Sri Lanka Legislative Drafting Workshops

Seidman, Robert B.

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Boston University
DRAFT STATUTE FOR LAND ALIENATION IN NORTH CENTRAL PROVINCE

A statute to empower The North Central Provincial Council’s Land Commissioner to alienate state lands to the needy peasants to enable them to involve in small scale farming activities, monitoring of land use and provided them with deeds for the alienated lands.

The North Central Provincial Council of the Democratic Socialist Republic of Sri Lanka enacts The Statute as follows:--

CHAPTER 1

GENERAL

1. This statute named as "The North Central Province Land Alienation Statue No... of 1998".

2. This statute comes in to effect from the date of approval of the Governor of the North Central Province.

3. This statute is inconsistent with the Land Development Ordinance No: 19 of 1935 and The State Lands Ordinance No; 8 of 1947.
General 4. A person shall construe this statute to achieve the following objectives:

(1) as rapidly as possible, by distributing state lands among the landless, to lessen the incidence of landlessness among the people of the North Central Province;

(2) to improve the productivity of agriculture among small landholders in the North Central Province;

(2) so far as possible, to ensure equality in the distribution of land among the landless; and

(2) to ensure maximum feasible accountability, transparency, participation and governance by rule in administering the land affairs of North Central Province.

PART 1

CHAPTER 2

Releasment of state lands and identification of arable land for distribution

Releasment of state lands from the national government

The Provincial Land Commissioner shall,

(a) prepare a report on land alienation and submit it to the Minister of Lands of the national government, through The Minister of Lands of the provincial council to vest the state land to provincial council.

(b) include in the report, the proposal of the
Appointment of the District Land Alienation committee

6(1) In this Statute;

a. “DLO” means a Divisional Land Officer appointed pursuant to section 32,

b. “Committee” means a Thulana Land Alienation Committee appointed pursuant to subsection (2)

(2) within one month after this Statute comes into force or one month after initial appointment of the first DLO in a division, shall appoint a committee in the manner and for the terms of office provided in Schedule 1.

(3) The DLO shall serve as Convener and chairperson of the committee.

(4) The DLO shall furnish necessary technical assistance to the Committee, including but not limited to making the preliminary sketch map, placing landmarks and publishing notices as required by this Statute.

Powers and Duties of the Committee

7(1) In this Statute;

“smallholder farming” means farming that a family conducts on a plot of land on which the family has a Dwelling in which they live.

(2) The Committee shall;
a. pursuant this part, make a final sketch map showing the state lands subject to alienation within the division, pursuant to section 8, showing the demarcation of individual plots for smallholder farming within those lands, and pursuant to section 9, the demarcation of sites for public functions, and submit that map to the Provincial Land Commissioner for approval and for development into a survey map.

b. pursuant to Part II, select potential allottees of portions of the state land selected pursuant to subsection (a);

and

c. pursuant to Part III, conduct a lottery to determine the specific plot of land that an allottee receives from the Provincial Land Commissioner.

8.(1) In this Statute;

“local farm organization” means the local farm organization registered pursuant to the Agrarian Services Act No 56 of 1975.

(2) Within six weeks after appointment, the Committee shall hold consultations with local councils within the Thulana and with the officers of the local farm organization, if any, to ascertain their views about:

i. what state lands within the Thulana the
Demarcation of Individual plots For smallholder Farming

9.(1) On the preliminary sketch map mentioned in section 11 the Provincial Land Commissioner ought to alienate for purposes of smallholder farming;

ii. pursuant to section 8, the demarcation of individual plots for smallholder farming; and

iii. pursuant to section 9, the demarcation of sites for public functions;

and

b. as widely as possible within the division and as the Minister by regulation may require, publicize the fact that the DLO has appointed the Committee, and solicit advice and comments about

i. what state lands the PLC ought to alienate for purposes of smallholder farming;

ii. pursuant to section 8, the demarcation of individual plots for smallholder farming; and

iii. pursuant to section 9, the demarcation of sites for public functions.

