

(Changing) Economic Policies, (Increasing) Pressure on Land, and the (Continuing) Challenge of Land Governance in Sri Lanka

Urs Geiser

(Changing) Economic Policies, (Increasing) Pressure on Land

At this very moment, the people of Sri Lanka face the daunting challenge of an economic crisis that loomed for long, but then escalated through the ‘balance of payment problem’. This problem, though, is embedded in a wider crisis of political leadership with a government that has, by now, lost all legitimacy. Intensive debates are therefore ongoing as to how to solve – politically and technically – this deep crisis, and also about the potential impact of the discussed strategies.

The government sees the only solution as going to the International Monetary Fund (IMF) – at the risk of having to accept unfavourable conditionalities on economic and social policies (Gunawardena & Kadirgamar 2022). According to the IMF (2022), measures could include the increase of taxes (especially VAT) which would increase the prices of important consumables. This will affect lower-income groups in particular. Economic inequalities are high in Sri Lanka, with the richest 20% of households earning more than half of all income, leaving the poorest 20% with barely 4.8% (CBSL 2020). The price for essential items such as gas (used for cooking) has already gone up, which increases the demand for firewood as a replacement, with the police arresting those who cut it (*News1st* 2022a). Higher food prices would encourage the expansion of agricultural areas through government policies, or spontaneously through people’s own agency, as the long history of ‘encroachments’ would indicate. The IMF also thinks that renewed “efforts are needed on growth-enhancing structural reforms, including (...) liberalizing trade, developing a wide-reaching and

coherent investment promotion strategy” (2022: 2). Land is a key asset of Sri Lanka, and many fear that the pressure to release land for [‘growth-enhancing’] foreign investment will increase. Indeed, the emerging conditions of the IMF to financially support Sri Lanka are in line with, and a continuation of, the neo-liberal ideology that Sri Lanka adopted in late 1977 – in spite of the fact that the economic policies informed by this ideology are seen by many as the root cause of the present crisis.

Being aware of the potential dangers of an economy guided by the ‘neo-liberal’ discourse, concerned researchers and activists are demanding alternative economic strategies to address the crisis – strategies that are informed by an ideology/discourse prioritising the wellbeing of the nation’s citizens above a paradigm that circles around growth. These include a shift away from the enormous import dependency produced by those in power. For example, despite its extensive grasslands, Sri Lanka imports approximately 65% of its milk demand (Kadirgamar 2021). And many more food items are imported (now even rice) that could be produced locally. There are also demands for the reduction of vulnerabilities, with land playing a central role. Many low-income households earn their livelihoods as daily wagers, without access to any land that would allow at least some self-supply. A “Call for Action and Reflection” signed by over 250 concerned citizens argued that the “landless should be given land for housing, agriculture and other economic activities” (Collective 2022).

These critical debates are important and crucial interventions. When thinking about their potential consequences on land, it may be worth noting that these alternative economic scenarios can also increase pressure

on land. Increasing agricultural production to meet domestic (urban and rural) demand can be achieved through intensification, but it might also require the expansion of agricultural land. Similarly, meeting the demand for milk requires more pastures for animal husbandry (to avoid the import of fodder).

In sum: Sri Lanka's limited land resources must already serve a range of needs. And in all likelihood, these needs will increase in the very near future – whether it is under an IMF-determined export-oriented economic policy, or a more autonomous and progressive policy that prioritises the needs of the low-income masses.

The Discourse-Policy-Practice Problematique: The Case of Land Governance

The ongoing struggle between the followers of what is generally labelled as the 'neo-liberal discourse', and representatives of more 'progressive ideas' regarding Sri Lanka's future economic policy constitutes a crucial episode in the country's history, and this arena of 'policy formulation' requires full attention. The definition of a new economic policy that addresses people's needs is of utmost importance; after all, millions of Sri Lankans are struggling daily, and increasingly, to make ends meet.

However, a new policy (based on whatever ideology/discourse), does not yet provide more foodstuffs or more exportable goods. Policies are crucial, but they need to be 'implemented'; otherwise they remain texts, or worse yet, they stay mired in sloganeering. I call this the *discourse-policy-practice problematique*, which I will discuss in the case of land.

Policies provide an important general orientation, and they must be translated into more concrete plans, guidelines, and circulars for those in charge of actually practicing policy implementation. Concerned citizens and researchers also demand space for more active engagement of local communities, the farmers themselves, cooperatives, or a "People's Council" in formulating and implementing progressive policies (e.g. FUTA 2022; Kadirgamar *et al.* 2021). This is important, but the State administration will nevertheless retain its importance. Even if a new 'progressive' government emerges, the apparatus of this bureaucracy, with all its strengths and weaknesses, will remain. This bureaucracy is staffed by people whose working is structured not necessarily by policies, but by rules, regulations, circulars, and routines – what Jacob & Jacob (2021) call "habituated bureaucratic practices". New policies, then, need to change such structuring routines to encourage the bureaucracy to translate (new) policy intentions into

(new) policy outputs. This discourse-policy-practice problematique applies to land as well.

Land is a limited resource, and Sri Lanka's 6,561,000 ha of this limited resource are already being used to meet a range of demands, almost in their entirety. Table 1 illustrates that land is used to live on (including sites for industries, army camps, etc.), for agricultural production (for domestic demand and exports), as forests, or for the construction of irrigation tanks. There is hardly any land left that is unused. Demands for land also change over time. Within the category of agricultural land, for example, paddy land can be converted to the cultivation of bananas, even tree crops, or it can be built-up. Changes across categories can include the conversion of open forest into agricultural land, wetlands can be changed into highways, or *chena* can be terminated through the declaration of Forest Reserves. These changes are driven by an array of forces, such as changing market demands, or pressures emerging from civil society for environmental conservation. Government interventions remain a key driver, though. We merely need to recall the colonial spread of export-oriented tea and rubber cultivation, or the long post-colonial history of transforming large parts of the Dry Zone, covered by scrub, *chena*, and grassland, into irrigated land for paddy production. It is very likely that the present crisis will activate another round of land use changes.

