

Amend existing land legislation : Why introduce new laws?

By S.M.S.B. Niyangoda

Contd. from Monday

The objective of the Proposed Act is to waive the conditions of already issued grants under the Land Development Ordinance (LDO) and to make provisions to issue grants without conditions.

The very question is, do we need a separate Act? Cannot the same objective be realized by amending the LDO? As I said earlier the LDO was amended a number of times and even this objective could be realized by amending it again. Of course, it will not make history by adding an Act of Parliament to the existing bunch of land legislation, but certainly achieve its objective.

According to the proposed Act there will be a certificate issued, affixing the facsimile of the President and the Minister of Lands to waive the condition of already issued grants. This is a colossal waste of time and resources resulting in unproductive work. It is quite sufficient if a small section is added to the LDO to say that all the conditions in grants issued up to a certain date are waived.

Any amendments to new grants should say that outright grants would be issued to LDO permit holders. If there is a need to issue a certificate just to satisfy political needs, this could be issued by the Divisional Secretary.

I do not see any reason why a new Act is required, except the baseless expectation to achieve a political gain, but as I said earlier, such gains are not forthcoming as the recipients of LDO permits are not bothered of titles as they are now even selling their lands underhand, mortgaging and leasing and even subdividing. Further, I do not see any rationality of affixing the facsimile of the Head of State in a certificate.

I feel it is like devaluing the facsimile itself. No grant holder is bothered about the signature of a certificate, as some of them are not even worried about the grant: whether it is Suwarnaboomi, Jayaboomi or Ratnaboomi.

Of course a grant is a good government title, but the so called name of the grant is only printed on the file cover.

Once when I was with the late Minister Gamini Atukorale at a function to distribute Suwarnaboomi grants in 1993, at a school in Hasalaka in the Udumbura area, I managed



File photo: Will agriculture be an attractive economical venture to the smallholders?

to get the Minister to hear the stories and feelings of permit holders with regards to grants. When the meeting was progressing the back benchers were making a big noise and I slowly walked towards this audience and heard some of them saying "dena keshmalak aran yan, kenogaha hitapalla, ape idam aitiya netikaranta be" (whatever given we will take, without making a noise, our land rights cannot be taken back). I conveyed this story to the Minister. He had also heard the same while walking to that corner of the building. He later said people are not interested whether they have permits or grants as long as they have their lands.

Why remove all conditions?

I read a few articles and newspaper reports on this subject where it states that this is done due to World Bank influence, which will result in appropriating these lands by foreigners, leading to foreign capital.

I think differently as foreign investors have more profit making ventures in this country than cultivation of lands. Further, it does not matter for some of the LDO occupants whether they have outright grants or otherwise, as they do not adhere to rules and regulations.

One good thing in removing restrictions is those who are interested in farming will concentrate on large allotments and those who lease, mortgage or sell their lands will shift to other jobs without hanging on to the lands.

Another good thing will be when those groups of state land occupants leave these properties; politicians will not address them

as "poor farmers or innocent farmers". Those who could not make a living on farming have to give way to persons who have the ability and interest for this noble occupation. Further, agriculture will not be an attractive venture as the smallholdings are uneconomical for cultivation.

Future of major irrigation schemes if fragmented

Of course, there is a great danger in removing one condition on irrigable lands, which is fragmentation of irrigable allotments. It is learnt that fragmentation of disposed irrigable lands will be allowed in future without a limit.

Somebody who has not studied our irrigation system and not observed at least how a major irrigation scheme is managed would have taken this decision. The small village tanks system is very simple as one canal takes water to the fields, as the extent under a small tank is limited, varying from 3 to 4 hectares to 80 hectares.

The farmers take water from plot to plot (liyadda to liyadda) and fragmentation does not create any water management problem among farmers, although the cultivation of such small plots have become highly uneconomical.

The situation in major irrigation schemes is quite different. Each lot of either one hectare or 0.8 hectare in extent is provided with an outlet from the field canal and the used water is drained out to the drainage canal. Providing separate outlets to each one or 0.8 hectare itself is a costly system from the point of view of the economists and engineers, apart from the high construction and maintenance costs.

When fragmentation is

allowed each person, irrespective of the size of his allotment, would request for a separate outlet for his allotment and irrigation officials cannot refuse this, as legally the owner is entitled to.

Certainly this would create an utter mess in water management and there will be irresolvable conflicts. Officers who have worked in major irrigation schemes know that although we called them major irrigation projects, there are major water problems ranging from availability, allocation and transfers. In almost all major irrigation schemes, rotation issue of water has to be practiced even in the major cultivation season (Maha), forgetting the lesser season (Yala).

There were a number of very unfortunate incidents in issuing water, harassing the officials and farmer organization representatives, stabbing, and even killings. Killings have been experienced at Nochchiyagama in 2000 Maha season among farmers who have one hectare allotments with more reliable supply of water in the Mahaweli-Kalawewa Project.

If fragmentation of these planned allotments is allowed there is a possibility of irrigation schemes would become battlefields during water scarce years. To solve these water problems, the representatives of farmer organizations might have to stay in paddy fields day and night during the cultivation seasons.

Having worked in this field for a number of years, I suggest that paddy lands should not be allowed subdivisions below one and half acres, as it could create enormous water management and economic problems. The water man-

agement practices so far developed in this country by the Mahaweli Authority and Irrigation Management Division will be of no use and we will come to square one if fragmentation of irrigated paddy land is allowed.

A person who has worked in the irrigated settlements would know that if fragmentation were allowed the grant holder will divide the allotments among their children and even some of them would sell it portion by portion. The policy makers who have taken this decision to allow fragmentation of irrigated paddy land should look back at the wet zone paddy fields.

With dividing paddy fields among children, the allotments have become so small and even insufficient to produce one or two bushels of paddy. The "Thattu maru and kanna maru" is a system practiced with small plots too small to be divided therefore the cultivators or shareholders take turns. Sometimes one person gets a chance to cultivate once in four years.

There is no doubt that the same picture will emerge in the most productive major irrigation schemes in Sri Lanka if fragmentation is allowed. This is a period that the policies should encourage consolidation of lands for higher production and not fragmentation to destroy the irrigated lands.

Certainly, removing conditions, except fragmentation of irrigated paddy lands, is a progressive action. It will reduce the administrative work, allow people who have interest in cultivation to invest and others to find alternative jobs.

However as a policy, regularization of encroachments needs to be stopped and alienation of lands, even for housing purposes, require extensive planning, as this resource is limited. A New Act is necessary to have a new policy for alienation of State lands but not for removing conditions of already issued grants and to issue unconditional grants. Amending the LDO is more than sufficient for this purpose.

Introducing a New Act for the above purpose reminds us of "Kanda Kenda Karanawa" (referred to in English as creating a mountain out of a mole hill).

Concluded.

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