Land Reforms in Sri Lanka

A Poverty and Social Impact Analysis (PSIA)

The World Bank
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<th>Abbreviation</th>
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<td>CTS</td>
<td>Commissioner of Title Settlement</td>
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<td>GA</td>
<td>Government Agent</td>
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<td>GOSL</td>
<td>Government of Sri Lanka</td>
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<td>IPID</td>
<td>Institute for Participatory Interaction in Development</td>
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<td>IPS</td>
<td>Institute of Policy Studies</td>
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<tr>
<td>LDO</td>
<td>Land Development Ordinance</td>
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<td>LGSPA</td>
<td>Land Grant Special Provisions Act</td>
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<td>LIL</td>
<td>Learning and Innovation Loan</td>
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<td>LT&amp; RS project</td>
<td>Land Titling and Related Services Project</td>
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<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
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<td>PSIA</td>
<td>Poverty &amp; Social Impact Analysis</td>
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<td>RGT</td>
<td>Registrar General of Title</td>
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<td>SANASA</td>
<td>Federation of Thrift and Cooperative Societies</td>
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<td>UPFA</td>
<td>United Peoples' Freedom Alliance</td>
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This report synthesizes the findings of the Poverty and Social Impact Analysis (PSIA) undertaken during the implementation of the Land Titling and Related Services Project in Sri Lanka.

The report was prepared on the basis of a PSIA undertaken by a team led by Barbara Verardo (SASAR) and Edward Cook (SASAR). The World Bank team included Mona Sur (SASAR), Sumith Pilapitiya (SASES), Markus Goldstein (PRMPR), Limin Wang, Silvana Kostenbaum and Wendy Walker (AFTTR). Paul Steele [Institute of Policy Studies (IPS), Colombo] led the village-level fieldwork and prepared the Socio-Economic Impact Assessment Background Paper. S.W.K.J. Samaranayake [Institute for Participatory Interaction in Development (IPID), Colombo] led the macro-level analysis and prepared the Ownership Risk Assessment Background Paper. Percy Silva prepared the Desk Review, under the guidance of IPID.

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Executive Summary

The ex-ante Poverty and Social Impact Analysis (PSIA) of Sri Lanka’s land policy reforms was designed to examine potential impacts of lifting restrictions on government owned agricultural land that has been made available for small scale private use under a series of Government land distribution programs. This is a particularly important issue in Sri Lanka, as roughly 1.4 million hectares of the 2.25 million hectares of agricultural land in the country are government owned. Of the 1.4 million hectares that are government owned, approximately 1 million hectares have been distributed over the last seventy years for private household use through a series of land distribution programs.

Land policy is directly linked to the issues of poverty alleviation and economic development. A disproportionate share of the population living below the poverty line resides in rural areas. Agricultural growth rates have slowed down over the last ten years and are increasingly viewed as a brake on the overall economic growth rate for the country. This PSIA examines the hypothesis that land restrictions are limiting the economic options of land users, leading to lower investment in the land, lower land values, reduced economic growth and income generation, and contrary to their original intention, decreased access to land for the rural population.

With various amendments over time, the restrictions now consist of the following:
- The land cannot be sold or disposed of except with the prior consent of an authorized Government Agent.
- The land can be mortgaged but only to selected financial institutions stipulated by the Government.
- The allottee cannot lease or sub-lease the land, except in cases of extenuating circumstances, such as illness, and then only for up to one year.
- The allottee cannot dispose of a portion of the land, which is less in extent than the prescribed minimum unit of subdivision.
- The allottee cannot dispose of the land or a part of it that would lead to co-ownership.
- Transferability of land is restricted to persons belonging to the same class with the prior approval of the Government Agent.

It should at the same time be noted that despite these regulatory controls, informal rules concerning access, selling or leasing of land, and traditional rules of inheritance have also been in operation.

The Land Development Ordinance (LDO) of 1935 initiated a program of making Government-owned agricultural land available for private household use. The original objectives of the LDO were to protect the interests of the peasantry and to encourage economic development. The State introduced a system of protected tenure under which the recipients of LDO land had the right to occupy and cultivate the land in perpetuity, subject to restrictions imposed on sale, leasing and mortgaging, and conditions related to abandoning or failing to cultivate the land.

This PSIA aimed at: (i) identifying intentional and unintentional, short-term and long-term impacts of the lifting of restrictions on the welfare (income and non-income dimensions) of different stakeholder groups, with particular focus on the poor and vulnerable; (ii) identifying measures to strengthen positive impacts and measures or alternative policy designs if negative effects are envisioned; (iii) developing monitoring mechanisms to promptly trace such impacts and evaluate changes over time; and (iv) inform policy design and the on-going process of policy dialogue and consensus-building.
between the Ministry of Agriculture Development and civil society.

The analysis was designed to be conducted in two phases, to allow for economic and social tools to integrate and inform one another. The first phase was primarily qualitative, and included a Stakeholder Analysis, an Ownership Risk Assessment, a Scenario Risk Analysis and a village-level Socio-Economic Impact Assessment. The aim of the first phase has been to identify potential positive and negative impacts of the reform on the most vulnerable sections of society, as well as major sources of support and resistance to the reform at the macro, meso and micro-levels, and relies primarily on survey of perceptions rather than quantitative analysis. The Stakeholder Analysis identified potential winners and losers of the reform at the macro, meso and micro-levels, their levels of interest in the reform, and their degree of power in influencing it. The Ownership Risk Assessment and the Scenario Risk Analysis focused at the macro-level, the first to reveal sources of potential support and resistance to the lifting of restrictions and to estimate the location and extent of pressure that government would probably face in lifting (or not lifting) the restrictions, and the second to identify alternative policy scenarios. The Socio-Economic Impact Assessment focused at the micro-level and elicited information on land-related livelihood opportunities and constraints of the villagers. Finally, the Distributional Impact Analysis drew on a number of household surveys to analyze the extent to which the reduced marketability of state land lowers its value as an asset, and to simulate the potential welfare impact and distribution impacts that might arise from eliminating existing restrictions. This report represents a synthesis of the first phase of the study findings.

Key Findings

A central finding of the analysis concerns the targeting of program beneficiaries and land access. The majority of LDO land is held by families in the medium income categories, with a disproportionately small share held by the poor and very poor. This can be interpreted either as the positive income impacts of the LDO programs creating a ‘middle class’ or as a mis-targeting of intended program beneficiaries. Possibly linked to this finding is the fact that among local level stakeholders, one of the most important issues regarding the LDO lands are the regulations regarding inheritance, nomination of successors and sub-divisions of land. These regulations frequently result in the land being passed to one descendent, with other family members being excluded. The existing approach runs counter to (both Sinhalese and Tamil) customary law, is gender-biased in that the eldest son is the default land recipient, and leaves other descendents with little or no formal access to land.

This situation has, in turn, contributed to a problem of encroachment of State lands. Community consultations and focus group discussions revealed that encroachers are generally the poorest and least secure households, and that encroachment provides a temporary solution for a lack of space to live. There is also evidence in the data that encroaching is a strategy for expansion by some better-off families who are politically well connected or are seeking alternative lands. The low-income encroachers are deprived of service upgrades such as electricity, holding membership in community-based organizations, and cutting down trees on their homesteads, because all of these are contingent on showing a permit and establishing eligibility as a settler. Though there have been attempts to address the encroachment issue over the years, any reform will need to consider how to deal with the land access problems for the poorest that are at the root of this phenomenon. Interestingly, the analysis did not find a clear relationship between plot size and productivity, pointing to the possibility of relaxing current size limitations. This is an area of analysis that is deserving of further work.

There is general dissatisfaction at the field-level with the administration of the LDO programs. Beneficiaries report that bribery is a common feature of dealing with Government representatives authorized to make case-by-case decisions concerning exceptions to the existing restrictions,
and that overall, the costs of processing these requests is high.

The analysis confirmed the extensive nature of illicit transactions in land in the face of the LDO restrictions. Mortgaging and leasing are common. In the case of mortgage, it is not the land per se that is pledged, but the right to the crop revenue stream from the land. By far the most common system is the use of private money lenders at the local level. While there is little danger of actually losing the land, the negative features include very high interest rates (up to 100% per annum) and the risk of a long-term, and possibly permanent debt burden. The incidence of illicit land sales is much less, and occurred primarily in cases where beneficiaries sold off their land relatively soon after acquiring it, indicating an interest in profiting from the land distribution scheme.

Feedback from LDO beneficiaries showed, in general, a high-level of tenure security among LDO grant holders based on the relatively limited number of cases where Government has actually taken back LDO land from beneficiaries. Nonetheless, concerns were expressed about the possibility of ad hoc decisions by Government administrators in this area and the leverage that these administrators have. Over recent decades, Government has been implementing a program of converting the status of rights in LDO land from a permit basis to a grant basis. The grant status provides greater protection from administrative interference in land tenure questions.

Analysis from the field-level showed that the value of LDO land was on average 15–25% less than comparable private agricultural land. However, there was little expression of demand for borrowing for investment purposes that would be facilitated by a system of commercial mortgaging. Most of the borrowing demand stemmed from family requirements, such as weddings, house construction, or to cover shortfalls in consumption funds due to drought or other unforeseen circumstances.

There was little evidence from the fieldwork of pent up demand to sell LDO land. The common preference for those with interest to exit agriculture was to transfer the use of the land to other family members, which is happening de facto under the existing policy framework.

The results of the PSIA underscore the importance of improving market linkages for farmers and access to inputs. The lack of competition in rural markets in the supply of inputs is restraining farm productivity and agricultural growth. Land reform can play a key role in the process of stimulating agricultural development and reduction of rural poverty, but to be fully effective, it needs to be framed in the context of a broader agriculture and rural livelihoods development strategy that addresses the efficiency of farm linkages and fostering of off-farm livelihoods opportunities.

As the grant provides a clear title but denies the owner the right of freely disposing of the land, the micro-level analysis also elicited stakeholders’ perceptions about the lifting of restrictions on LDO land, including restriction on land disposal.

The perceived disadvantages at the village-level of lifting LDO restrictions (including land sales) fall into four categories:

1. Possibility of distress sales by the most destitute due to their lack of savings and access to credit. Distress sales and the lack of alternative livelihoods opportunities in the rural areas would increase landlessness and poverty levels.

2. Unfavorable changes in farm structure resulting from greater fragmentation of plots and consolidation of land assets by the wealthier households. There are fears, especially in the sites with valuable lands such as tea plantations and irrigated lands with infrastructure, that the rich will enter into a land market that has previously been protected, and force small farmers out. Without other livelihood options readily available, this would lead to greater vulnerability of land-poor households.

3. Land loss due to indebtedness. Land-poor households can only access credit through
money-lenders who generally keep their land as security. In these cases, restrictions on land transfer act as safeguards against permanent loss of land due to defaults. Evidence shows that even today land grantees lose their land due to forged deeds, and that illegal land sales are used as a coping strategy by some poor families to relieve their debts and their lease. It seems legitimate to suppose that such phenomena will increase whenever the restrictions on land transfers are lifted.

4. **Possibility of increased land-related disputes.** Lack of maps and clear boundaries for most LDO lands suggests that the number of land-related disputes would increase—as it is already happening in the case of illegal land transfers.

The perceived advantages at the village-level of lifting LDO restrictions are the following:

1. **The ability to divide land equally among children and address the gender discrimination** evidenced under the current regulations.

2. **Greater access to credit** for land owners who would be able to access formal credit institutions at more favorable terms of trade, using land as collateral. This is a perception in virtually each of the field sites, and signals interest in intensification and inputs for productivity. However it is unclear whether land-poor grant and permit-holders would benefit from this option, as their land endowment may not be sufficient to take on the risk of land loss in case of default. Further analysis should aim at identifying the threshold level of land endowment for small-holders to actually access credit through formal institutions.

3. **Increase in LDO land prices.** Higher land prices would provide land holders with stronger economic options, including the accessing of credit.

4. **Greater security from government intervention.** This point was especially argued by the Tamil population. Under the current system, permits can be revoked because of non-payment or lack of cultivation of the land. Stakeholders noted that this oversight would be eliminated under a reform and they would be free to do what they like with the land. Powerful entities such as Mahaweli officers would also lose their authority to intervene in land owners affairs.

5. **Increased opportunities to consolidate land and manage it better.** Today, under the sub-division rules, lands can become fragmented over time. A reform would allow new alliances to form among family or community members, and opportunities to consolidate and manage farm inputs and lands.

The analysis of stakeholder views at the macro-level highlighted a number of concerns about lifting of the restrictions. Overall, politicians from all political parties, land administrators and policy-makers, field-level implementers and civil society organizations generally preferred to be cautious about the lifting of restrictions. Their main arguments were that lifting of restrictions: (1) may result in an increase in the number of people exiting agriculture, increasing rural-urban migration, and contributing to urban unemployment; and (2) may result in increased landlessness in rural areas resulting in greater social unrest.

At the same time, there were many stakeholders at the macro-level in favor of lifting the LDO restrictions. This was associated with the political support among LDO landholders for removing the restrictions, and the opportunities for increased efficiencies in the agriculture sector that would result.

### Policy Recommendations

The PSIA looked into three possible policy scenarios: (1) maintenance of the status quo with respect to LDO land policies; (2) lifting of restrictions on LDO land other than the sales restriction; and (3) lifting of all restrictions on LDO land.
The recommendation of the PSIA analysis is for partial lifting of restrictions on LDO in combination with a number of other policy actions to tackle rural poverty and make LDO more pro-poor. With respect to current LDO policies this would entail:

- Removing inheritance and subdivision limitations for agricultural lands.
- Allowing joint ownership.
- Removing the need for permission for leasing and mortgaging.
- Completing the program of conversion of LDO permits to LDO grants.\(^1\)
- Improving awareness about land rights of land operators and LDO permit holders and grantees.

As the analysis indicates, land tenure reforms alone would be only partially successful in addressing rural poverty and agricultural growth. Policy actions in the following areas would also be recommended:

- Addressing limitations to market competition in linkages between farming and the rest of the economy—in terms of input and credit, marketing, and infrastructure.
- More systemic policy and community-based operational approaches to assisting the landless and encroachers in accessing land, improving their on-farm and off-farm livelihood opportunities, and in reducing land-related conflicts.
- Facilitating diversification of the rural economy and the growth of off-farm employment.
- Strengthening strategic administration of land management.

Lifting the restriction on sale of LDO land is, according to the PSIA findings, highly contentious and without clear-cut support at the grassroots level. The macro-level analysis showed that local policymakers supporting this reform may have to pay a high political price while donors supporting the reform will almost certainly run a high reputational risk. More importantly, among stakeholders at the micro-level, the lifting of restrictions on sale was not viewed as being critical to rural poverty reduction and indeed could in some situations exacerbate some aspects of rural poverty.

Continuation of existing land policies will perpetuate, and in some cases lead to a worsening of, current weaknesses in addressing rural poverty and rural economic development. The need for reform is underscored by the current situation with land access for the rural poor, the issues identified with respect to ad hoc application, as well as abuse of, administrative rules, and the lack of flexibility that the current situation ensures.

The poorest households are typically those who have no legal land title; either living on their parents’ or relatives’ land, or illegally encroaching. This problem can best be addressed through a reliable stock-taking of available land, relaxation of existing limitations on inheritance, and a comprehensive approach to addressing the issue of encroachment. An approach that is community-based, that ensures access to savings-based microfinance\(^2\), off-farm livelihood opportunities for those household members wishing to exit agriculture, and that allows for the participation of local communities in the land acquisition process and in the identification of landless and available land lots, would not only increase land access by the poor, but also avoid the problem of wealthier and influential people gaining control of such lands at the expense of the poor—a largely observed phenomenon. It would also reduce some of the institutional bottlenecks that have been obstructing smooth implementation of land-related programs in these last years.

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\(^1\) The conversion of permits into grants is managed by the Land Commission in non-Mahaweli areas, and by the Mahaweli Authority in the project area. The same Authority manages the issuing of new permits, while outside the project area, new permits for encroachers are issued by the Provincial Land Commissioner.

