sir Hugh Clifford and perspicacious civil servants like C.V. Brayne, began to give expression to the ideology of preservation of the peasantry. It is their vision that led to the establishment of the First Land Commission of 1927, which in turn reoriented the land policy towards the redistribution of Crown land among the original inhabitants of the Island. The Land Development Ordinance of 1935 gave legal recognition to this policy.

An institutional process for systematic alienation of land at the disposal of the Crown, for different uses was created by the Land Development Ordinance. The process of 'mapping out' introduced by this Ordinance provided for taking the socio-economic factors into consideration in allocating Crown land for

# LAND POLICY

different uses. However, there was no emphasis on scientific evaluation of land capability. It also introduced the concept of the economic unit and safeguards against fragmentation of land below the accepted unit of subdivision, and also a system of unitary succession for land holdings alienated under Ordinance.

A considerable extent of land had been alienated to landless peasants under the Land Development Ordinance, and upto now this remarkable piece of legislation remains the main statute under which land alienation is carried out by the Government. However, the total extent thus alienated is much less than the extent of land sold to capitalists during the plantation era.

While the land ownership status of land alienated by the State are clear and well founded by statutory provisions, there was much uncertainty regarding ownership and security of tenure in rural private sector small holdings. The Paddy Lands Act of 1958 ensured the security of tenure of tenancy. For the first time in the history of land policy in Sri Lanka, the Paddy Lands Act deviated from the Roman Dutch Law concept of ownership, which is the "right to possess, dispossess and destroy," and introduced the socialist concept of ownership to viz., the right to utilize the land for the benefit of society.

Prior to 1970 the emphasis was on the alienation and development

of new land through state aided land settlement schemes. After 1970 the United Front Government of the S.L.F.P., L.S.S.P and the C.P. embarked on a Land Reform Programme. Under the Land Reform Laws of 1972 and 1975 large extents of tea, rubber and coconut plantations were nationalized and private ownership of land was subjected to a ceiling. The Ceiling on Housing Property Law No. 1 of 1973 imposed a similar ceiling on the ownership of housing properties, and prohibited the construction of houses exceeding a floor area of 2,000 sq. feet.

## PROVINCIAL COUNCILS

Eventhough, tea, rubber and coconut lands were nationalized, the then Government was not ready with a plan to transfer the ownership of these properties to the people. The adhoc alienations and co-operatives farms started by the Janawasa Commission proved to be failures due to several reasons.

After the change of government in 1977, the land reform programme was not persued. Once again the emphasis shifted to irrigated land settlement schemes, through large scale investment heavily backed by foreign aid. While this programme has included a mix of large, medium and small scale irrigation and land development projects, the prime one is the Accelerated Mahaweli Development Programme. Others include Kiridi Oya, Inginimitiya, Muthukandiya and Nilwala Ganga Projects.

The establishment of the Land Use Policy Planning Division within the Ministry of Lands and Land Development in 1979 is another

In Sri Lanka the Land Question is emotive, recalling the injustices that occurred during the colonial period. The Land Commissions and attempts at Land Reform arise from the desire to rectify the injustices of the past. Mr. Jayawardane, Senior Assistant Secretary, Ministry of Lands Irrigation & Mahaweli Development and Project Coordinator Land Use Planning Project explores and explains the landmarks in Land Policy.

important Landmark in Sri Lanka's land policy. The on going programmes in land use planning represent a major investment by Government, brought about by the need for comprehensive system of land use planning and land management to achieve the aims of developing the rural economy. The Presidential Land Commission - 1985 to 1987, has recommended several important policy measures, for a more rational use of land resources, to increase productivity and to achieve sustainable development goals.

The 13th Amendment to the constitution of Sri Lanka has introduced a very significant feature with regard to the policy formulation process on land use. A National Land Commission will be responsible for the formulation of national policy with regard to the use of state land. The Commission will include representatives of all Provincial Councils in the Island. It is also new enshrined in the Constitution that "National policy on land use will be based on technical aspects (not political or communal aspects) and the Commission will lay down general norms in regard to the use of land, having regard to the use of land, having regard to soil, climate, rainfall soil erosion, forest cover environmental factors, economic viability etc."