For each of the land use categories, several institutions are entrusted with implementing government policies and regulations. When economic policies change, these mandates require adjustments as well. Moreover, the diverse and increasing demands on land require consistent coordination. This coordination must ensure that all sections of society can voice their demands, that these demands are carefully assessed, and that the allocation of land to certain uses takes place in a sustainable way. And with the (expected) changes in economic policies, this coordination becomes an even more demanding challenge.

The notion of 'land governance' is used to describe societal processes of coordinating the allocation of land to different uses, adapting these allocations whenever new economic policies emerge, and the efforts to deal with conflicts that arise in these contexts. In fact, land is one of the most contested resources, and not just in Sri Lanka. The notion of 'governance' indicates that the modern nation state plays an important coordinating role in using land for the benefit of all its citizens, and (unlike in the notion of 'governing land') that other stakeholders must also be involved.

Table 1: Land use in Sri Lanka (2018)

Land use type		Extent (% of total land)
<i>(Where people live)</i>	Built up land	1.3
	Homesteads/ home gardens	18.2
Agricultural land	Paddy	15.0
	Sugarcane	0.5
	Palmyra, oil palm, cinnamon, mixed trees & other perennials	1.9
	Banana, field crops (seasonal crops, tobacco, sparsely used cropland/ <i>chena</i>)	4.9
	Other cultivation	0.4
	<i>(Estate sector)</i>	Tea
	Rubber	2.8
	Coconut	3.2
<i>Total Agricultural land</i>		22.7
Abandoned agr. land	Abandoned tea, rubber, paddy, others	0.8
Forest land	Dense forest	20.6
	Open forest	7.6
	Scrub, grassland	9.0
	Forest plantation	1.0
<i>Total forest land</i>		38.6
Wetlands, water bodies	Marsh, swamp, mangrove, <i>villu</i>	7.0
Rocks, etc.	Rocks, sandy areas, bare land	2.4
TOTAL		100

Source: LUPPD (2018), re-grouped by author

I have argued that pressure on land will increase, whether future economic policies are based on neo-liberal or more progressive discourses/ideologies. Therefore, the attention given by critical researchers to the sphere of policies and the discourses that underpin such policies is absolutely central – but this should not lead to the neglect of the challenges of policy translation. This paper attempts to contribute to such critical attention to the policy-practice link. The next section briefly describes the existing institutional set-up for land governance, and then contrasts its *de jure* structure with its *de facto* working on the ground – a ground reality that is characterised by the persistence of a multitude of conflicts that occur as if there was no *de jure* institutional set-up at all. To understand this contradiction, empirical insights are presented from a recent in-depth study on land governance in Eastern Sri Lanka.

Land Governance in Sri Lanka

In principle, the need for coordinating land use is well addressed in Sri Lanka. There is a Ministry for Lands and Land Development, and there is a specialised Land Use Policy Planning Department (LUPPD). Its mandate is the “(f)ormulation of policies, preparation of plans and facilitating their implementation by an efficient and committed staff to achieve the optimum utilization of land resources while maintaining sustainability and environmental balance for the satisfaction of our stakeholders and the land users” (LUPPD 2015: 2). To implement this mandate, it has 265 field level officers attached to the Divisional Secretariat Divisions (DSDs) to perform “grass root level land-use planning activities”. These activities are structured through detailed rules (LUPPD 2012b). Many other institutions are involved as well (see Nanayakkara 2019 for a comprehensive

overview). For example, the vision of the Land Commissioner General's Department is to "promote a society with undisputed lands" (Land Commissioner General's Department n.d.). Concerns for land-related planning and decision-making have even been incorporated in Sri Lanka's Constitution through the 13th Amendment (more on that later).

This central role of the State can be understood by recalling the concept of the 'Developmental State'. After independence, the country's new government and the bureaucracy were seen as responsible for structuring and guiding the post-colonial path to modernisation. Consider, for example, the importance given to the Five-Year Plans. This included land use planning, and the establishment of a number of specialised departments. However, the 'neoliberal turn' that Sri Lanka took in late 1977 challenged this central role of the State. Now the

'free market' was supposed to decide the allocation of land to specific uses through the mechanism of "supply and demand" (World Bank 2008). Regarding land, we can recall the many efforts undertaken to liberalise access through the creation of a 'land market' (e.g. see the MCC project around 2020 in Gunasekara 2020).

However, such an approach contains an important structural caveat. For a 'free market' land must be private; however, this legal status only applies to about 14% of all land in Sri Lanka (Table 2). Around 80-85% (depending on the calculations) of land are defined as "State Land", i.e. land that came under direct State control through colonial processes. In other words, even under a neo-liberal regime in Sri Lanka, it is the State that decides who does or does not get access to most of the land.

