

POST-CONFLICT SUSTAINABLE PEACE IN SRI LANKA: A CASE STUDY OF MILITARY-OCCUPIED LANDS IN THE NORTHERN PROVINCE

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ABSTRACT

The internal armed conflict in Sri Lanka came to a military end in 2009, with the Sri Lanka armed forces defeating the Liberation Tigers of Tamil Eelam (LTTE) through a humanitarian operation. During the armed conflict and aftermath, the military forces increased the establishment of military installations and High Security Zones (HSZs) in the Northern and Eastern Provinces. The people in the affected areas expected that the military occupied private lands would be completely released after the conflict. Nevertheless, the continuous military occupation in some private lands, created problems. Following a case study method, this study defines the relationship between post-conflict sustainable peace and the military occupied lands in the Northern Province of Sri Lanka in the context of relative deprivation theory. It was identified that the military occupied land issue is closely associated with national security on one hand and the aspiration of the affected people on the other. The paper recommends that the military occupied lands in the Northern Province is strategically important to the country's national security, therefore, should not be released. However, the rightful owners of these lands need to be compensated not only considering the economic value but also historical value and livelihood opportunities of the land. Finally, this study provides policy recommendations for the authorities to release the remaining occupied lands which are not strategically important for the national security.

Keywords: Armed conflict, High Security Zones (HSZs), Military occupied lands, Reconciliation, Sustainable Peace

INTRODUCTION

Prolonged and fierce military offensive of Liberation Tigers of Tamil Eelam (LTTE) was terminated by the Government of Sri Lanka (GoSL) in May 2009. The conflict caused perpetual damage to all the Sri Lankans irrespective of their socio-economic background. The intangible damages such as decrease in trust, mutual understanding, relationship and mutual respect the conflict generated are far greater than the tangible damages such as destruction of infrastructure, livelihoods, and other social-economic factors.

During the armed conflict and its aftermath, the government established its control in the Northern and Eastern provinces, by establishing military institutions. From the mid-1980 onwards, the government created High Security Zones (HSZs) in strategically important locations around key military bases, and areas adjacent to the military institutions and the main economic centres in the country. In addition to the military establishments that had been in the government controlled areas prior to the outbreak of the conflict, a great number of new military establishments were built in the areas captured from the LTTE.

With the end of the armed conflict, the people in the area expected that the HSZs and military occupied private lands would be released and withdrawn by the authorities. But the continuation of military presence in both public and private properties and failure to return them, created a variety of problems in the former conflict affected zones. This includes a significant delay in the post-conflict recovery process for affected communities and diminishing of confidence and trust, particularly in the post-conflict context.

Since a considerable period of time has elapsed since the ending of the conflict, critiques have pointed out that the obligations and the political drive that was initiated by the stakeholders are not potent enough to restore positive peace in Sri Lanka. At present, the GoSL is trying to address the grievances of all conflict affected stakeholders. However, some argue that the efforts made by the government is only a ploy to avert international pressure. Even though the government's process in releasing land is conducted at snail's pace, it is understood that the government has no intention of seizing civil lands permanently (Colombo Page, 2018). Tamil politicians and Tamil diaspora are in solidarity with the rightful owners of the land, blaming Sri Lankan military for forcing people to resettle in alternative lands, instead of allowing them to return to their traditional lands (Human Rights Watch, 2018).

Even though, it has been a decade since the eradication of terrorism by the military, it was found that the Tamil community in the Northern Province still has antipathy towards the military establishments, especially towards those occupying their land. The local community in the formerly conflict-affected areas in the Northern Province staged a series of protests demanding the release of lands, occupied by the military (Fuller, 2019). Struggles against the military land occupation and claiming the remaining military occupied lands are still an on-going process. However, the antipathy that they display during the protests is not visible when they are helped by the military forces during natural calamities such as droughts and floods. On these occasions, the military presence in those areas has been welcomed and appreciated highly by the local community (Atapattu, 2019).

There are signs that the GoSL, NGOs as well as international actors are keen on dealing with the land issue in conflict-affected areas in the North and the East as

a component of the reconciliation process. However, they are not very clear about the most suitable approach that should be adopted. Military land occupation has denied owners from accessing their own land, thus creating the displacement of people in the conflict-affected areas. The land ownership and the access to their own lands, play a vital role in post-conflict recovery and sustainable peace.

