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The Adverse Impacts on the Water Resources Privatisation in Sri Lanka

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1. Introduction

Sri Lanka is a country with water security. We have two monsoons; the north eastern and south-western. There is no change in these uninterrupted rains from monsoons and inter-monsoon rains. The total annual quantity of rainwater is approximately 10,000,000 m³. Each square kilometre of Sri Lanka has three tanks.¹ Except for intermittent droughts we have no risks of facing water shortages. With all the destruction of rain forest, the balance left feeds the rivers. In the central hills the underground springs beneath the forests feeds rivers.

In Sri Lanka there are no human settlements that faced death or suffered due to water shortages. During the last decade even though there were some droughts, people came forward to ease the difficulties. We have some rivers that are full of water throughout the year.

The total number of rivers in Sri Lanka is 103. Thirty-Four of them are major rivers and only two rivers: Kelani and Kalu are the rivers, which flows to the sea without providing some useful service.²

In addition to the rivers there are 17000 tanks that feed the agriculture sector. Out of that 12000 are considered small and 5000 tanks generally supply the water to the irrigational systems. Sri Lanka is reported as a country that conserved and managed water system properly.

That is why we are proud of water resources that help us maintain a good economy, rural agriculture and food security. Even with this background the world policy makers and funding agencies are insisting us to privatise water.

Most of the people in this world will not consider water as a commodity for sale. Water for them is a precious thing that is very necessary for the life and nature. Not only Humans, also the flora, fauna and the world itself exist mainly because of water. This is the reason why water is considered as a common property. That is why most of the countries consider water supply as a service for the people.

The World Bank (WB) insists that water should be priced and therefore it has to be managed by the private sector, not by the public sector. Their main argument is that when water is priced it will be used sparingly. This is an unjustifiable argument. All living beings in the world have a right to consume water provided by the nature without any payment. Further they have the right to live in a world with secured water.

¹ Natural Resources of Sri Lanka, Mihakatha foundation, 1998 P 23

² Water, life and marketing. Mihimaw science foundation, wanatha Rd, gangodawila, Srilanka. 2003, P. 11

This right to this heritage is now being robbed by the World Trade Organization (WTO) through the new legislation to privatise water. According to the ADB, a part of the cost of water should be borne by the consumer. In order to guarantee the responsibility and financial sustainability the consumer should pay this cost as minimum payment. Beside this, opportunity cost should be considered for the use of water for other purposes. Finally external cost on environmental and health impacts of polluted water too should be taken into consideration.

Their reports show that the plans are unsuccessful. The number of projects launched by ADB up to 1999 is 437. The total cost of these projects is US\$ 15.7 billions. A survey on these projects shows that only 55% of these projects are successful.

The value the water had as a common property is fast diminishing. In the last few decades the world water management companies have taken over the management of water in several countries. These multinational companies that have taken over the management of water through long-term contracts are making large profits from the sale of water. Different faces of water Privatization are

- Sale of water supply systems by governments to private companies. (This model is practiced in Great Briton)
- Leasing or granting permission for the private sector to earn income on a long-term basis by managing water supply systems. (This is known as the French model)
- By handing over the management of water to private sector on a contract basis on an agreed payment for managing the system.³

Action has been already initiated to launch the second and the third models of the above in Sri Lanka. Accordingly steps have been taken to privatise water in bulk and for the private sector to involve in the sale of water. Finally, the steps will be taken to sell the whole water management system to the private sector.

Whatever the model we select and the private sector acts with full responsibility, the experience already gained shows that the system will not be able to supply water to all citizens on an equal basis. Therefore, the water will be supplied on the ability to pay for water. Accordingly, the poor people will suffer with out required quantities of water for their consumption. The private companies are not geared to conserve natural resources as water. For them the principle will be “more sale-more profit” and they will not be interested in conservation of water.

Under the new trade legislations the multinational companies are given power to open the market for their business in other countries. All member countries of the WTO under the General Agreement on Trade in Services have agreed to open their markets for all common services like supply of water.

For example, under the domestic regulation of the GATS, any country has a right to intervene in other countries, on behalf of their companies that supply services to those countries. Under this regulation the legislation for the protection of common rights on water in other countries could be removed as a barrier for trade. This applies to all municipalities, local and provincial governments in other countries. If WTO comes to the conclusion that any country violates the rules and regulations of GATS, then that country will have to remove those laws or will have to under go trade embargoes.

³ Sandasaya, Movement of National Land and Agricultural Reform, 143, Kotte Rd, Etukoote Srilanka. 2001 P 6.

Sri Lanka is a member of the WTO. As such the WTO has forced the government of Sri Lanka to privatise the services: Education, health, postal, transport, and water. Accordingly, the WB, IMF and ADB have already started insisting on privatisation through the conditions laid under their loan schemes.

Under GATS, Sri Lanka is forced to provide all facilities available for local water management companies to foreign water management companies. Then the government of Sri Lanka will have to prove that the available policies and regulations will not be an obstruction to the activities of foreign companies. Therefore, the WTO has the power to refuse any action to improve the quality of water, increase the possibility for poor to get water, and improve infrastructure facilities⁴

The European Union has already requested to hand over the activities connected with collection, purification and distribution of water to European Multinational companies.

2. Water Governness

The construction of large dams to impound water continued from the times of kings. There were number of major dam constructions which culminated with the development of the Mahaweli system in the 1980s. This in fact depicted the "business of water management" at that time. However, with activities which use water has become more varied, the use of water has become more intense, hence the nature of "water management business" has changed. Today, there is much more concern to minimize other activities on water resources as there is to develop new water sources. There is no benefit in gaining access to more water if the quality of such water is poor that it cannot be used for any gainful purpose. Greater attention is also given to efficient use of water resources since there is a greater demand on the same source. This implies that there is a concern with the administration, monitoring and enforcement of water allocation between different water users.

To achieve this new goal, traditional engineering methods have proved to be inadequate. A broader perspective of law, economics and natural resources management approaches and institutional strengthening reinforced with communication skills will be vital tools in the future.