<table>
<thead>
<tr>
<th>Demarcation of</th>
<th>9.(1) On the preliminary sketch map mentioned in section 11 the Committee shall demarcate plots suitable for smallholder farming.</th>
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<td>(2) In demarcating sites pursuant to subsection (1), the Committee shall seek to ensure that a site,</td>
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<td>a. contains land which, taking in to consideration its</td>
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size, drainage, slope, depth and fertility of topsoil, availability of water for farming and for household uses, and such other factors as the Minister by regulation may prescribe, has an agricultural productive potential equivalent to not more than 2.5 acres of the most fertile arable, watered land in the division.

b. has a site upon which without extraordinary expense a family might construct a dwelling house;

c. has reasonable access to a road already in place or appearing on the sketch map mentioned in section 12 and

d. has other characteristics that the Minister by regulation may prescribe.

Location and demarcation of sites for public functions

10.(1) On the preliminary sketch map mentioned in section 11, the Committee shall demarcate sites for carrying out public functions including but not limited to religious centers, marketing centers, hospitals and clinics, schools, public offices, post offices, parks recreational areas, community centers, and roads, and other public functions that the Minister by regulation may prescribe.

(2) In demarcating sites pursuant to subsection (1), the Committee shall seek to ensure that a site for a public function mentioned in subsection (1)
j. contains sufficient land to carry on the specified public function;

ii. contains as little arable land as possible;

iii. has a location convenient for the public; and

iv. has other characteristics that the Minister by regulation may prescribe.

Preparation of

11.(1) Not later than four months after appointment, the Committee shall prepare a preliminary sketch map of the state lands subject to alienation within the Thulana, and, pursuant to section 8, showing the demarcation of individual plots for smallholder farming within those lands, and pursuant to section 9, the demarcation of sites for public functions.

(2) Not later than one week after the Committee has completed the preliminary sketch map mentioned in subsection (1), the Committee shall post copies of the sketch map in as many places within the Thulana as the Committee believes necessary to reach a high proportion of stakeholders in the alienation process, together with a notice publicized as widely as possible within the Thulana;

a. giving notice of the completion of the preliminary sketch map and advice about where a person may view it or receive a copy of it;
b. inviting comment on the state lands selected for
   alienation for smallholder farming, the demarcation of
   individual plots for smallholder farming within those
   lands, and; the demarcation of sites for public
   functions; and

c. at a venue as convenient to as many smallholder
   farmers and agricultural laborers within the Thulana as
   possible, and as the Minister by regulation may require,
   setting a time and place for a public meeting concerning
   what state lands the PLC ought to alienate for purposes
   of smallholder farming, and, pursuant to section 8, the
   demarcation of individual plots for smallholder farming
   , and, pursuant to section 9, the demarcation of sites for
   public functions.

(3) At then time and place stated in the notice mentioned
   in subsection (2) (c), the Committee shall hold the
   public meeting as specified in the notice.

(4) The Committee shall keep a written record of each
   objection or proposal for change made with respect to
   the sketch map.

Preparation of 12. (1) Not later than six months after appointment, and not later than one
The Sketch Map month after receiving the comments solicited pursuant to
  Subsection (4) of the section 11 the Committee shall prepare a
Final Sketch Map, taking into account the objections made to the Preliminary sketch map as the Committee believes appropriate.

(2) The Committee shall prepare a written document summarizing each objection or proposal for change made with respect to the preliminary sketch map, noting whether accepted, or rejected in whole or part, and if rejected in whole or part, succinctly explaining the reasons for the rejection.

13. The Committee shall set landmarks for the state lands within the Division that the sketch shows as subject to alienation.

14.(1) Not later than six months after appointment, or one month after the public meeting mentioned in section 10(3) the DLO on behalf of the Committee shall submit the final sketch map to the PLC together with the document recording objections to the preliminary sketch map and the disposition made of them, and a request for permission to proceed with an alienation scheme pursuant to the final sketch map.

(2) In the request for permission to proceed with the alienation scheme, the DLO shall include particulars about costs of completing the roads and irrigation works indicated on the final sketch map, and other particulars that the Minister by regulation may prescribe.
Approval by the PLC.  

(1) Taking into account the considerations mentioned in subsection (2), the PLC may accept, accept with conditions or deny an application made pursuant to section 14 to proceed with an alienation scheme.

