



A Paanama fisherman on the lagoon with his day's catch. Photo: Rashmini de Silva

DEVELOPMENT BY DISPOSSESSION?

Forced evictions and land seizures in Paanama, Sri Lanka

In 2010, 350 families of farmers and fisher folk living in Paanama, a coastal village in the east of Sri Lanka, were forcibly and violently evicted from lands they had cultivated and lived on for over forty years. These lands were taken over by the military to establish camps, and they are now being used to promote tourism. Oxfam calls on the Government of Sri Lanka to immediately act on the decision to release these lands back to the community who depend on them for their livelihoods and food.

1 SUMMARY

Paanama is a coastal area in the Eastern Province of Sri Lanka, home to communities which engage in agriculture and fishing as their main sources of livelihood. The main village of Paanama was established in the 1800s and expanded over the years from the main village towards the coast. By 1970s there were five smaller villages,¹ still commonly referred to as Paanama. The community is bound together by the historical events that led to them settle in Paanama and by subsequent years of struggle to make a livelihood in a remote forest area which saw the darkness of Sri Lanka's war for three decades. Despite these obstacles, this community has remained strong and united.

'We had to join together and win this fight to get justice not only for ourselves, but for our children and the generations who passed land to us'

K.D. Rathnamali
Kariyawasam, mother and farmer in Paanama.

For nearly thirty years the Northern and Eastern Provinces of Sri Lanka were at the centre of a war between the government and the Liberation Tigers of Tamil Eelam (LTTE). With the end of the war in 2009, the Eastern Province became a tourist hotspot with its lush beaches, world-renowned surfing areas such as Arugam Bay, and rich natural resources.

Nearly 350 families of the Paanama community living in the five smaller villages have been forcefully evicted from their lands by the state. On 17 July 2010, the villages of Ragamwela and Shastrawela were burned down to evict the inhabitants, while in the other three villages the military pressured the community to hand over their lands to the state by erecting fences and signs claiming that the land belongs to the military.² With their homes torched, and crops destroyed, these families have been living with relatives or in makeshift temporary shelters, anxiously awaiting the moment when they will be allowed to return to their lands.

The Sri Lankan Navy and Air Force have taken control of these lands and established air force and naval camps and constructed a hotel on the Paanama lagoon called 'Lagoon Cabanas'. The hotel is operated by Malima Hospitality Services, a hotel chain managed by the Sri Lanka Navy leisure sector. Peanut Farm and Paanama Point are popular surf spots along the Paanama coastline. According to statistics of the Sri Lanka Tourism Development Authority, the majority of tourists in 2015 were from Western Europe, United Kingdom and Germany in particular.³

The complaints of the community over their treatment have been ignored. The Regional Office of the Sri Lanka Human Rights Commission and the local Magistrates Court have both determined that the land should be returned to the community;⁴ and after the change of government in 2015, a cabinet decision was taken on 11 February 2015 to return the lands in Paanama taken over by the government to the community.⁵ But to date no action has been taken. The community continues to be displaced.

Women have taken a leading role in demanding justice. They have helped lead and organize the community in local and national demonstrations, highlighting the injustice of their dispossession. Amid the hardship due to the loss of home and livelihoods, women continue to demand that they be allowed to return to lands they have cultivated for nearly forty years.

The Land Rights Now campaign is calling for the immediate implementation of the decision taken by the Sri Lankan government in 2015 for 340 acres of land in Paanama to be returned to the community.

TIMELINE: PAANAMA LAND CASE

- 1800s** Communities settle in Paanama, the main village located inland.
- 1970s** Families migrate towards the coast for agriculture and fishing. Five villages are settled, popularly referred to as 'Paanama'.
- 1983** The civil war begins in Sri Lanka, focused in the north and east.
- 2000** Communities that had to flee return to their lands and begin to grow long-term crops and build temporary houses.
- 2003** State authorities begin to claim Paanama villages as 'state land'. The claims continue and escalate over the next 7 years.
- 2009** The war in Sri Lanka ends on 19 May.
- On 16 November the Pottuvil Police file a case against 7 individuals for trespassing on state land.
 - The navy takes over lands belonging to three villages: Ulpassa, Egodayaya and Horekanda, and begins construction of a hotel.
- 2010** On 17 July Paanama families are evicted by armed men. Homes and crops are destroyed and documents to prove title to land are lost. By now, 350 families are displaced and seek shelter in homes of relatives.
- On 26 July the community file a complaint with the Sri Lanka Human Rights Commission, which investigates and recommends that land is returned to the community.
- 2011** People's Alliance to the Right to Land (PARL) is established to lobby against land grabs.
- 2012** Submission made to the United Nations Human Rights Council. The community continues to protest and raise awareness on their eviction.
- 2015** On 11 February the Sri Lanka government decides to release 340 acres of land currently occupied by the air force back to the Paanama community.
- The Pottuvil magistrate determines that the community is not trespassing and orders that the land is released to the community.
 - Paanama communities continue their struggle and try several times to return to their land.
 - The Community stages a major protest with media coverage
- 2016** In May 2016 eviction notices are issued to some community members to evict them from their lands

