

LAND ISSUES ARISING FROM THE ETHNIC CONFLICT AND THE TSUNAMI DISASTER

Centre for Policy Alternatives

The Centre for Policy Alternatives (CPA) prepared the enclosed Memorandum on Land Issues Arising from the Ethnic Conflict and the Tsunami Disaster with a view to providing policy makers and stakeholders with a discussion document to assist them in the formulation of land policies.

CPA has been at the forefront of civil society interventions in the constitutional reform debate in Sri Lanka, consistently advocating democratic values and federal mechanisms as being essential in the building of a united and more democratic Sri Lanka. The tsunami disaster and the reconstruction efforts it has necessitated, present an opportunity for revisiting some governance reform issues. In particular, we stress respect for the principles of power-sharing and regional autonomy which are not only pivotal to the peaceful resolution of Sri Lanka's ethnic conflict, but are also essential in promoting transparency, responsiveness, representativeness and accountability.

The Memorandum examines current land or land use issues with reference to existing legislation or policies, and highlights issues that may have arisen as a result of both the ethnic conflict and the tsunami disaster. CPA has formulated recommendations that it hopes will contribute to the process of developing strategies and policies to respond to the challenges raised by these situations with reference to international best practices and good governance principles. It is a basic premise of the Memorandum that while the tsunami disaster necessitates an immediate and urgent response, the issues arising from the ethnic conflict should continue to be a principal focus of Government and civil society. CPA urges the Government to respond to the after effects of both situations with equal urgency and diligence.

The Memorandum is structured in three parts. The first part deals with the overarching framework for coordinating issues of land and land use planning. The second part examines the legal and policy framework for land occupation and ownership, focusing on the development guidelines in respect of the coastal zone of Sri Lanka and issues relating to state and private land. The third part discusses land issues relevant to internally displaced persons (IDPs).

I. The Overarching Framework for Land

The first section of the Memorandum examines the overarching framework for coordinating issues of land and land use planning,

including government institutions and national land policies. The underlying themes of this section include good governance principles such as accountability, transparency, participation, capacity building and subsidiarity.

This section examines the constitutional framework and existing modalities of devolution, with a particular focus on the jurisdiction of Provincial Councils over land and related subject areas. The existing structures laid out in statutes establishing local authorities such as Urban Councils, Municipal Councils and Pradeshiya Sabhas as well as other statutory authorities such as the Urban Development Authority (UDA) are also canvassed. This section of the Memorandum also examines the existing national land policies and draft policies.

II. The Legal and Policy Framework for Land Occupation and Ownership

The second section of the Memorandum examines the legal and policy framework for land occupation and ownership with reference to existing legislation, including the Land Development Ordinance, the Land Grants Special Provisions Act, the Land Acquisition Act, and the development guidelines in respect of the coastal zone of Sri Lanka, namely the Coast Conservation Act, the National Physical Planning Department Guidelines and the Urban Development Authority Guidelines. The Memorandum highlights provisions in the legislation dealing with land alienation and other issue areas that will need to be addressed in crafting responses to the ethnic conflict and the tsunami.

III. Internally Displaced Persons (IDPs)

The third section of the Memorandum discusses land issues relevant to internally displaced persons (IDPs), and emphasises the fact that the issues raised by conflict-affected and tsunami-affected IDPs should be responded to by the Government with equal urgency and diligence. This section deals with several issues, including transitional shelter and resettlement programmes, restitution of property, sales made under duress, lost or destroyed identity and property documents, boundaries, women IDPs, financial and social assistance, freedom of movement, landmines and unexploded ordnance and High Security Zones. Particular reference is had to international guidelines and the draft Transitional Shelter Strategy currently being prepared by the Government in collaboration with the UNHCR.