Forced evictions in Colombo: The ugly price of beautification

CENTRE FOR POLICY ALTERNATIVES

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Acknowledgements

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Cover photograph by Megara Tegal - Slave Island residents after the demolition of their homes, February 2014.
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Preface

This report arises from serious concerns with regard to the forced evictions in the city of Colombo. In particular, the involvement of the military controlled Urban Development Authority (UDA) in forced evictions, the modalities of which are similar to those employed in the North and East, and the scale which, according to some estimates, could even dwarf displacement in Northern Sri Lanka during the final two years of the war.

A core argument of this report is that viewing the forced evictions in Colombo as part of a development project only serves to hide the enormous social, public and human costs. This report, therefore, questions both the ostensible goals and purpose underlying Colombo’s urban regeneration project (in Part I) as well as the means and processes employed by the UDA and the Government of Sri Lanka to realise them, in particular those pertaining to land acquisition and involuntary resettlement (in Part II).

The Centre for Policy Alternatives (CPA) believes that in the process, a range of existing domestic legal and policy safeguards and standards are being flouted with impunity. The report underlines that respect for domestic and internationally recognised standards is crucial to both prevent and minimise forced evictions and ensure that any resettlement results in a significant accretion rather than erosion of civil, economic, political and social rights.

This report anchors its analysis of the on-going and impending forced evictions in Colombo in terms of not just the military but also the free market orientation of the Rajapaksa administration. Underlying Colombo’s urban transformation is the politics of urban land markets, the power of domestic, regional and international real estate finance and capital and the role and influence of bilateral and multilateral development lending mechanisms. The urban regeneration drive, the slogans of a “slum-free” (but not poverty-free) and “beautiful” (but not inclusive) Colombo, and the forced evictions are all inextricably tied into the political economy of land in the city.

This document is far from being exhaustive or ‘complete’. This is because information in the public domain is limited, or rather has been deliberately kept-so, the number of people affected vast, the legal and regulatory context complex, and most of all because field work was limited not only by time and
capacity but also by the fear, inhibition, and suspicion spawned in affected communities by the UDA's apparatus. Nevertheless, drawing from interviews with affected citizens from across different parts of the city and short case studies of the experience of three different communities, the report outlines the major issues and concerns with respect to the forced evictions in Colombo.

The report, therefore, is also a provocation, and a call to academics, researchers, civil society and human rights organisations, all political parties, and the media to turn the spotlight on the forced evictions as well as the implications of the political, economic, legal, and institutional machinery that is driving them.

The importance of ends and means in development cannot be gainsaid. In the context of the forced evictions and involuntary resettlement in Colombo, CPA cautions against narrowly consequentialist assessments that highlight how some individuals and families are satisfied with the terms of their resettlement and relocation. While this may well be true, there is a distinct danger in such individuated, ‘tabloidised’ and fragmented assessments.¹ What is at stake here is democracy, social justice, the rule of law, and Constitutionally and internationally acknowledged rights, in other words, citizenship itself.

¹ Indeed, one only has to look at the significant losses ensured by the ruling coalition across Colombo in the recent Western Provincial Council elections to balance such a view.
Part I: Urban Regeneration and Forced Evictions—The Political and Policy Context

Introduction

“By 2020, city of Colombo will have no more shanty dwellers.”
- Mahinda Chintana, 2010

In early 2010, following a landslide electoral victory, President Rajapaksa brought the Urban Development Authority (UDA) under the purview of the Ministry of Defence. Not long thereafter, in early May 2010, the UDA undertook the first of its military-backed evictions when bulldozers accompanied by armed soldiers demolished the homes and businesses of a small lower-middle class community on Mews Street in Colombo’s Slave Island. Their homes eventually made way for a school for children of military officers. The residents were not served appropriate notice, were not compensated and now, almost four years later, most of them are yet to be given the alternative accommodation they were promised. (See Mews Street case study in Part II)

Defence Secretary Gotabhaya Rajapaksa, now presiding over urban development in Sri Lanka, has repeatedly stressed that his goal is to transform Colombo into a slum-free, “world-class”, “garden city”; a “preferred destination for international business and tourism.” This is what the UDA’s Urban Regeneration Project (URP) seeks to realise. While full details of the URP have never been officially made public, it is fast becoming clear that it entails the forced relocation of thousands of poor and lower-middle income families across the city. Official estimates of the number of families to be relocated over next few years vary from “nearly 70,000” to 135,000. Assuming an average urban

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3 The Sunday Times, “UDA offers Rs. 8,000 a month for Mews St. evictees” 16 May 2010, and The DailyFT “Ranil rakes up evictions in Colombo city”, 6 Nov 2013
4 ‘Development Plans For The City Of Colombo’, Sujata Jayawardena Memorial Oration By Secretary Defence Mr. Gotabhaya Rajapaksa, 2011
5 The Island, “Colombo to become Garden City, 70,000 families to be relocated; Gota”, 20 March 2013
household size of 4.2\textsuperscript{7}, this implies the relocation of anywhere between 280,000 to over 500,000 people, the scale and complexity of which presents wide ranging social and economic risks.

While the URP’s aim of making Colombo beautiful and free of slums and shanties is endlessly replayed in the largely state-controlled media and public forums, it is important to underline that unlike many other South Asian cities for example, Colombo has never had large sprawling slums. A 2001 survey carried out by the Colombo Municipal Council and Sevanatha Urban Resource Center identified a total of 77,612 families living in 1,614 low-income settlements in the city\textsuperscript{8}. Significantly however, the study also found it “difficult to categorise all the identified low-income settlements as being slums.”\textsuperscript{9} It also found that unlike other large South Asian cities, Colombo’s low-income settlements were relatively small clusters with 74 per cent of them having fewer than 50 housing units while settlements with more than 500 units accounted for only about 0.7 per cent of the total low-income settlements in Colombo.\textsuperscript{10} However, less than 25 per cent of these families had ownership rights and more than half of this population lacked security of tenure.\textsuperscript{11}

The National Housing Policy and Colombo’s Urban Regeneration Project

There is no doubt that many of Colombo’s low income settlements need significantly higher levels of service provisioning and that lack of adequate housing, secure tenure and title are a concern. However, the URP, which lacks a comprehensive framework of entitlements and an involuntary resettlement policy in line with national\textsuperscript{12} and international\textsuperscript{13} standards, essentially makes accepting


\textsuperscript{8} The case of Colombo, Sri Lanka. Sevanatha

\textsuperscript{9} Ibid. p.6

\textsuperscript{10} Ibid. p. 6-7

\textsuperscript{11} Ibid. p.10

\textsuperscript{12} See, for instance, the National Policy on Involuntary Resettlement in Sri Lanka, prepared by Road Development Authority, Ministry of Ports and Highways, in connection with the Southern Expressway project funded by the Asian Development Bank.

\textsuperscript{13} These include the UN Guidelines on Development Induced Displacement as well as involuntary resettlement policies of agencies like the World Bank.
relocation a pre-condition for access to better housing and services. The URP’s approach to housing contradicts that which is spelt out in the draft National Housing Policy’s (NHP) that contains many positive elements despite its limitations. That the UDA is totally ignoring the NHP’s approach only underlines the former’s power and the yawning gap between rhetoric and practice.

The NHP calls for “families who are able to build their own houses to be directly assisted by way of regularizing the land, providing basis (sic) amenities and releasing housing assistance on concessionary interest rates with necessary technical guidance.” However, far from regularising tenure and enabling families to build their own houses in-situ, thus being empowered to add social and economic value to their own communities, irregular tenure is being used by the UDA to dispossess people without compensation while compelling them to pay for relocated housing. This is in contrast to the case of the Southern Expressway wherein even those without titles as well as owners of non-registered businesses were entitled to compensation for the loss of structures, assets and incomes. The lack of a comprehensive framework of rights and entitlements in line with nationally and internationally recognised standards pertaining to all aspects of the process and goals of involuntary resettlement as part of the URP poses a serious threat to the rights of thousands of people in Colombo.