The National Water Resources Policy is the "means" to meet the "end". The government hopes to use the policy statement to express its concerns regarding management of country's water resources. The policy adopts an "Integrated Water Resources Management Approach" to link all sectors and stakeholders into a common forum. The policy is "comprehensive" in its content and approach. It takes a multi-sartorial perspective, balancing the consumptive and non consumptive uses of water.

The Government of Sri Lanka (GOSL) put out a water management policy statement in 2000, at the conclusion of a process said to have commenced in 1996 with assistance and direction from the International Financial Institutions (IFI). This was widely criticized by the general public on two counts, the content itself and the process of Arriving at the policy, this while purporting to be open and advocating public consultation, was in fact totally and carefully insulated from the public that had an interest in the matter. It was

⁴ Fernando Sarath, Poverty Reduction Strategy Paper and poverty in Sri Lanka, 2003, pp 9-15

subsequently withdrawn under intense public pressure, even though the GOSL and the IFIs do not seem to have abandoned the intention of carrying through this policy.

In 2002, the GOSL published its Poverty Reduction Strategy Paper (PRSP), which was later incorporated into a general policy document in the form of "Regaining Sri Lanka". This was much more wide ranging in scope, but had been drawn up in the same spirit, and using the same processes, as the water management policy of 2000. The GOSL claimed at the time that this had been discussed and accepted by the people, but later had to admit that this was not true. The World Bank (WB), representing the IFIs, also had to admit that even though it demanded that such a document should be "publicly owned", this was not the case, and that in fact, it had been drawn up by a section of the Government following the strict instructions and guidelines laid down by the WB. The Water Resources Reform Bill now before Parliament is another instance of the same process, where policies in total opposition to those presented to and approved by the public are attempted to be implemented by sections of the Government, at the insistence of the IFIs. Apart from the desirability or otherwise of any policy of wide public import, it is essential that a proper open discussion on it takes place. This is an essential component of democracy. In the present case, no such discussion has taken place ⁵

2.1 National Water Policy

The National Water Resources Policy only applies to all fresh and brackish waters of Sri Lanka. The Policy does not apply to marine waters of Sri Lanka.

This Policy will adopt effective measures to regulate water allocation and conservation, introduce legislation to grant users right to water, and to empower users to protect and advance their rights.

2.1.1. Objectives

the overall Policy objective is the Integrated Water Resources Management, to ensure the country's water is efficiently managed and equitably allocated among all stakeholders to meet the needs of the society and environment at all times.

In reaching the overall goal, the Policy will:

- ☐ Facilitate national development in all its endeavours;
- ☐ Conserve and recognize the value of the scarce water resources;
- ☐ Ensure flexibility of water allocation which would harness the socio-cultural affinity among the users by mobilizing, organizing, nurturing and empowering the River Basin Committees as the basic scaffolding on which the water resources development edifice can then be built;
- ☐ Continue to recognize the importance of water in achieving food security of the country;
- ☐ Ensure the water rights of the other sectors of the economy through a system of entitlements, while safeguarding the rights of small farmers and the vulnerable groups of the society;

⁵ Prof. H. Sriyananada, Right to water, news bulletin, Alliance for protection Natural resources and Human rights, November 2003

☐ Improve the standards in the maintenance of water quality of all water sources required for various water users;

☐ Promote sustainable increases in the development and productivity of both surface and ground water resources.

2.2. Policy Context

2.2.1. Ownership

All water resources, including surface and groundwater are owned by the people of Sri Lanka.

2.2.2. Role of State

The State will foster participation as a key ingredient in conservation and management of all water resources in a sustainable manner. The State will promote open and transparent approaches in all its endeavours in managing the countries water resources. The State will ensure adequate water for environment and social needs at all times. The State will recognize the economic value of water.

2.2.3. Management

River basin shall be the management unit for implementation of the National Water Resources Policy. Management of the river basin shall be decentralized and at all times be executed in partnerships between State, provincial councils, local government bodies, NGOs, private sector and communities. Community-based water quality monitoring will be introduced.

2.2.4. Conservation

All measures will be taken to minimize excess use of water through demand management and promote economic efficiency and accountability of water use in all sectors. At times of water shortages, priority will be given to meet the basic water requirements of all living beings.

2.2.5. Allocation

Water allocation would be through a system of participation and negotiation by all the users by means of water entitlements that would ensure the security of water. Transfer of water entitlements will be used as a demand management tool.

2.2.6. Cost

State and the users will share the costs associated with water resources management: planning, monitoring, co-ordination, conservation and its regulation.

2.3. Institutional Framework

A permanent National Water Resources Authority, a Water Resources Council and a Water Resources Tribunal will be established at the national level. These bodies will be responsible for overall co-ordination of water resources management and other specified functions.

2.3.1 Policy Strategy

The Policy specifically provides for the involvement of all the stakeholders in water conservation and management. It recognizes that the specific needs and vulnerabilities of the most disadvantaged groups of the society are central in formulating sound and equitable water strategies.

2.3.2. Management

a. Water resources management area

An area, a river basin, aquifer or part thereof that is subjected to water related issues of competition, quality degradation and other adverse effects related to environment and society. The Minister in charge declares a water resources management area on the recommendation of the River Basin Committee/National Water Resources Authority.

b. Water resources planning

It is anticipated that a National water resources plan would be developed early and the basic principle underlined in this process will be the integrated water resources management.

All water resources in the country should be brought under the category of utilizable water resources to the maximum possible extent.

Non-conventional water resources development methods like, artificial groundwater recharge, desalinization of brackish and sea water, rainwater harvesting including roof top rainwater harvesting need to be practiced to increase further utilization of water resources. Research and development in this area will be promoted.

Water resources development and management will be planned and implemented on a hydrological unit such as a river basin, a sub basin or an aquifer or part thereof. All development projects will be formulated and implemented within the framework of the river basin plan.

c. Water resources management plans

Water resources plans will be developed in priority basins and aquifers. The Priority basins and aquifers will be identified on the basis of existing water resources issues and management needs designated, prior to the planning process.

