

Corruption & Unregulated/Illicit River Sand Mining (RSM) in Sri Lanka.

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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, 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. Colonial revenue districts/provinces (non-hydrological) determine the water agenda. Though water courses and rivers generally form the basis of such boundaries there are many exceptions. Even in the case of water courses and rivers it is the centre of the water course or river that serves as demarcating boundary. This sometimes has caused what would be considered hilarious situations, though tragic from a water resource management perspective. For example if sand mining is banned in one district/province relating to a river, exploitation may happily continue on the other side (half of the river) falling within another district/province.

Licensing concessions for sand mining till the latter part of the last century was within the ambit of the District Administration. With increased demand on sand, sometimes exploitation without concern for the river environment as whole, led to setting up a single regulator and licensing authority the Geological Survey and Mines Bureau (GSMB) which had hitherto looked after aspects such as mines and resource surveys.

At first sight the decision appears rational from a resource management perspective. However, making the GSMB the sole authority with respect to extraction and transport of river sand created a monopoly situation. This was compounded by the fact that regulation which in most other cases is delegated to the local District Administration Head did not occur and GSMB set up its own network of out posted field staff to monitor and regulate RSM. Thus lower level functionaries with no oversight arrangement (check and balance) by the district administration that comprised senior and transferable officers, led to situation where licensing of sites and transport was often subject to political and other pressures and monitoring and regulation least effective. The Tsunami imposed a major draw on river sand and the concomitant building boom saw unregulated and illicit RSM reach unacceptable levels. The adverse impacts of RSM were now being felt and lowered water tables affecting local agriculture and rural livelihoods, adverse impacts on drinking water supplies and issues of infrastructure damage by heavy vehicles and other social issues led to public outcry. The involvement of several environment groups and SLWP in creating awareness in communities and mobilizing them under AWP helped institutional responses to be made and local responses up streamed to provincial and national level. Public outcry and public interest litigation meanwhile helped communities seek help of the judicial process to intervene. Sand mining was banned in two rivers that were heavily mined (Maha Oya and Deduru Oya) and Mechanized Mining from rivers was banned forthwith on a decision by government.

The bugbear of a monopoly authority and regulator GSMB and poor enforcement by Police (assumed as highly amenable to graft) was yet mainly unresolved. To be fair the GSMB was rapidly expanding its field staff and was through a learning process setting up checks and safeguards to reduce corruption and illegal exploitation. The police were however left to their own devices.

It was always the conclusion of a few of us in IWRM that ***the problem is often part of the solution***. Since 2006/7 SLWP and NetWwater had carried out a series of awareness programmes for police personal esp where rivers were being hugely exploited through RSM, under its Goal 3 efforts with Core funding from GWP. With considerable impact and interest shown by the police authorities, a proposal was submitted in 2008 to WIN which was approved and allowed this activity to be conducted as programme to cover both the regulators and enforcers. It became increasingly clear that the perception of police corruption especially with respect to RSM was somewhat exaggerated. While corruption was some part of transactions within the national ethos, it was more a lack of awareness of the importance of conserving natural resources, the lack of understanding of the laws and regulations pertaining to water (beyond Penal code) and lack of a forum to discuss RSM issues with the district/local administration and GSMB that was absent, till this programme came on board. In 2011 Police Headquarters again requested SLWP to brief the Police Special Task Force (STF) that has been specially charged with conservation of natural resources (STF is unlikely to be influenced by local political and business interests unlike the local police as they directly come under Police Headquarters and Defense Ministry) and several programmes conducted have had very good results from an enforcement perspective. 8 Important RSM/ Natural resources conservation districts have been covered to date.

As river sand use is usually outside the basin in construction centres unlike most water resources use, the policy domain outside the purview of local communities, police and even the regulator GSMB can yet be seen to take decisions contradicting standing policy and rules. Recently a decision was made (purportedly to reduce the high price of river sand) to remove all restrictions to transport including transport in the night which was not allowed under regulations. Thousands of cubic metres of sand moved to construction centres (only with slight reduction in prices), but heavy damage to extraction sites. Fortunately due to public interest litigation, this was stopped by the courts and the regulator was informed to have the law amended first if this was to be given effect. An embarrassed GSMB which undoubtedly caught in the middle is now faced with issuing contradictory regulations. Often RM even if instituted would be subject to such policy reversals that can undo many years of good work in conservation and maintaining sustainability of river resources.