Table 2: Land ownership in Sri Lanka

Land Class/Use	Area (million hectares)	%
State agricultural land allocated to private farmers	1.38	21.0
Private agricultural land	0.88	13.4
Private urban land	0.05	0.8
Urban state land	0.01	0.2
Other state land (forests, parks, protected areas, sparsely used land, reserves, etc.)	4.24	64.6
Total	6.56	100.0

Source: *World Bank (2017)*

I have shown that State land is governed by a number of *de jure* institutions. A glance at newspapers over the last months, though, reveals that, *de facto*, land is heavily contested (here I concentrate on rural contexts): disputes between Farmers' Organisations and 'land grabbers' over illegal land transactions in Dambulla; protests of local residents and farmers in Rideemaliyadda who fear that their land is been taken by a Singaporean company for a sugar plantation; people in Vattuvakal protesting the plans of a naval base to acquire their land; the re-emergence of contestations along gender lines, with women demanding the reform of the Land Development Ordinance to correct the male bias in land inheritance; the enduring land conflict in Musali; the contestations around lands with an apparent importance for archaeology; Tamil farmers in Thennamaravadi accusing Sinhala farmers from Padavi Sri Pura of having occupied their land; the years-long struggles over the return of land occupied by the military, and so forth. Disputes over land, though, are not recent phenomena.

We need merely recall the tensions around the Gal Oya project and other settlement schemes in the Dry Zone, the challenges faced by *purana* villages that came under the Mahaweli scheme, and of course the immense land-related consequences of the war in the North and the East. The recently published report of the People's Land Commission (PARL 2021) lists many more of these conflicts. As a matter of fact, this report is one of the very few that engage in detail with the discourse-policy-practice problematique, including the ground reality of land governance (for an earlier overview, see Korf & Lavadenz 2005).

The long history of countless land disputes suggests that the institutions in place have failed to promote "a society with undisputed lands" – whether during earlier regimes inspired by the notion of the 'Developmental State' (which included many interventions that could be labelled as socialist, e.g. land reforms or collective farming), or whether this was (and is) under the label

of ‘neo-liberalism’. And this persistence of widespread conflicts does not bode well for the future. The Feminist Collective for Economic Justice (2022) notes that “(s)uccessive governments have failed to address the need for a land policy that addresses people's needs, aspirations, the climate crisis and the need for a people-focused labour policy”.

Why is this gap between the expectations placed on the State as a neutral coordinator and planner of land use, and a ground reality characterised by countless disputes, most of which drag on for years, even decades, and which are rarely solved to “the satisfaction of our stakeholders and the land users” (see above)? Discussion of such questions cannot be based on ideological speculations; it must instead rely on critical, empirical field research on the causes of land disputes, and the institutional responses they trigger.

The Actual Practice of Land Governance: The Case of Wattamadu

A core research focus of the late Prof. S.H. Hasbullah was on questions of land. As I had a similar interest, we began to hypothesise that shortcomings in how land governance is practiced can contribute to land conflicts. Therefore, we decided to research this question through an empirical study in Eastern Sri Lanka, an area we had both known for a long time. Thus, we went to the larger Akkaraipattu and Gal Oya Right Bank region in the Ampara district (Map 1) to analyse the dynamics of a series of land conflicts that people had mentioned to us. We used several data collection methods, including interviews with government officials, politicians, different types of farmers, and activists from local organisations, among others. We reviewed locally available documents, newspaper items, official reports, government gazettes, and research conducted by other scholars.

In our publications (Hasbullah & Geiser 2019; Geiser & Hasbullah 2021), we document these case studies, which range from conflicts around land and water within the Gal Oya scheme to the flooding of land due to Gal Oya water, the conflicts between farmers and the Hingurana sugar factory, and to conflicts around administrative delimitation, among others. As space does not allow to illustrate them all here, I will focus on one, namely the conflicts in a place called Wattamadu.

Wattamadu is an area of State land covered by ‘open forest’ and ‘scrub’, located in the Divisional Secretariat Division (DSD) of Thirukkivil. Conflicts emerged when cattle farmers and paddy cultivators started to claim the same land for their respective uses. The conflict is often portrayed as ethnicised, because today most cattle

farmers are Tamils, while paddy farmers are Muslims. It claimed national attention when in December 2015, the Court of Appeal in Colombo decided in favour of the cattle farmers by declaring the cultivation of paddy in this area as illegal. This is how we also perceived the conflict at the beginning. But we soon realised that this dominant narrative (embedded in wider ‘nationalist’ discourses) had to be questioned, which demanded that we pay close attention to its *long durée*.

Roots of the Wattamadu Land Conflict

Map 1 shows our larger study region, differentiating between the old paddy lands along the East coast and the new paddy lands towards the West. Most of the paddy land along the East coast is privately owned and has for generations been used by the Muslim and Tamil people that live along the coast. During the ‘Grow-More-Food’ campaign (a government programme in the early 1940s), this zone was enlarged with the support of the then Assistant Government Agent of Kalmunai, A.M.A. Azeez, with the release of some State land for paddy cultivation and its distribution to local farmers. We learned that Azeez also allowed people to take up land in remoter places farther inland, such as along the Kanchikudichchi Aru, or in the Ambalan Aru/Oya area.

Until the early 1950s, all the land to the West was State land, interspersed by a few *purana* villages, where Sinhalese farmers (many of whom came here from the Kandy region) privately owned paddy land, while using surrounding scrubland for *chena*. Farmers from the East coast used to send their cattle for grazing to the large grasslands in the same region.

