

## Whither Water Resources Policy in Sri Lanka- a Perspective.

**Ranjith Ratnayake**

Sri Lanka has over 51 Acts and over 40 Agencies dealing with water, often resulting in duplication, confusion and inaction- fertile grounds for corruption. Though a Comprehensive Water Resources Policy was approved over a decade ago, the policy is in limbo, and no umbrella enabling law was adopted to backstop due to lack of political will. Ad hoc policies based on sectoral needs such as drinking water and non-controversial issues such as rain water harvesting have been set in place. Thus, the main operational framework for water sector operations remains within the ambit of sub sector laws and regulations.

Historically and legally the institutions and laws relating to land administration have as a prerogative determined the use and control of water resources. A rights regime that is land based though accommodating appropriative rights and decision making rights to water has been the basis of water administration.

### **Development of a Comprehensive Water Resources Management Policy and Law.**

While there is wide acceptance of the need for such a policy and law, a series of misadventures due to poor planning assumptions both with respect to developing the policy and law has led to this impasse allowing the *status quo* to continue. Sri Lanka with its historical and long standing focus on irrigated agriculture (using over 80% of developed water resources) has resulted in very strong irrigation based institutions that command a prerogative in its use and management. These power domains were reinforced by political imperatives that for very logical reasons at the time provided for free infrastructure support and services in irrigation. An obvious nexus developed between the politicians on one hand seeking to secure such investment and services to promote their own visibility and enabling the agencies to feel secure, notwithstanding management and operational inefficiencies and failures, due to this mutual dependency. Surveys had shown that farmers were willing to at least meet reasonable O&M costs as they could then demand efficient and reliable services; however these were aggressively countered as measures to drive the poor farmers to penury, while the real reason was that the immense power of free water and services held benefits for both the agency staff and politicians. The power domain had to be retained at any cost, resulting in an environment where the Klitgaard equation: **Monopoly +Discretion- Accountability =Corruption** does prevail. To be fair ,farmer institutions set up since 3 decades ago have to an extent been able to influence management and politicians by virtue of mobilized association and federation ,though sometimes falling prey to being pawns of politicians who by and large feel threatened and discourage independent organizations.

The policy process in earnest started circa 1990 from within the water sector under the USAID project- Irrigation Policy Support Activity (IMPISA) followed by in 1993 with the USAID/ADB study on Comprehensive Water Resources Management (Mosley) by the Ministry of Finance and Planning and then followed by the now infamous ADB/FAO initiatives in 1995 that in reality contributed significantly to this logjam. Predictably ADB supported concepts driven by the usual donor prescriptive perspective and from the Philippine experience; a Water Act, Council, Apex Body etal, set up to be executed by the Ministry of Finance as by now institutional changes worked through the water ministries were considered ineffective and the financial/economic aspects covering investments were of primary concern to donors such as ADB/WB etc. It was the same in the Philippines, with initially the National Irrigation Administration (NIA) being the institutional home for the water sector within the Ministry of Public Works giving way to control by the National Economic Development Agency (NEDA) the economic agency of the Philippines.

Failure of this led to transfer of regulation and control to the Department of Environment and Natural Resources (DENR) ultimately moving a whole cycle of emphasis from development, to cost recovery and on to protection, exactly what seems to be the de facto situation in Sri Lanka. Later to that.

What were then the errors of omission and commission that led to this situation in the Sri Lanka water policy process? From the writer's perspective the following come to mind.

- a) A policy for all time. Unfortunately it was assumed that rather than a policy that will evolve with need, it had to be comprehensive and overarching. Clear and unambiguous Principles of water resources use and management were not articulated, thus a framework for future change was lacking. It was all encompassing and thus without clear principles for future action, suspicious. A step by step approach on issues that need addressing was not considered.
- b) While the concept of a Council or decision making body and a Tribunal for arbitration and conflict resolution appeared logical, that of an Apex body for management (yet to be proven elsewhere) was less so. The management model sought an Authority mandate that would have merely led to another "Command and Control" rather than an "Ecosystem" approach. The former difficult to transform into the latter and adding a further layer to the administrative hierarchy and transaction costs. That competition for the same limited skilled technical resources would lead to further erosion of implementation services to support regulation was inherent. Intrinsic advantages of delegated services and horizontally integrated matrix project management/ coordinating mechanisms that had worked well in this country was to give way to creation of another unitary authority.
- c) While planning of use and allocation of water resources on the hydrological basis of a basin is logical and rational, a fully-fledged management model of River Basin Management (RBM) and River Basin Organization (RBO) though attractive as a concept do not exist as rivers bisect basins and usual political, social and cultural issues and local power domains that exist will not allow for it. Command and Control models mostly focused on infrastructure management and services such as TVA have and MASL exist (NARBO lists 28 such RBO). However the intermediate model of River Management was never considered. Israel with 3 rivers has a River Authority though Sri Lanka is an insular nation at least the national rivers can be so managed at least with respect to river resources. There is no agency currently taking actual responsibility for rivers in Sri Lanka, while the Irrigation Department provides limited allied services such as stream gauging, flood forecasting and engineering services when required.
- d) The proposed law too designed to backstop the policy rather than being an enabling law was seen as a typical punitive regulatory law. With a plethora of laws related to water, addition of more regulations in an accepted environment of poor and sometimes selective regulation and enforcement was unlikely to be helpful to say the least.

### **Present Situation.**

Considering the policy stalemate the reactive response mechanism that operates in the water sector is similar to what happened in the Philippines where water sector policy direction was vested in DENR. Considering the intransigence as it were of the water agencies to reform and collectively agree to policy changes the state and donors support interventions through the environmental agenda. Thus important changes to water resources use and management are routed through environmental or other legislation. While this cannot be faulted in itself in the circumstances, the protection centric perspective of such legislation and regulations can impact on an otherwise a balanced planning and development perspective with conservation and sustainability aspects suitably incorporated, that would have arisen had the initiatives come from within the water sector. The water sector agencies currently mostly focused on their own sub sector programmes have by default led to this situation and have no one else to blame if all initiatives for directing and regulating the water sector are increasingly in the hand of the environment or other natural resources authorities.