In the post-conflict transition for sustainable peace in the Northern Province, the land issue is identified as a significant and emerging challenge (Human Rights Watch, 2018). Land in the North is a complex issue, since this has been made complicated by various political actors and other interested people such as the Tamil diaspora. Though the land issue is very complex, it is a prerequisite to promote national reconciliation, economic development and post-war recovery. Therefore, objective of this paper is to examine how military occupied lands in the post-conflict context affects sustainable peace in Sri Lanka. Keeping this objective in view, the author chose to follow the case study research approach, determining the land issue in the Northern Province as one case. Thus, a qualitative research method was deemed more appropriate for the study. The author selected the Relative Deprivation Theory as a conceptual model to analyse the issue related to the study.

Both primary and secondary data were used during the study. The researcher used secondary data that are available in Sri Lankan and foreign newspapers, journal articles and web articles. Additionally, primary sources were the structured interviews with internal and external actors and the stakeholders at different levels such as grassroots level leaders of the military-occupied land, claimants in Northern Province, military leaders, experts in the field of reconciliation and policy makers.

IMPERATIVES FOR SUSTAINABLE PEACE

The conclusion of a protracted armed conflict either via peace negotiations or military endeavor does not really mean an achievement of sustainable peace (Licklider, 1995). Galtung (1969) argued that, the end of conflict does not make sustainable peace and reconciliation until it answers the root causes of the conflict. Likewise, David (1999) defines post-conflict peacebuilding as strategies designed to promote secure and sustainable peace in which the basic human needs of the population are met and violent conflicts do not recur. This definition incorporates the objectives of both negative peace (absence of direct violence) and positive peace (absence of structural violence) outlined by Galtung (1969).

Galtung (1969) further differentiates negative peace as the consequence of efforts to end the direct or personal violence (physical violence) and positive peace as the end result of preventing structural and cultural violence (indirect violence) that obstruct the economic, political, social and cultural well-being and identity of individuals and societies. The objective of positive peace involves the elimination

of the root causes of conflict and the conscious attempt to build a society with the collaboration of various internal and external actors. Negative peace may not be able to bring the structural violence of society to an end, since it is not possible to change prevailing social structures which deprive the basic needs of the people in a society. Establishing and restoring relationships is highly essential to eliminate structural violence in a society. Galtung (1969) highlighted that deprivation of basic human needs such as food, health, shelter, livelihood, education, social dignity and lack of opportunities to contribute to social, cultural and economic activities would cause direct and structural violence.

LAND AND CONFLICT

Land can be recognised as properties and resources which have by far been the most important asset in the post-conflict landscape. Mabikke (2016) stated that land is a social, cultural and ontological resource which contributes as a significant factor in the rebuilding of social identity through the development of livelihood.

Land accessibility is an essential factor for food security and it is a source of income for many households. Also, land would be a very important household property to be transferred to future generations. Further it is an essential safety net for poor households and a source of identity. Land and identity are mutually linked in many societies. Land accessibility confirms the affiliation in a society at the household-level. The physical security of households would be in danger without access to land. Therefore, land is an essential source of authority since it has economic, social, cultural and emotional prominence (Fonseka and Raheem 2011).

Wehrmann (2005) further illustrates the land conflict as a social component in which two or more parties are involved and having different root causes of various needs and interests over land and the property. Land conflicts can be further illustrated as a misapplication, limitation or disagreement over property rights to land.

POST-WAR LAND CONFLICT IN THE NORTHERN PROVINCE

Land is a highly sensitive issue in the Northern Province. The return of Internally Displaced Persons (IDPs) who left the area during the conflict and the land users are the crucial issues in the post-conflict context in the Northern Province. This issue has created a variety of governance complications in a post-conflict context including legal, administrative, policy issues and the post-conflict development of the province (Fonseka & Raheem, 2011).

Establishment of sustainable solutions for the displaced persons should be implemented as a major portion of reconciliation process. Land ownership is thus

recognised as alleviation of poverty and will give an opportunity to reconstruct the lost livelihoods of the displaced (International Organization for Migration, 2016).

Military occupation in the Northern Province still continues despite the repeated promises given to the international and national community assuring to reduce the military presence gradually from the province (Fuller, 2019). Some actions have been taken by the GoSL to affect these promises, but it seems that the military forces have consolidated their presence by constructing new military establishments and expanding their presence in the area. This creates a tense situation where the original owners are returning to claim their ownership of the military occupied lands. In this context, the long-term peace or positive peace and post-conflict recovery may not be executed successfully, unless the military occupied land issue in the Northern Province is properly addressed.