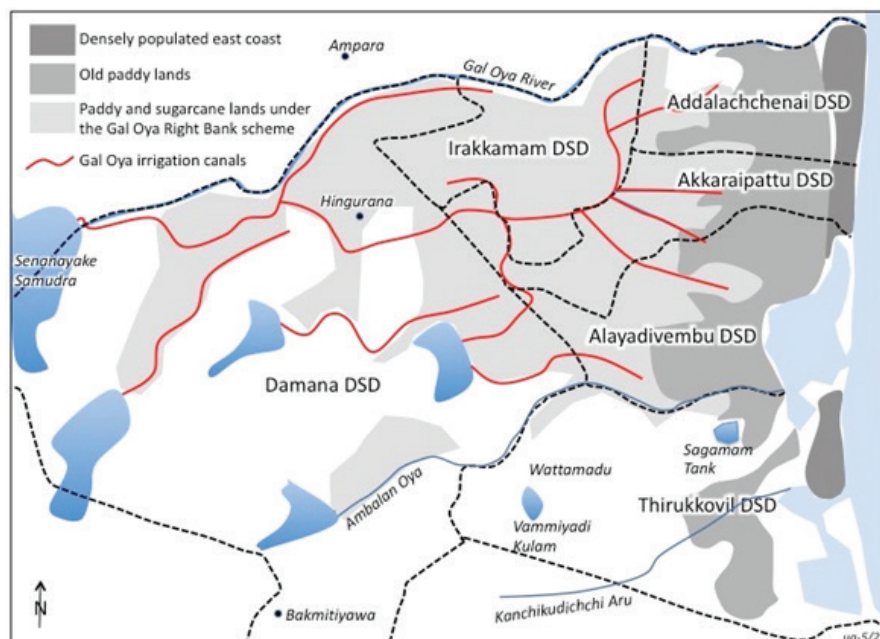
As part of the Developmental State’s postcolonial mission to increase agricultural production and address poverty, the government tasked the bureaucracy with preparing plans to develop this region. Inspired by the rural development science of that time, the plan consisted of the construction of a large irrigation network in order to *asweddumise* huge areas, on which two paddy crops could be cultivated. Thus, the well-known Gal Oya project was launched. Map 1 shows the resulting network of irrigation canals fed by a number of renovated or new tanks, including the Senanayake Samudra. A large part of the land to the North and East of Hingurana was then allocated for the cultivation of sugarcane.

To distribute the land to new settlers (a classic case requiring ‘land governance’), Members of Parliament (MPs) were asked to recommend potential candidates based on certain technical criteria, and the final allocation took place through land *kachcheris* under the

District Government Agent. MPs from the Central and Southwestern regions of the country actively used this opportunity, and many Sinhalese were newly settled (in relation to the Right Bank area) in the Damana region. Many of these new settlers received land that had been allocated (often under annual permits) by A.M.A. Azeez

in the 1940s to East coast farmers. Thus, many Muslims or Tamils lost access to these lands, for example along the Ambalan Oya. Much literature argues that at least part of the *kachcheris*' formal land allocation process was influenced by some MPs to favour certain groups of settlers.

Map 1: The Gal Oya Right Bank and Akkaraipattu region in Eastern Sri Lanka



MPs representing the Muslims along the East coast used the land *kachcheris* as well. Much of the new land adjacent to traditional private lands in the East was allocated to Muslim settlers. Tamil people, on the other hand, had great problems in accessing the *kachcheris* and, thus, the new land. This was also because their own leaders at the time generally opposed the Gal Oya scheme outright – and thus they refused to provide support. As the University Teachers for Human Rights (UTHR 1990) noted, the “price paid [by the Tamils] was economic backwardness”.

Therefore, some people had more privileged access to land – but this did not necessarily translate into better livelihoods. Initial living conditions for new settlers across ethnic lines were very harsh. Many Sinhalese left again. Some Muslim settlers leased their new land out to *podiyars* [a “significant proprietor of agricultural lands” (McGilvray 2008)] and stayed on as labourers (Fonseka 1967). On top of this, Farmer (1957) reports that the settlers had to face the “superior attitude” of government officials who gave orders to people, and not advice. Indeed, paddy and sugarcane farmers from all ethnic groups were, and are confronted with similar challenges:

accessing seed, credit, and water; finding land and off-farm employment for the younger generation; finding pastures for their cattle; and dealing with an array of government officials. Today we need to add the struggle to receive proper fertiliser. Interestingly, many farmers organised themselves to struggle for access, for example to irrigation water. To do so, they often used their connections to politicians. Harriss (1984: 322) reports that government staff feared being assaulted or having to face politicians “who have to respond to appeals from groups of their local supporters in order to maintain their own position”. Indeed, land governance in the Gal Oya area was already a complex social arena in the 1950s and 60s.

We will see the people’s agency in land governance again in Wattamadu, but the main connection goes through the system of land permits and animal husbandry. Within the Gal Oya scheme, the original settlers received State land under Land Development Ordinance (LDO) permits (itself a relic from the colonial 1930s). These permits define the terms of the lease, including the rules of inheritance. When the original settlers got older, they were allowed to

transfer the permit to one of their children only, that is, to one son. Thus, the 'second generation' – except for one son – was, and is, forced to search for other sources of livelihood. Off-farm employment is hard to find (then and now), and thus many encroached upon neighbouring lands within the Gal Oya scheme. But those land reserves were soon depleted, and many had to try their luck further away. As a result, many Muslims and Tamils came to Wattamadu including Tamils who were in need of land, but could not get access to it under the Gal Oya project. In Wattamadu, they even found an ancient irrigation tank, the Vammiyadi Kulam, which made the area highly suitable for paddy cultivation (see Map 1).

The second driver was animal husbandry, which is an integral part of the farming system along the East coast. While some Tamil and Muslim farmers keep a few animals, others – often *podiyars* – keep larger herds. They all allowed cattle to graze on the harvested paddy fields along the settlements, but once paddy was planted and growing, they took their animals inland to the pasture areas that had existed before. However, these pastures were now converted to paddy or sugarcane land. *De jure*, land use planning in the perimeter of the Gal Oya project was done in an integrated manner, as all the involved government departments came under the control of the Gal Oya Development Board. But in practice, irrigation engineers had a dominant influence on the scheme's layout plan, and they emphasised paddy and sugarcane production. Officials from other departments, including livestock, had little say (Farmer 1957). Therefore, there was no *de facto* coordination of people's diverse land use requirements.