Water resources management plans will be prepared by the river basin committees under the guidance of the National Water Resources Authority and the provincial and local authorities.

d. Water resources demand management

The Policy identifies four basic tools for water resources demand management: regulatory control through entitlements & transferable entitlements; introduction & promotion of water saving technologies; cost sharing and awareness & capacity building.

All water allocation and demand management policies applicable for surface water will also apply to groundwater management.

e. Ground water management

The Policy will promote the sustainable development, use and management of groundwater resources in Sri Lanka.

Sustainable management of groundwater resources will be done through identification of distinctive characteristics of specific aquifers. In this regard, aquifer depletion, replenishment and contamination features will be taken into account in groundwater planning and management.

Groundwater sensitive areas could be declared as "groundwater management areas" by the Minister in charge.

f. Management of small-scale groundwater use

Policy advocates adequate protection to shallow wells. Considering the large-scale exploitation of shallow wells in the recent past, it is required to register shallow wells (excluding seasonal wells) in order to improve the information base on groundwater usage.

Guidelines and management recommendations on sustainable groundwater, including recommended well density for different aquifers would be provided to local government authorities and other organizations.

2.4. Exemptions from entitlements

All livelihood or small scale water users will be exempted from holding an entitlement. Besides, individual water users of group schemes will be exempted from holding entitlements.

Contents of entitlements the terms and conditions of entitlements of the Policy include: purpose of water use, volume, rate and point of abstraction. The entitlement will also define dates or minimum stream flow conditions for water abstraction, water conservation requirements, wastewater disposal standards and other matters of mutual benefit to all stakeholders.

Duration of entitlement the duration of entitlements will depend on the type of water use. However, the maximum period recommended is 20 years subject to 5-year reviews. Entitlements will normally be renewed unless the holder has violated any conditions stipulated in the entitlement transfer of water entitlements policy permits the transferability of water entitlements.

Transfer of water entitlements will be allowed between entitlement holders and those seeking new water rights. Transfers can be either temporary or on permanent basis depending on the need of the parties concerned. Transfers will involve a payment of compensation by the new entitlement holder to the original entitlement holder. Transfer of entitlements will be subjected to agreed guidelines between the RBC & the NWRA and transparent to a public consultation process.

The guidelines regarding transfer of entitlement will specify the maximum portion of entitlement that can be transferred with other conditions and regulatory controls. A minimum portion of entitlements will always be retained from transfer to maintain minimum environmental flows, incidental domestic use (health and sanitation), cultural requirements and water for vulnerable groups. All such transfers are subjected to regulatory controls of

the Water Act. In case of water disputes, the State through NWRA will facilitate negotiated transfer of water entitlements through co-ordinated approaches.

2.4.1. Management of water resources during low flow/drought conditions

Water entitlements will not guarantee the permitted volume of water that will be made available at all times. Under drought and other adverse environmental conditions, conditions of water abstraction will be specified in the water entitlement. State will not provide compensation to entitlement holders when the permitted volume of water is not available due to natural causes.

2.5. Implementation Arrangements

2.5.1. Institutional structure for water resources management

In order to plan, develop and manage water resources at river basin level with a multi-sectoral, multi-disciplinary, and participatory approach, the existing institutions at various levels will have to be reoriented, reorganized or even created where necessary. To facilitate this process in future, a new water resources management administration will be created at national level reporting to the Minister in charge of the subject of water resources development and management.

2.5.2 National Water Resources Authority (NWRA)

NWRA will be established as a corporate body, capable of guiding the management of water resources in a participatory manner with proven technical competence and impartiality.

NWRA will be responsible for national water resources management in Sri Lanka through a series of functions, including policy formulation, long and short term river basin planning, water allocation through entitlement administration, monitoring & evaluation and other regulatory functions that revolves around a holistic water resources management. However, water sector project planning, operation and maintenance of infrastructure or similar operational responsibilities will continue to be executed by the respective sector agencies as it is being done at present.

Given the global nature of water and complexities in water resources management, the NWRA will be placed directly under the President/Chief Executive of Sri Lanka. Accordingly, NWRA will derive authority with respect to water resources management; the other sectoral water agencies will work in partnership with the National Water Resources Authority.

2.5.3 Water Resources Council (WRC)

WRC will be the permanent coordinating and advisory body at national level for water resources management. It will be responsible for advising the Minister in charge, on water resources management issues, resolve inter-provincial and inter agency disputes and endorsing water resources management plans prepared by the river basin committees and undertake such other tasks as referred to by the Minister. NWRA will function as the secretariat for the WRC.

2.5.4 Water Resources Tribunal (WRT)

WRT will be an independent appeal tribunal responsible for mediating in water resources disputes arising out of water entitlement administration. The Judicial Service Commission will appoint the tribunal. The tribunal may sit in division in any part of the country. WRT may also provide arbitration services concerning any other water-related disputes. WRT will be responsible to the Minister of Justice.

2.5.5 Provincial level water resources agencies

NWRA will consult with provincial, district, divisional and local governments regarding the organizational arrangement and assignments of responsibility to perform the functions of integrated water resources management. Provinces will identify suitable water resources management units, which will facilitate the provincial role in river basin committees. These identified units will be technically competent and sectorally neutral. NWRA will be responsible to strengthen the capacity of such units identified at provincial level.

2.5.6. River Basin Committee (RBC)

RBCs will be established in identified river basins by NWRA. RBCs in consultation with NWRA will be responsible to formulate a water resources management plan for each such basin. These plans will take into consideration the prevailing water resources issues and it will work within its limit of responsibility. RBC will be the pivotal unit of water resources management in the water resources management policy. RBCs will be the critical link to provincial, divisional, local government and other stakeholders at river basin level. RBCs will be a legal entity once the "National Water Resources Authority Act" is passed in the parliament. RBCs will work in close collaboration with NWRA in all basin planning matters, while NWRA will ensure that national water resources policies are adhered to in addressing water resources plans.

