

Abstract

Collective Action for Protection of Water Rights - The case of Thuruwila , Sri Lanka
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Irrigated agriculture, was the mainstay of the hydraulic society in ancient Sri Lanka . A two thousand five hundred system with its technical excellence was fittingly referred to as the “Granary of the East”. Multifunctional water resource development systems in Sri Lanka supported human livelihoods, while fostering a strong sense of community ownership of natural resources.

The Mahavamsa, the premier historical chronicle in Sri Lanka enunciates the principle of common property resources, equity of access and state trusteeship .The development activities fostered by the State and individuals recognised the principle of coexistence between man and nature. Most ancient Sri Lankan irrigation systems, which provided the main source of livelihood for the people, were thus built for “ *the benefit of the country* and “*out of compassion for all living creatures*”.

Intersectoral competition for water in modern times have caused traditional communities depending on irrigated rice cultivation confront stresses related to loss of traditional water rights to urban and industrial demands. To illustrate the scope of this challenge, this paper proposes to present the case study of a water transfer out of Thuruwila, a Purana (Ancient) village with a well endowed reservoir, in the Anuradhapura District in the North Central Province of Sri Lanka. More conservative in its social norms than the modern irrigated settlements nearby, the *Purana* village of Thuruwila has a close knit kin group, who maintain an ongoing tradition of agricultural rituals and festivals and derive a strong sense of identity from irrigated rice cultivation, their main source of livelihood.

Anuradhapura, the ancient capital of Sri Lanka and a venerated center of Buddhist pilgrimage, faces periodic shortages on its water resources due to heavy influxes of more than one million pilgrims during major Buddhist festivals. In an attempt to meet the increased demand the National Water Supply and Drainage Board (NWSDB) failing to increase the volume of extractions from existent sources, sought to tap Thuruwila, a medium sized reservoir, using financing from the ADB to supplement the Anuradhapura water supply.

The agencies involved finalized the proposed water transfer without adequate community consultations. Politicians and water professionals were the main decisionmakers in this process. When this was disclosed, opposition to the project arose due to the perceived loss of livelihood as well as loss of decision-making rights of the community over what they consider to be their water heritage. Supported by a network of environmental NGOs, Thuruwila then organized itself to mount a protest campaign and took its case to the Human Rights Commission and later, to the Supreme Court. Thuruwila was able to obtain an order upholding its right to irrigation water. This case is a significant illustration of collective action and judicial activism related to water rights in Sri Lanka.

This paper is based on work carried out as part of Regional Study of Water Transfers out of Agriculture for IFPRI.

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“They took our water – what are we to do?”...

Peasant lament in *Fontamara*, by Ignazio Silone

1. Introduction

Irrigated agriculture with a history and a tradition of over two thousand years supporting rice cultivation is the main source of livelihood in the North Central Province of Sri Lanka. The technical excellence of the ancient irrigation systems that supported rice cultivation earned for its society, the term “hydraulic civilization”, and the country was once fittingly referred to as the “Granary of the East”.

The hallmark of irrigated rice cultivation in Sri Lanka at that time was its closely woven networks of water-use systems, integrated with adequate environmental reserves, such as well-protected watersheds and catchments, wetlands and estuaries. Each cascade of reservoirs along a river had specific areas for cultivation, distinctly separated from areas for conservation of forests , wetlands and watersheds. Each cascade provided water for rice as well as other food crops, for household animals as well as for wild life, for crop production as well as for food processing.

The development activities fostered by the State and individuals in ancient Sri Lanka recognised the principle of coexistence between man and nature centred on Buddhism. Most ancient Sri Lankan irrigation systems, which provided the main source of livelihood for the people, were thus built for “ *the benefit of the country* and also “*out of compassion for all living creatures*”. The Mahavamsa, the premier historical chronicle in Sri Lanka enunciates the principle of common property resources, equity of access and state trusteeship as follows: “ *O great King, the birds of the air and the beasts have as equal a right to move and move about in any part of the land as thou. The land belongs to the people and all living beings; thou art only the guardian of it*”. This was in circa 223 BC.

