

## \*INFORMATION SHEET 4

# Sri Lanka: Water Corruption; Are regulation/ enforcement staff part of the problem or part of the solution?

Experience from 3 Provincial, 4 District / Divisional Dialogues with enforcement staff on River Sand Mining

### Unregulated / Illicit River Sand Mining (RSM)

Due to sand demand for construction trebling over the last two decades with inability of our river systems to cope sustainably with demands, illicit mining on an extensive scale has seen severe damage caused to livelihoods, water supply schemes, agriculture systems and the environment. With sand prices trebling, some attempts have been made at river sand substitution without much impact, thereby establishing illicit RSM operations on an organised scale often with tacit or direct political support as payback for political contributions. Currently over 35 rivers are subject to illicit RSM with over 50% of the estimated 7 million cubic meters of annual sand demand from illicit operations.



### RSM Governance

The decentralised system of licensing and regulation of sand mining that existed was viewed as the reason for rampant exploitation and the state response was to substitute it with a centralised authority with overall control of the mining sector able to operate with a national focus and outside local pressures. The Geological Survey and Mines Bureau (GSMB) was established in 1993 under the Mines and Minerals Act of 1992 to regulate the exploration for and mining of minerals as well as transport, processing, trading and export. This reduced the accountability perception of the district and divisional administration placing the entire burden of oversight and regulation on a small under resourced essentially technical unit with little experience in broad based administrative supervision. Starting off with two small regional

units now being expanded to ten with a lack of intent or provision to delegate regulation to the local state administration, provided a vacuum that was exploited for illicit operations. The level of seniority of the GSMB regional staff was much less than that of the existing district staff and lacking the layers of hierarchy that ensures checks and balances, has resulted in its staff being exposed to a greater extent to local political and other pressures, the very intent of

government to avoid by centralising operations in the first place. Allegations of insider connivance also prevails.

### Role of Enforcement Staff.

Though the issue of licences for site operations are based on a system of recommendation from local authorities, there are gaps in the system that are easily

exploited as an interactive consultative process to secure community acceptance is lacking. Weaknesses in the issuance processes, in estimation of potential outputs and lack of regular monitoring of sites has resulted in weak pre-emption of possible corruption. Dependence is therefore on raids and police action to stop illegal activities taking place. Thus a greater burden is placed on the police than otherwise to check illicit RSM. New potential interface for corruption is also evident.

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Sri Lanka Water Partnership

“ Promoting Integrated Water Resources Management In Sri Lanka”

## **Corruption in enforcement**

The general perception of enforcement is that it is an area subject to higher levels of corruption. The tendency of most NGO have been to circumvent this issue through community mobilisation , media exposure and lobbying for policy changes. SLWP which works in a non activist mode and the principle of providing forums for all, initiated a dialogue with police and other enforcement staff in Matara in the Southern Province in late 2007 on RSM with startling results. Awareness of the issues involved enabled all sides to appreciate the roles of enforcement staff especially the police who are the public face in control of illicit RSM, due to weaknesses of the systems in place. While there was acceptance that incidents of corruption take place at all levels of interface, the feeling was that police were caught up in a process that was not anticipated and forced on them. The Provincial and other awareness programmes undertaken under the WIN Programme on RSM helped greater understanding within the police of the need for proper enforcement and in others of an understanding of weak points in the regulation process, which if corrected would lessen the burden on the police and thus opportunity for corruption to take place. Police and other enforcement staff participation in the programmes has been overwhelming confirming that a vacuum has existed for some time.

## **Lessons Learnt**

Enforcement Staff are as much part of the solution as they may be seen as part of the problem. Without adequate checks and balances centralized control no better (or worse) than delegate/devolved functions.

For efficient monitoring and regulation not only in house, but all existing technical and management resources of the state should be mobilized.

High Opportunity cost to police in dealing with Illicit RSM, other crime areas affected .

Police merely seize vehicles and sand as currently persons engaged in illicit RSM cannot be taken into custody as not offence under Penal Code ( being addressed).

Currently no provision or facility exists for small individual users. (less than one cube) to extract from water courses without going through the centralized licensing process, driving bona fide individuals in rural locations to resort to illicit mining for even very small individual needs

## **Public Interest Litigation.**

Resolution of RSM issues through punitive means has been further compounded by the fact that frustrated communities need to seek legal redress as a last resort with resolution at court level. This further reinforces role of the police in correction, when in fact proper regulation and monitoring by the relevant agencies as preventive measures, would have been more efficient and cost effective rather than providing an environment conducive to malpractices and dealing with these issues as breaking of the law at a later stage.

## **Some Strategic Options**

Correction of systemic institutional weaknesses and strengthening regulation and monitoring more important than pursuing ex post illicit RSM. ( prevention better than cure).

Where adequate technical competence is lacking in GSMB, vast resources of institutions such as Irrigation Department, Mahaveli Authority available centrally and locally should be utilised.

Less malpractices if out posted stand alone offices with junior staff are supervised through existing administrative hierarchy at local level, rather than exclusively from centre.( checks and balances with greater transparency).