2.5.7 Enforcement

Planning, management and enforcement of entitlements for bulk water users will be delegated to the river basin committees. Entitlement administration will be the responsibility of the NWRA
Implementation of entitlements will be phased out, starting from priority river basins.

2.6 Water quality and administration

Surface water and groundwater quality will be regularly monitored with the participation of stakeholders. Effluent discharge from water base industries will be monitored and regulated before discharging into natural streams in partnerships with CEA.

The "polluter pays" concept will be promoted in management of waste water disposal. A separate policy component on "water quality management" will be formulated to minimize deterioration of water quality in water bodies.

NWRA and other provincial water resources management agencies will be responsible for maintaining water quality and coordinating their activities with environmental agencies both at the center and provincial levels. However, NWRA will not be responsible for water discharges or issuing of water quality license or permits. In preparation of basin or aquifer plans the committees responsible will consult the CEA or other environmental agencies with respect to water quality issues.

2.7 Watershed Management and Conservation

Watershed management through extensive soil conservation, catchments-area treatment, preservation of forests and increasing forest cover will be promoted.

NWRA will make use of land use information in preparation of basin/aquifer plans and work in close co-ordination with all other natural resources management agencies to promote the sustainable management of resources to benefit water users throughout river basins.

a. Water Conservation Agreement

Water conservation agreements will be applicable island wide where bulk users enter into an agreement to conserve water to maintain equity objectives. Conservation consciousness should be promoted through education, regulation, incentives and disincentives.

b. Water quality

The Policy recognizes the importance of water quality given the rapid rate of contamination due to point and diffuse sources of pollution. Therefore, an effective water quality monitoring mechanism will be developed with the active participation of beneficiary groups.

3. ADB's Relationship to Local Water Policy

There is no argument about the need for water management. Conservation is a must in this regard. However the main focus of both the ADB and the Sri Lankan water policies does not appear to be the management and conservation of water. Rather it is the establishment of water as a commodity which could provide investment opportunities to the private sector which is the so called engine of the ADB development model.

According to the Bank, water is a critical resource for sustainable economic development in the coming decades. Scientists predict that world water scarcity will be a serious problem by the year 2025. Population growth, rapid urbanization and industrialization are imposing rapidly growing demands on water services and pressures on water resources. The growing imbalance between supply and demand has led to shortages and competition, and to increasing pollution and environmental degradation. The costs of responding to these pressures have significant implications for economic development. To be effective, the response itself needs to take a more holistic approach to water policies, strategies and projects. The past practice of dealing with each sub-sector separately is no longer adequate to meet the present challenge.

ADB has given approval for the establishment of an institution for the development of irrigational systems for agriculture in the year 1968. In the year 1969 Bellaglogroup Institution highlighted the importance of water in the development of agriculture. In 1984 Irrigation Management Division was established under the Mahveli Development Ministry. Subsequently in the year 1985 International Irrigation Management Institute (IIMI) was established under the auspicious of WB, Rockefeller and Ford Companies. (IIMI was established under a Act of Parliament dated 09/01/1985)

In 1992 under IIMI new project was inaugurated under the name Irrigation Management Policy Support Activity (IMP). Main scope of this project was to make proposal for the changes in the field of water management. Water Resource Council (WRC) and Water Resource Secretariat are two organisations established after IMP in the year 1955.

From the year 1996 the WB strived expedite the sale of water in Sri Lanka. In the documents: Non Plantation Sector Policy Alternatives and An agenda for Year 2000 submitted by the WB on 17th March 1996, incorporate the proposals for the sale of water in Sri Lanka. Beside this these documents contained proposals for the sale of forests and land at cheaper rate to companies.⁶

At same time Interim National Water Resources Authority (INWRA) was formed. Further, there was a idea of forming another body- National Water Resources Authority. The intention of this authority was to handle matters concerning: development of national policies, Long-term planning of river basins, Collection of data on water resources and to sub divide water resources rough the issue of licences. Special power of this authority is to issue Bulk water uses rights to those who needs bulk supply of water.

Even though the officers and organisational structure was in position this organisation had to face a financial crisis. In order to over come this proposal was made to construct a rubber dam across Kelani River under the Western River basin Project. The estimated cost of the project was US\$ 28.4 millions. Out of that 2.4 millions was set aside for the establishment of the Authority, 10 millions for other related institutions, 9.1 millions for the rubber dam and 2.2 millions for the preparation of concrete water measuring posts. LKR 3 million was allocated as the monthly salary of a foreign consultant.

Government has decided to establish the Water Resource Council to solve the problems arising out of distribution of water. The objects of this council is to advice the Minister concern, to solve inter provincial, inter institutional water problems. This council will serve as the coordinating body at the national level. Beside this a Water Resources Tribunal will be establish to hear grievances of the people on water management.

In the year 2000 the name of the IIMI was changed International Water management Institution (IWMI). A former Director of the WB was appointed as the head of this institution. In the same year a new ministry was established as Ministry of water Management.

As a result of establishing the above institutions, the National Water Resources Policy and Institutional arrangement were prepared. The Water Resources Council and Secretariat completed this by April 2000. The government of People's Alliance endorsed this document 28th March 2000.

Under PRSP, the plan included privatizing some of the resources freely enjoyed by the people. Water, Minerals, Forests, Wildlife parks, Sensitive environmental zones and Sigiriya: a historic monument is some of the resources that ware proposed to be handed over to foreign companies under PRSP or the Regaining Sri Lanka programme.⁷

In the document "Regaining Sri Lanka", the page 62 clearly states that the management of water should be handed over to private sector. Further, it has proposed the private sector to bid for it. The strategy to eradicate poverty, planned by the government finally turned to

⁶ Arana news bulletin, Green Movement of Sri Lanka, 1st lane, wanatha Rd, gangodawila, Srilanka. 2003, P. 11

⁷ Regaining Sri Lanka, Poverty Reduction Strategy Paper, ministry of financial, 2003, P. 61

be a proposal for the sale of water for the poor. Further more, the plan was to get the foreign companies to come and manage the distribution of water. This sort of a plan is not a surprise within the process of globalisation. In other words it is the mere reality of globalisation.