In modern times, the size and complexity of competing water demands have compounded this pattern of smooth co-existence; rural communities depending on irrigated rice cultivation increasingly encounter the stresses of intersectoral competition . The case study of Thuruwila, a village in the Anuradhapura District in the North Central Province of Sri Lanka, which mobilized itself in collective action to meet a crisis related to an intersectoral water transfer, illustrates the scope of this challenge,

2. Background

Many of the ancient reservoirs fell into disrepair with the fall of the Sinhala kingdoms in the Dry Zone of North Central Sri Lanka but some continued to support cultivation without a break upto the present times. Many small village reservoirs (known as Purana Wew – ancient reservoirs) with their own watersheds, viewed and utilized as a common property resource, continuously supported communities known as Puranagam (Ancient Village). The operation and maintenance of the tank was seen as the collective responsibility of the community .The leadership in organizing rice cultivation was

undertaken by the Velvidane (cultivation manager who was also responsible for water delivery).

With the state sponsored thrust for agricultural food production during British colonial period and in the early Independent Sri Lanka, the irrigation systems in the Dry Zone, both large and small, saw resurgence. Ancient tanks such as Kalawewa were rehabilitated, new reservoirs such as Gal Oya built; the surplus population from the Wet Zone were settled in irrigation settlements in the North Central and Eastern Provinces.

Recently some of these irrigation reservoirs have been tapped for non-agricultural uses, sometimes for industrial use but more often to provide drinking water to adjacent urban settlements. The demand for water, continues to grow especially in the urban context in the Dry Zone where there is high seasonal variability in water availability.

Due to these escalating non-agricultural demands the agricultural sector, and in particular the major water user, irrigated rice production comes under growing pressure. There has been little recognition of this increasing phenomenon and its possible short and long term impacts on rural communities in Sri Lanka. Periodically reports of community protests against proposed water transfers out of agriculture have appeared in the media. Ideally such water transfers should be planned in a manner that the rural and urban groups both be benefited while minimizing negative impacts on prior users. In a situation where prior consent is not sought and consensus building through community consultations is ignored, such a water transfer may amount to expropriation of rural water rights and lead to major changes in affected communities such as loss of livelihood, related poverty, rural –urban migration and resultant urban congestion.

Water transfers out of agriculture is not a phenomenon limited to Sri Lanka but is increasingly experienced in the neighbouring subcontinent. In 2002 International Food Policy research Institute (IFPRI) supported by Ford Foundation undertook a regional study of water transfers out of agriculture in Nepal, India and Sri Lanka. In preparation for the IFPRI study, a number of options where impending water transfers had given rise to community tensions were examined for the selection of a study site. Thuruwila, a medium sized tank of 5200 ac ft in the North Central Province, identified to augment drinking water supply to Anuradhapura was eventually selected.

3. Study Methods.

Both primary and secondary information collection was used for this study. The study used a range of techniques focusing on involving a cross section of stakeholders connected to the planned transfer.

Site selection -

This study was originally planned as a joint activity with the Dept of Irrigation; thus Thuruwila was selected for this study in consultation with the Dept of Irrigation. The media highlighted several other irrigation systems, which had experienced similar situations with farmers protesting over concerns for livelihood security in view of an

impending water transfer. However the Thuruwila site was selected in view of its importance due to its proximity to Anuradhapura, the regional hub of the North Central Province.

Research Team - The study team was to consist of a principal researcher working with two designated officers from the Irrigation Department (ID). This group attended the Study inception workshop in Tamil Nadu Agricultural University (TNAU) Coimbatore along with the Director General, Department of Irrigation (ID). The ID officers were instrumental in facilitating the initial field level activities of the research team in Thuruwila as well as in collection of secondary data from the ID. However, the ID officers were however placed in a difficult position when subsequently, the Thuruwila community filed a petition claiming infringement of their fundamental rights by the project proponent, the National Water Supply and Drainage Board (NWSDB) in the Supreme Court (SC). Though there was no official withdrawal from the study, the Department of Irrigation felt that they could no longer take an active part in the study. There was a corresponding decline in the interest of field level officers of the ID as well and access to some information thereafter became problematic.