LAND RESTITUTION AND RECONCILIATION

Compensation/restitution plays a vital role in reparation and has direct relationship with reconciliation. Restitution can be defined as the “restoration of liberty, legal rights, social status, family life and citizenship; return to one’s place of residence and restoration of employment and return of property” (Fonseka, 2016). In the post-conflict context, land proprietorship provides an opportunity for displaced communities to escape from extreme poverty and reconstruct their lost livelihoods. In this context, the land issue can be seen as an important aspect of one’s identity and belongings, especially in the Northern Province. Therefore, the link between the land and the community is difficult to be quantified (Raheem, 2013).

Pinheiro Principles, which are known as the Principles on Housing and Property Restitution for Refugees and Displaced Persons, were introduced by the United Nations Organization in August 2005. It indicates that “All refugees and displaced persons have the right to have their housing land or property restored to them, from which they were arbitrarily or unlawfully deprived”. Article 12 of the Fundamental Rights Chapter of the Constitution of Sri Lanka, the Resettlement Authority Act of 2007 and International Covenant on Civil and Political Rights (ICCPR) Act of 2007 provide better protection for those who have returned to their land and houses. The provisions for the compensation for the private lands used for public purpose are provided by the Land Acquisition Act (Raheem, 2013). Almost thirty or less years of displacement created a great disturbance of social life of the people in the Northern Province. Further, the people of the oppressed caste had less opportunity to own a land and build a permanent house due to social background in the region. Restriction over access to the military occupied lands has significantly decreased their personal and economic security which directly affects the reconciliation process (Human Rights Watch, 2018).

RELATIVE DEPRIVATION AND SOCIAL STIGMA

Relative Deprivation was first introduced by Stouffor B. *et al.*, (1949). They define Relative Deprivation as: “Differences between people’s actual interest, their value, anticipations and what they actually gain through their value accruing capabilities” (Stouffor *et al.*, 1949, p.282). Further, they stated that “the intensity of relative deprivation varies strongly in terms of the average degree of perceived discrepancy between value expectation and value capabilities” (Stouffor *et al.*, 1949, p.283).

Accordingly, this paper focused on the three steps of the Deprivation Theory to build logical structure to analyse and construct the possible answers for research problem. These steps exhibits as: “There must be comparisons made by an individual, there must be a cognitive appraisal that leads the individual to perceive that the individual or his/her in-group is at a disadvantage and the perceived disadvantage must be viewed as unfair” (Stouffor *et al.*, 1949, p.287).

Some people in the conflict affected area in the Northern Province lost their land ownership due to military occupation during the conflict and its aftermath. But they see, others in the same cultural and social identity have been facilitated with their own lands and have been enjoying the basic needs. In this paper, Relative Deprivation Theory incorporating the Human Needs Theory was utilised to analyse the land issue in the Northern Province and ascertain sustainable solutions.

NATURE OF THE LAND ISSUE IN THE NORTHERN PROVINCE

Throughout the period of armed conflict and its aftermath, military forces acquired considerable amount of private and public properties in the Northern Province. Furthermore, they made restrictions over some specific areas in the Northern Province. These restrictions have created more difficulties to the inhabitants’ access on income generation activities such as fishing, paddy cultivation and grazing animals. Towards the end of the conflict in May 2009, military had occupied 96,756.6 acres (67,157.6 acres of State lands and 29,599 acres of private lands) in the Northern Province (Military Spokesman, 2019).

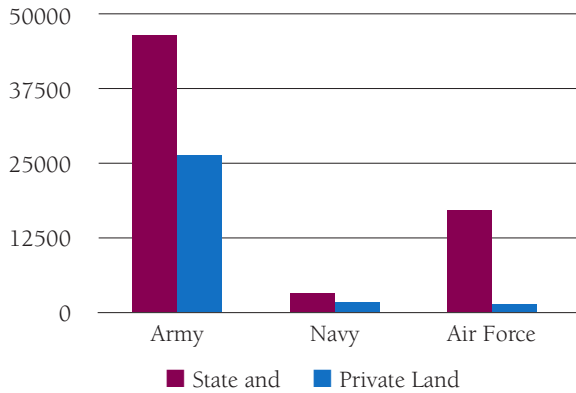


Figure 1: Land Occupation in the Northern Province by the Armed Forces as at May 2009 (in acres)

Source: Compiled by the author with the statistics provided by the Ministry of Defence, 2020

Most of the restrictions which affected the livelihood of people have been lifted after a few months of the military liberation, giving opportunity to accelerate the post-conflict economic recovery. With that, most of the private properties adjoining military establishments have been gradually released. According to the data analysed, GoSL has already released a total of 80,210.7 acres of land in the Northern Province, except the lands which have strategic value to the National Security (54,635.1 acres of state lands and 25,575.6 acres of private lands) indicating 86% of the occupied private lands and 81% (83% of total lands) of state lands which they occupied since the conflict ended in May 2009 (Military Spokesman, 2019).