2 'DEVELOPMENT PROJECTS' AND DISPOSESSED COMMUNITIES



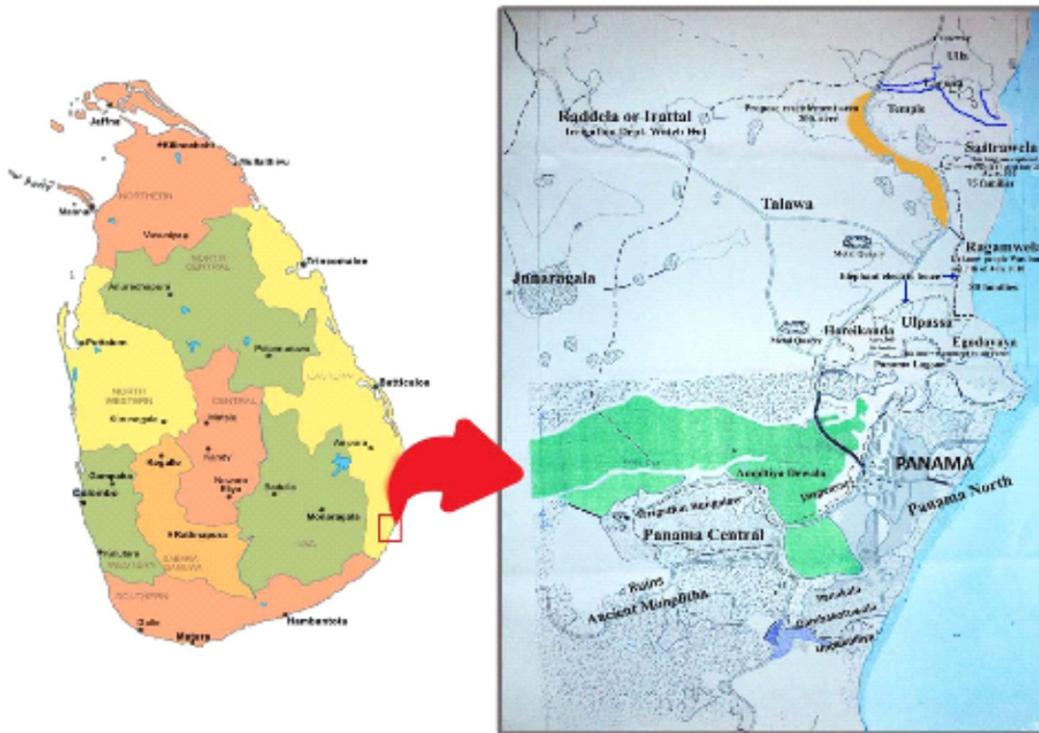
A high-voltage electric fence designed to keep the community away, and signs warning that this land is now the property of Sri Lanka Navy. Photo: Shantha Padmakumara

During Sri Lanka's civil war, large tracts of land in the Northern and Eastern Provinces were controlled by the military. The end of the war in 2009 offered hope for many of making a long-term investment in their future: in their land, livelihoods and communities. Communities displaced by the war longed for the day they could return to their land. However, these lands were not returned to the people who had previously occupied them and they continued to be displaced, living in camps or temporary shelters. Instead, the lands were used to establish special economic zones or used for other economic development purposes – at the time, the Rajapakse government promoted economic and infrastructure development as a means to achieve reconciliation. Communities were told that they would not be able to return to their lands as they are now needed for a 'public purpose'; a sacrifice for the greater good.⁶ Rather than supporting and improving people's lives and livelihoods, these 'development projects' were increasingly associated with harming communities with impunity.⁷

Renowned for its coastal beauty the Eastern Province was earmarked as a tourism development area.⁸ Due to the economic and tourist potential, the issue of land and access and control over natural resources became a contentious issue. Many of the development projects involve foreign investment and are targeted for large-scale tourist resorts. Communities were not informed of any of these plans, and their consent was not sought.