(2) In making the determination mentioned in subsection (1), the PLC shall take into account:

a. Provincial and District needs for land alienation for purposes of smallholder farming;

b. the capacity of the provincial lands department to carry out the proposed alienation of state land;

c. the relative priority of the subdivision for purposes of smallholder farming of the lands shown on the sketch map;

d. the cost of bringing the new roads and irrigation works indicated on the final sketch map to a minimal level of utility;

e. the potential availability of agricultural extenuation services to the area; and

f. such other considerations as the Minister by regulation may prescribe.

(3) Upon making the determination mentioned in subsection (1), the PLC shall forthwith notify the DLO of that determination.

Survey and land alienation

(1) In accordance with the determination of the priority of the proposed land alienation scheme, the PLC shall employ a surveyor
to prepare a survey map based on the final sketch map, and to
place landmarks to demarcate the individual plots.

(2) Immediately upon receipt of the survey map, the PLC shall
forward it to the DLO.

CHAPTER 3.

Selection of allottees.

17.(1) In this Statute "land kachcheri" means the procedure for selecting
potential allottees to hold and to work alienated state land as small
holder farmers as described in section 18.

(2) After receiving the approval of PLC for land alienation, pursuant
to section 16, the DLO shall publish a notice of intention to hold a
land kachcheri in the government gazette and in three national
newspapers in Sinhala, Tamil and English languages.

(3) In the notice, published, pursuant to subsection (2), the following
provisions should be appropriate:

a. The closing date for receiving applications for land
kachcheri should not be less than six weeks from
the notice;

b. The place and time the land kachcheri held;

c. The qualifications of the peasants who can apply for
the land kachcheri;
d. The notice should contain a prescribed application form for land kachcheri which should include the following information of the applicant:

1. the name of applicant
2. address
3. occupation
4. age
5. married/single...if married the number of children
6. annual income of the family
7. ability of small scale farming
8. the ownership of land, if any

The procedure

19.(1) The DLO shall make arrangements to held the land kachcheri with other members of the Committee.

(2) The DLO shall be the chairman of the land kachcheri.

(3) The Committee shall notice each applicant, in person to appear before the Committee on the published date and time.

(4) A person who interested in land kachcheri may present in the place where the land kachcheri held.

(5) The Committee shall call out each applicant, before the committee and announce loudly the personal data, which appears in his application form.
(6) An applicant may amend his data, which he stated in his application, in the process of land kachcheri and the Committee shall announce such amendments.

(7) The Committee shall award marks to each applicant, pursuant to schedule 2 of this statute.

The preliminary 20.(1) Not later than two weeks after the land kachcheri, the Committee shall prepare a preliminary selection list of applicants awarded the marks pursuant to section 19 (7) in the priority basis.

and the objections (2) Not later than one week after the Committee has completed the preliminary list mentioned in subsection (1) the Committee shall post copies of the list in as many places within the division as the Committee believes necessary to reach a high proportion of stakeholders in the alienation process, together with the notice as widely as possible within the Division;

a. giving notice of the compilation of the preliminary selection list and advice about where a person may view it or receive a copy of it;

b. giving notice that, an applicant may appeal to the PLC within three weeks who remains unsatisfied with the decision of the Committee;
c. giving notice that, a person may submit a objection to the PLC, within three weeks, who thinks unsuitable persons are selected by the Committee;

d. pursuant to subsection (b) and (c) after receiving an appeal or an objection the PLC shall take a decision pursuant to section 32.

State lands situated outside Thulanas

The duty of the special task force

21. The PLC shall appoint a special task force comprising of respective ALC of the district, respective DLO and assistant commissioner of agrarian services of that district to identify and alienate, the state lands which does not belongs to Thulanas, for smallholder farming in the NCP.

22.(1) The special task force shall take following steps to identify and alienate state lands outside Thulanas;

i. make a final sketch map showing the state lands subject to alienation within the District

ii. showing the demarcation of individual plots,

iii. demarcation of sites for public functions,

iv. select potential allottees for the portions of the state lands.