Under the above plan, LKR 50 millions was estimated for the development of infrastructure within the next ten years (2001-2010) for the sale of water. Private sector was expected to invest at least 50% of this amount. The pricing of water is donning in order to recover the invested money by the private sector. However, under this plan the government is expected to raise a loan of LKR 50.1 Billions. This loan has to be settled by the people of this country. Handing over the sale of water, forests and other natural resources of this country to the private sector and multinational companies is the way planned to settle this loan.⁸

The loan of 45 millions approved by the Tokyo summit was invested in this project. As such the Government of UNF reintroduced the Water Bill to the parliament with some amendments. When ever they did so they publicly declared that they will never sell water and people will not be charged for water.

ADB is overall joined to make policy and methodology for water privatization. According to the ADB country strategy papers it is very clear. So last 25 years ADB work as a facilitator to public sector reforms and strengthen private sector.

ADB has helped improve the provision of water supply and sanitation for the last 15 years. ADB supports the government's strategy to (1) privatized public investment and encourage beneficiary contributions and (2) establish regulatory mechanisms and build capacity of provincial and local governments.⁹

Item 3 of the ADB water policy states that steps must be taken to "improve and expand the delivery of water services in water supply, irrigation, and other sub sectors, through support for autonomous and accountable service delivery".

The Bank's policy also states that the actual delivery of water for irrigation and water supply will be most efficient if it is DELEGATED to autonomous and accountable service providers. These can be public, private or cooperative agencies that provide MEASURED WATER to their customers or members in a defined geographical area for an appropriate FEE.

The fourth item of the Bank's water policy states that it will foster the efficient and sustainable use and conservation of water through effective packages that combine WATER USE AND RESOURCE MANAGEMENT CHARGES AIMED AT FULL COST RECOVERY in each project with improved regulation and increased public awareness.

Therefore it is clear that the Sri Lankan water policy is no different to the ADB's water policy.

Sri Lankan water policy is also based on 7 titles. The foundation of the water policy, water rights and allocation, demand management, ground water management, information management and institutional structure for water resources management.

⁸ Chamara lackshan, stop water privatization, lakbima news paper March 22 2005 P 6

⁹ country strategy and programme update Sri Lanka, Asian Development Bank, 2005-2006 P 18, 2004 September)

The policy is founded on the warning signs that point to increasing water resource problems in Sri Lanka. These problems are the highly variable rainfall and growing demand for water, and degradation of the watersheds, resulting in sedimentation of reservoirs and more serious floods and droughts. Water pollution from domestic, agricultural and industrial sources is contaminating surface and ground water and affecting public health. Ground water is being over extracted in some areas.

ADB interventions will (1) Finance physical infrastructures to provide safe water and sanitation to rural and urban populations to improve their health and nutrition; (2) support environmentally sustainable economic growth, especially in urban centres, and ameliorate living condition of the rural and urban poor, particularly woman; (3) increase the capacity of the government to provide safe water by improving financial and institutional sustainability of the water sector; (4) support tariff reform and establishment of independent regulation, encouraging participation of the private sector; and (5) support decentralization of service delivery to local governments and continue using community participatory approaching in rural area. ADB assistance began in 1985, focussing on water supply and sanitation to secondary town and rural areas. ADB has since provided three loans (817, 1235 and 1575) totally \$ 145 million and, since 1992, provided four Technical assistance (two PPTA and two ADTA) totally dollars 2.25 million.¹⁰

The ADB water policy highlights that planning, development, and management of specific water resources should be decentralized to an appropriate level responding to basin boundaries. The National policy also stated that to ensure a healthy environment and sustainable use of both surface and ground water resources a comprehensive, river basin oriented approach would be used. There is no argument with this.

The fifth principle in the ADB water policy is based on sharing of water resources. It states that water resources shared within and between nations should be allocated efficiently for the mutual benefit of all riparian users. The Sri Lankan national policy states that flexibility of water allocation must be ensured in a way that promotes social harmony and individual decision-making.

Further in the national policy principles refer to the increased recovering of water service costs from, and sharing of water management costs and of basin level water resource management costs between direct beneficiaries. These are the concepts borrowed from the ADB water policy.

4. ADB-funded Water Projects in Sri Lanka

4.1 Upper Watershed Management

Project Name: Upper Watershed Management.

Date Approved: 24.September.1997.

Estimated completion date: 30 June 2005

Loan No: 1545.

Loan Amount: US\$ 17.4 million.

Borrower: Sri Lanka.

¹⁰ country strategy and programme update- Sri Lanka, Asian Development Bank, 2003-2005 P 19, 2002 July)

Current status: 55% completed

Interest: Variable.

Classification: ADB country strategy and program update 2005-2006

Widespread deforestation and intensive cultivation on strip lands have degraded the Uma Oya, Walawe Ganga, Kirindi Oya, and Kalu Ganga upper watersheds, resulting in accelerated soil erosion and increased flooding in rural and urban areas downstream and a reduction in crop yields, farm incomes, irrigation capacity and hydropower generation in the lowland areas.

The project will increase forest cover in the upper watersheds, raise crop productivity and the incomes of small-scale farmers by promoting conservation-oriented farming systems, and strengthen the capacity of, and coordination between, the agencies in charge of watershed management.

Significantly, the project will apply on a large scale forest management and soil conservation measures that have been effective under projects assisted by the ADB and other aid agencies.

The objectives of the project are to rehabilitation, sustainable management and protection of critical watersheds; improve the incomes of project beneficiaries; and establish a medium- to long-term watershed management policy. Some 4,000 hectares (ha) of forests as well as 3,000 ha of timber farms and 1,500 ha of homestead gardens will be rehabilitated and protected through a participatory approach.

4.2 Kirindi Oya Irrigation and Resettlement Project

Project Name: Kirindi Oya Irrigation and Resettlement Project

Date Approved: 1977.

Estimated completion date:

Loan Nos: 324,612,794.

Loan Amount: US\$ 60 million.

Borrower: Sri Lanka.

