

## **The Concept of “Eminent Domain” Under the Land Development Ordinance - A Means to Lose the Objective of the Ordinance?**

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The Land Development Ordinance No. 19 of 1935 (LDO) is considered as a central piece of legal architecture in providing systematic development and alienation of state land in Sri Lanka. The LDO was legislated to settle landlessness created by the Crown Encroachment Ordinance of 1840 which was intended to transfer all lands to which title could not be established, to the state and is the basis for the concept of Eminent Domain. The problem identified by this paper is that the concept of eminent domain exercised by the Divisional Secretary or Assistant Divisional Secretary of each Divisional Secretariat’s division who are empowered to alienate the state land is negatively impacted on the livelihood of the people in the post-armed conflict. This is despite the establishment of the Provincial Councils, Provincial Land Commission and the National Land Commission under the Thirteenth Amendment which decentralized the powers to administer the land to the provincial level. Hence, the unfettered discretionary power is given to the Divisional Secretary under the LDO, resulted increasing politicization of land grant to the individuals through *encroachment regularization*, corruption and bias in selecting the individuals for a permit, lack of transparency and abuse of power and lack of accountability, equity and equality. Hence the paper identified the challenges in implementing the objectives of the Ordinance and recommend the means to accommodate the post-armed conflict socio, economic and legal changes into the LDO through desk-based analysis of existing literature and interviews with relevant officials.

**Keywords:** *Land Development Ordinance, Eminent Domain, Challenges, Post-armed conflict*