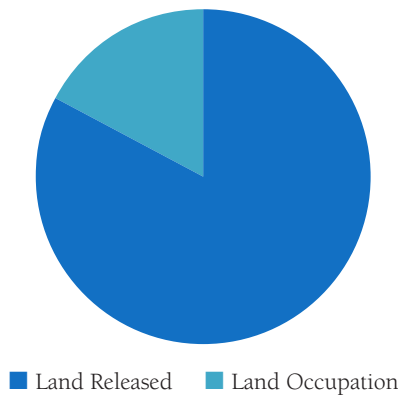


Figure 2: Comparison of total military occupied and released lands in the Northern Province (in acres)

Source: Compiled by the author with the statistics provided by the Ministry of Defence, 2020

As per the data collected by the interviews, it was revealed that a considerable amount of remaining private land claimants have claimed their lands without actual needs, under the influence of various secondary actors. According to the data available at the Jaffna District Secretariat, there are 646.5 acres of private lands available within the Sri Lanka Air Force Station Palaly premises and possession of these land plots were distributed among 581 owners, but only 24 of them have been identified during the last nine years. Furthermore, 173 owners who owned private lands within the Security Force Headquarters (SFHQ) Jaffna are yet to be identified. Some inhabitants claim these lands without possessing any legal document to prove their ownership. Moreover, some of the owners identified live overseas.

Furthermore, a large segment of the land owners were provided with alternative lands in the model villages. The crucial dilemma in the problem of military occupation in the post-conflict era is to balance National Security and the Human Security of the people in the conflict affected areas. Even though the government justifies the limitations on lands on the ground of national security and national interest, there is a considerable counter-argument that the concept of national security should be in-line with the prerequisite of post-conflict requirement for reconciliation. Affected people are not happy with the solutions given by the GoSL and they demand the return of remaining military occupied lands. Further, this situation has turned into a more complicated issue, due to the involvement of various internal and external parties such as the UNHRC, the Tamil diaspora, Tamil political parties, various NGOs and land owners.

DEMANDING THE SAME LAND INSTEAD OF AN ALTERNATIVE

A few months after the conflict, many of the IDPs were able to settle in their original locations. They were assisted in numerous ways by the government and various humanitarian organisations by providing monthly food rations, resettlement allowances and assistance to build a new house instead of the old one which had been destroyed or damaged as the result of the conflict. Returnees who were not able to settle in their own original land due to it being occupied by the military, had to be settled in an alternative land provided by the GoSL or IDP centers. Some others had to stay with relatives or in rented houses.

Military land occupation was analysed with the theories derived from the Relative Deprivation Model. Some of the returnees were given their lands under the military land releasing programme. The rightful owners who were not able to settle in their original lands due to military land occupation, see others from the same communal context, enjoying their land facility. Affected land owners perceived that obtaining of their private lands is feasible. Military land occupation has created an unfavorable social position to the military land claimants when compared with the other people in their own society. Psychological condition of the military occupied land owners

has created a dispute regarding the military. Furthermore, their perceptions created a negative stereotype, while continuously demanding the same lands which were occupied by the Sri Lanka Armed Forces.

People who did not obtain their private lands from the military, perceived that the government has deprived their basic needs such as food, water and shelter. Before they left their own land, they had access to water, agricultural lands and they also had their own houses. While some of them are satisfied with their basic needs within the limits of the alternative lands and model villages, they feel that their families are insecure and need to satisfy their safety needs within their own communities. Furthermore, affected people perceived that, they would only be able to satisfy needs such as cultural security, freedom, identity and belongingness, if they have been provided with their own lands.

Returnees who had not received their own land, had to face numerous challenges to rebuild their livelihood needs and the economic security, especially for the female-headed households. Earlier, their small plot of land offered them various ways of sustenance in the form of a home garden, but now without a fertile land, they have to live below the poverty line, due to lack of employment opportunities in the area and scarcity of financial resources. For many people in the province, lands and properties are their identity, a means of generating a livelihood, as well as accumulating wealth which can be transferred to the next generation. Military land occupation has disturbed the traditional lives and customs of these inhabitants. It has especially had an impact on the traditional dowry system since they are not able to offer their daughters with house and land. Moreover, these plots of land represent their ancestral heritage, their emotional bonds and memories which have been blended with the environment. As such, the loss of traditional lands is synonymous with the loss of a significant part of their generation's history and memories.