The NHP specifically calls for “[s]trengthening community based organizations to promote community participation in housing development and guiding poor communities on decision making processes.” The NHP also notes that the “[l]ack of emphasis on the approaches of participatory methodologies, capacity building and empowerment in low income housing development” has been a serious problem in respect of housing policy in Sri Lanka.

However, let alone consent or choice in terms of relocation, the URP in general and the relocation process in particular is marked by a lack of access to information and meaningful public consultation. Surveys that have not been made public and one-time meetings of communities facing evictions with senior military and UDA officials, including Mr Gotabhaya Rajapaksa, are being passed

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14 Draft National Housing Policy, p.10


16 Draft National Housing Policy, p.4
off as ‘consultation’. Let alone enabling communities to participate in designing and developing resettlement sites, the new housing, all vertical towers, have been designed and are being built\(^\text{17}\) long before the specific needs of communities have been assessed or determined.

Such a one-size-fits-all approach has proved to be a failure in the past. For instance, a 2010 study of residents of Sahaspura, a tower block complex in North-east Colombo housing those relocated from shanties, concluded that the “relocation project failed to achieve its targets largely because the resettlement process did not address the disruption of social fabric and did not incorporate strategies to prevent social disarticulation. Also, it did not address other socio-economic aspects such as livelihoods of non-regular income earners and their access to credit.”\(^\text{18}\)

**Militarisation and the erosion of democracy**

The serious democratic deficits in Colombo’s URP, whether in respect of safeguarding land rights and entitlements or ensuring transparency and participation, is inextricably linked to the post-war militarisation of governance in Sri Lanka, including at the level of municipalities. The military is ubiquitous in Colombo and is seen landscaping, building, cleaning and undertaking many of the tasks more commonly associated with a municipality.\(^\text{19}\) Various disciplinary regimes—from ‘jay-walking’ fines to the ‘environmental police’ to controlling access to the city—are in place and public spaces are constantly under surveillance, by the military and police.

The military, acting within and through the UDA, also coordinates the process of evictions and relocation. Affected residents have told CPA that they have had to

\(^{17}\) The “housing complexes”, basically vertical towers, are being constructed at the following relocation sites: Henamulla, Aluthmawatha, Ferguson Road, Cyril C Perera Mawatha, Edirisinghe Mawatha, Maligawatte CGR land, Dematagoda CGR land, Estate 31-Orugodawatta site, Estate 54 & 66, Government factory land-Kolonnawa, Salamulla and Angoda. Of these the one at Dematagoda, now called Mihindu Senpura, is ready and being occupied by oustees from different parts of the city. See <http://www.uda.lk/investment_relocation.html>

\(^{18}\) Factors contributing to the failure of development induced resettlement projects: a case study of the “Sahaspura” slum relocation project, Colombo, Sri Lanka, S.L. Dhammika K. Wijayasinghe, Master’s Thesis submitted to the International Institute of Urban Management of the Erasmus University of Rotterdam, p.55.

\(^{19}\) For an analysis see Cementing Hegemony: Politics of Urban Transformation in Post-War Colombo, Economic & Political Weekly, Vol. xlvIII. No 34
approach senior military officers who are overseeing the process with their requests and grievances rather than the municipality or other agencies. They also reported high levels of surveillance involving police and military personnel both prior to and after relocation. CPA researchers have also seen military personnel active during and after demolitions.

Beyond an expanding role for the military itself, militarisation in the context of urban governance in Sri Lanka has to be understood as a much wider phenomenon involving the reconfiguration of social, economic and political democracy. That bringing the UDA under the Ministry of Defence was also intended to essentially limit the exercise of democratic rights became apparent when elections to the Colombo Municipal Council (CMC) were postponed, pursuant to a series of Emergency Regulations, for nearly two years after the war ended. Elections to the CMC were only held on the eve of the Supreme Court hearing challenges, including by the CPA, in this regard.

The UDA, backed by the enormous human, financial and technical resources of the military, and its political clout, has reduced the CMC to, at best, being a service provider. Given that elected representatives to the local government have no substantive say in the URP and given the extent of the military/UDA control, the entire land acquisition and relocation process has been placed beyond the pale of democratic institutions, effectively neutralising any possible efforts by affected communities and their political representatives to influence it. The ‘involvement’ of political representatives has been limited to those from the ruling UPFA and is either ceremonial or aimed at strengthening their patronage networks when communities are forced to appeal to them for relief (such as assistance with down-payments for the new houses) or addressing grievances (such as errors in allocation of houses in relocation sites).

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Forced evictions and the political economy of land in Colombo

As outlined in the Mahinda Chintana 2010, the Government’s development policy framework, a key goal of urban development is “improving under-served settlements in the city of Colombo through private developers and liberate (sic) prime lands for commercial activities. Through this process, under utilised urban prime lands will be utilised for development and commercial purposes by private sector.” In fact, the Mahinda Chintana is explicit that such ‘liberation’ of land will “release approximately 350 acres of prime land for commercial and mixed-use development. By 2015, 40,000 apartment units will be constructed for shanty dwellers and 20,000 luxury and semi-luxury apartments will be constructed in formerly underserved areas.”

Moreover, there is no elaboration of what is meant by these lands being "under-utilized", though a close reading suggests that what this actually implies is that these lands are not available for private commercial exploitation. The handing over of “under utilized urban prime lands”, in many cases home to poor or lower-middle income communities for decades, to the private sector raises significant concerns regarding equity which go well beyond the simple equation suggested by “40,000 apartment units for the poor” equals “20,000 luxury and semi-luxury apartments”. If at all it exists, a systematic cost-benefit analysis of this and other dimensions of the URP have never been subject to debate in Parliament, the Municipal Councils or scrutiny in the public domain.

This shift towards relying on private developers and capital has to be seen in the light of the prescription in the Mahinda Chintana that the “Government’s role in housing sector will continue its ongoing shift from that of a developer and financer to that of a regulator and facilitator. Strategic housing investments may still be made by the state, particularly to target vulnerable populations and to address urgent needs. However, the preferred options for housing development will be through active engagement of the private sector.” (Emphasis added)

A direct consequence of the state moving away from being ‘developer and financer’ and stressing instead the centrality of the private sector, is that housing and more so land are reduced to commodities, whose primary value is financial,

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and are stripped of their social value, the rights and entitlements of people as well as the obligations of the state they embody. Similarly, the state’s role as ‘regulator and facilitator’ is clearly defined; it is not to ensure the protection of peoples rights and entitlements but to ensure that private capital will be met with “[a]tttractive incentives and [that] a conducive policy environment will be created. Development control regulations and approval procedures will be streamlined and made more efficient.”

This is being followed to the letter. For example, consider the incentives provided to the multi-million dollar luxury mixed-use re-development of ‘Transworks House’, one of the first high-profile projects handed to a private developer (the Krrish Group from India) reportedly included land being leased to Krrish for 99 years for a mere 5 billion Sri Lankan rupees, a 10-year income tax holiday, concessionary 6 per cent tax for the next 15 years, tax-free shareholder dividends for 11 years, and exemptions from a range of other taxes, duties and levies. Similarly, there are proposals to bring other private land re-development initiatives, which include hotels and casinos, under the ambit of the Strategic Development Act that would allow for massive tax benefits, reduced economic service charges, lower duties on imports, etc. Moreover, many concerns have also been raised regarding the lack of transparency in the process of awarding development rights—many of which involve single bids or non-competitive awards—and allegations of large-scale corruption.

In other words, to the extent that private investors, foreign and domestic, are being heavily subsidised and aided, especially by providing them land clear of all ‘encumbrances’ along with a wide range of financial incentives and guarantees, the state is in fact acting as ‘developer and financer’ but on behalf of national and international investors rather than the citizenry.