The field team for the study consisted of two female research officers and a male research assistant working with the principal researcher. Three other members of the community, male and female, worked intermittently as field assistants especially for the Census of uses and users.

Data collection - Data collection was carried out from April 2002 to July 2004. The team members were not resident during this entire period but made periodic visits. During some periods (eg the census of users and census fisheries carried out in September 2002) the entire team was present in the field. However links were maintained with the main actors and community volunteers through periodic visits and frequent communication. The last visit to Thuruwila prior to finalizing the End of Activity Report was carried out in July 2004. The Census about the uses and users of Thuruwila tank and the Fishery census were carried out from 01st to 7th of September 2002. During this period the most of the surrounding tanks and canals run dry once the Yala (Dry Season) cultivation season comes to an end. Two researchers and two assistants from the village maintained a constant presence on selected sections of the tank from 7 am to 7 pm for the Census . (Annexure 1 Census)

Media Scan- Since it was felt that intersectoral conflicts related to water transfers out of agriculture were becoming an emerging issue in the rural sector of Sri Lanka, a full scan of new items appearing in Sinhala language newspapers and a partial scan of English newspaper were undertaken in Jan – Dec 2002. From that point onwards a limited scan was carried out intermittently.

Participant observation - During this study, the entire team lived at different times in the village or when lodging was not available within the community, in the vicinity. Detailed and repeated interviews were carried out with primary stakeholders in the affected area about their livelihood and their perception of the impending water transfer and its impact

on the community. Special focus group interviews were carried out with the various users of Thuruwila tank –community and religious leaders, farmers, fishermen, and women’s groups. Information was collected by participating in the meetings of the Funeral Assistance Society (*Maranadhara Samithiya* - FAS) and Thuruwila Farmer Organization (FO), the two most important societies in the village. The FAS is of utmost importance to most Sri Lankan communities – the Sri Lankan funeral customs makes community support from the community essential in times of bereavement. The FO usually consists of landholders only. Therefore of the two organizations, the FAS is more broadbased as it includes almost all the families in the community. The organized community movement against the proposed water transfer known as *Thuruwila Surakeeme Vyaparaya* (Movement to Save Thuruwila Tank - TSV) originated from the strong community base of the FAS.

Census of Users and Uses -During this Census three selected sites around the tank were covered from 7am to 7 pm and data obtained on the number of users visiting Thuruwila per day, gender, the uses of tank, the distance traveled to the tank, time and date. (Annexure 1 Census)

Census of Fishery - A week long Census of the fishery on Thuruwila tank carried out an assessment of 4 out of the 5 main landing sites on Thuruwila tank.

Group discussions -Those who were engaged in activities regarding Thuruwila, for example fishermen, youth, Funeral Assistance Society, women’s group, landless agricultural labourers, *Samurdi* recipients (allowance for low income families), possible oustees in nearby villages were met in focus groups for discussions.

Individual interviews with key informants-Respondents for this exercise were chosen in such a way that they represented all the sectors of the community. The village leaders, supporters and opponents of the water transfer, state officers, elected representatives, persons whose land was earmarked for inundation, those persons whose livelihood was the harvesting of lotus, extraction of sand and fishing were selected for these discussions. Among them were male and female leaders of Attam (reciprocal labour) groups whose members also carry out land preparation and paddy harvesting on contract basis.

Secondary information. - Reports available from state agencies on the proposed transfer, and correspondence regarding this project in the area, legal documents and media reports were collected. A listing of traditional ceremonies and folk chants with historical references to rice cultivation was part of the community discourse to support its claims.