But cattle remained important, and consequently, cattle holders had to search for new pastures outside the scheme. Some Tamils and Muslims went South, finding good pastures close to an ancient irrigation tank – the Vammiyadi Kulam – in the Wattamadu area.

Organising around Different Interests

Thus, by the early 1970s, we find two professional groups interested in the same land in Wattamadu. Initially, there was enough land for both cattle herders and paddy cultivators, but tensions emerged as more people arrived. As 'the State' did not coordinate nor mediate, people organised themselves along professional lines. The cattle owners organised as a Cattle Owners' Association, and they approached the Government Agent of the Ampara district, who then gave them (through a Gazette Notification issued in 1976) a permit to use 4,000 acres of State land under the Vammiyadi Kulam as pastureland. This, of course, gave a boost to cattle

herding. But Muslim and Tamil paddy farmers – who were cultivating part of that land as paddy – started to feel the repercussions of increased cattle trespassing. As a result, they organised themselves as a separate Farmers' Organisation, which they successfully registered with the Department of Agrarian Services. This gave them legal access to the same Vammiyadi Kulam, and the right to interact with government officials during the *kanna* meetings that take place before cultivation starts.

By the early 1980s, we thus find two ethnically mixed professional groups, both in possession of State documents (though issued by different branches of that State) providing them with the right to use the same piece of land, but for different purposes. This land use conflict soon reached the local courts in Kalmunai and Pottuvil, with cattle owners suing paddy farmers in one court, and paddy farmers suing cattle herders in the other. After all, both sides had land claims based on State documents. These court cases became endless loops, with one court (after many adjournments) handing down a judgment, which was then challenged in another court.

The Ethnicising Impact of the War

From 1990 onwards, Eastern Sri Lanka was heavily drawn into the war. For most of the time, both professional groups were not able to access 'their' lands in Wattamadu, as army camps were established in the nearby Sagamam area, and the LTTE had an important base at the Kanchikudichchi Aru. Depending on the encounters, either Muslims or Tamils suffered more. Newspapers at the time regularly reported on killings, the prevention of cultivation, and the theft of tractors. This process of alienation was further aggravated by the broader spread of atrocities against 'the others', including the burning of the market in Akkaraipattu (a Muslim area) and the killings of Tamils, among other incidents.

As a result, the professional groups' ethnic composition started to change. The Paddy Farmers' Organisation became dominated by Muslims (though still having Tamil members, and with many Tamil labourers working the fields of Muslims), while the membership of the Cattle Owners' Organisation became more Tamil (though, again, not exclusively).

Despite all these challenges, the paddy cultivators showed enormous agency through their Farmers' Organisation. They were able to tap into the huge World Bank-supported North-East Irrigated Agriculture Project (NEIAP), which selected the Vammiyadi Kulam for its 2003 programme (World Bank 2004). Interestingly, the

project's report makes no mention at all of the paddy cultivators' conflict with the cattle herders. Instead, in typical development slang, the report speaks – detached from ground realities – of “small farmers” and “local communities”, and their “development needs” (I will re-visit this below).

The Consequences of Administrative Delimitation

Ethnic segregation has been further intensified as a result of administrative delimitations. Many people that initially started to use land in Wattamadu came from the Akkaraipattu region (Map 1). At that time, their ancestral place, as well as Wattamadu, were part of the same large administrative division, the Assistant Government Agent (AGA) Division of Akkarai Pattu. This Division incorporated Muslims, Tamils, and some Sinhalese. People were used to accessing land (often informally) throughout this Division. Gradually, though, this AGA Division of Akkarai Pattu was divided into four independent units, and their designation was then changed into DSDs – Addalachchenai, Akkaraipattu, Alayadivembu, and Thirukovil (for details see Hasbullah & Geiser 2019).

Wattamadu is now located within the DSD of Thirukkivil. Thirukkivil is mainly inhabited by Tamils, and they have a strong representation in the DSD Secretariat and the *Pradeshiya Sabha*. Many Muslim people using land in Wattamadu claim that the staff at the Divisional Secretariat now tends to give preferential treatment to Tamil land users.

Declaring Land as Forest Reserve

Soon after the end of the war, things became even more complicated. In October 2010, the central government in Colombo issued a Gazette Notification which declared the whole Wattamadu area as part of a new Forest Reserve called Bakmitiyawa-Thimbirigolla. Some argue that this notification reflects broader national and international discourses emphasising environmental concerns, while others see such discourses being used to foster ‘ethnic-nationalist’ interests.

With this Notification, the land was now to be directly managed by the staff of the Department of Forest Conservation according to its own rules and regulations. This came as a complete surprise to all people earning their living in Wattamadu, be they paddy farmers or cattle herders, Tamils or Muslims. The Notification denies them (in principle) the use of this land, despite the fact that they all have legal permits to do so.

Both professional groups then tried to challenge – separately – this development in different courts. That

the groups did not join forces must be understood both in the broader context of a war that had increased frictions along ethnic lines, and because these frictions continue to be cultivated within the broader ‘nationalist’ debates. After all, we find Tamil politicians and lawyers supporting cattle owners, and Muslim politicians and lawyers supporting paddy farmers.