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26 The Island, “Krrish Lanka to partner Ritz Carlton”, 6 December 2012
28 In some cases as much as 25 years of tax-free status.
30 The Island, “Ranil queries lease of Fort land to KRRISH”, 6 November, 2012. For the response see, The Island, “Minister explains Transworks property transfer to Krrish Group”, 9 November 2012
Just as the Export Promotion Zones set-up in 1978 under the Greater Colombo Economic Commission (GCEC) tilted regulation in favour of foreign companies and capital to the detriment of labour rights, urban development in Colombo today favours powerful domestic and global financial interests over those of its citizens. As the Collective for Economic Democracy has argued, “urban development in Colombo is not a neutral exercise to reorganise space and beautify the city” but reflects “definite political interests” that are implicated within powerful networks of global and domestic capital. Moreover, the on-going public expropriation of land in favour of private interests in Colombo is part of a wider phenomenon of ‘land grab’ taking place across the country in the name of tourism, industrial and economic development, or security, often facilitated by the involvement of the military. The forced acquisition of ‘prime lands’ and their subsequent handing over to private interests through non-transparent processes and on questionable terms, points also to a steady transfer of public wealth to private hands, in the name of public-private partnerships, which may well amount to “privatisation by stealth”.

Apart from the refrain of ‘development’, the claim that revenues from private exploitation of urban land are needed to provide better housing and amenities, especially to poorer residents of Colombo, is frequently used to justify the relocations. However the reality is that massive debts are being incurred on vanity projects with questionable or untested public utility, such as the Lotus Tower and the Colombo Port City projects, both being funded by millions of dollars in loans from China. With the exception of much needed flood control measures, much of Colombo’s urban development over the past three years has in fact focused on rebranding the city as a hub for global capital, tourism and entertainment. This ‘redevelopment’ consumes significant public resources, both directly and indirectly, but is not advancing social inclusion or equity.

31 The Island, “Towards a World-Class Colombo: Development without Democracy”, 16 June 2013
Moreover, the accent on beautification is by no means politically neutral, particularly since it is those in power who decide its terms, and nor is the vision indigenous. That Colombo’s emerging urban visual and aesthetic regime is deeply influenced by the impact of dominant meanings of what a “world class” city should look like is evident from the oft expressed aspiration to transform it in the image of Singapore or Shanghai. Inherent in this is a tendency to move towards aestheticising frontiers and exclusions - such as removing compound walls from public buildings or parks even while increasing policing of these places - rather than fostering genuine social inclusion. Notwithstanding the contested nature of all public spaces, the UDA’s claim of creating inclusive spaces is questioned by one recent study, which argues in favour of less scripted public spaces noting that Colombo’s emergent public spaces are often characterised by being “excessively engineered and overly designed” or “inviting only to a certain income group”.36

It is also critical to consider such frontiers and exclusions in the light of the fact that the Colombo municipal area is amongst the most ethnically mixed in the country. Available information suggests that a significantly large section of the population being affected are Tamil and Muslim. In addition, given the alignment of large sections of these communities with a section of the political opposition, questions have also been raised concerning the possible political motivations behind the evictions.37

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36 “Public Space and Quality of Life: A Case Study of Mount Lavinia Beach”, Debra Efroyimson and Udan Fernando, July 2013, p. 51.

37 Tisaranee Gunasekara, “The Sunday Leader, “Rajapaksas’ Operation Colombo”, 26 September 2010
The role of the World Bank

Finally, apart from the role of foreign capital, it is important to note the role of international financial institutions, especially the World Bank (WB). Its support to the Government of Sri Lanka’s development and economic policy hinges on the Bank’s perspectives on reshaping the economic geography of the country, especially by creating competitive urban geographies, which is echoed in the Mahinda Chintana. While the approach advocated by the WB has been critiqued on several grounds, including for failing to account adequately for historical reasons behind regional imbalances in development as well as the war and its aftermath, what is most relevant to this report is the critique that the WB stresses on “market ‘efficiency’ over deepening democracy.” Nowhere is this more apparent than in its consistent support for the UDA. Notwithstanding the WB’s rhetoric on strengthening peoples’ participation, local democracy, and accountability, the WB has provided a loan of US $ 213 million to the UDA’s Metro Colombo Urban Development Project (MCUDP), tacitly endorsing the militarisation and erosion of local democracy under the UDA’s watch.

In addition to the MCUDP, the WB is also advancing a US $ 147 million loan for the Strategic Cities Development Project (SCDP), under the auspices of the UDA to undertake redevelopment work in the cities of Galle and Kandy. Contrary to those being evicted in Colombo, communities affected by these projects are covered by the World Bank’s guidelines on involuntary resettlement and elaborate Resettlement Action Plans (RAP) and entitlement frameworks have been prepared for these projects based on extensive socio-economic studies.


41 The MCUDP focuses on enhancing flood control measures and enhancing walkability in the city and as such involves minimal involuntary resettlement of people.


43 Available at http://documents.worldbank.org/curated/en/docsearch/report/RP1580 accessed 31 March 2014. While it is not being suggested that these reports, including their methodologies and findings, are perfect in every respect, the fact that such studies were done and that these reports exist in the public domain is nevertheless significant.
On the one hand, it appears that the UDA is not seeking funding from lenders such as the WB or Asian Development Bank (ADB) for components of Colombo’s urban regeneration involving large-scale resettlement to avoid being compelled to apply the obligations that come attached with such funding, as in the case of the ADB funded Southern Expressway or WB funded projects in the cities of Galle and Kandy, for example. On the other hand however, the WB continues to fund the UDA, deliberately turning a blind eye to the forced evictions of thousands engineered by the very same body in the name of urban development. This has resulted in the creation of two categories of citizens in the country; one considered deserving of entitlements and protection in line with certain international standards and another vulnerable to evictions sans a comprehensive framework of entitlements and the largesse and control of the UDA and the military.

That these evictions are not taking place as part of the WB funded component of Colombo’s urban redevelopment is at best a fig leaf of a justification. Not only is the Bank supported-MCUDP as much a part of Colombo’s ‘redevelopment’ as the forced evictions, they are both being carried out by the same agency, the UDA. Therefore though the WB is not directly financing these military-facilitated evictions it is nevertheless complicit to the extent it is providing the broader policy direction for urban development as well as actively financing the UDA in its redevelopment efforts on other fronts. Thus the forced evictions in Colombo, and indeed those that are to come in other cities and towns in Sri Lanka, are also embedded within a political economy of international development lending, whereby lenders can lay claim to proverbial clean hands even while the projects and agencies they support are a part of and strengthen the larger framework of undemocratic, extra- or unjustly- legal, militarised, and market-friendly governance in the name of development.

**Conclusion**

According to the Ministry of Defence and Urban Development, the economic and social benefits of “relocating underserved settlements in Colombo suburbs”, include:

“Legal right and prestige of being an owner of a house, Entrepreneurship development among people, Recognized job opportunities

Social recognition, a permanent address, better society, Elimination of illegal activities
Children will have better access to proper females and youth education. Recognition in the society for females for better marriage prospects.\textsuperscript{44}

\textit{(Formatting and language as in original)}

The emphasis on “social recognition”, a “better society”, and “elimination of illegal activities” actually betrays the highly prejudiced view of low-income communities that actually underpins the UDA’s approach. The idea that relocation by itself will confer a higher social status, including “better marriage prospects” for women, echoes the most deeply held class and patriarchal prejudices that inform the UDA’s and the Government’s policy interventions. The claims that relocation will enhance “youth education” is largely rhetorical; in reality the opposite is true, especially in cases where communities are forced to move away from neighbourhoods with reputed schools to which their children may have gained access by way of residing in the same neighbourhood. The same goes for “entrepreneurship development”, especially because the relocation into high rises actually has a significant adverse impact on many people’s livelihoods. These issues are explored in detail in Part II of this report.

Under the URP, a “legal right” to a house accrues only at the cost of other established statutory and customary rights in law and at a significant economic cost. As argued previously, and discussed in detail further below, the absence of due process and the lack of an effective framework of entitlements only heightens the risk of erosion of rights. That the process is couched in legality only underlines the tendency towards a rule by law rather than rule of law and highlights another key concern—the lack of access to effective legal remedies. The fears that the impeachment of the Chief Justice and the appointment of the former Attorney General - who in that capacity provided legal advice to the UDA - as Chief justice has effectively blunted Supreme Court’s ability to provide redress in fundamental rights cases involving the evictions have already been borne out. In one case the Supreme Court has heard, it has shown little regard for people’s rights and largely upheld the government’s and UDA’s approach to the issue,\textsuperscript{45} with the Chief Justice quoted as saying: “No one should obstruct ongoing development programs in Colombo.”\textsuperscript{46} It is in this broader policy, legal, and political context that the on-going and impending evictions in Colombo and their impacts must be examined in detail.