\(^2\) That would include users’ specific products like crop failure insurance schemes, one of the main reasons for using land as security to access credit.
Allowing lease markets to function openly and fairly would also be the key to improving land access and structural flexibility in agriculture, without the social and equity risks associated with land sales.

Government has sanctioned amendment to the LDO to allow for lifting of restrictions on the village expansion lands, one of the categories of programs that have been implemented under the umbrella of the LDO. The village expansion lands include plots that have been allocated for housing construction and associated garden plots, and do not include most agricultural land. While lifting of restrictions on this category of LDO land will be a move in the right direction, analysis in this PSIA indicates that further changes in rural land policies, as well as in broader rural livelihood development policies, will be needed to address rural poverty and development issues in an effective manner, that responds to the needs of the rural poor.
Introduction

Sri Lanka has a total area of 6.56 million hectares (ha.) and a population of about 18 million, of which nearly 80 percent is rural-based. Approximately 82 percent of the land is controlled by the state, with the balance being held privately. Over 2 million hectares are under agricultural usage: 1.38 million hectares are state-owned agricultural land farmed by private farmers under varying tenure arrangements while 0.88 million hectares are privately-held agricultural land largely located in the Wet Zone of the country. The remaining 4.3 million hectares are urban land, state land comprised of forests, sparsely used land, and land reserved for future use. The net per capita availability of land is 0.15 hectares.

The small-holding sector in Sri Lanka is characterized by a dual problem of landlessness (11 percent of total number of farm operators) and non-economic holdings (38.5 percent). About 50 percent of small-holder agricultural producers are not in control of sufficient land or have limited access to inputs for producing a marketable surplus, and about 90 percent of holdings are less than 2 acres, thus limiting the use of advanced technology.

In 1996, the Government of Sri Lanka launched a program of land reforms. Two major changes were envisaged: (i) a transformation of the country’s land administration system from one based on deeds and documents permitting private use of state land into a system based on registration of secure and clear titles; and (ii) the elimination of some market restrictions on privately-held (state) land leases, grants and permits as well as on land sales. The elimination of these restrictions, which would enable a process of conversion from grants into full ownership, would give farmers about 1.4 million hectares freehold titles to their land.

To implement this program of land reforms, the Government of Sri Lanka, with support from the World Bank, engaged in a Land Titling and Related Services, LIL (Learning and Innovation Loan) in 2001. While the emphasis of the LIL was on titling activities, it also included “de jure and de facto actions to lift market restrictions on leases and freeholds for parcels currently under the LDO and related legislation in the three project areas”3.

These reforms on market restrictions were to be accomplished by passage of the Land Ownership Bill, which provided a process for the conversion of land grants to virtually unrestricted private ownership. However, the Bill was withdrawn from the Parliament in December 2003 after it was declared unconstitutional under the 13th Amendment by the Supreme Court, because the process followed did not respect the constitutional powers given to the Provincial Councils. Currently, this legal reform is being re-drafted.

3 See Sub-component 2b of PAD, p.30.
Sri Lanka produced its Poverty Reduction Strategy Paper (PRSP) in 2003, titled “Regaining Sri Lanka: Vision and Strategy for Accelerated Development”. The paper identified the lack of clear private property rights in land as one of the factors inhibiting rural income growth and rural to urban migration. The removal of restrictions on farmland and on the sale, lease transfer, sub-division and mortgage of state lands in rural areas, together with a land titling program to increase tenure security, efficiency in transactions and land market choices, was seen as playing a key role in solving the rural poverty problem. As the poor are not empowered to make choices in land use and land allocation, they cannot use their lands to their most productive potential. In contrast, secure land titles would provide the poor with improved access to credit, inputs, market information and technology, all prerequisites to productivity improvement in agriculture.

The paper also argued that land fragmentation deriving from demographic growth makes it difficult for rural families to meet their basic needs. The paper recommended reversing the relentless fragmentation of agricultural lands into ever smaller plots, by equipping the rural population with the skills and ability to migrate to urban areas, where higher productivity employment opportunities are more abundant.

When the United People’s Freedom Alliance (UPFA) government came into power in April 2004, it vocally rejected the “Regaining Sri Lanka” document formulated under the previous administration. Some civil society organizations have also been vocal in rejecting the Poverty Reduction Strategy Paper (PRSP) and in questioning some of the underlying assumptions for these policies and legal reforms. Although they recognize that full ownership and control over land is a well-deserved and long-awaited right and they welcome the progressive nature of the envisaged measure, it is however argued that: (i) not all tenure restrictions have negative effects/impacts for the poor; (ii) the distributional effects of the proposed land policy and legal reforms should take into account the particularities of the most vulnerable and ensure benefits for the poorest groups of the rural society; and (iii) ownership will not necessarily lead to increased productivity. On the contrary, they anticipate land loss by the poorest due to the possibility of alienating their lands when necessary—due to indebtedness or other financial crises. Finally, they also argue that if these policies are not well-targeted they could potentially have unintended results such as encouraging small-scale landholders to sell their land and seek off-farm employment in villages and urban areas which, at the same time, is not guaranteed.

Objectives of the PSIA

It was in this context that the need for an ex-ante Poverty and Social Impact Analysis (PSIA) of Sri Lanka Land Reforms was identified, to provide the government with the information and technical assistance necessary to take an informed decision on whether and how to proceed with the land reform and its potential implications.

This ex-ante analysis focuses on the main concern raised by civil society organizations, i.e. the potential impact of the lifting of restrictions on LDO/LGSPA land grants on the poor and vulnerable. The ex ante analysis of the lifting of restrictions on LDO/LGSPA lands is particularly timely as Sri Lanka’s land policy and relevant legal reforms are currently under discussion. The Government has mandated a lifting of restrictions on one type of LDO land—the ‘village expansion lands’ and the legal amendments to allow this are currently being drafted.

The analysis aims at: (i) identifying intentional and unintentional, short-term and long-term impacts of the lifting of restrictions on the welfare (income and non-income dimensions) of different stakeholder groups, with particular focus on the poor and vulnerable; (ii) identifying measures to strengthen positive impacts and measures or alternative policy designs if negative effects are envisioned; (iii) developing monitoring mechanisms to promptly trace such impacts and evaluate changes over

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4 2 percent of state land has been allocated as Swarnabooam grants under the Land Grants Special Provisions Act (LGSPA).
time; and (iv) inform policy design and the ongoing process of policy dialogue and consensus-building between the Ministry of Agriculture Development and civil society.

**PSIA Road Map and Methodology**

This PSIA was originally designed to be conducted in two phases, to allow for economic and social tools to integrate and inform one another. The first phase used mainly qualitative methods (except for the Distributional Impact Analysis), and included a Stakeholder Analysis, an Ownership Risk Assessment-Scenario Risk Analysis, and a village-level Socio-Economic Impact Assessment. The aim of this first phase has been to identify potential positive and negative impacts of the reform on the most vulnerable sections of society, as well as major sources of support and resistance to the reform at the macro, meso and micro-levels. This report represents a synthesis of the first stage of the study findings. If Government of Sri Lanka (GOSL) and Bank management take a decision to go ahead with a second phase, this may consist of a household survey aimed at further exploring issues raised during the first phase and establishing a baseline for monitoring and evaluation purposes.

This synthesis report is based on the findings from four separate studies carried out over the past year. They provide insight into the possible distributional impacts and implications of the reform from the macro, meso and micro perspectives and suggest focus areas for future investigation and analysis:

1. Desk Review of land reforms in Sri Lanka conducted by a local consultancy (IPID).
2. Distributional Impact Analysis undertaken jointly by the PSIA task team and PREM.
3. Stakeholder Analysis, Ownership Risk Assessment and Scenario Risk Analysis conducted by a local consultancy (IPID).
4. Village-level Socio-Economic Impact Assessment (conducted by a local consultancy (IPS)).

**Desk review:** The desk review surveyed the available literature on land reforms in Sri Lanka and the creation of the Land Development Ordinance. It outlines the events leading up to the enactment of the Land Development Ordinance, the main features of the Ordinance, the amendments made in the Ordinance and the views expressed by key stakeholders on the removal of restrictions.

**Distributional Impact Analysis:** This analysis was based on data from two household surveys5 and looked at the distributional impacts of the proposed reform on the poor and non-poor holders of LDO lands. Its main objective was twofold: (1) estimate the price changes of privately-owned state land under the proposed reform program, and (2) simulate the potential welfare impact and distributional implications of the proposed reforms.

**Stakeholder Analysis, Ownership Risk Assessment and Scenario Risk Analysis:** Based on a literature review, key stakeholder interviews and multi-stakeholder workshops, this analysis focused on the macro and policy level implications of the proposed reform. The main objective was to identify the possible risks deriving from country and macro-level factors, to reveal sources of potential support and resistance to the lifting of restrictions, to estimate the location and extent of pressure that government would probably face in implementing (or not) the reform program, and to formulate alternative reform scenarios to address concerns raised by non-supporters. The report identifies national and regional-level stakeholders, outlines their perspectives on the reform and identifies possible mitigating measures that would be necessary to ensure that the reform achieves its goals.

**Village-level Socio-Economic Impact Assessment:** Based on primary data gathered in ten villages, this analysis used qualitative and participatory methods such as focus group discussions, interviews with key stakeholders and workshops to focus on the micro-level implications of the reform and elicit land-related livelihood opportunities and constraints as

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experienced by the villagers. The ten selected villages were representative of the different agro-ecological regions (Dry, Wet, Intermediate), with special emphasis on the different tenure types, climate zone, crop-types and poverty levels in Sri Lanka—as well as some more specific issues such as areas of rapid urbanization, ethnic tension and conflict.

The investigation and analysis at the macro, meso and micro-levels combined with the literature overview has allowed the team to trace the historical antecedents of the policies which created privately-held state owned land lands and the impacts of their implementation to date, especially, as will be seen in the report, the differential impacts that accrue as land is passed down from generation to generation. It highlights the importance of investigating land reform issues not only from the perspective of land as a convertible asset but also as an integral component of livelihoods and an important base providing multi-generational safety nets and social cohesion.

**Figure 1: Field Sites for Qualitative Research**
Background

Historical and Legal Review

In 1935 the Land Development Ordinance (LDO) introduced a system of protected tenure, which recognized the right for recipients of state lands to occupy and cultivate the land in perpetuity, subject to restrictions imposed on sale, leasing and mortgaging, and conditions related to abandoning of, or letting the land lay uncultivated.

The Ordinance had two objectives: (i) the preservation of the peasantry; and (ii) the encouragement of economic development in the country. In order to achieve these objectives, a scheme was implemented whereby land could be settled by villagers thereby “devising a means for the multiplication of small holdings and bringing into existence a prosperous, self-supporting and self-respecting multitude of peasant-proprietors”.

The Ordinance represented a response to the difficulties resulting from earlier legislation that gradually assigned control of unoccupied or uncultivated lands to the Crown, in the name of the State, with the result that local populations, accustomed to exercising traditional claims on territory, were classified as encroachers on lands that had previously simply been open and unoccupied. In addition, the new Crown land could be acquired by individuals through either purchasing or leasing. The outcome of this system was that prime lands, especially those in the Wet Zone, were quickly bought up by those who could most afford it: namely British Planters, Government officials and others from Colombo and the coastal areas. The individuals who were most adversely impacted under this system were the “peasantry” who, often not only did not understand the new system which alienated them from traditional rights to previously unused land, but also could not afford to purchase it.

Components of the Land Development Ordinance

With the objective of both targeting the poor and protecting their access to the land, three important components of the LDO system were devised which relate to: (i) inheritance; (ii) a process of gradual alienation and ownership and (iii) protection against leasing or mortgaging to protect land from being transferred to wealthy landowners.
The original LDO legislation had two key provisions:

**Protection of Holdings**

One of the major provisions in the original LDO of 1935 was a targeting mechanism related to inheritance of land that would ensure that the “… person who got the land belonged to the class which we want the lands to go, but that the successors too belonged to that class”.

**Alienation of Land under the System of Leases**

This system was introduced to (i) ensure that the government did not sell the capital of the people (Crown land) to outsiders; (ii) ensure regular revenue for the government and; (iii) make it easy for the poor to develop lands rather than going into debt, in an effort to purchase land which might be lost by seizure or necessary sales.

Over time, many amendments to the original legislation have been proposed and implemented. Some of the key features which the amendments have addressed relate to: (i) the movement between permit and grant status; (ii) inheritance; (iii) the ability to mortgage the land; and (iv) administrative and legal oversight by Government officials.

Today the grant provides an absolutely clear title, but denies the owner the right of freely disposing of the land as is possible in the case of privately owned lands. The original intentions of targeting the poor and developing the country are still in effect, but the amendments respond, in part, to increasingly smaller plot sizes, the changing economic situation in Sri Lanka and the need to find mechanisms to allow for diversification and conversion of land into collateral.

Today, the restrictions on alienated lands focus on three areas: Tenure, Succession and Leasing/Selling.

**Tenure:**
- Land given under the LDO/LGSPA is considered as a conditional grant described as a “freehold land with restrictions”.

**Succession**
- The allottee cannot dispose of a portion of the land, which is less in extent than the prescribed unit of subdivision.
- The allottee cannot dispose of the land or a part of it that would lead to co-ownership.
- Transferability of land is restricted to persons belonging to the same class with the prior approval of the Government Agent (GA).
- Successors should be nominated from the persons mentioned in the 3rd schedule.

**Leasing/Selling**
- The land cannot be sold or disposed except with the prior consent of the Government Agent.
- The land can be mortgaged, but only to selected financial institutions stipulated by the government and mentioned in Section 43 (b). These are: The Development Finance Corporation, The National Development Bank, The National Housing Development Authority and the Commissioner of National Housing.
- The allottee cannot lease or sub-lease the land.
- However the land can be leased for a period of less than one year at a time, with the written approval of the GA.

It is important to note that despite the regulatory controls, in practice, informal rules regarding access, selling or leasing of lands and traditional rules inheritance are equally at play. Evidence from the qualitative fieldwork suggests that attention to these alternative systems and the particular points at which they come into conflict with state regulations (or they exist blindly alongside each other) will be an essential component of designing reform legislation and implementation mechanisms that adequately address the needs of the poor.
Land Availability in Sri Lanka

Voices in favor of opening land to the private sector for development argue that flexible land markets would lead to optimal use of land and ultimately to a higher GDP contribution.

Currently however, the only land that could be made available to the private sector is that in the hands of the Land Reform Commission—about 6 percent of total state land. This extend of land is 17 times the amount of land currently classified as built-up land (0.34 percent). It is therefore argued that the issue

<table>
<thead>
<tr>
<th>Table 1: Distribution of Lands under the LDO up to 1993</th>
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</thead>
<tbody>
<tr>
<td><strong>ALLOTMENTS</strong></td>
</tr>
<tr>
<td>Number</td>
</tr>
<tr>
<td>A Village Expansion</td>
</tr>
<tr>
<td>B Regularization of Encroachments</td>
</tr>
<tr>
<td>C Presidential Task Force</td>
</tr>
<tr>
<td>D Major Settlements Schemes</td>
</tr>
<tr>
<td>E Middle Class Settlements Schemes</td>
</tr>
<tr>
<td>F Highland Settlement Schemes</td>
</tr>
<tr>
<td>G Youth Settlement Schemes</td>
</tr>
<tr>
<td>TOTAL</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2: Land Distribution under LDO up to 1993</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Distribution under the Land Commissioner’s Department up to 1993</td>
</tr>
<tr>
<td>under the Land Development Ordinance</td>
</tr>
</tbody>
</table>

Source: The Land Commissioner’s Department
of land availability in Sri Lanka is more of an issue of land policy than land markets.\(^6\)

**Distribution of Land under the LDO and the LGSPA**

Of the remaining share of state land, more than 13 percent has been allocated through LDO leases, 2 percent under the Mahaweli Development Program and 2 percent as Swarnabooohmi grants under the Land Grants Special Provisions Act (LGSPA). By the end of 1993, nearly 930,000 hectares of LDO land had been alienated under seven different programs (see Annex 1). Each program has different rules regarding beneficiaries, amounts of land allotted and other inputs (such as assistance for housing, irrigation, etc.). The majority of lands have been located in the Dry and Intermediate Zones. With the addition of lands alienated under the other two programs, the total extent of land alienated by the Government amounts to about 1.5 million ha.