Whatever the underlying power game, another complete surprise was delivered by the Court of Appeal in Colombo in December 2015, when it ruled that paddy cultivation was illegal, but that cattle herding was not. The affected, of course, do not accept this verdict (as they continue to hold legal permits), and a new court case remains pending in Colombo.

To illustrate further the challenges faced by local land-users in encountering ‘the State’: concerned paddy farmers and their lawyer met the Right to Information Commission of Sri Lanka in December 2018 to demand access to official documents containing the actual implementation details of the 2010 Notification. The paddy farmers were specifically interested in the survey plan that shows the actual boundaries of this Reserve. To this request, the representatives of the Ministry in charge and the Forest Department replied that they “came into possession of the [survey plans] only on the 15th of October 2018” – almost eight years after they had started to prevent cultivators from accessing the land. The same representatives also stated that they could not provide other official documents, as these “were not in the possession of the PA [Public Authority] but were in the possession of Government Agent of Ampara, Divisional Secretariat Thirukkivil, Agrarian Services Centre, Assistant Commissioner of Agrarian Services, and the Central Environmental Authority, respectively” (RTIC 2018).

The Emergence of Environmentalists

In the last few years, new stakeholders have emerged in the arena of land governance, i.e. NGOs that focus on the protection of the environment. One of them started to advocate for the protection of the Wattamadu forest because they consider these forests as an important ecological habitat and part of a larger elephant corridor. They began to target the paddy cultivators in Wattamadu and blamed them for destroying this habitat – but they do not blame the cattle herders. They also blame the local officials of the Department of Forest Conservation for not implementing the 2010 Notification and the 2015 Colombo court's verdict – but they do not talk about the earlier notifications that entitled local people to use the land for paddy cultivation.

Some environmental groups find support from international donors, as ‘environmental protection’ has become a buzzword in the context of climate change debates. One Ampara-based NGO received funding through the World Bank’s Global Environmental Facility for a project on “biodiversity conservation” through “community participation”, which entailed giving training to cattle farmers and filing court cases against paddy farmers. The ‘community’ they include in their trainings are farmers from Bakmitiyawa (Map 1) – that is, Sinhalese farmers, and not the Muslim or Tamil ones from the East. Another Colombo-based NGO addressed the “destruction of forests” in Wattamadu by supporting Tamil dairy farmers against Muslim paddy cultivators in the case filed before the Colombo Court of Appeal in 2015 (CEJ 2019). Interestingly, this same NGO has other programmes to “promote environmental mediation”; however, these were not extended to Wattamadu.

The Challenges of *de facto* Land Governance

This is merely a brief sketch of the complex issues around land conflicts and institutional responses in just one place, the Wattamadu area. We found many similar processes in our other case studies, all pointing out weaknesses in the *de facto* practices of land governance. Of course, these insights emerged from case studies, and this in Eastern Sri Lanka. Still, they may speak to other regions of the country as well.

Indeed, we found an array of actors involved in conflicts around land – within the State administration, the diverse groups of ‘local people’, the courts, and NGOs. How did they coordinate their diverse land-related concerns? And what can be gained from these insights on present and future challenges of land governance? I will mention six points: the heterogeneity of the State’s land-related practices at the local level; the lack of a coherent land policy; the heterogeneity of ‘the people’ and their interests; the agency of people in need of land; the importance of courts; and the role of development aid and environmental NGOs.

The State Administration: Heterogeneity at the Local Level

The State is entrusted with the coordination of land allocation and land use, to “promote a society with undisputed lands” (see above). What does this coordination look like when experienced from below, by people at the grassroots level? What we failed to find from all the case studies is an administration working with coherent and coordinated policy implementation mechanisms. Far from that. We found that people

experience a highly divided ‘State’ at the local level, split into a whole array of different institutions. People concerned with land must deal – separately – with the Irrigation Engineer, the Agricultural Instructor, the Forest Guard and so on. They must deal with the Divisional Secretariat and the *Grama Niladhari*. Each of these branches of the bureaucracy often has an independent life, and each follows its own policies, rules, and regulations. This is impressively illustrated by the example of issuing land use permits in Wattamadu. Not without reason, the agricultural strategy recently proposed by Faculties of Agriculture (2022) demands “steps to strengthen coordination among officers who are directly involved in grassroots level implementation of agriculture development strategies”.

The State Administration: Lack of a Coherent Land Policy

More often than not, government departments operate in splendid isolation from each other. This is not a new problem, as we already encountered it in the Gal Oya scheme, where land needs for irrigated agriculture were not coordinated with those for animal husbandry (PARL 2021 illustrates many similar cases). This working in isolation can even trigger conflicts. We found such coordination gaps at two levels: (a) between single departments, and (b) across the administration.

Between departments: Some departments would require more coordination of their practices than others. Consider the Forest Department and those in charge of animal husbandry. Throughout the Dry Zone, many pastures are on State lands in ‘open forests’ or ‘scrub/grasslands’, and these usually fall under the jurisdiction of the Forest Department. Wattamadu is just one illustration of that. Increasing milk production to meet domestic demands and to reduce import dependency would require a careful balancing of the increased need for pastures and environmental concerns related to forested land (concerns that are often voiced by NGOs – see below).