\textsuperscript{44} Prospects of relocating underserved settlements in Colombo suburbs, Ministry of Defence

\textsuperscript{45} Colombo Telegraph, “Defence Ministry Slams Supreme Court; Cheats Displaced People With SC approval”, 25 November 2013

\textsuperscript{46} World Socialist Website, “Sri Lankan chief justice backs Colombo evictions”, 5 October 2013
Part II: The Experience of Forced Evictions in Colombo—Undermining Protections and Eroding Rights

Drawing from the UN Basic Principles and Guidelines on Development-based Evictions, forced evictions are associated with “acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection.” (Emphasis added)

The ensuing discussion underlines how the evictions in Colombo are a) coerced and involuntary, b) designed to eliminate or limit the ability of citizens to reside in particular dwellings and locations in the city, and c) undertaken in a manner that denies people effective access to remedies and appropriate forms of legal and other protection. Based on short case-studies of three evicted communities from across Colombo and interviews with residents from other communities already evicted or facing eviction, this section of the report highlights the range of serious violations of rights and due process that characterise the forced evictions in the city.

It is important to highlight that significant weaknesses in the domestic legal and policy framework are enabling the evictions. These not only include unjust laws and regulations that fail to safeguard the rights of people but also lacunae that ensure that the UDA can wilfully sidestep from applying even those elements of domestic law and policy that provide a measure of protection against forced evictions as well as remedies and redress to victims. Therefore the nature and extent of violations of rights and due process must also be understood in the context of the enabling and progressive national standards and safeguards that do exist as well as internationally agreed standards designed to guard against forced evictions and attendant violations of human rights.

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47Office of the High Commissioner for Human Rights, Basic principles and guidelines on development-based evictions and displacement
Domestic and International Standards on Development-based Evictions and Involuntary Resettlement: A Brief Overview

In 2001 Sri Lanka adopted the National Involuntary Resettlement Policy (NIRP). As the NIRP itself notes in its preamble (‘Rationale’), it was adopted because the main legal framework for land acquisition in Sri Lanka, the Land Acquisition Act of 1950 “only provides for compensation for land, structures and crops. It does not require project executing agencies (PEA) to address key resettlement issues such as (a) exploring alternative project options that avoid or minimize impacts on people; (b) compensating those who do not have title to land; (c) consulting affected persons and hosts on resettlement options; (d) providing for successful social and economic integration of the affected persons and their hosts, and (e) full social and economic rehabilitation of the affected persons.”

To this end the key ‘Policy Principles’ stressed by the NIRP include:

- Avoiding or reducing involuntary resettlement as much as possible by “reviewing alternatives to the project as well as alternatives within the project.”
- Ensuring that affected persons are “fully involved in the selection of relocation sites, livelihood compensation and development options.”
- “Affected persons who do not have documented title to land should receive fair and just treatment.”
- “Vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards.”

(See Annexure 1 for a full enumeration of the Policy Principles of the NIRP)

The NIRP is applicable to “all development-induced land acquisition or recovery of possession by the State” and stipulates that a “comprehensive Resettlement Action Plan will be required where 20 or more families are affected.” Moreover, the policy will “apply to all projects regardless of source of funding.” However, the UDA is not applying the NIRP to the evictions in Colombo and no comprehensive resettlement actions plans have been prepared or steps taken to respect the Policy Principles outlined in the NIRP.
It is important to note that there is a significant body of international standards pertaining to development induced involuntary resettlement. The **UN Basic Principles and Guidelines on Development-based Evictions and Displacement** (UN Guidelines) are amongst the most important and provide a range of substantive and procedural safeguards and protections to affected persons prior to, during and after evictions and lay down several obligations on the state in particular in this regard.

The UN Guidelines clearly stipulate that States “shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their adverse impact on a wide range of internationally recognized human rights.” (No. 21) Of particular relevance is the stipulation in the UN Guidelines that the “protection provided by these procedural requirements applies to all vulnerable persons and affected groups, irrespective of whether they hold title to home and property under domestic law.” (No. 21)

According the UN Guidelines, “[u]rban or rural planning and development processes should involve all those likely to be affected and should include”:

- Appropriate notice to all potentially affected persons including public hearings on the proposed plans and alternatives;
- Effective dissemination of relevant information in advance, including land records and proposed comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups;
- A reasonable time period for public review of, comment on, and/or objection to the proposed plan;
- Provision of legal, technical and other advice to affected persons about their rights and options; and
- Holding of public hearing(s) that provide(s) affected persons and their advocates with opportunities to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities.

While many of these stipulations also find echo in the NIRP as well, they have all been ignored as far as the evictions in Colombo are concerned. While the UDA has denied compensation to all those being evicted, the UN Guidelines (No. 61) are unambiguous in stressing that “[a]ll those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling.
and land lost or damaged in the process.” Moreover, the UN Guidelines (in No. 63) also spell out that the “the assessment of economic damage should take into consideration losses and costs”, for example, of land plots, house structures; contents; mortgage or other debt penalties; interim or alternative housing; bureaucratic and legal fees; lost wages, incomes, business losses; lost educational opportunities; health and medical care; resettlement and transportation costs (especially in the case of relocation far from the source of livelihood).

Even the World Bank’s Operational Policy (OP) 4.12 on Involuntary Resettlement stipulates that all those recognised as ‘affected persons’, including “those who have no recognizable legal right or claim to the land they are occupying” have to be “provided compensation for loss of assets other than land.” Moreover, OP 4.12 also lays down that the resettlement plan or policy framework must include measures to ensure that the “displaced persons are:

(i) informed about their options and rights pertaining to resettlement;
(ii) consulted on, offered choices among, and provided with technically and economically feasible resettlement alternatives; and
(iii) provided prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project.”

Finally, it is important to note that UN Special Rapporteur on the right to adequate housing has also stressed that “protection against forced eviction should apply to all vulnerable individuals and groups, irrespective of whether they hold title to a home and or property under domestic law” and that “the implementation of general plans of city development should in no way be used as a justification for forced evictions”. The Rapporteur has also noted that not only do states have an obligation to “ensure that evictions are only carried out as last resort and in accordance with international standards” but that they must also ensure that “religious and ethnic minorities are not disproportionately affected by development projects, and they have recourse to legal remedies to challenge state acquisition of homes and lands.”

It is important to stress that underlining these standards and policies is the recognition that forced evictions and involuntary resettlement present a wide

48 See A/HRC/16/42/Add.3 (SR Housing, 2011).
range of risks. For instance, the World Bank acknowledges that its experience suggests that,

“involuntary resettlement under development projects, if unmitigated, often gives rise to severe economic, social, and environmental risks: production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.”

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Case Studies and Key Concerns

The range of human rights concerns and risks resulting from the forced evictions in Colombo, including lack of due process, lack of access to effective remedies and violation of several constitutionally and internationally recognised rights, are exemplified by the Mews Street evictions.

The Mews Street Case

On 8th May 2010, the Urban Development Authority (UDA) demolished 20 homes that were occupied by 33 families on Mews Street in Slave Island, Colombo 2. Some members of affected families told CPA that they were informed verbally a month prior to the demolition that they will have to vacate their homes and served the same in writing only 3 days prior to the demolition. None of them reported that they were given any information regarding alternative accommodation or compensation. Thus when the UDA authorities arrived with bulldozers accompanied by armed soldiers, residents resisted but in vain.