Differences in land-use patterns between the scarcely populated Dry Zone and the more densely populated Wet Zone not only reflect the uneven distribution of the population, but also different climatic conditions and availability of infrastructure and other facilities. The Wet Zone mostly comprises private-owned lands, which are highly fragmented and have a large number of title disputes. The Dry Zone mainly consists of state-established settlements with major irrigation schemes or otherwise sparsely distributed populations. Land holdings are larger and show an increase in the net extent of paddy lands – while in the Wet Zone the extent under paddy is declining due to low productivity and demand for lands for other agricultural and non-agricultural uses.\(^7\)

The following tables illustrate the distribution of LDO lands, in terms of extent in hectares and in number of allotments, province-wise and district-wise. What is immediately clear is the variation in amounts of land and numbers of allotments across the country, with the major centers of activities being in the North Central Province and North-Western province.

The rules guiding allotments for some of the schemes have changed over time due to increasing scarcity of available land. Moreover, data from the Land Commissioner’s Department illustrate that the average size of holdings today are smaller than the original allotments, partly because of informal subdivisions that have taken place over time.

Lands allotted under Village Expansion, Regularization of Encroachments and Presidential Task Force account for the majority of allottees (87%) and the majority of land (72%), but the holdings themselves are on average, far below the 1 ha. originally distributed. Where holdings are less than 0.11 ha., production is primarily focused on home consumption. In addition, even the average holdings for other schemes such as Middle Class

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\(^7\) IPS State of the Economy 2004, p. 41.
Figure 2: Distribution of Lands by Hectare and Allotment Type (up to 1993)

Source: Basic Statistics up to 1993
Land Commissioner’s Department

Prepared by the Research, Information & GIS Unit
National Physical Planning Department
### Table 3: Land Allocated under LDO by District

<table>
<thead>
<tr>
<th>District</th>
<th>Village Expansion</th>
<th>Regularization of Encroachments</th>
<th>Major Settlements</th>
<th>Middle Class</th>
<th>Highland Settlements</th>
<th>Youth Settlements</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Wet Zone</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Colombo</td>
<td>3,837</td>
<td>426</td>
<td>0</td>
<td>151</td>
<td>0</td>
<td>0</td>
<td>4,415</td>
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<td>Kalutara</td>
<td>8,999</td>
<td>8,679</td>
<td>0</td>
<td>4,470</td>
<td>606</td>
<td>1,269</td>
<td>24,023</td>
</tr>
<tr>
<td>Gampaha</td>
<td>33</td>
<td>434</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>467</td>
</tr>
<tr>
<td>Kandy</td>
<td>5,587</td>
<td>2,115</td>
<td>3,595</td>
<td>0</td>
<td>0</td>
<td>270</td>
<td>11,567</td>
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<tr>
<td>Matale</td>
<td>8,703</td>
<td>4,326</td>
<td>5,377</td>
<td>577</td>
<td>143</td>
<td>81</td>
<td>19,206</td>
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<td>Nuwara Eliya</td>
<td>3,820</td>
<td>1,602</td>
<td>123</td>
<td>679</td>
<td>0</td>
<td>66</td>
<td>6,291</td>
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<td>Galle</td>
<td>13,713</td>
<td>6,613</td>
<td>0</td>
<td>7,164</td>
<td>1,015</td>
<td>513</td>
<td>29,019</td>
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<td>Matara</td>
<td>7,984</td>
<td>5,440</td>
<td>0</td>
<td>4,560</td>
<td>1,042</td>
<td>0</td>
<td>19,026</td>
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<td>Ratnapura</td>
<td>12,637</td>
<td>10,252</td>
<td>687</td>
<td>1,699</td>
<td>1,083</td>
<td>154</td>
<td>26513</td>
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<tr>
<td>Kegalle</td>
<td>3,139</td>
<td>2,921</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>6060</td>
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<tr>
<td><strong>Total</strong></td>
<td>68,453</td>
<td>42,811</td>
<td>9,781</td>
<td>19,299</td>
<td>3,889</td>
<td>2,353</td>
<td>1,46,586</td>
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<tr>
<td><strong>Dry &amp;</strong></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td><strong>Intermediate</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hambantota</td>
<td>18,902</td>
<td>10,456</td>
<td>5,875</td>
<td>2,636</td>
<td>602</td>
<td>0</td>
<td>38,472</td>
</tr>
<tr>
<td>Mullaitivu</td>
<td>831</td>
<td>4,202</td>
<td>8,216</td>
<td>0</td>
<td>1,294</td>
<td>964</td>
<td>15,507</td>
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<tr>
<td>Jaffna</td>
<td>8,535</td>
<td>20,83</td>
<td>5,944</td>
<td>12,063</td>
<td>1,206</td>
<td>1,765</td>
<td>31,596</td>
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<tr>
<td>Kilinochchi</td>
<td>293</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>293</td>
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<tr>
<td>Mannar</td>
<td>6,009</td>
<td>3,270</td>
<td>1,188</td>
<td>1,055</td>
<td>0</td>
<td>0</td>
<td>11,522</td>
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<tr>
<td>Vavuniya</td>
<td>16,207</td>
<td>11,075</td>
<td>4,017</td>
<td>9,519</td>
<td>0</td>
<td>1,323</td>
<td>42,141</td>
</tr>
<tr>
<td>Batticaloa</td>
<td>27,117</td>
<td>10,092</td>
<td>6,715</td>
<td>1,597</td>
<td>0</td>
<td>61</td>
<td>45,582</td>
</tr>
<tr>
<td>Trincomalee</td>
<td>11,583</td>
<td>10,119</td>
<td>13,804</td>
<td>900</td>
<td>20</td>
<td>0</td>
<td>36,426</td>
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<tr>
<td>Ampara</td>
<td>6,126</td>
<td>17,686</td>
<td>17,992</td>
<td>0</td>
<td>0</td>
<td>26</td>
<td>41,830</td>
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<tr>
<td>Kurunegala</td>
<td>31,885</td>
<td>47,867</td>
<td>10,042</td>
<td>3,406</td>
<td>907</td>
<td>231</td>
<td>94,338</td>
</tr>
<tr>
<td>Puttalam</td>
<td>17,200</td>
<td>23,594</td>
<td>8,616</td>
<td>4,969</td>
<td>3,703</td>
<td>547</td>
<td>58,655</td>
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<tr>
<td>Anuradhapura</td>
<td>43,489</td>
<td>34,631</td>
<td>33,051</td>
<td>718</td>
<td>0</td>
<td>182</td>
<td>112,071</td>
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<tr>
<td>Polonnaruwa</td>
<td>17,917</td>
<td>11,470</td>
<td>32,947</td>
<td>3,133</td>
<td>423</td>
<td>431</td>
<td>66,321</td>
</tr>
<tr>
<td>Badulla</td>
<td>18,342</td>
<td>4,795</td>
<td>5,991</td>
<td>3,094</td>
<td>197</td>
<td>0</td>
<td>32,419</td>
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<tr>
<td>Moneragala</td>
<td>8,579</td>
<td>26,131</td>
<td>4,655</td>
<td>850</td>
<td>2,783</td>
<td>0</td>
<td>42,997</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2,33,015</td>
<td>2,17,472</td>
<td>1,59,053</td>
<td>43,966</td>
<td>11,134</td>
<td>5,529</td>
<td>6,70,169</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>3,01,468</td>
<td>2,60,283</td>
<td>1,68,835</td>
<td>63,265</td>
<td>15,023</td>
<td>7,881</td>
<td>8,16,755</td>
</tr>
</tbody>
</table>

*Source: Basic Statistics Up to 1993, Land Commissioner’s Department*
and Highland settlements which granted much larger amounts to start with, have also decreased over time due to subdivisions.

The Distributional Impact Analysis outlined the distribution of land by size, tenure and decile. The study found that households in the poorest deciles actually own very little of the LDO land and would thus benefit “least from a simple transformation of LDO land to private land”. The qualitative fieldwork consistently raised the issue of second and third generation family members of allottees and their difficulties in sharing rights to the land because of limitations on the sub-parcelling of plot sizes.

Recent Land Policy Reforms

In the 1990’s another set of land reforms began which focused on: (i) land titling; and (ii) creating an enabling environment to issue freehold titles. The Registration of Title Act (RTA) No. 21 was passed by Parliament in March 1998. This new system conferred a Government guarantee on the title to land and provided a cadastral survey plan with each title registered. However, there have been numerous difficulties in implementing the legislation because of the absence of appropriate provisions towards conflict resolution during the process of land titling, denial of registration in case of co-ownership which is widely prevalent and culturally acceptable in the country, lack of clarity in handling subsequent transactions relating to lands for which titles are issued, absence of consensus on the issue of Second Class titles, lack of clarity as to the powers and duties of the Commissioner of Title Settlement (CTS) and the Registrar General of Title (RGT) and inaccuracies in title investigation because of vaguely defined procedures.

Similarly the RTA failed to allow for freehold titles to more than one million allottees who received land under the LDO and the LGSPA because of the conditions imposed in the grants. At the same time, efforts to lift market restrictions on state lands alienated under LDO by providing allottees with clear title and full ownership have been declared unconstitutional and created institutional links which bypass Provincial authorities—as land is a devolved subject.

Implementation of the legislation is also hampered by the fact that the administration and management of land in Sri Lanka is handled by more than 39 operational laws and nearly 60 institutions. This environment easily suffers from lack of coordination and thus leading to overlapping of authority and contradictory decisions and policies.
The Debate Over Removal of Restrictions on Privately-held State-owned Land

The *a priori* arguments for and against lifting the current restrictions on LDO land are directly related to the original goals\(^8\) of the legislation and the way in which these have been affected by the changing economic and social circumstances in the country. The arguments focus on the tension between achieving efficiency in the utilization of land through its mobility among user and uses, versus concerns over equity as poverty may arise from an unequal distribution of holdings, and of inputs to make such holdings productive.

A Priori Arguments in Favor of Lifting Restrictions

Arguments in favor of lifting restrictions on the land focus on the need to leverage more growth potential from land by freeing up restrictions on land transactions. This would include providing greater tenure security to those that farm the land. This would in turn stimulate greater investment in the land, facilitate the movement of land to those willing and able to make more productive use of the land through more efficient lease and sales markets, facilitate access to credit through the use of land as collateral, and consolidate the size of the operational holding to realize scale. It is also argued that the lack of marketability and transferability of land, “ties” the LDO grantees to the land thus impeding their exiting agriculture if they so wish. At the same time, lack of easy access to credit and the inability to lease out or sell lands, in this view, currently results in lower agricultural production and lower production efficiency.

A Priori Arguments Opposed to Lifting Restrictions

Arguments opposed to lifting restrictions on LDO land focus on its role as economic safety-net for families and extended relations, and on its social and cultural significance in Sri Lanka. In addition, it is argued that imperfections in credit markets coupled with a reform allowing for land transfers may increase the likelihood of loss of land by poor small-holders with neither savings nor access to credit, while the benefits of such a reform for the same small-holders remain unclear. This scenario is worsened by the lack of availability of non-farm employment:

\(^8\) 1. To protect the peasantry of Sri Lanka by providing access to land which would guarantee sustainable livelihoods and;
2. Promote economic development of the country.
• LDO land already in possession of money-lenders as security for a loan would be more easily alienated in their favor after the reform. Similarly, land in possession of large land-owners through fraudulent practices would more easily be transferred in their name.

• Land sales by small-holders are likely to increase as a means of accessing cash to face emergencies, during times of seasonal need or under other types of duress (i.e. in debt, due to alcoholism, etc). Deprived of their main source of income and their only asset, and suffering from the lack of alternative livelihood opportunities in the rural areas, the landless would have to move to urban areas as unskilled and casual labor.

• The fact that alienable land can be used as collateral to access credit is limited by the unavailability of formal credit facilities in rural areas and by the fact that poor households with a low endowment of land (the majority of Sri Lanka landowners) may not prefer to take the risk of defaulting and losing their only asset. Moreover, villagers expressed the view that land tenure is not the key for accessing agricultural credit, as this is supplied by many government schemes and is often collateral-free.

• The benefits of the reform for the LDO small-holders remain unclear. In Sri Lanka, LDO land tenure is a secure tenure, as incidents of state alienation of land are rarely heard of. The security of the tenure may in fact decrease after the reform, as land transfers will lead to an increase in land-related disputes due to the almost universal unavailability of LDO land maps and fixed boundaries.

• The security of tenure also weakens the link between types of tenure and land productivity—except in the case of encroachers and permit holders whose tenure insecurity obviously does not allow for long-term investments. LDO land is otherwise perceived as secure enough for long-term investments to take place.

Who are the LDO Land-holders?
The qualitative fieldwork in ten villages found that in roughly half of them, the poorest families did not own any LDO land. Where they did own land,
plots were small and they had limited capacity for further investment or improvements. Where they did not own land, access was achieved through shareholding, encroachment or informal leasing.

The distributional analysis also looked at the potential price changes from elimination of market restrictions for LDO lands. The study found “that elimination of the restrictions would, on average, increase the value of LDO lands by between 11–21 percent (between 75,000–150,000 Rupees/acre). The estimated changes in land values control for various plot level characteristics, but do not take account of general equilibrium effects such as the impact of an increase in the supply of tradeable land (due to the reform) on private land prices.” These impacts may play out differently at the district regional level depending on the quality of land, other inputs such as irrigation water, roads, and services such as markets, electricity and financial services. This latter point was especially emphasized by LDO grantees during the qualitative fieldwork.

In addition, it is clear from the qualitative study that access to credit and markets is somewhat impacted by social status. Knowledge of rights and access to power without being subject to bribes or other instances of corruption were raised by local level stakeholders as important issues that affect their ability to benefit from these formal institutions. The distributional analysis does not account for these social and cultural factors. The impact of such social issues will be further discussed on the section on credit in the micro-level section below.
Country Ownership of the Reform

Macro-level Analysis: Perceptions of Politicians, Administrators, and CSOs

Land in Sri Lanka represents not only a source of livelihood, but also a source of human-ness and social status. The fact that “a man should have a land to till, a house to live and a place to scatter his bones” shows the extent of the cultural value attached to land in Sri Lanka, so much so that the difference between a person and non-person often depends on whether or not he or she possesses an extent of land.

Any reform that touches upon such an economically and culturally critical asset entails a high political risk, and is heavily burdened by ideological positions that often seem unsubstantiated by evidence from the field.

The high cultural value attached to land explains, at least in part, the continued emphasis at the policy level on access to land as the primary tool to fight poverty. Continued possession of land is a well-known and often-tested means of maintaining social security and economic stability in Sri Lanka. The lifting of LDO restrictions on sale entails a high political risk that explains the severely mixed feelings and opinions expressed by national and provincial level stakeholders during this PSIA. The presence of articulate civil society and human rights organizations acting as spokespersons of the farmer communities, ideologically opposed to a liberalization of land markets, and well-connected to the political and academic environments, makes this reform even more charged and volatile. Their support to any land reform is critical if one also considers their ability to reach out to farmers and to mobilize them.

The Stakeholder Analysis and Ownership Risk Assessment conducted in the context of this PSIA highlighted the fact that overall, politicians from all political parties, land administrators and policymakers, field-level implementers and civil society organizations generally preferred to be cautious about the lifting of restrictions. Their main arguments were twofold:

- The lifting of restrictions may imply an increase in the number of people leaving agriculture. The lack of alternative livelihood opportunities in rural areas may potentially increase the rural-urban migration. However, the current state of the economy and rate of urban and industrial expansion could not cope with a large migration from agriculture. Encouraging these small-scale landholders to sell their land and seek off-farm employment in villages and urban areas in large numbers creates a potentially...
dangerous situation, since they will not be guaranteed employment when they reach the cities.