Across the State administration: With the Land Commissions of 1927, 1958, and 1987, the coordination of land issues across the administration has, in principle, a long history in Sri Lanka. They were all concerned with the country’s land resources, and they made recommendations – of course inspired by the *Zeitgeist* in which they operated. An important attempt to restart this process was the proposal (within the 13th Amendment to the Constitution) for the creation of a National Land Commission (NLC). This amendment is now part of Sri Lanka’s Constitution (Constitution of the Democratic Socialist Republic of Sri Lanka 2021:

197f). It states that the NLC “would be responsible for the formulation of national policy with regard to the use of State Land”. It will have “a Technical Secretariat representing all the relevant disciplines required to evaluate the physical as well as the socio-economic factors that are relevant to natural resources management”. The NLC was part of the larger effort to decentralise Sri Lanka, and Fernando (2012) reports that initially, the devolution of land powers received support from the then Ministry of Lands. However, this support gradually lapsed, and re-centralisation became the norm. As a result, the NLC was never established. Instead, important tasks of the NLC were taken over by sections of the central State’s administration.

A case in point is the creation of the already mentioned Land Use Policy Planning Department (LUPPD) in 2010 under the Ministry of Lands and Land Development – and with this, “encroaching in to a portion of NLC powers endowed by the Constitution” (Fernando 2012). In 2012, the LUPPD drafted a National Land Use Policy, which is, however, very general, and which fails, above all, to provide details on how land use coordination across the administration should look like.

Another statement of this policy draft should raise concerns as well, as it notes: “Expand the role of the state in matters related to lands, i.e., in addition to the allocation of land, provide guidance for the productive utilization of the land resources” (LUPPD 2012b: 9; “Is the recently increasing role of the military in agriculture just a coincidence”, *Sunday Times* 2022). Indeed, many people we interviewed were sceptical of ‘the State’ and its land-related policies and practices. I already mentioned the accusations of misusing the land *kachcheris* in the Gal Oya project for partisan interests. Contemporary concerns relate, among others, to the Forest Department’s strategy of declaring Forest Reserves. PARL (2021: 27) too found that people “suspect the authorities of ulterior motives (...). The issue becomes ethnically charged when the lands [especially forests] are acquired only from minority communities”. Such concerns are so widespread that they are taken up, at least in principle, in the National Land Commission outlined in Sri Lanka’s Constitution: “National policy on land use will be based on technical aspects (not on political or communal aspects) (...)”. In addition, the already mentioned strategy proposed by Sri Lankan Universities’ Faculties of Agriculture (2022) explicitly demands the implementation of policies “devoid of undue interventions by political and other powerful sources”.

The People: Heterogeneity and Diverse Interests

The State administration is often criticised for not taking the real needs of ‘the peasantry’ or of ‘local communities’ into account. Such notions, though, may suggest that (rural) people are a homogeneous group with the same interests in land. But our case studies illustrate that these notions are not necessarily helpful analytical categories, as they do not do justice to the complexity of rural societies. We instead found a highly heterogeneous ‘peasantry’ and rather divided ‘communities’. We see paddy farmers, cattle breeders, sugarcane cultivators, landowners and agricultural labour, not to mention the many other actual land-users like Forest Guards. All of these groups have their own, very specific interests and concerns – concerns that can clash, and that can be further fuelled when ‘nationalist’ interests come into play (thus further complicating land governance) – as we have seen in Wattamadu and elsewhere.

The People: Agency

Our insights illustrate the role of the heterogeneous bureaucracy regarding land, but they also show the active role of ‘local people’. *De facto*, on the ground, people influence land use, and thus they take part – though often ‘informally’ – in land governance. Households encroach upon State land (perceived as illegal by the State), they sub-divide their holdings (in spite of the LDO rules), they cultivate paddy in Wattamadu (though the Court of Appeal denies it), and they organise with others to deal with the administration. We met people who were skilled in organising their concerns through the form of professional organisations, and who are skilled in negotiating with the local bureaucracy. They contact the offices expected to favour their cause – after all, there are so many offices to choose from, and the State’s compartmentalised working offers itself as a ‘resource’ to be tapped.

Of course, there is patronage politics, understood as politicians providing favours to their electorate. But we also found that local people mobilise their political leaders, especially MPs, whereby people put pressure on their patrons to engage with higher-level government officials.

Not all people may have such room for manoeuvre, though. The society in our study region too is stratified. We found wealthier families owning or controlling larger tracts of land, and some *podiyars* controlling larger herds of livestock. Many of these families still have land, but they were able to invest in education, and they have diversified into business or government jobs. We often found Farmers’ Organisations led by teachers, for

example. On the other side of the (class) spectrum, we find economically poor households. Some have access to very small plots of land, but most work as labourers either in the construction sector, or in agriculture and animal husbandry. How these stratifications (or class issues) play out in Eastern Sri Lanka requires much more careful analysis. Regarding the country's North, Thiruvarangan (2022) shows that within the Tamil community, unequal access to land is often structured through caste. He notes that in “over-emphasizing the role of ethnicity in contemporary land struggles, some Tamil nationalist narratives fail to bring to light the ways in which landlessness is experienced as a form of inequality within the Tamil community along lines of caste, class, and gender”.

Interaction between the Administration and the People: The Lack of Governance

Many documents mention the need for consultation and joint decision-making. The Draft National Land Use Policy (LUPPD 2012a: 12) states that while “adopting an integrated approach to land resources management all the stakeholders in the use of land will be consulted and decisions taken through a participatory process”. The recent “Strategy for the Restoration and Rebuilding the Agri-Food Sector” (Faculties of Agriculture 2022) calls for the strengthening of “community-based organisational structures” and the formulation of policies “through broad stakeholder consultation”.

Looking at ground realities, though, we learned that settlers in Gal Oya had to face the “superior attitude” of government officials. The settlers were not consulted to understand their problems related to land. There was no ‘governance’ in the sense of a broader-based decision-making process. That Wattamadu farmers had to approach the Right to Information Commission to get insights on crucial details hints at the persistence of such superior attitudes. This is confirmed by the PARL (2021: 36) report as well: “Administrative bodies often exploit the lack of knowledge in communities about the technicalities relating to possession of State lands” (as stated above, the notion of ‘communities’ may require differentiation).