Residents were left destitute, with many of their belongings destroyed, and for 3-4 days were housed and provided daily meals at the mosque by the Federation of Kompennavediya Masjids (FKM), until they found alternative accommodation with relatives or elsewhere. The UDA then informed them that each household would be provided with a year’s rental allowance, at Rs 8000/- a month, for alternative accommodation until their permanent housing, apartments in a newly constructed resettlement site in Dematagoda (about 6

50 World Bank, Operational Manual, OP 4.12 - Involuntary Resettlement
km. north-east of Mews Street), was ready in one year's time. None of them were compensated for the loss of their homes, possession or businesses. They were offered alternative housing in a temporary resettlement scheme in Thotalanga—“rows of single-room wooden shelters” that reminded two commentators of “Zone 1 in Menik Farm”—but promised permanent housing in a newly built apartment complex in Dematagoda in one year's time. Subsequently, the evicted residents were also offered a rental allowance to enable them to live elsewhere.

However, none of them were given anything in writing that spelt this out or the conditions under which they would be given apartments in the resettlement site. A year after they were evicted, the new apartments were not ready and the rental allowance was increased to Rs. 12,000 – 15,000/- a month by the UDA, which was given in a lump sum for another year. However, at the end of the second year, with the apartments still not ready, UDA officials insisted that apartments would be given in a few months time and the rental allowance was therefore given in 3-4 month tranches. This resulted in delays in getting the rental allowance, with affected residents having to make several trips to the UDA to secure it.

A Fundamental Rights petition was filed in the Supreme Court and on 24th of June 2010, they were granted leave to proceed and the UDA and the Court gave assurances that permanent alternative housing would be given to those evicted. However when the President formally opened the new resettlement complex, now called Mihindu Senpura, in Dematagoda, on 18th November 2013, none of the Mews Street evictees were allotted any of the 500 apartments, which were distributed amongst those evicted from elsewhere in the city. More than three years and half years later, though the evictees were still not given alternative housing, the Supreme Court nevertheless refused to hold the UDA in contempt or enforce the previous undertakings/orders of Court.

Consequently, earlier this year, the 17 Mews Street households yet to get permanent alternative housing (see reference above) were told they would be

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51 The Sunday Times, “UDA offers Rs. 8,000 a month for Mews St. evictees” 16 May 2010

52 Nicola Perera and Sivamohan Sumathy, Sri Lanka: Securing the city by evicting poor, Himal South Asian, July 2010.


54 Colombo Telegraph, “Defence Ministry Slams Supreme Court; Cheats Displaced People With SC approval”, 25 November 2013
given new housing at another location in Dematagoda where 40 single storey houses were being built for those affected by evictions. However, some members of the community told CPA that they are not happy with the new location, as it is quite far inland from the main road and is in the middle of a slum. At the time of writing, almost 4 years after their evictions, they have still not got the permanent housing that was promised to them.

Contrary to the UDA's claim that the demolished houses were shanties, some of those evicted told CPA that they in fact had proper housing structures, with some houses even extending to two floors. However they said that from the very outset of the process they felt they had been treated by the UDA like they were squatters living in insufferable conditions on state-owned land.

Again, contrary to the UDA's claims, the residents of Mews Street evicted in May 2010, were not illegal occupants of state land but had deeds to the land. According to the comprehensive compilation of documentation done by the FKM, and shared with CPA, all residents of Mews Street had deeds to their lands. This included 11 Deeds of Transfer, 5 Deeds of Gifts, and a Last Will. (Please refer to Annexure 2 for information regarding the procedure to be followed when acquiring private land)

The Mews Street case highlights the arbitrariness at work as well as the utter disregard on part of the UDA and the Government of Sri Lanka for the continuous and cumulative losses and damages suffered by evicted communities. Soon after demolition of Mews Street, a spokesperson for the UDA was reported as saying,

“There are many types of deeds. If they have the proper deeds, they can produce them. This is state land and these are unauthorised structures

55 A Deed of Transfer is a document prepared when a property owned by one person is sold/ transferred to another. The deed should consist of the names, addresses and National Identity Card numbers of the vendor (seller) and the vendee (buyer); details about the previous deed by which the title was passed to the vendor; and the consideration (sale price). The vendor should sign the deed and after two witnesses place their signature. Thereafter it is attested by the Notary and duly stamped.

56 A Deed of Gift is used to transfer property from one person (donor) to another person (donee), without any monetary consideration, but based on consideration of feeling of affection and prosperity of the donee. The same formalities relating to the Deed of Transfer are also followed (Signed by the donor and done, witnesses. Attested by Notary and duly stamped)

57 Last Will is the last declaration made by a person (Testator) stating how the property earned during the lifetime should be disposed of after his/her death. When a person dies testate, the last will gets priority over all laws relating to succession.
on state land,” he claimed. He accepted that the residents have the right
to go to courts but insisted that that would not hinder the relocation
programme. “They have the right to go to courts. That won’t slow down
the process, it would only speed it up.”

It is clear from the statement that any attempt to use lawful means, such as
moving the Court, to protest or challenge the UDA could attract further reprisals
in terms of delays or even denial of alternative housing or other benefits.
Moreover, the experiences of those from Mews Street and Java Lane (discussed
further below) indicates that the Supreme Court is sympathetic
towards the
UDA's view, further undermining the prospects of judicial safeguards for those at
risk of forced evictions.

Militarisation

The processes by which lands are being acquired and people evicted in
Colombo resemble measures employed in the post-war North and East in two
crucial ways. The first is the active involvement of the military and the second the
manipulative use of the law, discussed further below.

Residents from many affected communities reported that military personnel
working with UDA staff are the ones making decisions and overseeing the
process. CPA has also witnessed first hand military personnel engaged in
various tasks in connection with the evictions. The involvement of the military
reduces the likelihood of citizens questioning the process. There was a marked
sense of fear amongst communities facing eviction visited by CPA. Many
residents who spoke to CPA said that people were afraid to oppose or organise
themselves to protest against the evictions out of fear of reprisals. For instance,
some residents from other parts of Slave Island told CPA that they were afraid
that any resistance would see them suffer the same fate as those on Mews
Street. Residents also complained of high levels of surveillance and the
presence of informers to monitor and report on the community.

Much like in the North and the East, the military establishment and the
Government have combined to try to restrict media coverage of the evictions.
Referring to the Mews Street demolitions, a Sunday Times report noted that
media were prevented from documenting the evictions. According to the report,
Army personnel “destroyed pictures taken by photojournalists at the site where
the UDA demolished houses. An abusive brigadier was heard ordering Army

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58 The Sunday Times, “UDA offers Rs. 8,000 a month for Mews St. evictees” 16 May 2010
personnel to delete the pictures and remove video cassettes of TV journalists”.

Some residents evicted from Castle Street told CPA that when they approached two television channels with their story and grievances, they were told by representatives of these channels that they were ‘under instructions’ not to cover such stories. The atmosphere of fear within affected communities is accentuated by the lack of informed public debate and independent media coverage of the realities surrounding the evictions.

Selective and inconsistent use of the law

In the post-war Northern and Eastern provinces, the Government is presently engaged in trying to legalise the de-facto possession of private lands gained largely through the use of the military. The selective and inconsistent use of the law underlying the processes of land acquisition in Colombo suggest that similar manoeuvres may well be at work. While there are clear procedures laid down by law to acquire private property as well as re-possess state lands, it does not appear that these procedures are being followed in Colombo.

For instance, in order to acquire private lands, the Land Acquisition Act (LAA) needs to be followed, which lays down an elaborate procedure, including the need to serve notice of acquisition in writing in all three languages and allowing for a period of at least fourteen days to object to the acquisition, prior to the Minister making a final decision as to the need to acquire a particular land for a public purpose. Moreover, it also grants the affected parties the right to compensation as well as a right of appeal to a Board of Review and further to the Court of Appeal with respect to the quantum of compensation. However, based on information provided by effected communities and the limited information publicly available no such procedure had been followed in the cases involving forced evictions and acquisition of private land as part of the urban regeneration project, including in the case of Mews Street and Java Lane (see below).

This is further evinced by a UDA publication, which while detailing its development activities for the Western Province in 2014, notes with regard to the “Slave Island Redevelopment Project – Stage I” that the acquiring officer has already taken possession of the land (vide comment re S. 38a) as of January 28.