Furthermore, military occupation of private lands has been justified with the concern of national security for the purpose of the public. But military has established some other internal welfare facilities such as holiday bungalows and gymnasiums which cannot be categorised as being for public purposes and national security concerns.

BARRIERS IN RELEASING MILITARY-OCCUPIED LANDS

With the constant claims by the people after the conflict, large portions of military occupied lands in the Northern Province have been released by the GoSL with the consent of the military forces in order to support national effort of reconciliation process. However, the GoSL still comes under heavy criticism for occupying private lands in the Northern Province.

Strategic Importance

Almost all of the remaining military occupied lands are strategically important when considering the national security of Sri Lanka. Therefore, it is vital that these lands remain with the military, in order to ensure the sustainability of the Jaffna Peninsula. The land held under Palaly Army Cantonment (PAC) deals with greater issues that focus on the security concern of the HSZ. The military establishments located in the circumference area of the Palaly Airport, need to remain in the same location as per their strategic deployment. Military deployments in Kankasanthurei (KKS) area such as the KKS harbour, oil tanks and air field are of paramount importance not only for military value, but also for their economic value. Areas such as Point Pedro (PPD) and Mullaitivu are situated in a very prominent strategic location and military presence and domination is of utmost importance to prevent possible reemergence of terrorism and other transnational threats.

Furthermore, the free movement of naval troops in the sea at PPD and Mullaitivu is very important to the national security. Downsizing the area allocated to the Navy, would affect the free movement of naval troops at sea and would increase illegal activities such as drug trafficking and illegal migration. Additionally, SFHQ Mullaitivu is co-located with various military establishments of sister services and are mutually connected. 59 Division Headquarters, other logistics establishments in the area and the location of the SFHQ are important in dominating the entire region since lateral and horizontal lines of communication run through these localities. Minimising the numbers of the security establishments within the province, would adversely affect the security and the strength of the security forces.

Furthermore, military has effective and efficient managers and adequate resources to encounter any crisis situation and they act as first respondents to disaster situations. Therefore, the presence of the military in the Northern Province is important in combating non-traditional security threats as well.

Financial Constraints

Other than the strategically important locations, a small portion of military establishments in Kilinochchi and Jaffna (Thellippali and Sandilipay) can be shifted to another location. During the conflict period, these military establishments have been developed with multiple infrastructure facilities consuming a large amount of government money. Relocation of a military establishment would, therefore, be a huge financial burden to the country.

Inadequate Availability of State Lands

Military establishment such as SFHQ or Divisional HQ require large plots of land for their logistics, operational and administrative functions. Hence, releasing of private lands is a decisive factor due to the unavailability of adequate state lands to relocate the military establishments in the Jaffna peninsula.

Complications in Perimeter Defence

Releasing of plots of land in different locations will create a lot of perpendicular edges, which would result in producing asymmetric shapes in the perimeter. It would, therefore, create difficulties in observation and would necessitate a lot of guard points to maintain mutual contact.

CONCLUSION

In conclusion, this study recommends lands that are strategically and centrally important to national security should not be released to the land owners. The land owners must be apprised of the absolute requirement of the land for national security. These land owners should be compensated considering the economic and historical value of their lands. In addition, the livelihood opportunities of the land should be included for reparation for long-term military occupation and usage without rent.

In order to resolve this conflict, the following recommendations may help resolve some of the prolonged disputes over military occupation of land. First, land owners should be given due recognition and their sacrifice of emotional bonds and memories blended with the lands occupied by the military should be acknowledged during the armed conflict and its aftermath. Second, basic facilities such as drinking water, sanitary and electricity provided in alternative model villages need to be improved and continuously monitored by the respective governmental authorities. Thirdly, Sri Lanka military forces should cease all commercial activities conducted in acquired lands in Northern Province by dismantling the military run farms, public canteens, hotels and other commercial projects. Moreover, lands that have little strategic value should be released to their rightful owners. Additionally, it needs to be ensured that pledges on land returns are time bound and transparent to deter unnecessary delays in implementation and to strengthen public trust and confidence. Further, military should refrain from forming of dispersed camps concept and should restructure them as main bases within the state lands as much as possible. Finally, GoSL should establish short and long-term policy plans to enhance the livelihood and employment opportunities in the affected area and eliminate all secondary actors involved in the land issue to come to the resolution within the interest of the primary actors.

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