- The State has always been under significant pressure to ensure access to land to all of its citizens. Embracing a reform that could be perceived as increasing landlessness may cause social unrest. This view was shared by provincial-level politicians for whom increased landlessness would mean increased pressures to grant new lands as well as increased encroachments of state lands with associated environmental damage.

Macro-level analyses also identified voices in favor of the lifting of LDO restrictions. In their view, the lifting of restrictions may benefit permit-holders who want to sell as they would be given the chance to secure market prices for their land while giving them the opportunity to exit agriculture for more profitable activities. In their opinion, the lifting of restrictions would also increase the overall productivity of the land by allowing for long-term investments in the land and the transfer of under-developed land to more efficient operators currently unable to access land for development. Similarly, the private sector, mainly consisting of property developers, investors with the potential to channel funds for modernized agriculture, livestock farming or industry, consider that restrictions of land transfer retard the utilization of land for more economically beneficial pursuits.

Yet, these favorable voices would also express caution and suggest a phased approach to the reform as the most suitable strategy to ensure the benefits of a land market. This phased approach should first ensure alternative livelihood opportunities to absorb the farmers that exit agriculture and ensure the transfer of new technology for those who remain in the sector.

In sum, the picture emerging from the macro-level analyses highlights the high political nature of the land reform. The socio-political context of Sri Lanka seems conducive to a land reform that, to be successful, needs to be perceived as pro-poor and consistent with the goal of food security, while contributing to a more active investment climate. As land is a subject that has been devolved to the provincial ministers whose political affiliation may differ from the one of the central government, it is essential that all political parties—and their grassroots organizations—reach a consensus on the nature of the reform. No political party without a clear mandate from Parliament will attempt to venture into such fundamental policy changes because of the repercussions these may have on future prospects of the party. The risk of increased landlessness and related encroachment are already a hot political and administrative problem, and politicians will either support or boycott the reform according to the number of votes they will gain or lose. Moreover, the primary objective of Provincial Ministers of Land consists precisely in providing land to all landless persons in their Province. Obviously, any reform that may be perceived (right or wrong) as increasing the risk of landlessness will be publicly opposed and de facto ostracized. The second challenge consists in the actual implementation of the reform that again would ambitiously require the buy-in of land administrators and field-level implementers.

Prevalent Discourses in Favor of the Reform

The PSIA identified the following arguments from stakeholders in support of a land reform. Stakeholders included in the consultation were:

1. National Level Politicians (former Minister of Agriculture, Lands, Irrigation and Livestock Development, JVP)
2. Provincial-Level Politicians (ruling party)
3. Past Senior Land Administrators
4. Current Senior Land Administrators
5. Current Senior Administrators in charge of Planning
6. Private Sector Representatives
The following matrix outlines the key opportunities and concerns as identified by the stakeholders. According to them, this reform would unlock opportunities for economic development as it would allow for increased investments in agriculture and for the availability of capital for those farmers who wish to exit agriculture to participate in other economic activities. The primary risk noted by almost all of these stakeholders relates to fears of increased landlessness and poverty if other economic opportunities and strategies are not also created to absorb those farmers who exit agriculture. Key areas such as access to credit and banking facilities are also acknowledged as important blockages to a successful reform process. The importance of spatial disparities in opportunity evident at the regional and local level, which is created from factors such as varying qualities of land and access to water, to the existence of other improvements in an area such as roads, electricity and other services, was also raised as an underlying risk, though these regional disparities are already at work under the existing non-reform situation.

Prevalent Discourses Against the Reform

The stakeholder analysis identified the following arguments from stakeholders against the reform. Stakeholders consulted include:

1. Politicians—Provincial Level
2. Past Senior Land Administrators
3. Senior Administrators at National Level
4. Senior Provincial and District Administrators
5. Civil Society Organizations

| Stakeholders | Opportunity                                                                 | Assumptions                                                          | Concerns                                                                 |
|--------------|-----------------------------------------------------------------------------|                                                                     |                                                                         |
| 1,2,3,4,5,6  | Creation of permanent land owners                                           | This will strengthen incentives to invest in agriculture             | This incentive effect may in fact be weak                               |
| 1,2,3,4,5,6  | Increased value of assets.                                                   | Land values will increase because of secure tenure and resulting increased investment. | Increased land values may accentuate existing disparities across regions |
| 2,4,5,6      | Opportunities for investment from larger land owners, developers and investors | Consolidation of land will lead to opportunities for intensification and mechanization |                                                                             |
|              |                                                                             | Private sector investors, brokers and other intermediaries will increase productivity |                                                                         |
| 2,5,6        | Expansion of credit opportunities from formal institutions                   | Lack of access to credit is determined largely by lack of land ownership | Banks may still be reluctant to provide credit despite the improved land tenure status |
| 1,2,4,       | Emergence of more efficient farm structures                                 | Facilitation of lease and sales markets will move land into more productive uses | Land reform without attention to risks for particular populations, and without strategies to help facilitate transfer to new livelihoods for those leaving agriculture will be a risk |
The following matrix identifies the key issues and arguments identified. The primary risks noted by almost all of these stakeholders relate to increased landlessness, loss of essential safety-nets for families, the lack of alternative economic livelihood opportunities, and, more importantly, the fact that this reform is not perceived as being actively pushed by LDO land holders. These stakeholders noted that the bottlenecks to expansion do not lie entirely with the issue of land ownership, but rather are embedded in a wider cluster of interlinked constraints such as the lack of marketing facilities, access to credit, etc. that would otherwise allow for intensification and increased profits. Unless these blockages are addressed, and issues of equal opportunity and targeting of the poor are integrated, the reform runs the risk of alienating current LDO grantees and permit holders and ultimately putting these populations at greater risk.

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Issue</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,2,3,4,5</td>
<td>Reform will create increased landlessness or further encroachment of protected lands</td>
<td>Lack of information along with distress conditions will lead to increased land sales without alternative livelihood opportunities or foreclosures by money lenders. New landless with no place to go will either flock to urban areas or be forced to encroach on environmentally sensitive lands.</td>
</tr>
<tr>
<td>1,2,3,5</td>
<td>Reform will create greater social disparities: opportunities for the rich and disadvantages the poor</td>
<td>The poor will not be in a position to make sound economic decisions and to protect their interests There is pent up demand for purchases of agricultural land by relatively well-off segments of the population Women may be susceptible to their husbands selling land at distress sales, or for reasons such as alcoholism</td>
</tr>
<tr>
<td>1</td>
<td>Landless people will petition the government for new lands in the future</td>
<td>Landless people do not have economic resources to participate as lessees/buyers in land markets</td>
</tr>
<tr>
<td>1,3,4,5</td>
<td>Money lenders will take advantage of the change in rules and take land in lieu of debts</td>
<td>Today LDO lands restrictions serve as a safety net for allottees to not lose their land to money lenders. Loss of this safeguard will put families who are already in debt at a greater risk of losing their lands This issue could be addressed without the reform by changing the rules of Banks and other formal credit institutions</td>
</tr>
<tr>
<td>2,3,4,5</td>
<td>Loss of inheritance safety net for future generations and social standing</td>
<td>Lifting restrictions will result in the loss of land by the poor</td>
</tr>
</tbody>
</table>
Micro-level Analysis: Voices from the Field

Qualitative fieldwork was carried out in ten villages distributed across the country, with the purpose of identifying local level perceptions on the possible distributional impacts of reform of LDO lands and potential mitigating measures which could be taken. The fieldwork sites included communities which had received lands under a variety of distribution schemes over the past fifty-eight years (therefore covering multiple generations) and, importantly, surveyed communities where agriculture is the main livelihood strategy, as well as those where other strategies provide important supplementary income. Informants included permit holders, grantees, encroachers and private landowners.

Table 8: Economic, Social and Agricultural Context of Fieldwork Sites

<table>
<thead>
<tr>
<th>Name of the Village</th>
<th>Land Tenure and Key Land Stakeholders</th>
<th>Agro-ecological Zone and Crop</th>
<th>Key Social/Economic/Poverty Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mudungoda, Hurigaswewa, Galnewa, Annuradhapura District</td>
<td>Mahaweli system H since 1977</td>
<td>Dry zone</td>
<td>272 families</td>
</tr>
<tr>
<td></td>
<td>Major settlement</td>
<td>Paddy and highland crops</td>
<td>Farming, casual labor</td>
</tr>
<tr>
<td></td>
<td>2 ½ acres of paddy, ½ acre of highlands</td>
<td></td>
<td>and other non-farm Employment</td>
</tr>
<tr>
<td></td>
<td>Original settlers, new buyers and encroachers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Mahawewa, Sevanapitiya Block, Welikanda, Polonnaruwa District</td>
<td>Mahaweli system B since 1985</td>
<td>Dry zone</td>
<td>Sinhala/Muslim area</td>
</tr>
<tr>
<td></td>
<td>2 ½ acres of paddy and ½ acre of highlands</td>
<td></td>
<td>Border area</td>
</tr>
<tr>
<td></td>
<td>Original families, private land owners, new settlers and new buyers</td>
<td></td>
<td>785 families</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Paddy cultivation</td>
<td>Farming, casual labor</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>and other non-farm employment</td>
</tr>
<tr>
<td>3. Therunnansegama, Walawe</td>
<td>Mahaweli system H.</td>
<td>Intermediate zone</td>
<td>Pressure from urbanization</td>
</tr>
<tr>
<td></td>
<td>½–5 acre land blocks</td>
<td>Tea and cinnamon small holdings</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Private and LDO landholders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Herathpura, Ragala, Walapane, Nuwara-Eliya District</td>
<td>Village expansion 1973</td>
<td>Wet zone</td>
<td>High poverty</td>
</tr>
<tr>
<td></td>
<td>20 and 40 perch blocks</td>
<td>Vegetable cultivation</td>
<td>125 families</td>
</tr>
<tr>
<td></td>
<td>Presence of original settlers, new buyers and many encroachers/second generation</td>
<td>Irrigation through Anicuts</td>
<td></td>
</tr>
<tr>
<td>Name of the Village</td>
<td>Land Tenure and Key Land Stakeholders</td>
<td>Agro-ecological Zone and Crop</td>
<td>Key Social/Economic/Poverty Issues</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| 6. Maulla, Kobeignane, Kurenegala District | ● A settlement under village expansion scheme in 1950s  
● ½–2 acres and 10 acres under middle class alienation  
● LDO land holders, middle class land scheme and private land owners (sinnakkra and paraveni)  
● Small tanks                                                                                                                                                                                  | ● Dry zone  
● Paddy cultivation under small tanks (private land owners), highland crops, coconut                                                         | ● 228 families                                                                                     |
| 7. Manabarangama, Mutukandiya, Moneragala District | ● A settlement and regularization of encroachments in 1981  
● 3 acres of paddy land and ¾ acres of highlands  
● Original families/resettlers and new settlers                                                                                                                                                      | ● Dry zone  
● Paddy and highland cultivation                                                                                                          | ● High poverty  
● 272 families  
● farming, casual labor and other non-farm employment                                                                                                                                       |
| 8. Atharagallewa Elahera-Bakamuna scheme, Polonnaruwa District | ● A settlement under village expansion scheme in 1968 later incorporated into Mahaweli System G  
● 3 acres of paddy land and 2 acres of highlands  
● Original families/resettlers, private land owners, land grantees/new settlers and encroachers                                                                                         | ● Intermediate zone  
● Paddy cultivation, highland cash crops, casual labor and other non-farm employment                                                    | ● Gem mining  
● 712 families                                                                                                                                |
| 9. Mugthankulam Cheddikulam DSD, Vavunia district |   | ● Dry zone                                                                                                                                                                                   | ● Tamil community  
● Conflict area                                                                                                                               |
| 10. Medaruppa Colony, Mahanthegama GND, Mawanella, Kegalle District | ● Village expansion in 1975  
● 2 acres of highlands  
● Original families/resettlers, new settlers and new buyers                                                                                                                               | ● Wet zone  
● Highland cash crops                                                                                                                | ● District of high poverty  
● 74 families                                                                                                                                  |
Key Socio-economic Characteristics of Study Villages

The wealth ranking exercises classified community members according to local categories capturing varying levels of vulnerability—especially with reference to the ability to feed family members and capacity for engaging in other livelihood strategies. For example: families that earn a relatively high income (Ihala Adayam), middle income families (Madyasta adayam), and families earning their day’s meal (edavela hoyaganna aya), families with resources and capabilities (Eheki aya), families capable of sustaining livelihood (Ethi-nethi), families with least assets and incapable of sustaining livelihoods (Nethi bery), families managing on one meal a day (eka vela pirimahaganna paul), destitute families (Asarana paul), etc.

A typical example of the distinctions between these categories that are being made at the local level is shown in Table 9:

Table 9: Participatory Socio-economic Ranking in Mundungoda Village

<table>
<thead>
<tr>
<th>Rich–4 families</th>
<th>Average–50 families</th>
<th>Poor–70 families</th>
<th>Very Poor–40 families</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Bought land from original settler families</td>
<td>• About 40 families have bought land from original settler families</td>
<td>• Live on undivided and/or reservation land in an extent of ½ acre</td>
<td>• Do not own any land</td>
</tr>
<tr>
<td>• Own vehicles such as vans, lorries, buses, tractors</td>
<td>• Have 2 ½ acres of paddy land</td>
<td>• Cultivate paddy on land taken on ande (share-cropping)</td>
<td>• Do not have permanent houses</td>
</tr>
<tr>
<td>• Have 10–15 acres of irrigated paddy land</td>
<td>• Get land on lease from others (½ to 1 acre)</td>
<td>• Have mortgaged their own paddy land</td>
<td>• Live on part of the parental property</td>
</tr>
<tr>
<td>• Have 2 acres of highlands</td>
<td>• Have two wheel tractors and rental services are provided</td>
<td>• Engage in casual labor work</td>
<td>• Engage in casual labor work</td>
</tr>
<tr>
<td>• Take paddy land on mortgage</td>
<td>• Live in permanent houses with electricity, water and toilet facilities</td>
<td>• Female youth work in garment factories</td>
<td>• 10% of the households have women working in the middle east countries</td>
</tr>
<tr>
<td>• Engage in pawn brokering</td>
<td>• Children work in the armed services</td>
<td>• Women in about 3% of the households work in the middle east countries</td>
<td>• Obtain loans for finding foreign employment for their female members</td>
</tr>
<tr>
<td>• Have commercial properties allocated by the Mahaweli Authority</td>
<td>• Monthly income ranges between Rs. 15,000 to Rs. 20,000</td>
<td>• 5% of the households receive Samurdhi subsidies</td>
<td>• Receive Samurdhi benefits</td>
</tr>
<tr>
<td>• Receive income from paddy</td>
<td></td>
<td>• Monthly income ranges between Rs. 6,000 to Rs. 9,000</td>
<td>• Monthly income is in the range of Rs. 6,000</td>
</tr>
<tr>
<td>• Have family members working in government/private sector jobs such as school teachers and clerks</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
level can be found in the example of Mundungoda Village which has been under the Mahaweli system since 1977 and has a total of 272 families. Critical to the definitions below is production beyond subsistence and the ability to use land as a source of credit for mortgages that allow individuals to either expand opportunities (i.e. rich and average), or for survival (i.e. poor and very poor). This same kind of breakdown regarding using land as collateral occurs in virtually all of the community sites.

Ownership of Land by Socio-Economic Group and Livelihood Strategies

The very poor and poor families identified in the qualitative study are decidedly land poor. They own very little highland acreage (average of \( \frac{1}{2} \) acre in most villages) and virtually none of the low lands. Few poor are permit holders and only in two communities (Herathpura Colony (25%) and Medaruppa Colony (10%)—both village expansion schemes which by their nature target the landless) were they significantly grantees.

Of the eight village encroachment and expansion schemes that originally targeted the landless, the majority of LDO land is held by families listed as medium. There are two ways to read this finding. On the one hand, it could mean that access to LDO schemes has helped to create a “middle class” with sufficient security of tenure and access to lands to meet their needs. On the other hand, it could also mean that the targeting mechanisms of the LDO schemes did not sufficiently target the poor and it is the “middle class” who have most benefited. This was an issue deserving further investigation to assess the potential of LDO land alienation to reduce poverty levels.