59 The Sunday Times, “Outrage in Mews St. as UDA demolishes houses” 09 May 2010

2014. However, the detailed breakdown of activities indicates that the acquisition process will be concluded at the end of April 2014. It should be noted that the LAA envisages the state taking possession of land being acquired only at the end of the acquisition process and not prior to it.

What is clear is that the procedure laid down by law to acquire private property as well as to re-possess state lands is not being strictly adhered to in the case of evictions in Colombo. The lack of a transparent and rule-bound process with regard to the land acquisition is a major concern. For instance, the process for land acquisition and the terms of involuntary resettlement applied to Mews Street differs substantially from those applied to the adjoining Java Lane (see below) and in neither case does it seem like the procedure laid down by law was followed. In the case of those evicted from state-owned lands, for example from Castle Street (also discussed below) and elsewhere, once the communities were told by UDA representatives that they have to move, they were made to sign what are essentially ‘application forms’ for receiving new houses. They were told that in return for houses on land without full title they were going to be given permanent houses with full ownership in newly built apartment blocks. This gives the whole process the appearance of being voluntary even though it is not. The arbitrariness and inconsistent approaches not only pose serious risks of procedural and substantive rights violation but also induce fear and uncertainty amongst communities, a situation that those evicted from Java Lane are confronted with.

### Java Lane Case

Given the experience of the Mews Street residents, those in surrounding areas, such as Java Lane, were better prepared. A majority of the residents on Java Lane, one of the country’s oldest Malay Muslim settlements, had title deeds going back several decades and petitioned the Supreme Court against the acquisition. However in October 2013 they were told by the Court that they would have to hand over possession of their lands to the UDA by the 1st of December 2013, which was subsequently extended by a few months.

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61 Urban Development Authority, *Development Activities for 2014 for the Western Province*, January 2014

62 The Sunday Times, “SC says 500 Slave Island families must vacate their houses by Dec. 1” 27 October 2013
Residents were told they would get a lump sum rental allowance for 2 years\textsuperscript{63} and would subsequently be given apartments in high-rise buildings that would be built for them in a portion of the land, which was being handed over to TATA Housing from India for redevelopment. But those who did not want this option were given the option of receiving monetary compensation instead.

However, none of affected households CPA spoke to reported having in their possession anything in writing that outlines their rights, the obligations of the UDA, or those of the private developer regarding the terms of ownership, the deliverables and the time-lines. They also have no information with respect to their entitlements in these new buildings nor the design, size and specifications of these apartments. While CPA has learnt that apartments will be built in at least three different sizes, many residents told CPA that they believe the size of the new apartments will be too small, especially since many affected residents lived in houses that had more than one floor, and that there has been no consideration for improvements done to their homes over time. In other words, relocation may well result in a reduction in their housing standards.

At the same time however, some affected residents also told CPA that they had been made to sign multiple documents when they were asked to visit the UDA but were not given any copies of what they had signed. Requests in writing made to the UDA to make available copies of the documents signed had not been answered or acknowledged. Furthermore, all the documents they were asked to sign had been in Sinhala, whereas the community is largely Malay Muslim and Tamil speaking, meaning many of them did not understand what they were signing, but since there was little room for debate or questioning the authorities they had complied. Residents were concerned that insisting for copies or raising questions when they were at the UDA might result in losing the promised apartment at their original location.

\textsuperscript{63} Affected residents received Rs 25,000/- to pay off any outstanding bills and received 2 years rental allowance up front as well with rental amounts reportedly varying according to the size of the house occupied and ranged from Rs. 18,000/- to Rs.28,000/- per month. They had to hand over a document from the landlord that they would be occupying a house for 2 years and at what rent amount.
Lack of information and participation

Apart from some limited information on the UDA website, there has been no systematic information given to affected communities regarding their relocation. Visits by senior officials, often by Mr Gotabhaya Rajapaksa himself, during which residents are told they would be moved to new houses in fully-serviced ‘modern’ apartment blocks are being passed off as consultation. Residents from Castle Street, for instance, reported that on his visit to inform them of their impending eviction, he brooked no questions or pleas to compensate them or waive the need to pay a million rupees for their new houses. As one resident, a middle aged woman who had lived in the settlement for over two decades recalling his visit and the interactions said, “he showed no soul”.

On the 13th February 2014, during one such visit of Mr Rajapaksa accompanied by Army officials to a low-income community in Wanathamulla in north-east Colombo, the head of a local community organisation protested against their eviction, arguing for larger houses, compensation, and protesting the fact that they were being asked to pay for the new houses. He subsequently received anonymous threatening phone calls and two days later, unidentified men abducted him before throwing him out of a vehicle in the outskirts of Colombo after threatening him.64

A good example of this ‘one way consultation’ is the programme that was held on 28th January 2013, conducted by the Ministry of Defence and Urban Development (MoD&UD) for the Slave Island residents whose land was being acquired for redevelopment. Some residents who attended, described the ‘awareness programme’ to CPA as a “one way” meeting, noting that they were too intimidated by the Defence Secretary and the military to voice any concerns. Furthermore, they also reported that some outspoken residents were warned prior to the meeting not to cause any trouble.

It is crucial to point out that contrary to claims of participation and consultation being made by the UDA and the Government, none of the affected communities have been consulted about the design of the resettlement sites. The multi-storied buildings all have a similar layout, with each apartment measuring approximately 400 square feet with a fixed density per acre. The buildings do not account for any of the social, economic and cultural specificities and needs of communities being housed in them.

64 The Island, “Wanathamulla abduction: Red Pajero has replaced white van syndrome - Eran”, 28 February 2014
In the absence of systematic information many communities are living under the fear of evictions. For example, the UDA lists a number of sites on its website for which they are ‘seeking investors’.65 However, when CPA met with the residents of one such site in Colombo 7, they knew that their land was selected for redevelopment but had no information about the fate of their homes, whether and when they will have to relocate, whether developers have been found, or what their options are in terms of resettlement and compensation.

All of this coupled with the highly top-down and militarised nature of the process and the intolerance of any form of questioning or protest, has contributed to inhibiting the growth of community-based groups that can effectively stand up to the UDA and the Government and negotiate on behalf of the affected communities.

**Deny compensation, and then make them pay**

Not only are people being denied compensation for lost land, structures, assets or businesses, but those evicted from state-owned land have to also pay a significant sum of money before they are granted full ownership of their new houses. The Government and the UDA claim that the apartments in the relocation sites are worth Rs. 7 million each. They are being given to those being resettled at Rs. 1 million each under the following payment terms: a first instalment of Rs. 50,000 to be paid upfront with a further Rs. 50,000 to be paid in three instalments within the first 3 months towards maintenance and upkeep and monthly instalments of Rs. 3960 over the next 20 years. Hence, those forcibly evicted, must bear a double burden, the loss of houses, structures and in some cases even businesses in which they had invested significantly over time and what is effectively a debt liability to the tune of 1 million rupees, of which 100,000 has to be paid in the immediate term.

*Please refer to Annexure 3 for letter by the UDA (in Sinhala only) which informs apartment beneficiaries of these details.*

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65 UDA website, [Seeking Investors](#)
The case of Castle Street

Between the 22\textsuperscript{nd} and 24\textsuperscript{th} November 2013 dozens of families living in a low-income settlement to the north of Castle Street, Borella were moved out to a newly inaugurated relocation site. These families had been living on this land, which belonged to the state, for decades. Even though they did not possess clear titles of ownership, they were fully serviced by the municipality with water and electricity and their addresses were recognised in several official documents. \textit{(See Annexure 2 for information on the law concerning acquisition of state land)}

When CPA visited the community prior to the demolition, it was evident that while some families were poor and lived in small dwellings, many had invested significantly in their houses, often building more than one floor to accommodate expanding families. Many others ran micro-enterprises like grocery stores, vehicle repair stations and other businesses. However, none of these investments or the fact that there was often more than one family in a house was recognised.

Castle Street residents interviewed by CPA reported that apart from the military and UDA officials, senior politicians from the ruling party played a key role in the allotment of houses at the relocation site. Allotment of housing was arbitrary; in fact, they pointed out that several other families who had been evicted a year earlier to some temporary shelters from the southern side of Castle Street, across the road, were not given houses in the newly built resettlement complex.