Kirindi Oya is a river that flows to the ocean in the southern province of **Sri Lanka**. The Kirindi Oya Irrigation and Settlement Project (KOISP) project was started in 1977 with US\$60 million in loans from the Asian Development Bank. The project involved the construction of a large earth fill dam and irrigation canals in the dry zone of **Sri Lanka**. Nearly 5,000 families were settled in the area as part of the project.

The project aimed to provide irrigation for the development of new lands, where communities from other congested parts of Sri Lanka could be settled to farm. The project also aimed to improve existing irrigable lands that were fed by ancient tanks, through the Ellegala diversion scheme constructed in the nineteenth century. The project was intended to create employment opportunities, increase agricultural output, enhance

foreign exchange savings, and improve nutritional standards and income, particularly in the southern part of the country.

Before the settlement scheme, the Kirindi Oya River and the river basin's five tanks provided irrigation water for 10,000 acres of paddy (rice). Cash crops - including vegetables - were grown using ground water. Traditional shifting cultivation was still practiced, as was cattle rearing, fishing and prawn cultivation. Many uses were made of available water, and the basin supported 6,300 families. Agriculture was their main source of employment.

5. Positive and Negative local impact of ADB-funded water projects

5.1 Upper Watershed Management

Upper watershed management project is not success which implement up country. There was lots of criticise against the project and some components of the project has created conflicts among the project activists and community. Very especial examples are Welimanda Uwa paranagama and Haldummulla in Badulla district, for the project failure. Tree planting and conservation project is going badly unnecessary result and overcoming drought and highlighting of the water problems of the villages.

Upper watersheds for the main rivers in **Sri Lanka** (Kalu ganga, Uma-oya, and Kirindi-oya) are badly affected by soil erosion that has taken place due to the cash-crop plantations started in the British period, subsequent population growth and land use for new agricultural development. As there are many adverse changes in the waterways and the surroundings in the area at present, the ADB with the assistance of the Government of **Sri Lanka** has inaugurated a project under the Ministry of Forestry and Environment to conserve the **upper** watersheds of above-mentioned rivers. The ADB-funded **Upper Watershed Management** Project of Ministry of Forestry and Natural Resources has an estimated total cost of US\$ 23.7 millions, which consists of 70% from the ADB, 25% from the Government of **Sri Lanka** and 5% from the beneficiaries. The project started on 5th May 1998 and was to be completed by 31st December 2004.

The investigation done by the Green Movement of **Sri Lanka**, a local environmental organization, shows that the project has many irregularities, including slow project performance, the absence of a consultative process for affected people, failure to implement the participatory fire prevention plan developed by the Provincial Secretariat, failure to integrate the involvement of the village-level government officers (Grama Sewakas) and village-level officers of the government poverty alleviation program (Samudri), field and provincial officers, in the Project even after their request, failure to take action on the reported irregularities that have taken place in the replanting process by officers. There are a number of financial irregularities relating to purchases of the rubberized coir pots, plant material, etc. that is necessary for the project.¹¹

The Project failed to address soil conservation measures. The project failed to reach some important areas but carried out work in areas that are not that important. Some of the findings and observations on financial **management** and policies in the project are also cause for concern. All the above-mentioned activities of the **Upper Watershed Management** Project have led to financial and administrative irregularities. The Project

¹¹ Forest in Trouble, Green Movement of Sri Lanka, 2003

money was used for printing religious books for certain politicians in the area, and constructing roads across the forests to satisfy local politicians. The Project had deviated from its original basic concept and objectives. The rest of the Project staff made a complaint to the authorities about the irregularities, but no action was taken.¹²

The money loaned from the ADB is being utilized haphazardly in an irresponsible way under this Project. The Project **Management** has grossly violated the institutional fundamentals and ethics of the ADB. The citizens of this country are paying this loan and will be paying in the future too.

The Green Movement of **Sri Lanka** requested the ADB to evaluate the present situation by an independent body, and to take appropriate action to control these financial misappropriations under the Project before it is too late. The report prepared by the Green Movement was sent to the ADB Resident Mission, Government agencies and the relevant Minister. This was also raised with the ADB mission who visited to **study** the performance of the project in late 2004. According to the Green Movement no action to date has been taken to solve the problems.

5.2 Kirindi Oya Irrigation and Resettlement Project

Water distribution in Kirindi Oya began in 1986, but there was not adequate water for rice paddy cultivation. Many settlers were given land before irrigation water was provided and then had to be “sustained by food assistance under the World Food Program for longer than anticipated.”¹³

The river was dammed in the wrong place and more people were resettled in order to satisfy needs of the politicians. Both the Irrigation Department and the ADB failed to design the project to cater to the river flow. In most years, not a single plot is cultivated in the new development area. According to the ADB’s OED report, “Destruction of livestock land, shrimp lagoons, and wildlife habitats adversely affected the livelihoods of some groups in the project area and led to increased conflicts between settlers and herdsman.”¹⁴

Mr. Kumarasinghe, Secretary to the Federation of the Integrated Farmers Organisation-Kirindi Oya, said

“We were given only one hope that we will be provided with water for both “Yala” and “Maha” seasons. But today it has become only a dream. Farmers have been indebted day by day and it has developed to an extent that some farmers commit suicide”.

According to the ADB’s evaluation report, the Kirindi Oya project was considered to be politically expedient as the **Sri Lankan** government sought to address civil unrest in the impoverished area and promote “more balanced development.” This same political imperative meant that less expensive project alternatives were not adequately considered.¹⁵

Social tensions and inequality increased in the area because of the project, and “many settlers brought in from outside the project area appear to have obtained their allotment by political influences”¹⁶

¹² Ibid

¹³ ADB, Operation Evaluation Office. “Project Performance Audit report on the Kirindi Oya Irrigation and Settlement Project in Sri Lanka.” December 2000, quoted in “Asian Development Bank: In Its Own Words,” Fried, Lawrence, Gregory, 2002

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Ibid

Kirindi Oya had time overruns of more than 100% and, despite its high cost, was not “relevant” to the development needs of the local population.