Alarmingly, Sri Lanka's military manages and controls many of these development projects. The level of corruption in Sri Lanka during this period led to many abuses of power by state authorities that have been documented by local civil society and highlighted in international forums.⁹ State authorities, the military and sometimes politically well connected and powerful individuals intimidated

local communities for control over their lands. This was the case for the community living in Paanama.¹⁰



Map of Paanama, Sri Lanka

Box 1: The community of Paanama

The community has lived in Paanama since the 1800s. Much of the land is classified as state land. Part of this land has been used for farming by individual families, while the shores and the lagoon – a significant part of local livelihoods and culture – have been used and managed collectively for fishing. Over time, fishers in Paanama developed their own rules and traditions. The community is bound together by having lived on these lands for generations, farming and fishing and facing and overcoming many obstacles together. They have fought for their land rights as a strong community, forming the Paanama Pattu Protection Organisation (PPPO).

In Sri Lanka it is not possible for a community get title to land. The state can give land rights to individuals or legally registered bodies. Some families in the five villages of Paanama have had land permits granted by the state, but a majority have not. Evictions have been carried out without free, prior and informed consent or compensation. The community in Paanama has a collective voice, led by women. They fight for their lands to be returned to them, for their land rights to be recognized by the state. They will not give up their fight until all 350 families get their lands back.

The majority of families in Paanama have engaged in shifting cultivation, paddy cultivation, fishing and collection of honey. The five smaller villages which developed since the 1970s were ideal for agriculture with rich soil and ample water supply for agriculture. They had easy access to the sea and to the lagoon and the alternative income that fishing offered. The villagers cultivated pulses and other cereals, yams, vegetables, fruits, and more recently permanent crops as well as paddy. During peak season they were able to catch prawns, crabs and fish that bred in the vast mangroves, and during the dry season they collected firewood for their homes. The crops cultivated were sold and the surplus was

used for their own consumption. Many families had home gardens and produced vegetables and fruit. While many families had to halt cultivation temporarily for safety and security reasons during the war, by 2000 they were able to cultivate long-term crops such as coconut, lime, orange, mango and guava. They constructed houses and temples. For over forty years, the community respected and cared for the rich environment they were a part of. As farmers their entire lives were built around this land.¹¹

In 2005 the lands in Ragamwela, one of the five villages in Paanama, were taken over by a local politician and in 2006–2007 this land was handed over to the Sooriya Match Company, producers of matchsticks. This was only the beginning. In 2009, the navy forcibly took over three villages: Horekanda, Egodayaya and Ulpasa by erecting fences and signs stating that the lands belonged to the navy; they established camps and constructed a hotel, 'Paanama Lagoon Cabana' on the land. Legal procedures were not followed in taking over these lands.

On 17 July 2010, houses and cultivation belonging to families living in Shashtrawela and Ragamwela villages were torched and the community was assaulted by a group of unidentifiable armed men and forcefully evicted from their lands. The local police initially prevented the community from entering this land and the Sri Lanka Air Force and Navy soon took possession of most of the land and established camps. The five smaller villages in Paanama were cordoned off by an electric fence used to keep wild elephants away. With the eviction of the communities, the navy and air force also took over nearby land belonging to the Forest Conservation Department. In total, the military control nearly 1,220 acres of land which include beaches, forests, cultivation and even temple land¹².

Part of the land was handed over to the Presidential Secretariat which partly constructed an international conference centre, but this project was later abandoned. Due to these events 350 families of the Paanama community living in the five smaller villages have been evicted.

The community made a complaint to the Sri Lanka Human Rights Commission (HRC) on 26 July 2010.¹³ Having conducted an investigation the HRC recommended that the land be returned to the community.¹⁴ After the change of government, a Cabinet decision was taken in February 2015 to release the land from government control and return it to the community. However, to date the relevant state authorities – namely the Divisional Secretariat of Lahugala, District Secretary of Ampara and the Land Commissioner General's Department – have failed to take any action to return the land. Whenever the community tried to occupy their land, they were met with threats from the police, and in some instances the police instituted legal action against them for trespassing on state land. However, the Magistrates Court in Pottuvil, Ampara found them not guilty and ordered the police to allow the community to return to the land.¹⁵

On the strength of this order, the communities in Ragamwela and Shashtrawela have returned to their lands and are awaiting formal distribution of the land by the government. The communities in the other three villages remain displaced. Despite all this, in May 2016 the Divisional Secretary of Lahugala issued eviction notices under the State Lands (Recovery of Possession) Act to evict the community in Ragamwela and Shashtrawela who re-occupied their lands.