It is not possible from the available data to determine to what extent the offspring of these medium holders are also listed as the second generation community members living/encroaching on their parents’ lands. Evidence from the interviews suggests that the dynamic of succession is an important one playing out at different rates in each of the sites (depending in part, on the age of the scheme), and that as properties become increasingly divided, the standing of a family can fall from medium to poor.

In almost each site, at least 5–25% of the poor were landless \( 2^{\text{nd}} \) and \( 3^{\text{rd}} \) generation family members living on their parents’ land. These facts point to important intergenerational blockages to land access which are in part provoked by the existing LDO regulations regarding inheritance. Non-permit holders (encroachers or illegal purchasers) were, in the majority of cases, in the poor or medium categories. In three cases, the rich were also listed as encroachers (varying from 1–8%). This may be a rapid expansion strategy for those among the rich who are willing to assume the risks of investing in lands that do not have a secure title and who have relationships with administrators in the bureaucracy that would protect them from sanctions.

In contrast, the fieldwork findings show that medium and rich families have diversified and more extensive coverage, owning both highland (average \( \frac{1}{2}–1 \) acre) and lowland (average holdings of 2 or more acres)\(^9\) lands. Complementing the findings of the distributional study, the fieldwork found that the most significant number of permit holders and grantees are among the category of families listed as medium. The variety of land types combined with increased acreage provides flexibility and allows farmers to crop the year round, engage in cash cropping and/or renting land to sharecroppers or hiring of excess labor. All of these are wealth accumulation strategies which are not readily available to the poor and can also be significant hurdles for medium families seeking to expand significantly beyond home and/or local market consumption.

Overview of the Current Situation

The current situation with the LDO lands is that, despite being a formal system set up and

\(^9\) The qualitative data on actual amounts of private land owned by medium and rich are not clear.
administered by the government, the reality on the ground is more confused, often informal and malleable. Such informal flexibility will impact any reform process and will need to be carefully studied and understood before implementation. Stakeholders who will be affected are permit holders and grantees, but also landless (i.e., encroachers) and private landowners.

This section of the report outlines some of the main findings of the qualitative study with a special focus on five topics playing an important role in determining the need for a reform, what form it might take, and who will be affected the most. They are: (i) Administration and enforcement; (ii) Inheritance; (iii) Encroachment; (iv) Tenure security, investment in land and land productivity; and (v) Mortgage, lease and sale of LDO land.

The section ends with an analysis of the perceived advantages and disadvantages by local-level stakeholders of lifting LDO restrictions.
Administration and Enforcement

Although the regulations for administration of the LDO lands exist on paper, in reality, the bureaucratic process on the ground is convoluted and haphazardly enforced, often lacking in transparency, and not well understood by either administrators, or permit holders and grantees. The qualitative fieldwork found that since there are significant delays and transaction costs of LDO approvals, people are forced to spend a lot of time dealing with particular officers and occasionally are subject to the pressure of bribes. Simply to obtain a deed for LDO permit lands (outside of Mahaweli) involves interaction with six officials—from local to district, provincial and national level and/or departments. The entire process takes from one to two years.

In the case of issuing grants, the regulations on division of property are quite strict, (not less than ¼ acres of highland or 1 ¼ irrigated land) and always requiring the permission in writing of the Divisional Secretary. Grantees cannot sell their lands without prior approval of two entities—the Grama Niladhari and District Secretary. In cases of emergency, these delays and lack of flexibility can cause hardship for families.

One of the most important issues for the reform process is that lands are poorly surveyed and mapped, resulting in significant disputes over LDO boundaries. *Jaya Boomi* titles given for grants do not have a plan for the land, so the grantee never knows the exact boundaries of the land. As parcels become smaller, this also becomes a larger issue and disputes emerge between neighbors or between individuals within the same family.

Text Box 1: Disputes over LDO Boundaries

A small strip from the LDO land belonging to a villager was encroached upon by the neighboring land owner. The matter was taken up to the Divisional Secretary (DS) level, but a solution could not be found as neither the Grama Niladhari nor the DS have powers to intervene in such matters. The DS instructed the villager to file the case in the courts, but he was reluctant to do it because of the high costs involved. Eventually, he let the encroacher enjoy that portion of the land.

Source: Socio-Economic Impact Assessment, Background Paper.
Inheritance: Nominations and Sub-division of Lands

Among local level stakeholders, one of the most important issues regarding LDO lands are the regulations regarding inheritance, nomination of successors and sub-division of lands. The rules require that the eldest son inherit the land if a land owner dies without naming a successor. This means that wealth, and the family safety-net, are transferred to a single owner. The situation is completely different from the customary law where the youngest son normally inherits the parental property (house and land) and he is then obliged to look after the elderly parents and any unmarried sisters. Inheritance, under customary law also serves as a multi-generational safety-net and

Table 12: Stakeholders’ Perspectives on the Current Status of LDO Land (with reference to government procedures)

<table>
<thead>
<tr>
<th>Permit Holders</th>
<th>Grantees</th>
<th>Non-permit Holders</th>
<th>Private Land Holders</th>
</tr>
</thead>
<tbody>
<tr>
<td>- There are long administrative delays in obtaining deeds (Jayaboomi) to replace the permits. The process moves from Grama Niladhari to Land Officer to Divisional Secretary to President’s Secretariat</td>
<td>- Land is legally under the control and custody of the Divisional Secretary</td>
<td>- Threatened by officials to evacuate</td>
<td>- Can mortgage the land when one wishes to do so without having to obtain permission from government officers</td>
</tr>
<tr>
<td>- In the process of seeking approval from Divisional Secretary to mortgage the land, permit holders have to bribe the different local level administrative officers to accelerate the approval process</td>
<td>- Have the fear that LDO land can be taken back by the government</td>
<td>- Land purchases from original settlers can be contested in courts and court decisions are not in favor of the non-permit holders</td>
<td>- Government pays less attention to develop private land compared to LDO lands</td>
</tr>
<tr>
<td></td>
<td>- Cannot transfer the land to children after the original settler dies as the government authorities are slow to take action to clear the titles</td>
<td>- Have to face legal action filed by government institutions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Prior approval from Divisional Secretary is needed if the middle class land is to be divided among children</td>
<td>- Difficult for the successor to get the title transferred even after the death of the first title holder due to red-tape in the government bureaucracy</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Did not receive a deed despite several requests made to the officials</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Can only live on the land but no decisions can be made on the land or its natural resources</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Obtaining a permit for the land is not easy. Several interviews are conducted and there are several administrative delays. People have to spend time in going round different officers in the Divisional Secretariat</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
support system. The rules do make provisions for nominating other relatives (such as other children), but in practice this is rarely done because people are either unaware of the option, or hesitant to engage in the lengthy process with the District Secretary office (or with the Resident Manager in the case of Mahaweli land); in addition, people may also want to avoid family tensions. It should also be noted that land can only be subdivided among more than the elder son if it falls within the minimum sub-division (1/4 for highland, 1 ¼ acre for paddy lands). As can be seen from the table regarding land ownership above, almost all of the poor and very poor in the study sites have already reached the minimum sub-division for their highland lands.

The consequences of these regulations on inheritance are many, and they can directly

Text Box 2: Sister Loses out to Brother due to Succession Rules

Somawathi and her offspring (a married son working in the armed forces, a second son working in the Middle-East and a daughter working in a garment factory) are settled on a 2 acre block (they also have 3 acres of paddy) which belonged to her mother since 1968. Somawathi had been living on this land since 1976. However, the legitimate successor to the land was her younger brother who lives in Welimada. Her brother obtained a permit for the land in 2001. Somawathie claims that she has the right to land as she has been living on this land for a long time. She also produces invoices of land taxes paid by her since 1985, her name as the head of the household in the electoral list, her membership in the Farmers’ Society etc. as evidence of her tenurial rights to the land. She has also allowed her married son to build a house on the same land. Furthermore, Somawathi has mortgaged her land to support her second son’s employment in the Middle East. Can Somawathi claim her rights to the land that she occupies under the LDO Act? Who will finally get the legal right to the land? Is it Somawathi or her brother?

Source: Socio-Economic Impact Assessment, Background Paper.

Text Box 3: Disputes among Brothers Lead to Lack of Electricity

A villager was a land recipient under the Mutukandyia scheme. He had three sons and two daughters. His daughters left home upon marriage while his sons continued to live in the parental property (highland). The eldest son, the nominee of the land, settled down in the parental house while the other two sons built their houses right behind it. They both requested the elder brother to allocate a small strip of land to construct an access road but it never materialized. When they applied for electricity connections to their houses, their requests were rejected on the ground that the supply could not be provided without access road and without a legal document providing evidence of ownership of the land.

Source: Socio-Economic Impact Assessment, Background Paper.

Text Box 4: Quarrelling Siblings Neglect LDO Land

In Medaruppa village, the eldest son of a family occupies one acre of his father’s land. He has six other brothers and sisters living outside the village. The father has not officially transferred the land to his children and they are reluctant to invest in the land. Whenever the eldest brother tries to clear the land and improve the productivity of its pepper cultivation, his brothers and sisters begin to claim part of the earnings from him. As such he is discouraged and keeps the land unattended as a consequence. The family members have yet to reach a suitable arrangement to use the land effectively.

Source: Socio-Economic Impact Assessment, Background Paper.
destabilize the family support systems for several generations. The tensions lead to disputes between parents and children, or between the children.

Gender discrimination is also an outcome since daughters are automatically eliminated from inheritance, and widows do not have the right to transfer or sell land if their husband had not named a successor.

The regulations mean that in an effort to maintain harmony, parents do not name successors and subsequently, families continue to live together and manage disputes, despite not abiding by LDO rules. Even to fight a dispute is a lengthy and expensive process. District Secretaries do not have the authority to rule on disputes, and everything must be argued in courts, which takes a long time and is costly.

Another important consequence of the rules is generational vulnerability. Children who grow up and live and work on their parents’ lands are relegated to being non-landowners and are not able to convert their access to the asset into credit for loans or mortgages. They are automatically cast out of the development opportunities and often end up as

<table>
<thead>
<tr>
<th>Permit holders</th>
<th>Grantees</th>
<th>Non-permit holders</th>
<th>Private land holders</th>
</tr>
</thead>
<tbody>
<tr>
<td>As the permit regulates the inheritance of land by a single child in the family (e.g., eldest son), it cannot be divided equally among all children. Therefore it is unfair to younger siblings in the family who cannot claim rights for their parental property.</td>
<td>Cannot divide and transfer the land equally among all children</td>
<td>No social recognition for those living on ‘encroached’ property</td>
<td>Have the right to transfer the land to their off-springs as and when one liked to do it</td>
</tr>
<tr>
<td>Transfer of land to a single child and depriving others the right to own land brings disharmony among children resulting in family disputes and disintegration.</td>
<td>Difficult to get the land title transferred when the original settler dies without nominating a person to inherit the land</td>
<td>Cannot establish right to land</td>
<td>Can secure harmony within the family</td>
</tr>
<tr>
<td>Increases dependency of the family on a single person (e.g., eldest son). If the eldest son who inherited the land from his father does not look after the younger siblings, the latter become helpless.</td>
<td>Leads to family disputes and disharmony among family members/siblings when land is transferred to a single child or two</td>
<td>Cannot divide and transfer the land among family members</td>
<td>Have greater social recognition</td>
</tr>
<tr>
<td></td>
<td>Land can be inherited by eldest son. Therefore it cannot be given to the daughters for example as part of their dowry. Law is unfair to women.</td>
<td>Disputes among siblings due to non-transferability of land among all children</td>
<td>Despite having deeds they are not completely clear. E.g., a lot of land plots do not have survey plans</td>
</tr>
<tr>
<td></td>
<td>Cannot divide the middle class land and have separate titles for the divided land</td>
<td></td>
<td>Have the right to transfer the land to their off-springs as and when one liked to do it</td>
</tr>
<tr>
<td></td>
<td>Cannot divide and transfer the land equally among all children</td>
<td></td>
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<td></td>
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<td>Cannot divide the middle class land and have separate titles for the divided land</td>
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<td></td>
<td>Despite having deeds they are not completely clear. E.g., a lot of land plots do not have survey plans</td>
</tr>
</tbody>
</table>
Encroachers or as 2nd and 3rd generation living on the parents’ lands. In all cases, family members are reliant on the holder of the title for access. If he decides to sell the land, or claim sole interest, others are left with no recourse. For those individuals who have purchased LDO lands illegally, it is impossible for them to then legally pass it on or sell it in the future.

The inheritance rules have also implications in terms of land productivity. As the younger offspring have less hopes of having their father’s land transferred in their name, they have little interest in investing in it. It is important to note that for all of the conflicts and restrictions noted above, a common coping strategy is to create informal solutions. On paper, things may not be clear, but local negotiations among family members can help to provide access and security to women, and other children within a family. What becomes at stake though, is the ability to access assistance for land improvements or expansion, and the rights of the vulnerable parties. Without access to financing facilities through proof of land ownership or permit status, farmers are reliant on informal money lending, and subject to unfair rates.

The fieldwork found that in the Tamil area, LDO rules were overridden by Tamil customs and the conflict environment. Customary land inheritance has sons inheriting land as dowry from the parents of their spouse. So access to land is negotiated through women and marriage alliances. In any case, the land permit does not secure ownership of the land as it is perceived as a government document that can be misused by anyone—including the government.

Encroachment

Despite several LDO schemes to regularize encroachers, the problem still exists and has not been comprehensively addressed. Regularization has been haphazard and there is little data on its reach or impact. In 1978 a national survey revealed that approximately 605,000 encroachers were occupying about 375,000 hectares of land. The numbers of people involved and extent of land meant that existing legal sanctions were nearly impossible to systematically invoke. Thus, an encroachment regularization program began in 1979 and was followed by additional programs in 1989 and 1995. Encroachments were regularized in nearly all districts, and similar to the village expansion program, 75% of the allotments and 85% of the alienated lands were in the Dry and Intermediate Zones.

Today encroachments that were made before June 15, 1995 can still be regularized, but those made afterwards cannot. A survey carried out in 2003 on the Inter Provincial Irrigation Schemes revealed that encroachments in the schemes post June 1995 amount to approximately 2,200. Encroachment is known to be an extensive problem throughout the country and needs to be addressed.

Evidence from the fieldwork suggests that highland land is encroached to house and support 2nd and 3rd generation families, while vegetable or tea lands are encroached by the less poor seeking fertile lands on which to expand, and paddy lands have very limited encroachment due to their high value for farmers. Community consultations and focus group interviews did reveal that encroachers are generally the poorest and least secure households, and that encroached land does provide a temporary solution to the lack of space to settle. There is also evidence in the data that encroaching is a strategy for expansion by some better off families who are politically well connected, or those seeking alternative lands such as sand beds for mining.

Encroachers find themselves as people without voice, without security and without the possibility of significantly improving their lands. These households are deprived of service upgrades such as electricity, holding membership in community based organizations and cutting down trees on their homesteads, because all of these are contingent on showing a permit and establishing eligibility as a settler. Any reform will need to consider how to regularize this category of people, and also provide them with the necessary access to services to make the plots viable, or access to alternative employment and housing options.
Country Ownership of the Reform

Figure 3: Post June 1995 encroachments in the Irrigation Schemes (2003)

Inter Provincial Irrigation Schemes
Encroached Lands

Encroachments made after 15.06.1995

- <80
- 81–100
- 101–200
- 201–300
- 301–400
- 401–500
- 500+

Ds Division

Source: Land Commissioner's Department

Research, Information & GIS Unit
National Physical Planning Department
Tenure Security, Investment in Land and Land Productivity

Overall, villagers perceive LDO land to be as secure as private land or at least secure enough for long-term productive investments to take place. In village Therunnansegama, it was reported that 95 percent of the Swarnaboomi/Jayaboomi landholdings are fully developed. This perceived security of tenure thus weakens the link between types of tenure and land productivity—except in the case of encroachers and permit holders whose tenure insecurity obviously does not allow for long-term investments. In almost all field-sites, villagers argued that land productivity depends on a series of factors, but not on whether the land is private land or LDO land. Villagers identified not type of tenure but high costs of production as the main constraint to invest in their land. They would for instance apply a lower level of fertilizer and chemicals than what is recommended, with a negative impact on the productivity of their land.