(2) The special task force shall adhere the procedure which the Committee apply for identification and alienation, state lands, pursuant to sections 8 to 20.
Dispute settlement 23. The Provincial Land Commissioner shall submit the disputes between the national government and the provincial council for settlement to the National Land Commission, set up under the provisions of 13th amendment to the constitution.

Granting conditions 24. A permit holder shall

(1) prepare the block of land for cultivation within one year of allocation.

(2) maintain the boundaries of the block of land in good condition.

(3) in consultation with the farmer organization take the action to conserve the block's soil.

(4) not dispose of the block of land or leave it without obtaining written permission of the Provincial Land Commissioner.

(5) A permit holder shall not fragment his block of land.

Fees 25. A permit holder shall pay, by annual part payments for the block of land at a value determined by the valuation officer to the Provincial Council.

Collection of 26. A Land Officer shall collects from the permit holders the
fees and other taxes, due to Provincial council and issue receipts.

Conditions of a permit

27. A permit holder shall observe the conditions of the permit.

Notice to permit holder where there has been a breach of condition of permit

28. If a permit holder has failed to observe a condition of a permit, the Land Officer shall give one month notice in writing that the permit holder shall comply with the conditions with the permit.

Notice of cancellation of permit

29. Where a permit holder fails to comply with the requirements of the notice issued under section 11 a Land Officer shall issue a notice in a prescribed form informing the permit holder of the cancellation of that permit, unless the permit holder provides the Land Officer sufficient cause to hold the cancellation on the date and at a time and place specified in the notice.

Period allowed to show cause

30. The date specified in a notice issued under section 12 shall not be less than thirty days of the issue of such notice on the permit holder.

Procedure where permit holder fails

31. If the permit holder,

(a) fails to appear on the date and at the time
to appear before land officer or appears

and place specified in the notice issued under section 12, a Land Officer shall issue an order canceling the permit.

(b) appears on the date and at the time and place specified in the notice issued under section 12, and states that he has no cause to show why his permit should not be cancelled, the Land Officer shall issue an order canceling the permit.

(c) appears on the date and at the time and place specified in the notice issued under section 12 and shows sufficient cause to justify not canceling the permit, a Land Officer may, if satisfied after inquiry that the permit holder has breached a condition of the permit, issue an order canceling the permit.

A land officer may adjourn an inquiry

(1) from time to time may adjourn any inquiry under section 14 and shall hear evidence before making his order.

(2) may take evidence on oath or affirmation.

A land officer shall serve the order

(1) serve on the permit holder a copy of an order made under section 14, and
In consultation with the Minister of Lands of the Provincial Council, The Minister of Finance of the Provincial Council may allocate necessary funds to the Provincial Land Commissioner to finance land alienation program.

CHAPTER 4

APPOINTMENT, POWERS AND DUTIES OF OFFICERS

Appointment of officers

The provincial public service commission shall appoint

(1) A Provincial Land Commissioner,
(2) Assistant Land Commissioner,
(3) District Land Officers, and,
(4) Land Officers,

to carry out duties under this statute.

Powers of Provincial Land Commissioner

The Provincial Land Commissioner may give to a Assistant land Commissioner, a District Land Officer or, a Land Officer general or special directions, as to the performance of those officials' duties relating to land administration and land alienation.

Powers of Assistant Land Commissioner

An Assistant Land Commissioner,
Assistant Land Commissioner

(a) shall observe and give effect to the direction of Provincial Land Commissioner,

(b) may give general or special directions to a District Land Officer or a Land Officer as to the performance of his duties relating to land administration and land alienation under the directions of Provincial Land Commissioner.

Powers of District Land Officer

38. A District Land Officer,

(a) shall observe and give effect to the directions of Provincial Land Commissioner and Assistant Land Commissioner.

(b) may give general or special directions to a Land Officer as to the performance of his duties relating to land administration and land alienation under the directions of Provincial Land Commissioner or Assistant Land Commissioner.

Powers of Land Officer

39. A Land Officer shall observe and give effects to the directions of Provincial Land Commissioner, Assistant Land Commissioner and District Land Officer.