3 THE STRUGGLE FOR RIGHTS AND LIVELIHOODS

While some families lost their legal documentation in the fire that destroyed their homes, many families who were forcefully evicted in 2010 possess valid permits and many can prove through other documentation that they have legal rights to the land. Furthermore, the HRC investigation revealed inconsistencies in the state's claims to the land.¹⁶ The report noted that the state was unable to prove definitively that the land belonged to any particular government department or authority. Therefore, the recommendation of the HRC was to return the land to the community.

Nearly 840 acres of forest land adjacent to the Paanama community belonging to the Forest Conservation Department has also been taken over by the navy and air force. The community is concerned that this land will be cleared for the construction of more tourist hotels. Although the National Environmental Act No. 47 of 1980 requires an Environmental Impact Assessment (EIA) to be carried out prior to implementing projects of this nature, no EIA was carried out. Threats to the community from wild animals have also increased, as the electric fence surrounding the land forced elephants to seek alternative routes, and villages and farm land have been damaged as a result.

For more than six years these communities in Paanama have been denied access to their livelihoods, income and food. The navy has restricted the right of the community to the free use of the Paanama lagoon, and certain locations with mangroves in close proximity to the hotels are out of bounds. The community which earlier had unhindered access to the Paanama coastline for sea fishing are now barred from entering the beach. The Paanama Lagoon Management Authority is responsible for regulating the fishing in the area. The Authority, which is a committee of community members, is helpless against the powerful forces of the navy, however. As farmers and fishers, the community depends heavily on the land for their daily food and income. The investigation by the HRC noted that crops were destroyed by use of vehicles, presumably by state authorities, as the land was being guarded by the police. This wilful destruction of the communities' crops and impact on their ability catch fish is a serious violation of their rights to livelihoods and food.

Forceful eviction from their lands has led to multiple rights violations. Rights that have been impacted include: the right to adequate housing being denied as a result of the destruction of houses, equipment and displacement; the right to safety and security, particularly for women and children; the right to livelihoods and adequate nutrition; the right to free movement and association. These are but some of the key rights that have been and continue to be violated.¹⁷ The community in Paanama has also been denied access to their traditional places of worship. For example, the Samudranaga Buddhist Temple has historical significance and comes within the purview of the Department of Archaeology. It was the main place of worship of the communities in Ulpassa, Horekanda and Egodayaya, and is now under the control of the navy.

The lack of transparency and accountability, especially by the military, in forcefully taking over land for development, does not give the communities confidence in the state's decisions.¹⁸ Though the present government, which

came into power on a platform of good governance and anti-corruption in January 2015, has decided to release the lands to the communities, it has still not taken any steps to implement this decision.

4 LACK OF FREE, PRIOR AND INFORMED CONSENT



After years of displacement, some people have moved into temporary shacks located on their original lands.
Photo: Shantha Padmakumara

The intimidation faced by the Paanama community is characteristic of most situations of land grabs and dispossession of local communities in Sri Lanka. Political power is exerted in favour of powerful and rich individuals or companies eager to exploit the land. Even in situations where the state moves to re-possess state land from individuals illegally occupying it, the State Lands (Recovery of Possession) Act No. 07 of 1979 lays down specific procedures which in this case have not been followed. The National Involuntary Resettlement Policy 2001 (NIRP) calls for a protective framework for people who are displaced due to development projects to ensure that their rights are respected. It includes the minimization of negative impacts; taking steps to avoid involuntary resettlement by reviewing alternatives to projects; and payment of timely and adequate compensation to affected persons.¹⁹ Sri Lankan courts have upheld the right of local communities to benefit from any acquisition of land that is made in the name of the public interest, and that communities dispossessed of their lands whether legally owned by them or not, should be relocated or adequately compensated. The state has bypassed all of these procedures and guarantees and has resorted to force and intimidation, contravening the law and its duty to act in the best interest of the public. In this instance, as in many others, the local community remains dispossessed.

The cabinet decision to release the lands to the local community has not been implemented by lower level government authorities due to pressure from powerful political forces within the government itself, who have plans to use the lands to

expand the tourism zone in Arugam Bay. Article 2.3 of the United Nations Declaration on the Right to Development 1986 places a duty on the state to 'constantly improve the well being of the entire population and all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom'. The Paanama community has been denied free, prior and informed consent, however.²⁰ In 2009 for example, the community was initially informed that their lands would be used by the navy to construct housing for war veterans; instead a navy camp was established after the war and the Lagoon Cabanas were built to promote tourism.