Extreme land fragmentation was also reported as constraint to commercial use of the land. Plot sizes for both private and LDO lands have become smaller over time due to sub-divisions from inheritance and succession. As was discussed above, the relationship between plot size and poverty seems to be clear—poor families own less land than their rich counterparts. This finding is also reflected in the distributional analysis and the findings of the historical overview. But, the relationship between smaller plot size and productivity is not as clear cut and deserves further analysis. One the one hand, the growing number of second generation families is adversely affecting the optimal use of land for cultivation. On the other hand however, it was reported that larger plot sizes do not necessarily imply higher land productivity. Even when people do own sufficient land, the lack of access to inputs, especially labor and financial services to manage intensification, hampers any effort at intensification. In Talgastena village, it was reported that the productivity of land (especially of tea small-holdings) has actually gone down with the increase in land plots, because of the lack of labor. The current trend among youth to leave the villages for off-farm employment opportunities adds to the problem. Overall, local level stakeholders felt that agricultural success and expansion are still subject to basic factors such as quality of land, water, labor and access to inputs and financial services.

Text Box 5: Lack of Security faced by Non-permit Holders in Mundungoda Village

“...There are a significant number of families who live on encroached state property. Many of these families belong to the second generation who did not have sufficient space in their parental property to accommodate themselves as the number of siblings in a family was quite high. Many families reported having siblings in the range of 8-10. Thus the land could not be fragmented. The family paddy field in most instances was jointly cultivated by the family members. Their parents lived in the same village or else in the nearby villages. The encroached lands are mainly the channel beds or land allocated for common purposes such as burial grounds. The average size of an encroached property is around ½ acre. In addition to families who directly encroached the state land allocated for common purposes (undivided land), there were also a few families who bought encroached land from those who encroached such land earlier. Among them there were a few outsiders as well.”

Text Box 6: Link between Land Productivity and Tenure

The situation in the Tamil North-east seems to differ somehow. In village Mugthankulum, villagers did report a strong link between land productivity and type of tenure. They perceive land permits and grants to be highly insecure as they feel vulnerable to land alienation by the state.

Source: Socio-Economic Impact Assessment, Background Paper.
The alternatives are to rent or sharecrop land. Indeed, the village analysis showed extensive leasing of LDO lands. The long-term implications of such arrangements for the productivity of the land deserve further analysis. On the one hand, land operators may not have the incentive to venture into long-term investments in the land as it does not belong to them. On the other hand however, land has passed into supposedly more efficient hands and its productivity should increase.

Access to agricultural inputs and financial services has also a spatial dimension to them, as there seems to be regional variations. This will be an important factor to pay attention to in considering setting up a reform since the intention of creating a better economic environment for LDO owners could be compromised by their access to the necessary inputs which foster development.

Types of tenure seem to have an impact on land prices. The study found that prices for LDO lands are generally 15–25 percent lower than prices of comparable private (Sinnakkara) land (eg Atharagallawa, Ragala, Deniyaya and Maulla villages). However there were also cases with little difference in price between the two (i.e. Herathpura village) and this is due to the fact that the settlement is close to a growing urban center, and has become a prime and highly prized location.

### Mortgage, Lease and Sale of LDO Land

For many LDO holders, land is the single most important family asset. It not only generates livelihood and acts as safety-net, but it also allows

<table>
<thead>
<tr>
<th>Village</th>
<th>LDO Land</th>
<th>Private (Sinnakkara) Land</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Land type</td>
<td>Extent</td>
</tr>
<tr>
<td>1. Atharagallewa</td>
<td>Paddy land</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
<td>Information not available</td>
</tr>
<tr>
<td>2. Thrunnansegama</td>
<td>Paddy land</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>Highland</td>
<td>1 acre</td>
</tr>
<tr>
<td>3. Herathpura</td>
<td>Highlands</td>
<td>1 perch</td>
</tr>
<tr>
<td>4. Mahawewa</td>
<td>Paddy &amp; Highlands</td>
<td>2 ½ acres &amp; ½ acre</td>
</tr>
<tr>
<td>5. Manabaranagama</td>
<td>Highlands</td>
<td>½ acre</td>
</tr>
<tr>
<td>6. Maulla</td>
<td>Paddy land</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>Highlands</td>
<td>1 acre</td>
</tr>
<tr>
<td>7. Medaruppa</td>
<td>Estimation was not possible as land transactions have not been taken place</td>
<td>Highland</td>
</tr>
<tr>
<td>8. Mudungoda</td>
<td>Highlands</td>
<td>½ acre</td>
</tr>
<tr>
<td></td>
<td>Paddy land</td>
<td>Information not available</td>
</tr>
<tr>
<td>9. Mugathankulam</td>
<td>Paddy land</td>
<td>1 acre</td>
</tr>
<tr>
<td></td>
<td>Highland</td>
<td>1 acre</td>
</tr>
<tr>
<td>10. Thalgastenne</td>
<td>Price difference between 1 acre LDO and private land is Rs. 100,000</td>
<td></td>
</tr>
</tbody>
</table>

Source: Socio-Economic Impact Assessment, Background Paper.
for household wealth to accumulate from one generation to the other. While customary rules of inheritance have meant that land stays with particular families, LDO regulations have created a situation whereby some members (i.e., younger children) are forced into increased vulnerability and landlessness, thus contradicting the spirit in which the LDO was first formulated. LDO regulations also impose restrictions on the convertibility of the asset, thus limiting its legal value for serving as a source for credit or cash.

Despite government regulations, LDO land has been widely mortgaged or leased out. In most cases, land has been used as a coping mechanism to overcome financial crises, for consumption after crop failure, for emergency situations in the household, social obligations, and upgrading of housing. More rarely it was used for improving land productivity.

Credit for agricultural inputs is generally supplied by the input providers (especially agro-chemicals and fertilizers) or by the buyers of the agricultural outputs under different arrangements that do not require land as collateral (but may tie the farmers into a vicious cycle of debt). As such, credit for productive purposes is not linked to the tenure type. However the cost of accessing such forms of credit deserves further analysis.

Text Box 7: Need to Access Credit for Venturing into Non-farm Activities

Rupika mortgaged her property for Rs. 50,000 in 2000 to finance her trip to the Middle East for employment. As she did not qualify in her medical exam she was eventually unable to leave the country. Currently her loan with the accumulated interest has reached Rs. 83,000 and Rupika is unable to relieve her land from the mortgage. She has no stable income as she is dependent on casual labor for her sustenance.

Source: Socio-Economic Impact Assessment, Background Paper.

Table 15: Mortgage and Lease Data from Field Sites

<table>
<thead>
<tr>
<th>Name of the Village</th>
<th>Extent of Plots under Leases/Mortgages</th>
<th>Type and extent of Land Leased</th>
<th>Average Lease Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Leases</td>
<td>Mortgages</td>
<td>Leases</td>
</tr>
<tr>
<td>Atharagallewa</td>
<td>1%</td>
<td>85%</td>
<td>Paddy land</td>
</tr>
<tr>
<td>Herathpura</td>
<td>40%</td>
<td></td>
<td>20–40 perch blocks</td>
</tr>
<tr>
<td>Mahawewa</td>
<td>50%</td>
<td></td>
<td>2 ½ acres of paddy</td>
</tr>
<tr>
<td>Manabaranagama</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mulla</td>
<td></td>
<td></td>
<td>½ acre of paddy</td>
</tr>
<tr>
<td>Medaruppa Colony</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mediruppa Colony</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mudungoda</td>
<td></td>
<td></td>
<td>Paddy land</td>
</tr>
<tr>
<td>Mugathankalam</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Talgastenne</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Therunnansegama</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Socio-Economic Impact Assessment, Background Paper.
As LDO regulations do not allow for use of land as security, such mortgaging and leasing transactions happen informally and illegally. As such, they are not recorded in the public domain, making any assessment of the extent of such transactions difficult.

Villagers tend to resort to mortgaging for significant cash needs (in the range of Rs. 10,000 to Rs. 50,000). Under those amounts, leasing is more often resorted to.

Overall, villagers argued that accessing credit for productive purposes from formal institutions is possible but can be a lengthy process requiring prior approval from the authorities or a practice of savings. However, using private land as collateral with commercial banks was also reported as not easy, despite there being clear titles. Clear access to roads and other infrastructure facilities are generally also required. Marketability of the land is the first requirement for land to be accepted by banks as collateral. In other words, lifting the LDO restrictions will not automatically imply that land will be accepted as collateral.

Understanding the different objectives of the cash infusions, and the long and short term impacts will be an important analysis to support a successful reform that would include expansion to access to credit and mortgage services.

**Mortgaging**

Access to credit and mortgages seems to have a limited link to tenure status. One reason for this is that in fact it is the right to the crop rather than to the land itself which is being mortgaged. In virtually no case, is land taken in possession for failure to satisfy terms of the mortgage. Rather, a lien is placed on the value of the crop or the future income stream from production. In addition, different strategies have been developed to secure and retain the land. In Mahaweli settlement areas, for instance, so-called “rolling mortgages” are common, whereby small portions of holdings are mortgaged to different mortgagers.

There are several sources of informal credit. Although the terms of contract with moneylenders compared to those of cooperative banks are less favorable, the data show that low-medium and poor families approach moneylenders for accessing credit for survival and food security, while rich and sometimes medium-income families access credit from institutions for expansion or intensification of inputs. Engaging in sharecropping as a strategy to raise cash to further support inputs is another means used. Any reform that aims at increasing access to credit and mortgage services will need to understand the different objectives of cash infusions, as well as their long and short-term impacts.

The study found that credit is not generally used for improving land productivity, but for consumption after crop failure, house construction, weddings and to get over past debts. Individuals are limited in their choice of lenders, depending on their status.

Mortgaging to private banks is limited because of several reasons. First, banks do not accept LDO permits as collateral and only a few accept

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**Text Box 8: Mortgaging Systems in Mudungoda Village**

“When paddy fields are mortgaged, many mortgagers ensure that his/her land is not continuously mortgaged to one single person. This is primarily because of the fear that such a prolonged mortgage would give the rights to the creditor to claim his ownership to the mortgaged land. If the mortgager fails to settle the loan and get the land released by the due date, he/she would find another creditor to settle the loan and subsequently the land will be mortgaged to him/her. Such practices break the prolonged mortgages with one single person”.

(Mudungoda village)

*Source: Socio-Economic Impact Assessment, Background Paper.*
the grantee deeds (jayaboomi or swarnaboomi). Secondly, banks look at other factors such as availability of infrastructure, services, etc. when assessing the lands, and these are factors that are not available for all LDO lands—especially those located in remote rural areas. Thirdly, LDO land-holders require prior approval of the District Secretary and as noted above, this can be difficult to acquire and time consuming. For emergency cases, banks are not an option. Fourthly, preconditions and certifications, such as no prior defaults by the individual and compulsory savings deposits are especially difficult for small landholders to meet. Finally, the loans can only be given to the person formally entitled to the land. This automatically eliminates many of the informal holders and users of the land that were listed earlier in this chapter.

Thus, private banks and the services they offer have limited influence on the ground. Attempts by banks at providing credit to permit and deed holders for agricultural inputs such as tractors (Mahawewa) have resulted in low repayment rates hampering further access to their services. While the interest rates offered by these banks are attractive (15% for agricultural improvements, 20% otherwise), the lack of flexibility in their services ultimately limits their impact. Finally, in particularly remote rural areas, private bank services are absent.

Credit Associations, SANASA Development Bank\textsuperscript{10}, etc.: Credit associations, SANASA and other non-commercial credit associations supply small loans to farmers. As with the private banks, SANASA has regulations for establishing eligibility such as maintaining an account by depositing Rs 125/week for at least a year. After that, individuals are eligible for loans of up to Rs 5,000. Upon repayment of this initial loan and establishment of worthiness, higher loans can be attained (Rs. 10,000) at an interest rate of 20% and compulsory deposit of Rs. 250/wk. Limitations on this form of credit are that it does not meet emergency needs. In addition, the study found that many people are unaware of the services and rules and therefore any reform that proposes to extend such services would also need to include an information and education component for prospective clients. The limits on credit amounts also do not help meet large agricultural input needs and thus limit investments in increased productivity.

By far the most popular mortgaging system is the use of private money lenders. This informal system allows people to access credit using the productivity of the land as collateral. Private

\textsuperscript{10} Sanasa Development Bank is a bank of cooperative microfinance.
## Table 16: Overview of Terms and Conditions Governing Mortgages

<table>
<thead>
<tr>
<th>Name of the Village</th>
<th>Conditions Governing Land Mortgages</th>
</tr>
</thead>
</table>
| **Atharagallewa**   | • No specific dates fixed in the agreements signed between the mortgager and the mortgagee to get the mortgaged land released (the agreement says 'when the mortgagee is able to settle the loan')  
  • The mortgagee would continue to cultivate the land and pay a share of it to the mortgagee in the form of interest to the loan. The share of paddy that should be given to the mortgagee is 30 bushels of paddy in the *maha* and 24 bushels in the *yala*. If the loan interest is not paid in paddy, the mortgagee has to pay Rs. 6,000 per season to the mortgagee. If this arrangement is not acceptable, the mortgagee would be allowed to cultivate the land until such time the mortgagee settles the loan |
| **Hearthpura**      | • An interest will be charged on the loan. Further the mortgager will continue to cultivate the land until the time the mortgagee settles the debts and relieves the land. If the mortgagee failed to repay the loan at the end of the given deadline the he would lose the land to the mortgager. In case the mortgagee wanted to recover the land before the stipulated time frame, he should settle the loan along with an annual interest of 20% to the mortgager for the remaining period |
| **Mahawewa**        | • There is no particular date on which they should get the mortgage relieved. The Farmers’ Society intervenes in arranging the mortgages and witnesses the transactions. If the mortgager decided to cultivate the land the mortgagee should pay an interest to the mortgager for the loan taken |
| **Manabaranagama**  | • The mortgagee continues to cultivate the land by paying ¼ from the yield to the mortgager as the interest. This agreement continued until settling the full amount of money obtained  
  • The mortgagee cultivates the land and he pays an agreed amount of paddy (10 bushels or 20 bushels) to the mortgagee. This is continued until settling of the full amount obtained |
| **Maulla**          | • A promissory note is signed before a Notary Public and this promissory note does not indicate a specific time frame within which the mortgagee should get his/her land released. The mortgagee is allowed to get the land freed ‘on a day convenient for the mortgagee’. Some people who take land on mortgage allow the mortgagee to cultivate the land and pay both the rent and the loan interest (this is paid in paddy) while there are others who directly cultivate the mortgaged land without allowing the mortgagee to cultivate the land |
| **Mudungoda**       | • The mortgagee has to give 1 bushel of paddy for every Rs. 1,000/- he borrowed after the harvest is reaped. For example, if Rs. 25,000 was borrowed, the mortgagee would provide 25 bushels per season to the mortgagee. This is considered as the interest payable for the loan. If the mortgagee wanted to settle the loan and get his land relieved before expiring the date of agreement, he should pay additional 5% interest for the remaining period of the loan agreement  
  • In some situations, mortgaged land is directly cultivated by the mortgager himself using his own laborers while in other situations he allows the mortgagee to continue the cultivation and settle the loan |

*Source: Socio-Economic Impact Assessment, Background Paper.*
moneylenders are able to provide quick infusions of cash and thus meet the emergency and coping needs of individuals. However, the penalties of extremely high interest rates (even up to 100% per annum) tie farmers to long term draining of their resources. Though there is little risk of actually losing the land to a mortgagee, the real difficulties ensue from losing possession and control over the crop and carrying long term and unfavorable debts over several generations. As stated above, many of the reasons for mortgaging have to do with emergencies, or the need to meet social obligations such as illnesses, weddings and funerals. These circumstances create long-term vulnerabilities which are informally mediated by private money lenders. Social networks and access to power also determine access to these local funding sources.