The number of stakeholders resident within and outside Thuruwila interviewed for this study is as follows-

Table 1 No of Persons interviewed for Thuruwila study

Category	No
Govt Officers	24
Politicians	4
Systems level Farmer Organization representatives	3
Non governmental organizations	3
Community	189

This study was complicated due to the fact that it started up at a point where the community was negotiating with the agencies, especially the NWSDB to effect changes in the project while contemplating the possibility of legal action to obtain a court order to stop the water transfer. Soon after the community went to the Human Rights Commission with the issue and subsequently the TSV filed a case in Supreme Court. The research team faced a major problem as the Department of Irrigation, which was to undertake a study of the hydrological implications of the project, opted to stop working on the study even though no official withdrawal statement was made to that effect. The support from the regional Dept of Irrigation too correspondingly declined.

The research team encountered mixed reactions in the community once the case was filed. Some sections of the community viewed the research team with suspicions as “spies of the Water Board” since the study had started up after the protest movement started gathering momentum. Others thought that they were supporters of the Dept of Irrigation since the ID had facilitated the first meeting of the Research team with the community in the village temple. The relationship with the NWSDB project staff too became problematic as some of the junior NWSDB project staff tended to see the research team as an intrusion, which opposed their project. After the SC case was concluded, it seemed to be a general closing of ranks by officers’ of all agencies against the dissidents of the TSV since they had actually dared to pose a challenge to the bureaucracy.

This study is therefore presents the different view points of a group of stakeholders engaged in a particular critical moment in a conflict as regards use and control of a water resource. There is no attempt to present opinions and judgments, which support any one particular group. One has to be mindful of the fact that the tense situations encountered by the community and officers due to the heightened atmosphere of the SC case may have hindered total objectivity of response in some cases. It certainly did act at times as a constraint to reaching all the stakeholders.

4. The Pre-Transfer Situation

Anuradhapura, the regional center of the North Central Province (NCP), the ancient capital of Sri Lanka and a venerated center of Buddhist pilgrimage, is situated amidst a complex network of ancient irrigation reservoirs. In modern times, these reservoirs have been tapped for other purposes as well, mainly for urban water supply. For administrative purposes Anuradhapura has two sections the Old City (known as “Pooja Nagaraya” or

Sacred City) and in the modern Anuradhapura New Town. The entire area had formerly been covered by the ancient city and has numerous excavated and unexcavated archeological sites .

The modern city of Anuradhapura currently has a population which has grown from 71,893 in 1981 to 84171 in 2002 (Anuradhapura Urban Council 2004). As it is a major pilgrimage centre, twice a year on the months of May (Vesak) and Poson (June) on Full Moon(Poya) days, Anuradhapura has respectively upto 1.3 to 1.5 million pilgrims visit it . Poson Poya celebrates the establishment of Buddhism in Sri Lanka with the visit of Ven Mahinda Thero, son of the Indian Emperor Dharmasoka. His sister Ven Sangamitta Therini who initiated female ordination in Sri Lanka, later brought a Sacred Bo sapling (from the Sacred Bo tree, under which the Buddha attained Enlightenment) to its current site of veneration. Therefore it is possible to say that apart from the Sacred Temple of the Tooth Relic in Kandy, Anuradhapura is the most important centre of Buddhist worship in Sri Lanka.

The large influx of pilgrims is a source of income to the town but also poses a major strain on its resources, especially water resources since both pilgrimage peak periods occurs in the Dry Season; Anuradhapura gets rain only from the North-East monsoon in October- December.

During the past 20 years due to the civil conflict in the North and East of the country, Anuradhapura has become a major staging post for the armed forces, thereby increasing its permanent and transit population. It now has 6 major camps for armed forces. Water supply to armed forces is unmonitored and free.

With the decay of the Sinhala kingdoms of the North Central Province and the transfer of the capital to the South, the ancient hydraulic civilization of the North Central Province decayed but small tank centred communities in Purana Gam continued to cultivate the land. Therefore most irrigation systems of the Purana Gam (ancient villages) have an unbroken supportive tradition of ceremonies related to paddy cultivation. The community under the leadership of the Vel Vidane, which position was hereditary until the Paddy Lands Ordinance of 1956 abolished it, carried out the maintenance of the tank and water management.