*“The expenditure of close to \$ 100 million to benefit a relatively small number of settlers can be considered of limited relevance in the context of overall development needs and poverty alleviation in the southern dry zone”.*¹⁷

The Green Movement of **Sri Lanka** and Oxfam Community Aid Abroad produced the report “Too Little Too Late” in 2001, which addressed the grave problems in the Kirindi Oya project. This report and a letter from the Federation were presented to ADB President Chino during the ADB Annual General Meeting in 2001. Although a response to the letter was received from ADB, there were no steps taken to correct the problems.

Although the Federation had hopes that the ADB will provide a new water source, assistance did not materialize. Mr. Jayaweera says

“Newly settled families have now doubled. Since the population in the project is increasing they have no income for living. There is no education for the children. Although ADB is responsible for this poverty creation we have no access to the ADB”.

Furthermore, our information revealed that land allocation in the Kirindi Oya project was full of corruption. According to villagers, both politicians in the area and the government officers were involved in requiring bribes from the people who were not their political supporters in exchange for their land allocation. This is one reason more lands were cleared and developed than could be irrigated by the reservoir. Although we presented documents and evidence to prove the allegations of corruption in a letter from villagers to the ADB President in 2001, ADB failed to address these issues. They responded to the people’s letter and sent a consultancy firm to the project area, but there were no changes on the ground. While the destruction caused by the Kirindi-Oya project, which was funded more than 25 years ago, still needs to be corrected, ADB continues to provide funds for new projects. The Southern Transport Development Project is a recent example of violations of social, environmental and human rights and inadequate controls to guard against corruption

5.3 Kadapitiya Oya Water Project

The wars on water are not a new experience. But conflict on the scarcity of potable water that has become profitable commodity will be a new experience. Already in certain districts of Sri Lanka there are disputes over water. A good example is the Kadapitiya Oya project, which was constructed under ADB loan for 36,000 families.

According to the Water Resources Board (WRB) after having several dissuasions, farmers requested the project to increase the spill level of Kudawewa and increase the water allocation for “Taniyawalabha” farmer association from 800 acre feet to 1000 acre feet. WRB also said that as this is a ADB funded project it needs 20% community participation. Under that, excavation of Tinipitiya wewa and electrification of Mahayaya anicut was agreed by the farmers.

But farmers say as they found that the agreement was not acceptable, they did not continue it. However without an agreement with farmers organization the WRB has started the construction including the construction of the water intake. They have already completed about 30% of the construction. Construction is done by the Sierra Company.

¹⁷ Ibid

However farmers claim that if the project was started without the farmers agreements. Water Resources Board (WRB) does not need this agreements now. They also claim that if the project implement, there will be no water for 6000 acres of paddy, they will loose paddy seed farm too. Well water will be dried up and since this area is a sandy soil, many other environmental impacts can be predicted.

Mean while possible beneficiaries of drinking water have provided an application to get data on the water requirement. They have been told to give negative responses to all the questions. For example even if the people have garden well with good water, they were asked to give response stating "no good water" .They were told otherwise WRB cannot justify the project.

However everybody agrees that Marawala, Kakkapalliya, Madampe are areas with water scarcity and no body deny the fact the need of dinking water for the people who live in those areas. However they say that they proposed an alternative which was not considered at all. They suggest building a reservoir to collect extra water which goes to the sea for about three months which get high monsoonal rainfall. Also some propose to get water from Daduru Oya. Some people believe if they take water from Daduru Oya, there can have more beneficiaries. Farmers say this project is not sustainable and if they don't listen to them it will be a disaster for both farmers and the so called dinking water users.

Under the project farmers have trained to cultivate "Kakulam" paddy farming which can cultivate paddy with less amount of water. Farmers say even with present situation they have to fill the tank 07 times to get a sufficient amount of water.. How can they ever cultivate if they get less water as an obvious result of this project.

Although WRB has money to investigate the water catchments, research the recharge capacity and for Environmental Impact assessment, it has not done it in this case. No river basin study has been done. People have not been prior informed. No participation of the people at early stages. This is another example the traditional bureaucratic approach which has created another water related dispute in Sri Lanka.

Also there was major irrigation project that was implementing under ADB funds at Udwalawa in Monaragala District,Srilanka. This dam was constructed under full authority with government. There was a large number of people campaigned against the project.

6. CONCLUSION

Life originated in water. As milk of a feeding mother secretes with her love to the child, the nature extends its compassion through the water to the world. From the time the life started on this world there is nothing that is so closely connected to life than water. The lives can exists only for 3 or 4 days without water. There is no alternative to water on this world.

We have polluted and destroyed this precious resource in our day-to-day life, in the field of agriculture and industry. We have destroyed the trees that assist the water cycle. Our destruction of soil has suppressed the ability of it to retain water. All this has paved the way for diminishing the quantity of water and increased the pollution factor.

According to the arguments of the World Bank and ADB water should have a price and it should be managed properly. Therefore, water should be managed by the private sector instead of Governments. The World Bank further argues that once a price is fixed people will use it cautiously. This proposal is not justifiable. Every living being borne to this world has a right for free water the nature has produced. But the World Trade Organization is planning to rob this right from the people by bringing in legislation to make water a commodity.

According to the World Water Commission, WB, IMF and ADB the water has to be managed properly since it is diminishing in quantity and becoming a rear commodity. Accordingly a proper water management system could save 30% of water that is getting wasted. They propose that concreting canals and using pipes to transport water could do this. On the other hand, the Asian Development Bank has invested large amount of money to minimize the water requirement for agriculture and has concentrated more to solve the drinking water problem. This has resulted in developing projects for the sale of water to various areas over looking the villagers who enjoyed it as a common property. All these are acts against the existence of life and people. The aim of these acts is to rob the water that could get absorbed into the environment. The result of this will be the destruction of entire eco system. But this will be hidden from the public. The water will be wholesome only when the environment remains healthy.