In other words, rural societies are heterogeneous, and diverse markers of identity come into play in struggles over land, of which ethnicity is just one. Our study showed the importance of professional interests (paddy farmers, cattle herders or foresters), age and gender (see the rules of the LDO), and class. And society's stratification along these diverse markers (and their intersections) influence land governance.

Interaction between the Administration and the People: The Role of the Courts

In many of the cases we studied, some people challenged actions taken by the State administration – or by other groups of people – before the courts. Many of these court cases take years, even decades. Does this suggest that the people nevertheless trust the courts, and that the courts are expected to ‘coordinate’ land issues? This too is a field on which no research appears to have been conducted.

Interaction between the Administration and the People: NGOs and International Donors

Finally, we found worrying interventions into land governance by the international development complex – at times in conjuncture with NGOs. At the level of policies, these actors often use notions such as participation or empowerment. In practice, though, we found that the World Bank project around the Vammiyadi Kulam completely ignored local contestations, and that the interventions of NGOs in Wattamadu failed to consider local livelihood needs.

Of course, the notion of NGOs encompasses a diverse range of actors, some of which are highly aware of the delicate balance required between care for the environment and for the livelihoods of marginalised people. But our insights show that some might not do this (see Hasbullah on Musali in 2015). These insights make it difficult to understand whether certain NGOs are indeed concerned with environmental issues, or whether they take environmental issues as a pretext to foster a specific ‘nationalist agenda’.

One final example of the role of (some) NGOs in land governance: I mentioned the tension between animal husbandry, forestry, and environmentalism, and efforts to decentralise land-related decision making. For some time before 2000, the management of the land use category ‘Other State Forests’ was entrusted to the DSDs. However, with Circular 05/2001, the government re-centralised control over these lands by transferring them to the Forest Department. In 2020, the Ministry of Wildlife and Forest Conservation decided to re-decentralise this task back to the DSDs. The intention was to “eradicate poverty” by utilising these lands “for economic and other productive uses (...) without harming the environment, wildlife resources and other forest categories” (*Economynext* 2020). However, this re-decentralisation triggered a massive wave of protests by environmentalist NGOs, accusing the State administration of paving the way for land grabbing, corruption, and political favouritism at

the level of the DSDs (*Economynext* 2020). One NGO went to the Court of Appeal, which in March 2022 then ordered the government not to follow the circular that re-decentralised the management of other State forests to the DSDs (*News1st* 2022b). Nobody, though, seems to have consulted the farmers who (in real practice) had customarily cultivated parts of ‘Other State Forests’ for generations for *chena* or permanent rainfed agriculture, for animal husbandry, and other uses (see also Gamage 2021).

Conclusion: The Need to Critically Engage with the Discourse-Policy-Practice Problematique

I consider the above struggle around Circular 5/2001 emblematic of the present status of land governance in our study region in Eastern Sri Lanka (and maybe beyond) – diverse government actors having their own policies, making decisions, not consulting local land-users; (some) influential persons trying to instrumentalise policies for partisan interests; NGO activists criticising the administration, but only focusing on the natural environment and not addressing local people’s livelihood needs; and local land-users having to bypass rules and regulations to meet their livelihood needs. “Having to bypass”, though, is a notion that does not do due justice to ground realities; many local land users often feel supported and legitimated in their practices by (earlier) official documents issued by ‘the State’, even though these documents are ignored by newer regulations.

We think that these are important insights into the *discourse-policy-practice problematique*. In the context of the present crisis, considerable debate in Sri Lanka focuses on the *discourse-policy* dimension of this problematique. But we found that less attention is being paid to the *practice* dimension, that is, social science research that critically – and dispassionately – analyses how ideas are translated into practice. Such research, I argue, would be essential to understanding present and future challenges of land governance – many of which arise from the complex (but often missing) interactions between a vast array of actors. Of course, competition around land is a highly political process (which we also illustrated), and our concern for better land governance should not be read as functionalist naivety. But ignoring the complexities and disqualifying policy implementation as driven only by corruption, a lack of political will, or narrow nationalist/ethnic interests risks missing the point.

In relation to the ongoing political and economic crisis, Gunawardena proposes that “instead of trying to identify isolated policy proposals, we should take it to

mean something much deeper: what are the alternative principles on which social order can be re-organised? (..) It can and must be extended further to question the elitist, ideological framing of policy (...)” (Gunawardena 2022). I fully support this statement. But perhaps it is not an either-or situation. “Policy proposals” are informed by ideological/discursive framing; however, for policies to become more than text and thus to address on-the-ground problems – problems that increase in Sri Lanka by the day – we must also pay attention to their relationship with practice. And that is an intellectual endeavour as well. As Jacob & Jacob (2021: 226) note, there “is a general reluctance to open the messy black box of the internal workings of the state government and the ‘boring and routine’ world of administrative rule-making”. Approaching this “boring and routine world” not as a separate issue, but as an integral part of a critical engagement with the discourse-policy-practice problematique might show the way forward for overcoming this reluctance.

Urs Geiser (PhD) is Associate Senior Researcher in the Department of Geography at the University of Zurich.

Acknowledgements: I am very thankful for critical feedback received on earlier drafts of this paper from the participants at my talk at the *Ceylon Geographers’ Forum* in November 2021, and to Benedikt Korf, R. Ramakumar, and Sandun Thudugala. Responsibility for the ideas expressed herein remain, of course, mine alone.

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