Despite pleas by the community that they be resettled together, across 2-3 floors in the same building, they were scattered across different buildings in the relocation site. In fact, families who were related and lived next door were also denied flats adjacent to each other. The residents also told CPA that the quality of construction was poor and the houses in the relocation site too small. In fact as the community leader from Wanathamulla who resisted his community's eviction put it, the apartments “built were more like prisons than houses.”\textsuperscript{66}

Soon after they were allotted houses, CPA learnt that all the families were summoned to photo sessions with the President’s son, Namal Rajapaksa, following which they were told they would have to hang the photos they were going to be given inside their homes. Relocated Castle Street residents also

\textsuperscript{66} The Island, “Wanathamulla abduction: Red Pajero has replaced white van syndrome - Eran”, 28 February 2014
complained of high levels of military supervision in the initial days.

**Delays in payment of compensation**

Residents in the Slave Island area who chose the option of compensation instead of an apartment expressed extreme dissatisfaction about the process by which they are meant to receive compensation for their already demolished homes. Residents told CPA that they had wanted a compensation figure to be agreed upon with the UDA prior to demolition but several weeks after their houses were demolished, they are still unsure of the amount they would receive as compensation. They do not know if the houses were valued by the Government prior to demolition – whether and how it was calculated and how much it is, and if the houses were not valued, what the mode of valuation would be now that the houses are no more and only the land remains. Those who selected compensation over apartments received rental allowance for one year and were meant to receive the total compensation amount within six months. But at present without any knowledge of even the final compensation amount, these residents are left in limbo, unable to move on with their lives.

**Undermining access to livelihoods and education**

Concerns over housing aside, the impact of the forced evictions and relocation on livelihoods are uppermost amongst affected communities. For instance, even if the former residents from Mews Street are given houses in Dematagoda, the fact that it is more than 6 km. away means that it will have an adverse impact on livelihoods, especially as most of those who lived on Mews Street worked or had small businesses nearby. For those Slave Island residents engaged in daily wage or informal work, the time and costs entailed by daily travel will have an adverse impact on their income. Like in many other cities elsewhere, urban low income settlements in Colombo are also home to micro and home based enterprises, which are often connected to the political economy of the small communities they service. Breaking up the community and even resettling them in high-rises means that some enterprises, like home-based vehicle service/repair, are no longer feasible. For instance, some relocated residents of Castle Street told CPA that design and usage restrictions in place in the multi storey apartment blocks also prevented or hindered running of home-based businesses, such as grocery stores.
Affected communities told CPA that they fear that being relocated will have an adverse impact on their children’s schooling. For instance, residents of Mews Street noted that their children’s education had been disrupted as they had to move away to relatives or far away from schools their children were attending. Similarly Java Lane residents noted that temporarily relocating outside of the city limits or having to live in a rented property in another area would cause similar problems for their children. Moreover, some residents who are to be relocated into school zones that are not considered as good as the ones they have access to are also concerned about access to quality education.
Recommendations

Post-war Sri Lanka offers new imperatives for governance as well as opportunities for development; and CPA welcomes the commitment to urban development of the Government of Sri Lanka. It is well known, from experience in the neighbourhood as well as further afield, that given the complexity of urban governance and the multiplicity of competing priorities, ensuring inclusive and sustainable cities pose several major challenges. The recommendations that follow, although primarily aimed at addressing the issue of forced evictions, are made with the understanding that there is an urgent need for all sections of the state and civil society to commit to a broader vision and sustained action to meet those challenges.

To the Government of Sri Lanka

1. Bring about a paradigm shift in urban development policy

Contrary to its rhetoric the UDA's approach is far from indigenous or autonomous, mirroring instead the usual (and arguably neo-liberal) recipe that privileges technocracy over democracy, private capital over public interest, and reimagining and rebranding over social development. At least four important shifts in policy are critical in this respect:

   a. Move away from an approach that views people, especially low-income urban communities, as impediments to adding social and economic value to the city to one that acknowledges them not only as partners but, in keeping with the letter and spirit of the Constitution, as sovereign.

   b. Revitalise democratic decision-making and strengthen rather than weaken the Colombo Municipal Council, including by ensuring robust mechanisms of participation, transparency and accountability as well as building its professional competencies.

   c. Free the UDA from military control and enable it to function as an autonomous institution undergirded by democratic accountability and the professionalism it can draw on from within the public and private sector.

   d. Ensure there is a transparent and credible process with effective judicial oversight available to all those affected by land acquisition to question the purpose for which land is to be acquired, and the extent as well as terms of acquisition.
2. Ensure legal reforms to protect against forced evictions

Land expropriation has long remained one of the most contentious social, political and legal issues in the country. Even the Lessons Learnt and Reconciliation Commission (LLRC) acknowledged the gravity of the issue and made several recommendations in this regard, which are yet to be implemented. Moreover, it is now clear that a number of concerns previously underlined by CPA and others with respect to post-war land expropriation practices and policies in the North and East are increasingly relevant nationally.

While reiterating recommendations made in previous CPA reports pertaining to land, we call on the government to undertake a thorough and participatory review of all laws, regulations and procedures pertaining to land expropriation and involuntary resettlement to ensure that:

a. They afford the highest levels of protection, in line with internationally recognised standards, against forced evictions.

b. The Policy Principles of the NIRP are enshrined in law.

c. The rights of all those affected, whether or not relocated and irrespective of whether they hold legal title, to be compensated for loss of land, structures, assets, and businesses are recognised.

d. The rights of those occupying state land, generally poor communities who have long been serviced and recognised by utility agreements, to full compensation, participation and access to remedies are effectively safeguarded.

e. Affected communities are given full and prior information, and the right to challenge acquisition of their lands, and the procedural and substantive terms of compensation and relocation before a competent autonomous tribunal with recourse to further appeal in an appropriate court of law.

To the Urban Development Authority

3. Follow and implement existing policy frameworks and safeguards pertaining to involuntary resettlement

As previously underlined, even though the evictions and resettlement in Colombo are always presented as part of the larger development project, the NIRP is not being adhered to. In this context CPA calls on the UDA and the Government of Sri Lanka to:

a. End the practice of applying double standards and discriminatory treatment of those being evicted as part of the URP in Colombo, who are being denied the protections afforded by the NIRP and other safeguards that come with international financing enjoyed by those affected by the Southern Expressway or WB funded projects in Galle and Kandy.

b. Accept the obligation to demonstrate in each case that involuntary resettlement has been “reduced as much as possible by reviewing alternatives to the project as well as alternatives within the project”, one of the key principles of the NIRP.

c. Learn from good practices in the past in the application of the NIRP. For instance, in the case of the Southern Transport Development Project, these included:

- Setting up of a Land Acquisition and Resettlement Committee (LARC), which provided the space for the affected people to negotiate the terms of compensation.
- Recognition of non-titleholders as also entitled to compensation and support to restart livelihoods.
- Identifying vulnerable groups who were offered additional assistance.
- Recognising that both registered formal enterprises and informal enterprises were eligible for compensation.
- Ensuring resettlement sites were selected in consultation with the affected communities and located less than 1km from the original homes.