Outright grants

40. The Provincial Land Commissioner shall issue a outright grant to a permit holder for permit holder's block of land
(i) if the permit holder has completed one year of allocation,

(ii) if the permit holder has not violated any conditions of the permit,

(iii) if the permit holder completely paid the valuation of the land.

Provincial Minister has power to make regulations to give effects to the provisions of this statute with respect to all or any of the following matters;

- prescribed forms,
- prescribed documents,
- prescribed fees,
- mapping out of state lands,
- the assessment of annual payments,
- the manner of publishing or serving notices
- the manner of conducting a land kachcheri.

The Provincial Minister of Lands shall prepare regulations with regard to section 37 (a) to (f) on the basis of accepted procedure adopted by the North Central Province, Provincial Council and submit the regulations to the provincial council and get the approval and publish in the Gazette.
CHAPTER 5
APPEALS

Appeals on land kachcheri 43. An applicant for the land kachcheri, who remains unsatisfied by the decision made by the District Land Officer, shall appeal to the Provincial Land Commissioner who may take action under section 25 of this statute.

Power of the provincial land commissioner 44. On receipt of an appeal under section 24, The Provincial Land Commissioner shall inquire into the matter, and if he is satisfied that there has been an irregularity in the procedure or manner of holding land kachcheri, he shall make an order to hold a new land kachcheri.

Appeals on cancellation of permit 45. A permit holder aggrieved by an order made by the District Land Officer, under section 14 of this statute, may appeal by written petition, within thirty days from the date on which the Land Officer made the order, to the Provincial Land Commissioner on the ground of cancellation of his permit.

Power of the Provincial Land 46. In response to a permit holder's appeal, The Provincial Land Commissioner may,
Commissioner

(a) direct further inquiry to be made or information to be furnished or evidence to be given; or

(b) modify the order of the District Land Officer; or

(c) allow the appeal and set aside the order of the District Land Officer; or

(d) affirm the order of the District Land Officer.

Appeal to Provincial High Court

A permit holder aggrieved by an order made by Provincial Land Commissioner, under section 29, may appeal to Provincial High Court within one month of the decision of Provincial Land Commissioner.

Powers of Provincial High Court

Provincial High Court of North Central Province have the power of

(a) affirm the Provincial Land Commissioner's decision on the permit,

a. reverse the Provincial Land Commissioner's decision, or

b. refer the case to Provincial Land Commissioner for further investigation and report to the court.

The decision

The Provincial Land Commissioner shall communicate the
should communicate decision made under section 25 to the District Land Officer to the appellant.

CHAPTER 6
DEFINITION

Definition 51. In this statute,

"Provincial Council" means North Central Provincial Council established under the provisions of the 13th amendment to the Constitution of Sri Lanka.

"State Lands" means all lands to which the State is lawfully entitled.

"Provincial Council Lands" means all lands which vested to the provincial council by National Minister of Lands.

"Farmer Organization" means a organization of farmers registered under the Agrarian Services Act No 56 of 1975.

"Land Officer" means the officer appointed under the provisions of section 29 of this statute.

"Permit Holder" means a person who is having a block of land under the provisions of this statute.

"Provincial Land Commissioner" means the incumbent of the office of North Central Province Provincial Land Commissioner.
“DLO” means the Divisional Land Officer appointed pursuant to section 32.

“Committee” means a Thulana Land Alienation Committee appointed pursuant to subsection (2) of the section 6.

Smallholder farming means farming that a family conducts on a plot of land on which the family has a dwelling in which they live.

“Land Kachcheri” means the procedure for selecting potential allottees to hold and work alienated state land as smallholder as described in section 18.

SCHEDULE 1

Appointment, removal, terms of office and procedures of the Divisional Land Alienation Committee.

1. After consultation with the local farm organization registered under the Agrarian Services Act No 56 of 1975, or, if no such farm organization exists within the Division, after consultation with relevant Gramaniladaris within the Division, agricultural extension agents within the Division, and a representative sample of landless persons within the Division, the DLO shall appoint four persons to serve on the Committee.

SCHEDULE 2

The criteria of awarding marks to the applicants in land kachcheri
The Committee shall award marks to the applicants in a land kachcheri according to the following formula.

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<th>category</th>
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