Alternative land that is being offered to the community is located in a stone quarry and is not suitable for agriculture due to lack of water and soil, and is situated in an elephant corridor. The community wishes to stay on their land and to be a key decision-maker in any discussion of proposed tourism development projects. For these reasons, the Paanama community maintains that they will not accept alternative land.

The lack of accountability, especially in development processes is a major obstacle for the community. Despite determinations by the HRC, a local court and a Cabinet Decision in their favour, a dispossessed community has been unable to move state authorities to action. Politicians have made promises and assurances of returning the land to the community, but to date, no action has been taken. While development is essential, local communities should be at the heart of such development, benefiting and contributing to the process.

Box 2: Community standing up for their right to land and livelihoods

Together with larger civil society groups, and networks like the People's Alliance for the Right to Land (PARL), women and men in Paanama took to the streets to highlight their experience of being evicted from land which they had occupied for more than forty years.

'We then realized that we can't be speaking to authorities alone, we can't be fighting for our own lands individually. We realized that we have to join together and win this fight to get justice not only for ourselves, but for our children and the generations who passed land to us', said Rathnamali a Paanama farmer, highlighting the importance of collective action.

Women have played an instrumental role in the Paanama land rights struggle. *'We organized ourselves and mobilized as a group. In 2012 we had a protest demanding our lands back. A group of women climbed on to the roof of the village co-operative building near the Paanama main road and refused to retreat until the authorities responded to us'* explained Rathnamali. Women continue to take part in the lobbying and advocacy initiatives of the Paanama community.

In July 2015, with the support of Oxfam and PARL, the community organized a mass demonstration and media tour where villagers attempted to enter their lands, and women and men questioned local government authorities on getting access to their lands. This event received wide coverage on local television and social media.

5 RECOMMENDATIONS

The Divisional Secretary of Lahugala, should refrain from preventing the community from returning to their land. The Divisional Secretary should withdraw the eviction notice issued to the community members and take steps to implement the cabinet decision.

The decision of the National Cabinet taken on 11 February 2015 to return 340 acres back to the families who previously occupied the Paanama lands should be immediately implemented by the Land Commissioner General's Department, District Secretary of Ampara and Divisional Secretary of Lahugala.

The Government of Sri Lanka should provide adequate compensation for loss of income and livelihood and destruction of houses and household belongings, and should give support to restore livelihoods when the families return to the land.

The District Secretary, Divisional Secretary and all state authorities should ensure full disclosure to the public in regard to any development plan to be implemented in the region. The public's right to information, and to review, amend and protest proposed plans should be respected and protected.

As a general principle, **the state should seek to acquire private land only when there is a clear benefit to the local community or to the public.** Sri Lankan courts have recognized that the state authorities do not have unfettered discretion when acquiring private land, and have ruled that where private land is acquired, it must be for a purpose that benefits the local community.

The Minister of Lands must ensure due process, specified by law, relating to the acquisition of private land by the state.

Independent and compulsory environmental impact assessment and social and human rights impact assessments should be carried out prior to any decision to acquire private land, and to implement development projects.

The Government of Sri Lanka should implement the National Involuntary Resettlement Policy to ensure that rights of individuals affected by development projects are protected.



Rathnamali Kariyawasam's family was among 350 farmer families forcibly evicted from their homes in Paanama. Photo: Shantha Padmakumara

Box 3: On the loss of land and livelihood

'We had our own land – it was closer to the lagoon so we could easily do our fishing activities. Our [shifting] cultivations not only brought us an income but also provided food for the consumption of my own family'

–Rathnamali, a woman farmer from Paanama.

After being forced from her land in 2010, Rathnamali now lives with her relatives. She and her husband continue to engage in paddy cultivation but on hired paddy lands. This has affected her household income because they have to pay for the use of the land and also spend on food for their own consumption. They are no longer able to engage in chena cultivation.

'We don't have land to grow our own food like we did before, because of this we have to spend a significant amount of money from what we earn to buy food from shops. Life is tough after our lands were taken from us'.

'I lived in Ragamwela and engaged in shifting cultivation on three acres of land. This is how I provided for my family of five. I have a permit to use this land. I don't receive any social welfare benefits [...]. I lived by my hard work and sweat. I cultivated even when it was off season because this area has ample water, it is possible to cultivate without any difficulty. They chase us away from our own lands so that they can give this land to companies and hotels. We are now on the streets. Because we don't have land to farm, we work as labourers, and we don't have a home to call our own'.

–G.M.Bandara, a farmer from Ragamwela

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