Through out the history, the humans who attempted to change the nature were a threat to the natural existence of life. Even at this moment it is being accelerated. We who took the advantages of industrialization are living on a surface of the Earth, which is sheltered by urbanization and technology. The result of this is the pollution, destruction and finally ends up with scarcity of things. What has happened to our water resources is the same. Water crisis is in the offing due the droughts created through the destruction of watersheds and the global warming. However, we have to look at it very carefully.

Even though the present technological solutions for the water problem are in hand, it does not provide the expected results. Many problems have surfaced in projects where such technology was deployed. Especially, the technology used to tap ground water has aggravated the water problems in several areas. The use of water by people was made complicated through the use of bunds and new projects. These projects were capable of drying the rivers that had been flowing for many years, destruction of tanks that were built by the developed cultures and to dry up the underground water table. Main reason for this is the un-sustainability of the present technology and the introduction of irrigation systems inappropriate to tropical countries.

Marginalized people due the present development process are the ones who come under pressure due this problem. Good examples for this are the environmental economic destruction created by Mahavali, Lunugamvehera, and Udawaleve project built with large bunds.

Eighty percent of water requirements are in the hot and dry areas. The future of the agriculture is now rapidly getting linked with the uncultivable land under close supervision. Even though the expectations are high on the methodology of water supply for the improvement of productivity of crops, in the future the catchments will provide bigger service in this regard. However, the catchments are now being destroyed by the major development projects. Further it has become a common practice in the poor third world countries for the politicians to destroy the rain forests. Under these circumstances the ADB is trying to give a helping hand to the poor farmers. This is something like forcibly putting the mistakes of development on the poor. Most of complains on dragging the nature for a crisis is aimed at these institutions.

In view of the vital importance of water for living beings, maintaining ecological balance social equity and economic development, water resources management has become a matter of concern. The success of the National Water Resources Policy will depend entirely on national consensus and commitment to the underline principles and objectives of the policy. The National Water Resources Policy will be followed by an enabling "act" to achieve the desired goal.

7. Alternatives and Suggested Policy Recommendation for the ADB and others

7.1. Civil society organizations suggest the following for the policy makers and politicians

7.1.1. A valid decision must be taken by the Cabinet to the effect that the approval given to the "National Water Recourses Policy and Institutional Arrangements" on March 28th 2000 is no longer valid and a public announcement should be made to that effect by the Cabinet, to remove the suspicions and fears among the people. It would be useful also to name the areas that you have identified in your letter as those needing changes, in this public announcement.

7.1.2. As everybody would agree it is now admitted worldwide that in the process of development there should be openness, accountability, transparency and participation in the planning and decision making on such matters. Therefore, such a process should be initiated in relation to the approaches towards protection and management of water resources in the country. The proposed policy has not been based on such a methodology.

7.1.3. Obtaining responses from a number of selected individuals to a draft with certain revision made to a document that had earlier being prepared through an inadequate and unacceptable process would in no way meet the above basic requirements of an open, transparent and participatory process.

7.1.4. In any effective approach to water management, conservation, protection and sustainable, equitable usage of water, it must be recognized that people, particularly those who have been the custodians of such resources as the springs, the catchment areas, the tanks reservoirs and also the forests and natural environment upon which these resources depend, for centuries should be consulted. Views and experiences of community organizations and indigenous scientist who have rich knowledge in people-friendly and eco-friendly management should be obtained. Also the views and experiences of those who have been neglected so far, including those living in the Northern and Eastern provinces, the farmers, the fisher communities, the people in plantation areas and the low income earners should be provided sufficient opportunity and space to contribute to such a process. Therefore, what is necessary is a revision of the process of consultation and participation.

7.1.5. Such decisions and designing done without such creative contributions people have made and could make, toward water management or any other matter where people's participation is necessary would not be effective and will not be accepted. Therefore, we suggest that the areas identified, as those needing changes should be published in the media with sufficient time for study and discussion.

7.1.6. Such open dialogue has now begun. Suitable approaches, such as a people's commission for wide hearing of people's views, serious study of the experiences of history and experiences of the farmers and other groups on non-polluting forms of agriculture and new approaches in sustainable, ecological agriculture, water conservation etc. should be worked out.

7.1.7. Implications and the meaning of some of the revised concepts such as ownership of water resources by the "People of Sri Lanka" instead of "State ownership" have to be worked out in depth. "Protection of water rights of small users" is another area where detailed arrangements are needed. Preventing added burden to water users by sharing the water management costs need to be adequately worked out. What is more important would be to think whether the overall approach suggested in this process is the most effective way of dealing with the valid objectives envisaged.

7.2 The scope of the water services reform bill

The proposed bill defines its scope to include pipe borne water supplies to both urban and rural areas and public sewerage services. However, it is clear that it will have a major impact on other water users, for it envisages that licenses will be issued giving licensees sole ownership rights to sources of water. In a country where 85% of water is used for agricultural purposes, this will naturally create conflicts. The bill specifically refers to drinking water and "other sources of water", making the point that these are not differentiable from each other.

7.3 Lessons not learnt from other countries

A wide literature is available of the experiences of other countries that have followed the advice of the IFIs in the management of their water services. It seems that these have not been adequately studied by those responsible for drafting this legislation.

Widespread dissatisfaction in Bolivia led first to the abrogation of the water privatization Agreement. This was followed by the licensee suing the Government for damages, even though the real damage caused was to the public. The public had to pay twice over, for the shortsightedness of the Government. It should be remembered that under the GATS, a sovereign government might not go back on the privatization of services without incurring heavy penalties. It is in this context that a broad public consensus becomes essential before embarking on a venture of this nature. In Bolivia, the government itself was overthrown in a public uprising not long after. Public health concerns have arisen in a number of countries including the UK and Canada, and Widespread cholera epidemics in South Africa and the Philippines, after the privatization of their Water services.

7.4 Special cultural and social concerns

It is well recognized that in Sri Lanka there exists a centuries old perception of water as a public Good, not subjected to private ownership. This has helped to sustain our lifestyles over two thousand years, and cannot be uprooted overnight.

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WATER for LIFE, NOT for SALE