Leasing

While mortgages are used to access large amounts of credit, leasing is the preferred strategy to access smaller amounts of cash over shorter periods of time. These arrangements can last for long periods (5–8 years, normally only annual), and are based on regular injections of cash. Lessors are people either seeking to expand over short periods of time, or looking to access more land in general. The fieldwork identified instances of land loss due to cheating on promissory notes or through establishing cultivation rights to LDO lands informally acquired, thus creating further vulnerability for families that are neither permit holders nor grantees.

Because leases allow for quick access to cash, many farmers enter them at almost any conditions. At least three different kinds of leasing arrangements are used:

- The lessor gives out some small amounts of money from time to time to a household when a crisis arises. When the household is unable to settle its debts, they will request the lessor to take the land on lease. Or else the lessor himself would induce the indebted family to hand over the land to him. The amount of money given by the lessor will be less than Rs. 5,000/-. If the total value of debts is lower than the lease value of the property, the lessor will give the balance money to the family. There is no interest charged on the lease amount but the lessor will cultivate the land using his own laborers or else the family members of the lessee. There is no particular deadline given by the lessor to settle the loan.

- The lessor gives out bigger loans ranging from Rs. 50,000 to Rs. 100,000 to a family in crisis. An interest will be charged on the loan. The lessor cultivates the land until the lessee is able to settle the debt. If the lessee fails to repay the loan by the end of the agreed deadline, the lessee loses the land to the lessor. In case the lessee wishes to recover the land before the stipulated time frame, the lessee can settle the loan along with an annual interest of 20% to the lessor for the remaining period.

- The lessor gives out comparatively bigger loans in the range of Rs. 50,000 and would cultivate the land until such time the lessee settles the loan. No interest is charged on the loan. If the lessee fails to settle the loan at the end of the given deadline, he/she loses the land to the lessor.

Sales

In a considerable number of fieldwork sites, soon after the settlements had been established, there were a significant number of land sales by the original settlers. Reasons for selling the land ranged from lack of necessary infrastructure and facilities, inadequacy of acreage to be sustainable, to persons who simply wanted to profit from the LDO scheme and had never intended to settle there. At one site, Mudungoda, Galnewa (Mahaweli H), of the 164 current residents, 100 had purchased land from original settlers.
After the initial sales post settlement, evidence from the field sites suggests that sales dropped off with the number of instances less than 3 in most cases. Reasons for this have to do with: (i) gradual development of necessary infrastructure and services; (ii) the difficulty of selling LDO lands as seen in the section above on administrative regulations and (iii) the population growth push back from 2nd and 3rd generation families living on their parents’ lands or living as encroachers in the area. Unable to inherit the lands legally, or to purchase them outright, their growth limits opportunities for newcomers sales.

The variation and motivation for sales of LDO land across the field sites is an important factor to consider for any proposed reform. Low sales have been a consequence of the restrictions on legal transfer, and the risks of informal sales. There are limited illegal sales of LDO land, but even private land sales are not very high. Any reform process will need to consider the absorptive capacity of nascent land markets across the country, in addition to regulations guiding sales, renting, etc.

Perceived Advantages and Disadvantages of Lifting LDO Restrictions

Villagers indicated little pent up demand for land sales resulting from the LDO sales restrictions. This is consistent with the observed level of land sales turnover in private land (about 3% per annum) and is consistent with agricultural land sales transactions rates in many other countries. There was stronger interest in support of lifting land sales restrictions with respect to improved access to credit, but at the same time from almost all field sites caution was expressed with regard to lifting the restriction on LDO land sales. There was near unanimity in recommending lifting the restrictions on inheritance and land subdivision. Overall, villagers invariably hold the view that LDO land tenure is as secure as private land, as instances of state alienation of LDO land are almost unheard of (for grants more than permits). Moreover, overall they expressed the view that land productivity was not linked to land tenure (but to access to inputs including labor).

Mugthankulam village in Vavunia district represents the only exception. The majority Tamil population of that village viewed all restrictions as a reflection of the power of the state apparatus and a cause of vulnerability and tenure insecurity for them. This flags the critical issue of the need to extend any land reform to the northeast while the current conflict scenario would make any such reform not implementable in the field.

The perceived disadvantages of lifting LDO restrictions (including land sales) fall into four categories:

1. Possibility of distress sales by the most destitute (approx. 5%–25% households) that would result in increased landlessness and increased poverty due to the lack of alternative livelihood opportunities in the rural areas. At the same time, there is a fear that urban areas would not be able to absorb the shock of an increased landless poor population.

2. Unfavorable changes in farm structure resulting from greater fragmentation of plots and consolidation of land assets by the wealthier households. There are fears, especially in the sites with valuable lands such as tea plantations and irrigated lands with infrastructure, that the rich will enter into a land market that has previously been protected, and force small farmers out. Without other livelihood options readily available, this would lead to greater vulnerability of families.

3. Land loss due to indebtedness. Restrictions on land transfer act as safeguards against permanent loss of land to lessors and money-lenders due to inability to repay by the agreed deadline. It seems legitimate to suppose that such phenomena will increase whenever the restrictions on land transfers are lifted.
4. Increase in the number of land-related disputes—as most LDO lands lack maps and clear boundaries, as it is already happening in the case of illegal land transfers.

The perceived advantages of lifting LDO restrictions are the following:

1. The ability to divide land equally among children and address the gender discrimination evidenced under the current regulations.

2. Greater access to credit for land owners at more favorable terms of trade, using land as collateral. This is a perception in virtually each of the field sites and signals interest in intensification and inputs for productivity. However it is unclear whether poorer LDO grant and permit holders would benefit from this option as their land endowment may not be sufficient to take on the risk of land loss in case of default. Further analysis should aim at identifying the threshold level of land endowment for small-holders to actually access credit through formal institutions.

3. Increase in LDO land prices. Evidence from the field shows that prices for LDO land are approximately 20% lower than prices for comparable private agricultural land. Higher land prices would provide land holders with stronger economic options, including in accessing credit.

4. Greater security from government intervention. Under the current system, permits can be revoked because of non-payment or lack of cultivation of the land. Stakeholders noted that this oversight would be eliminated under the proposed reforms, and they would be free to do what they like with the land. Powerful entities such as Mahaweli officers would also lose their authority to intervene in land owners affairs.

5. Increased opportunities to consolidate land and manage it better. Today, under the subdivision rules, lands can become fragmented over time. A reform would allow new alliances to form among family or community members, and opportunities to consolidate and manage farm inputs and lands.
Ex-ante PSIA of Reform Scenarios

Given the wide range of stakeholders implicated in the proposed reform, these scenarios were discussed with both macro and micro-level stakeholders. The matrices below attempt to consolidate their views and identify key pre-conditions for a pro-poor reform.

Scenario I: Status-quo: No Land Reform

Under this scenario the current provisions with regard to sale, sub-division or transfer of LDO/LGSPA lands will continue to be in force. While this is perceived as the lowest risk option, the possibilities for pro-poor reform under this scenario are extremely limited. A program of providing land titles under the Registration of Titles Act would provide limited value addition, as villagers have clearly indicated a general sense of security in their tenure and in any case the time required to carry out such a program nationwide would likely run into decades. While attention to non-land elements of economic reform (particularly input and marketing linkages) could bring positive results, the likelihood of those reforms being successfully introduced is no higher or lower in this scenario.

<table>
<thead>
<tr>
<th>Table 17: No Land Reform Scenario</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Perceptions of short-term and long-term economic and social impacts</strong></td>
</tr>
<tr>
<td>• Lower risk of increased rural landlessness for current LDO holders</td>
</tr>
<tr>
<td>• Reduced migration to urban areas</td>
</tr>
<tr>
<td>• Continued poor functioning of rural credit markets</td>
</tr>
<tr>
<td>• Continued poor functioning of land lease markets</td>
</tr>
<tr>
<td>• Continued lack of land access for those who currently do not hold LDO land</td>
</tr>
<tr>
<td>• Obstacles to efficiency changes in current farm structure</td>
</tr>
<tr>
<td><strong>Winners</strong></td>
</tr>
<tr>
<td>• Those LDO land holders content with the <em>status quo</em></td>
</tr>
<tr>
<td>• LDO land holders susceptible to making poor economic decisions</td>
</tr>
<tr>
<td>• Politicians and CSOs arguing against lifting land restrictions</td>
</tr>
</tbody>
</table>
Scenario II: Full Reform Scenario: Lifting of LDO Restrictions, Including those on Sales

The scenario was developed on the presumption that in implementing land policy reforms, all restrictions currently in force in respect of LDO/LGSPA lands would be removed and that a freehold title would be granted to allottees. Allottees would be empowered to sell or dispose of the land without the prior consent of the Government Agent, to dispose of a portion of the land, which is less in extent than the prescribed unit of subdivision. They may dispose of the land or a part of it, leading to co-ownership of the land. Transferability is not restricted to persons belonging to the same class and would not

Table 17: No Land Reform Scenario (Contd...)

<table>
<thead>
<tr>
<th>Losers</th>
</tr>
</thead>
</table>
| • Those who are not currently LDO land holders  
• LDO landholders who are not content with the status quo  
• LDO landholders capable of making sound economic decisions  
• Politicians seeking to create long-term and substantial change in state-run land programs |
| Possibilities for a pro-poor reform | Lack of land reform will mean little or no change in terms of land access for 2nd and 3rd generation encroachers, nor in the current poor performance of lease and rural credit markets nor in the possibility of more efficient farm structures emerging. It will also leave unaddressed, the important questions of inheritance, joint ownership, and land access for those who are currently not LDO land holders. Evidence from the field indicates that the poor are under-represented among LDO holders. Pro-poor reform in this context would be limited to the possibility of allocations of new LDO land to the poor or improvement in non-land elements of reform, such as input and market linkages, access to information, etc. The prospects of these avenues being pursued more actively or effectively than in the past is open to question |

Table 18: Full Reform Scenario

<table>
<thead>
<tr>
<th>Perceptions of short-term and long-term economic and social impacts</th>
</tr>
</thead>
</table>
| • Improved social status of LDO holders as true land owners. Autonomy to make decisions on how the land could be utilized and whether or not to stay in the agricultural sector  
• Increased market value for LDO land  
• Improved functioning of rural credit markets  
• Risk of increased landlessness in the rural sector  
• Family disputes regarding sales of lands without consent may increase  
• Possible increases in rural-urban migration leading to new pressures on urban spaces and jobs  
• Families may sell lands, only to petition for new lands from government later or become encroachers on new places  
• Possible fragmentation of land |
The reforms would permit the allottee to mortgage the land to any institution or person accepting the title. He may lease or sub-lease the land. The allottee is not required to comply with the requirements of the third schedule to nominate a successor.

Possibilities for a pro-poor reform

Along with the implementation of reforms, the environment would be supported by the following in order to create conditions conducive for a free market to operate

(i) Implementation of the provisions of the Registration of Titles Act
(ii) Amending the provisions of the Agrarian Services Act (removal of restriction on filling of paddy lands, protection of Ande cultivators, use of paddy lands for non agricultural purposes etc.)
(iii) Amending the provisions of the Agricultural Productivity Law (acquisition/allocation of private lands not utilized for cultivation)
(iv) Provision of rural infrastructure facilities—(roads, electricity, water, telecommunication services)
(v) Providing facilities to start/relocate industries in rural areas
(vi) Improving Financial markets
(vii) Development of non-farming income generating opportunities; and
(viii) Non-interference in the agricultural produce market

Parallel development of the economy, together with attendant improvements in infrastructure development and improvements of the services and facilitations sector, through which economic opportunities can be created, will be needed. If the land reforms are intended to be implemented smoothly, it is imperative that a good counseling and advisory service is developed from which farmers and other owners of land, who possess little knowledge and exposure to vocations other than agriculture, can access knowledge and expertise on investment options.
Scenario III: Partial Reform
Scenario: Lifting of LDO Restrictions Except those on Sales

In this scenario, the alienated lands will continue to be “Freehold lands with restrictions”. The holders will be granted title under the Registration of Titles Act, subject to an endorsement to the effect that the land has been granted under the provisions of the LDO, and that the land cannot be sold or transferred without the approval of the Government Agent. Permission to sell or transfer will be given only if such sale or transfer is to persons in the same class as the allottee so that the land will not go to individuals other than those belonging to the farmer-peasant class. The holders will however be allowed to subdivide among siblings, lease, mortgage to any responding financial institution and use the land for non-agricultural purposes.

The intention for partial removal of restrictions is to ensure that alienated land will continue to be in the possession of the category of persons as originally intended under the Land Development Ordinance and to facilitate the allottees to access credit, which at present is restricted due to ownership issues; and to allow them to discharge their family obligations.

Table 19: Partial Reform Scenario

<table>
<thead>
<tr>
<th>Perceptions of short-term and long-term economic and social impacts</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Partial removal of restrictions is expected to produce protected ownership and consequent social recognition to the holders of land</td>
<td></td>
</tr>
<tr>
<td>Through grant of rights to subdivide, it is expected that family disputes rising out of succession problems will decrease</td>
<td></td>
</tr>
<tr>
<td>Allottees who become land owners as a result of the grant of deeds under the Registration of Titles Act will have the added benefit of being able to make decisions pertaining to development investments in a secure environment</td>
<td></td>
</tr>
<tr>
<td>Protected ownership will provide farmers with a new economic position vis-à-vis the position held as allottee and an added strength to deal with financial institutions on an enhanced standing</td>
<td></td>
</tr>
<tr>
<td>Restriction on sale will continue to limit the price of LDO/LGSPA lands, and artificially contain people in a restricted environment. Farmers, who genuinely want to exit agriculture to pursue other avenues of employment/income generation, will have a limited bargaining power to secure a good price for their land since the Government Agent will not approve sale outside the class of the allottee</td>
<td></td>
</tr>
<tr>
<td>Grant of freedom to subdivide will result in increased fragmentation</td>
<td></td>
</tr>
<tr>
<td>Continuation of the authority of Government officials will not be popular with the allottees</td>
<td></td>
</tr>
<tr>
<td>For allottees who become land owners under this scenario, continued government support to maintain them in farming through provision of facilities, low priced inputs and a secure market would be critical</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Winners</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Those interested in utilizing lease markets</td>
<td></td>
</tr>
<tr>
<td>Children, siblings, widows and others currently kept out of inheritance</td>
<td></td>
</tr>
<tr>
<td>Women (husbands have less control over land)</td>
<td></td>
</tr>
<tr>
<td>Executive and central bureaucracy loses power but gains approval</td>
<td></td>
</tr>
</tbody>
</table>
### Table 19: Partial Reform Scenario (Contd...)

<table>
<thead>
<tr>
<th>Losers</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>● Allottees who are left with highly fragmented and unsustainable land plots</td>
<td></td>
</tr>
<tr>
<td>● Eldest sons may have less land</td>
<td></td>
</tr>
<tr>
<td>● Land availability may be reduced for lessors, wage laborers and sharecroppers</td>
<td></td>
</tr>
<tr>
<td>● Corrupt officials</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Pre-conditions for a pro-poor reform</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>● The government will implement a sustained rural infrastructure development program</td>
<td></td>
</tr>
</tbody>
</table>
Lessons Learned, Recommendations and Next Steps

The most important lesson emerging from this PSIA is the critical need for a land reform that is pro-poor and that aims at increasing access to land and livelihoods opportunities not only for LDO land-owners, but also for their second and third generation descendants, including women.

One underlying lesson from the desk review, the economic analysis and fieldwork is that LDO permit and grant holders are predominantly middle income, while their descendants constitute the most vulnerable groups in the settlements. This is the consequence of the inheritance and subdivision restrictions on LDO land whereby the land is de facto passed on only to one descendant. These second and third generation villagers end up landless with no choice but to encroach on their parents’ lands or other village lands, work as wage laborers, or leave the village in search of other means of livelihood.