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4. Address rights violations and ensure access to justice for those already evicted and those at risk of evictions in Colombo

In the light of the measures recommended above, CPA calls on the UDA and the Government to take the following specific measures with respect to forced evictions in Colombo:

a. Announce a stop to all further evictions pending a thorough review of the process and the experiences so far.

b. Make public all information pertaining to the URP, especially all aspects pertaining to acquisition of lands and resettlement. This includes results of surveys, sites identified for redevelopment, demarcations of private and state land, as well as scheduling of proposed acquisition and relocation.

c. Remove the military from all aspects of the acquisition and relocation process and follow due process, including adherence to the policy principles of the NIRP, the approach envisioned by the NHP reiterated in Part I of this document, and ensure access to all legal remedies.

d. Explore all possible options, including and especially in-situ redevelopment, to eliminate and minimise involuntary resettlement.

e. Develop a comprehensive redevelopment plan, including where needed a resettlement action plan with a comprehensive framework of entitlements, for each affected community through a transparent, non-militarised and participatory process. The aim must be to ensure that communities are substantially better off in all respects and attain higher living standards rather than just acquire newly built apartments in high-rises, which in time may become vertical slums.

f. In cases where relocation is unavoidable, ensure that relocation sites are decided in consultation with affected communities and provide houses free of cost.

g. Ensure that language rights of citizens are protected – as noted in the case studies in this report, many citizens whose primary language is Tamil reported signing documents with regard to their eviction and resettlement that they did not fully understand. It is crucial that language rights of citizens set out in the Constitution as well as the Official Language Policy are implemented in every interaction and communication with Government Institutions.

h. Compensate all those already relocated as well as others who maybe displaced for loss of houses, assets and businesses, formal or informal.
i. Ensure attention to non-monetary forms of compensation based on social empowerment, including investment in human resources, relevant and meaningful vocational training, creating employment, ensuring access to education and health, and transport.

j. Commit to and implement livelihoods restoration projects that take into account a number of elements including compensation for loss of potential livelihood incomes of both registered and unregistered or informal businesses, providing a source of subsistence income for the interim period or a grant, creating job opportunities and complement these initiatives with appropriate training and the provision of resources and capital for start-ups.

k. Ensure full and appropriate reparations to all those who have suffered as a result of the forced evictions thus far.

**To the Colombo Municipal Council**

CPA recognises that the Colombo Municipal Council is operating under significant political and resource constraints. Nevertheless, given that the Council is a democratically elected body with a mandate to serve in the interests of all residents of Colombo, we call on it to:

a. Take recourse to all possible measures to halt all forced evictions and safeguard the rights of those already evicted and those at risk of evictions.

b. Work actively towards ensuring that the UDA does not undermine its own democratic mandate of providing all residents of Colombo with an effective, inclusive and accountable local government.

c. Take all measures to enhance the quality of its services and its professional capacities, particularly to protect the rights of the most vulnerable residents of the city.

**To the Human Rights Commission of Sri Lanka**

The Human Rights Commission of Sri Lanka needs to urgently take cognisance of the range of on-going and risk of further human rights violations entailed by the mass forced evictions in Colombo. CPA calls on the Commission to launch *suo moto* investigations into the many human rights issues raised in this report and to also reach out to affected communities and support them in their quest...
for justice. We also call on the Commission to publicly urge the Government of Sri Lanka and the UDA to desist from forced evictions, respect the rights of all citizens, and adhere to the rule of law, including enhancing legal safeguards for all citizens against forced evictions. The Commission must also take action to safeguard citizens and civil society organisations against intimidation by the security forces or the UDA that may lead to enforced silence on human rights concerns.

To the World Bank and other funding agencies

CPA also urges the World Bank and other lenders to take note of the range of concerns raised in this report and the recommendations made above. It is incumbent on bilateral and multilateral lenders, especially those with a history of supporting international standards and best practices on involuntary resettlement, to ensure that their projects do not support forced evictions, directly or indirectly. Moreover, it is equally important that they take cognisance of the far-reaching implications of their support for agencies like the UDA, which serve as conduits for deepening militarisation rather than democracy. CPA therefore calls on all lenders and the World Bank in particular to take immediate steps to ensure that the projects and agencies financed show full respect for democracy, the rule of law and human rights.
Annexure 1

National Involuntary Resettlement Policy (NIRP): Objectives and Key Policy Principles

Objectives of the Policy

Avoid, minimise and mitigate negative impacts of involuntary resettlement by facilitating the reestablishment of the affected persons on a productive and self-sustaining basis. The policy should also facilitate the development of the project-affected persons and the project.

Ensure that people adversely affected by development projects are fully and promptly compensated and successfully resettled. The livelihoods of the displaced persons should be re-established and the standard of living improved.

Ensure that no impoverishment of people shall result as a consequence of compulsory land acquisition for development purposes by the State.

Assist adversely affected persons in dealing with the psychological, cultural, social and other stresses caused by compulsory land acquisition.

Make all affected persons aware of processes available for the redress of grievances that are easily accessible and immediately responsive.

Have in place a consultative, transparent and accountable involuntary resettlement process with a time frame agreed to by the PEA and the affected persons.

Policy Principles

Involuntary resettlement should be avoided or reduced as much as possible by reviewing alternatives to the project as well as alternatives within the project.

Where involuntary resettlement is unavoidable, affected persons should be assisted to re-establish themselves and improve their quality of life.

Gender equality and equity should be ensured and adhered to throughout the policy.

Affected persons should be fully involved in the selection of relocation sites, livelihood compensation and development options at the earliest opportunity.
Replacement land should be an option for compensation in the case of loss of land; in the absence of replacement land cash compensation should be an option for all affected persons.

Compensation for loss of land, structures, other assets and income should be based on full replacement cost and should be paid promptly. This should include transaction costs.

Resettlement should be planned and implemented with full participation of the provincial and local authorities.

To assist those affected to be economically and socially integrated into the host communities, participatory measures should be designed and implemented.

Common property resources and community and public services should be provided to affected persons.

Resettlement should be planned as a development activity for the affected persons.

Affected persons who do not have documented title to land should receive fair and just treatment.

Vulnerable groups should be identified and given appropriate assistance to substantially improve their living standards.

Project Executing Agencies should bear the full costs of compensation and resettlement.
Annexure 2

What provisions exists in law to acquire Land owned by Private Individuals?

Land Acquisition Act

The Land Acquisition act (LAA) is the primary legislation which provides for the acquisition of private land. In terms of this law any other law which deals with the acquisition of land is read with the provisions of Land Acquisition Act.

The act states that any land can be acquired by the state for public purpose in terms of the following process;

1. Minister decides that land in any area is needed for any public purpose.

2. The Minister directs the acquiring officer of the district in which area is located in to exhibit a notice in prominent places, in the Sinhala, Tamil and English stating that land in that area is required for a public purpose and that certain acts may be done on any land in that area in order to investigate the suitability of that land for that public purpose.

3. Once the initial steps are concluded, in terms of section 5, the minister may make a declaration that a particular land is required for public purposes and such a declaration should be published in the gazette and exhibited on or near the land.

4. At this point any person interested in the land to be acquired is given the opportunity to notify the acquiring officer of the nature of his interest in the land and the particulars of his claim for compensation, including the amount of compensation.

5. An inquiring officer holds an inquiry into, inter alia, the market value of the Land, claims for compensation and the interest of the parties claiming compensation, and makes a determination as to the persons entitled to compensation, the nature of their interest and the amount of compensation.

6. A person not satisfied with the compensation provided can appeal to a “Board of Review” set up by the act. Such an appeal must be submitted within 21 days of the date on which the order of the
acquiring officer was received.

(7) If a person is not satisfied with the decision of the board of review, s/he can appeal to the court of appeal within 21 days of the decision of the Board.

What are the steps that need to be followed in order to repossess State Land?

State Lands (Recovery of Possession) Act No. 7 of 1979

Ejectment process

Act defines State land as “land to which the State is lawfully entitled or which may be disposed of by the State together with any buildings standing thereon, and with all rights, interests and privileges attached or appertaining thereto”;

The acts empowers the Competent Authority, to serve notice (quit notices) on any person who is in unauthorised possession or occupation of such land to deliver vacant possession of such land to such competent authority or other authorised person as may be specified in the notice on or before a specified date which shall be a date not less than thirty days from the date of the issue or the exhibition of such notice.

If failing to comply with such notice the Magistrate’s Court is empowered to make an order (after inquiry) directing such person and his dependents, in occupation of the land to be ejected from such land.

Action in vindication

In terms of Section 12 of the act, any person who has been ejected from a land under the provisions of this Act or any person claiming to be the owner of that land can institute action against the State for the vindication of his title. However this must be done within six months from the date of the order of ejectment.

Compensation

Where an action instituted under section 12 by any person against the State, has been decided in favour of such person, that person is entitled to recover a reasonable compensation for the damage sustained by reason of his having been compelled to deliver up possession of such land.
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