A pro-poor land reform or intervention would benefit from lifting the restrictions on inheritance thus allowing LDO land-holders to transfer their land deeds to all of their siblings. This intervention would regularize existing encroachments on parents’ land, would increase tenure security and related investments on LDO land, would allow access to basic facilities (electricity, water pipes etc.) otherwise not permitted on encroached land, and would allow second and third generation encroachers and the needy youth in the village to remain close to their parents and their social network.

This intervention would be more effective if it also dealt with shortage of land in a systematic way, to increase land access and tenure security to the encroachers. This would be achieved by updating original Mahaweli plans and other areas to identify potential areas for new lands. Some of the reservations set out in the original Mahaweli areas are outdated and need to be revised—in one study village, there is a large area reserved for the temple although the temple moved many years ago to another location.
At the same time, local off-farm livelihoods opportunities would allow the younger generations to reduce their dependency on low agriculture incomes. With a growing population, limited land availability, and lack of employment opportunities in the rural areas, members of vulnerable households move outside the village and face many challenges while they remain unskilled laborers. In contrast, an intervention that enhances livelihoods opportunities leveling the rural areas, especially among the youth and women, would allow households to benefit from various sources of income and not only from agriculture.

LDO land restrictions also prevent wives from benefiting from land rights. The fact that husbands are the sole owner of LDO land increases wives’ vulnerability to decisions that may be detrimental to the rest of the household members (like selling off land for alcohol etc). At the time of death, the wife enjoys a life interest, but she then becomes vulnerable to the decisions of their offspring. Any reform that is gender-sensitive would thus introduce husband and wife’s joint ownership of the LDO land permits or deeds.

Another key finding is that restrictions on credit, mortgages and leasing are producing adverse economic impacts while the benefits remain unclear. Lifting the restrictions would reduce transaction costs, increase access to credit sources, reduce dependency on money-lenders while many of the practices that are already taking place informally would be legalized. As a matter of fact, despite the LDO regulations, LDO land has been widely mortgaged or leased out by the most vulnerable households, through informal (and illegal) transactions, and mostly to money-lenders for consumption and emergency needs.

In addition to lifting the restrictions on credit, mortgages and leasing, access to credit for vulnerable households could be increased by introducing micro-credit practices at the village level. These practices would provide critical alternative sources of credit at reasonable terms of trade, reduce indebtedness and enhance tenure security by reducing involuntary land alienation. Sri Lanka is blessed with many examples of well-performing micro-credit models, including the World Bank-supported Community Development and Livelihood Improvement Gemi Diriya Project, that could easily be incorporated.

International experience shows that lifting of lease restrictions, while only partially addressing the question of access to credit, could provide substantial benefits in terms of increased land access for the poor and increased land productivity.

A common argument in favor of lifting the restrictions on sale is that this would increase access to investment credit, as private and commercial banks would then be willing to accept LDO land as collateral. However, findings emerging from the field present an entirely different picture. First, most borrowings are for emergency and consumption needs only. For productive purposes, farmers enter into agreements with input providers. Secondly, private and commercial banks have a very weak presence in rural areas. Thirdly, vulnerable households with low endowments of land would still not be comfortable in using land as collateral for fear of loss of land due to default. Finally, viewpoints emerging from the field highlighted concern over a number of possible adverse impacts arising from lifting of the restrictions on sale. All these factors call for some caution.

This option and its implications should be evaluated very carefully in the context of the current conflict situation and the heightened sensitivities to the question of land access in the conflict-affected areas. Concerns have also been expressed regarding the likelihood of displaced people selling off their land for good, and leaving their village, and returning when the conflict is over, only to find themselves landless.

However, the analysis identified three conditions that, if met, could in fact increase land access by the poor through lifting of sale restrictions. These conditions are: (i) land sales are not driven by distress; (ii) land sales are not fraudulent; and (iii) land sales do not exacerbate intra-family conflicts. A reform scenario is therefore suggested, whereby a gradual or phased approach is undertaken.
During the first phase, a partial lifting of restrictions along the lines of the recommendations outlined above would be implemented. During the second phase, a pilot could be tested out, to rethink the approval mechanism for LDO sale—wherever the three above-mentioned conditions are met (with appropriate indicators and triggers). One plausible option that emerged from the analysis would consist of designating all family members with the power to approve or disprove the LDO land-holder’s request of land disposal.

Summing up, a pro-poor land reform would target the landless and encroachers first. It would consist of a package where access to land is as important as the capacity to retain that land in a productive manner as a stable source of income. For this to happen, livelihood opportunities (both farm and off-farm) should be enhanced first, while micro-credit mechanisms are also introduced. All the restrictions on LDO land transfer, except sale, should be removed—as outlined above. Restrictions on sale could be lifted on a pilot basis during a second phase, when livelihoods-supporting mechanisms have been strengthened and triggers are met, on conditions that all family members are given approval authority for land disposal.

A workshop with key policy-makers and politicians to discuss the main findings of this report and brainstorm about appropriate implementation arrangements as well as likely risks and mitigatory measures is proposed. The same Advisory Committee that was set up during the PSIA analytical phase to comment on various draft reports could take the lead in organizing the workshop. Key informants for the macro-level and micro-level analyses should also participate. The workshop would be instrumental in gauging the interest of policy-makers in seriously pursuing land reform options, and could either result in an Action Plan or in a second, quantitative PSIA phase, to provide empirical evidence to the most controversial issues raised by this report.
Bibliography


Silva, Percy Dr. n.d. Sri Lanka Land Reforms Desk Study. Institute for Participatory Interaction in Development.

Village Expansion: The objective of this program was to provide plots to landless families in proximity to their residences by dividing State land. Allotments began at 0.40 ha. but were later reduced to as little as 0.05 ha. Some financial and material assistance was given for the construction of a house, well and latrine. Village Expansion allotments were started in every district, but 70% of allotments and 80% of alienated lands were in the Dry and Intermediate Zones (ibid:16).

Regularization of Encroachments: In 1978 a national survey was conducted which revealed that approximately 605,000 encroachers were occupying about 375,000 hectares of land. The numbers of people involved and extent of land meant that existing legal sanctions were nearly impossible to systematically invoke. Thus, an encroachment regularization program began in 1979 and was followed by additional programs in 1989 and 1995. Encroachments were regularized in nearly all districts, and similar to the village expansion program, 75% of the allotments and 85% of the alienated lands were in the Dry and Intermediate Zones.

Today encroachments that were made before June 15, 1995 can still be regularized, but those made afterwards cannot be regularized. A survey carried out in 2003 on the Inter Provincial Irrigation Schemes revealed that encroachments in the schemes post June 1995 amount to approximately 2,200. Encroachment is known to be an extensive problem throughout the country and needs to be addressed.

The qualitative fieldwork found that many encroachers are actually second generation family members of people who received the original allotments. They typically constitute the poorest households and generally live on their parents’ or siblings’ lands without legal rights. The natural growth of the population combined with limited opportunities for inheritance and increasingly small plots sizes are some of the important factors behind the growth in encroachers across the country and point to key stresses in the sustainability of the existing LDO system.

Presidential Task Force on Land Utilization and Distribution: In 1989 a Presidential Task Force identified approximately 308,000 ha. of land of which 95% belonged to the state. Of the hectares identified, approximately 125,000 were alienated and 306,000 allotments created with 87% located in Dry and Intermediate Zones. Of the total amount of alienated lands, 82% were designated for agricultural use and 18% for housing. However, less than half the amount of alienated lands were given to allottees, in part, because of the marginal nature of the land and the reluctance of allottees to take possession of it. Some allottees have since abandoned the land. The program was eventually discontinued because it found that large tracts of land were unsuitable for cultivation due to
lack of water, proper access, steepness and other environmental factors.

Such issues were also raised during the qualitative fieldwork namely the limitations for expansion and intensification on certain lands, precisely because of the lack of necessary inputs, such as irrigation or roads, and the “natural” impediments such as steepness of terrain. Such limits demand diversification of livelihood strategies and off farm employment of at least some family members.

Major Settlement Schemes

11 The Dry Zone colonization program began in the 1930’s with the objectives of: (a) protection of peasant farmers as a class; (b) the provision of employment opportunities to the expanding population in the wet zone; (c) the increase of food production (especially paddy), (d) the increase of government revenue and; (e) the creation of dynamic centers of production. Many changes have taken place over time, as the program expanded into the Mahaweli Development program, but the basic ideas have remained the same.

The aim of the original settlement schemes was to develop agricultural resources and set up the necessary services for agricultural development. The bulk of the irrigable land was divided into individual paddy holdings and unirrigable land divided into homestead gardens. Similar to the Village Expansion scheme, as land became scarce, the average allotment declined from 2 ha to 1.2 ha of irrigated land, and 1.2 to 0.8 ha of highland lands.

The Mahaweli Development Program12 gave allottees 1 ha of irrigable land and 0.2 ha of unirrigable land. In addition, other provisions were made for residential land for families engaged in non-farm activities, and medium sized farms (5–20 ha) under long-term leases for crops other than paddy.

Middle Class Schemes: The original 1935 LDO made provisions for alienation of “middle-class Ceylonese”13. The objective was to “provide land under a system of restricted competition to persons with sufficient income to develop and manage the land”14. These allotments represent less than 1% of the total distributed under the L.D.O., but 7% of the total lands alienated (because of the larger size per allotment).

Highland Settlement Schemes: In response to the growing scarcity of irrigable land, this scheme was started to provide allottees with “2 ha. to grow rainfed seasonal crops or permanent crops such as tea, rubber and coconut”15. This scheme accounts for less than 1% of allotments and less than 2% of lands distributed.

Youth Settlements: This scheme sought to provide “opportunity to educated unemployed rural youth to derive a means of income”16. This is the only scheme that operated with cooperative ownership. The allotments accounted for less than 0.5% of the total and lands and less than 1% of total distributed under LDO. In addition, the schemes were highly localized (60% in Dry Zone with 66% in Jaffna and Vavuniya districts; in the Wet Zone half were located in Kalutara district).

11 Unlike the other programs, all lands allotted under the Major Settlement Schemes have been in the Dry to Intermediate Zones and the drier parts of Wet zone districts such as Matale, Kandy and Ratnapura (ibid:26). See annex 3 for distribution of these lands across districts.

12 The objective of the Sri Lanka—Third Mahaweli Ganga Development Project was to improve rural livelihoods through a settlement program involving irrigated farming and supporting infrastructure, with a view to boosting incomes and boosting rice production to substitute for imports (World Bank, 2004:ix).

13 These were defined as persons “whose statutory income computed under the provisions of the Income Tax ordinance for the year of assessment did not exceed six thousand rupees” (Silva:27).

14 ibid

15 ibid

16 Ibid:28
Methodological Outline of Socio-Economic Impact Assessment

The following methodological steps will be followed for collecting data from the selected villages.

1. Collection of Secondary Data

Secondary data on socio-demography and lands in the study villages were collected from Grama Niladhari, Cultivation Officer, Samurdhi Niladhari, Mahaweli officers etc. The secondary data included:

- Geographical and administrative boundaries
- Population-related data (total population, number of families, age-structure, ethnicity etc.)
- Land ownership and distribution patterns (types of land, land size, tenure patterns etc.)
- Land utilization patterns (crops cultivated, seasonality, irrigation etc.)
- Productivity of land
- Other economic activities
- Land related disputes (reported to Grama Niladhari)
- Village infrastructure

2. Key Informant Interviews

Key informants will be interviewed to elicit information on the following land-related issues. They included:

- Key stakeholders of LDO land (both direct and indirect)
- Land transactions (formal and informal, mortgaging, leases etc.)
- Land prices
- Land-related issues (disputes, external pressures etc.)
- Landlessness

3. Focus Group Discussions

Focus Group Discussions will be conducted with a mixed group of stakeholders (permit holders, tenants, grantees, non-grantees, laborers, etc.) identified through key informants. The groups will include males and females, young and adults as well as different ethnic communities (if relevant). The following methods will be applied in eliciting perceptions and assessments of the stakeholders.
3.1 Social Map

The participants of the focus groups will be facilitated to draw a map of the study village indicating the following characteristics:

- Boundaries of the village
- Cultivated land (paddy and highlands, fertile and barren lands etc.)
- Irrigation channels
- Major physical infrastructure
- Household locations (subsequently this will be linked with wealth ranking and rich, average and poor households will be identified)

3.2 Wealth Ranking

A wealth ranking exercise will be conducted with the focus groups to identify the socio-economic differentiation/stratification in the study villages as perceived by the community. However, the wealth ranking will be focused to identify the following characteristics associated with different socio-economic categories in the villages (e.g. rich, middle, poor, very poor etc). They include:

- Land tenure pattern (for men and women in each socio-economic category)
- Land size (average holdings of different groups)
- Who is excluded and included in accessing LDO land (eligibility)
- Land utilization (men and women in each socio-economic category)
- Incomes from land
- Land related issues

3.3 Pair-wise Ranking (Optional)

A pair-wise ranking exercise will be conducted with the participants to identify the priority placed by villagers in the land issues compared to rest of the key development issues/problems in the community.

3.4 Impact Diagraming

An Impact Diagram will be used to visualize both positive and negative implications/impact of LDO land as perceived by different stakeholder groups. Participants of the focus groups will be divided into homogeneous groups such as permit holders, non-permit holders, encroachers, grantees etc. and through brainstorming, the facilitators in each group will visualize on flip chart paper the positive and negative impact of LDO land as well as their inter linkages. The facilitator will also use an interview guide on related issues for probing and directing the discussions. The interview guide would include the following issues (positives and negatives) for probing and in-depth discussion.

- Land use
- Investments
- Social status and security
- Land transferability
- Landlessness, vulnerabilities, poverty (who is affected most)
- Wage rates
- Land transactions, distress sales, root causes of distress sales (e.g. indebtedness), mortgages
- Coping strategies in crisis, safety nets and land
- Marketability, land values (LDO vs private land)
- Quality of land
- Access to credit and terms and conditions (choices available in credit contracts)
- Disputes
- Land-related uncertainties
- Off-farm employment

After visualizing the current status of LDO land in terms of its positive and negative implications, participants of the focus groups will be facilitated to visualize a situation where current restrictions imposed on LDO land are lifted. This future scenario will also be visualized in terms of its possible positive and negative consequences on
different stakeholder groups (this exercise will be linked to both social map and wealth ranking) and will be marked on the earlier diagram itself using a pen of a different color for comparison and further discussion. Further, group discussions will also be directed to elicit proposals and suggestions from participants to mitigate negative effects of lifting LDO land restrictions on different stakeholder groups.

4. Household Interviews

Household interviews will be conducted with selected stakeholders (permit holders, non-permit holders, encroachers, tenants etc. belonging to poor, middle, rich categories,) using an interview guide. The number of household interviews to be conducted will be approximately 10–12. Emphasis will be given to identifying and interviewing poor and vulnerable households, such as female households who did not participate in the focus group discussions and participatory exercises. The households to be interviewed will be identified through the previously mentioned PRA exercises–social map, wealth ranking, impact diagram etc. The focus of the interviews will be to identify:

- Household linkages to LDO land (multiple/single-owner, tenant, lessor etc.)
- Current status of land and related issues (undivided, mortgaged, sold) and their root causes
- Tenurial arrangements, coping strategies
- Land-related transactions
- Root causes of land transactions (informal)

- Access to credit and other services.
- Off-farm employment.
- Perceptions on lifting restrictions on land its effects on family, community etc.
- Options available and proposals and suggestions.

5. Focus Group Discussion with Private Land Owners

A focus group discussion conducted with a group of villagers owning private land will serve as a control group for comparing the major issues associated with LDO land as compared to privately owned land. The key issues to be addressed in the discussion will include:

- Tenurial arrangements
- Marketability and land prices
- Quality of land
- Access to credit and other services and terms and conditions of contracts
- Land transactions and transferability
- Root causes of land transactions
- Social status and security
- Land utilization and productivity
- Investments
- Land-related uncertainties
- Perceptions on lifting restrictions on LDO land
- Proposals/suggestions to mitigate negative effects