According to community sources, Thuruwila has a much longer history than other Purana (ancient) reservoirs since it is the fourth reservoir to be constructed in Anuradhapura, is referred to in the Sri Lankan historical record *Mahavamsa* as “*Tharaccavapi*”, with a probable date of construction in the 6th c BC. Rehabilitated by the British government in 1882, due to its excellent own catchment, the Thuruwila tank has failed rice cultivation only once in living memory (in 1976). In 1946 under the Irrigation Act No 32, Thuruwila was listed as a Medium sized reservoir and vested in the state. The maintenance of the tank was then handed over to the Dept of Irrigation, for the first time divesting the community of its sole rights over the tank and use of its waters. Even at the time of the study, the community elders spoke with bitterness of this transfer of ownership as a “takeover of our heritage “. Since legally, the ownership and maintenance of the tank passed from community to the state when the water transfer was first mooted,

the negotiations were carried out between the NWSDB, the project proponent and the Dept of Irrigation, the current “owner” of the tank. The community was totally sidelined.

In Thuruwila, the historicity of the tanks and its origins is later seen to be a source of community pride and inspiration for the Thuruwila Surakeeme Vyaparaya (TSV), which used its history to strongly uphold their water rights. That Thuruwila was part of an ancient settlement seems undeniable even by casual observation of the site.

Archeological remains in the area include part of a polished stone rampart on the bund, said to be a palace (Paththirippuwa); this was partially damaged when the bund was raised in the late 70s. Remains of a cofferdam in neighbouring Damanawila and the remains of an ancient vihara in Mandugala, now destroyed by treasure hunters, also testify to the antiquity of the site.

The Thuruwila tank as with many other Sri Lankan irrigation systems is multifunctional. It provides two seasons of rice irrigation and supports permanent vegetation such as coconut. It provides water for drinking, washing, hygiene and rearing of livestock. A census of the tank carried out by the IFPRI study team indicates that the uses of the tank are varied and the users themselves are not confined to the community but also include the population of surrounding villages, up to 12 kms away, as well as families from Anuradhapura itself. (Annexure 1) Fishing, collection of lotus flowers and roots, and sand harvesting are among the less recognized uses of the tank, which serve to provide a slender livelihood to the landless, marginalized poor.

Thuruwila as yet retains many characteristics of Purana Gam. The Purana Gam paddy fields are named unlike numbered tracts in the modern irrigated settlements. Thattumaru and Kattimaru (rotation of right of cultivation and plots among the kin group) is a special characteristic in a Purana village designed to keep the family landholding intact by maintaining ancestral lands as one block, while facilitating equity in usage among the family members. The closeknit kin group, which goes beyond cultivation purposes is a special characteristic in a Purana village. Upto modern times, it had its own community decisionmaking mechanism known as the *Variga Sabha* which promoted cooperation among the extended family and ensured conflict resolution through consensus. Attam (reciprocal labour groups) are as yet common in Thuruwila, usually among kin groups though rare in irrigated settlements. This long history of social cohesion and cooperation is seen as the main reason that there was no physical violence experienced inspite of the rise in tensions in Thuruwila during the crisis.

More conservative in its social norms and more dependent on irrigated agriculture than than the modern irrigated settlements nearby, the *Purana* village of Thuruwila maintain an ongoing tradition of agricultural rituals and festivals from which they derive a strong sense of identity. Rice cultivation in Thuruwila as in many other irrigation-based systems in the North Central Province commences with rituals including the Kiri Ithireema Ceremony (Ceremonial Boiling of milk on the tank bund- this is to ensure the prosperity of the harvest). Another pre cultivation ceremony in Thuruwila which is less commonly seen in rural Sri Lanka is the Mutti Nameeme (Cleansing of Vessels) carried out before the Kiri Ithireema and Aluth Sahal Mangalyaya (harvest festival) The historical references and chants used in the ceremonies play an integral part of the supportive

discourse used by the community in Thuruwila to support its Purana Gam identity and by extension, establish its ancient water rights.

Neighbouring villages, mostly named after a cluster of feeder tanks (Vettankulama, Kaluarachchigama, Rotawewa and Siyambalagaswewa) acknowledge the preeminent position of Thuruwila; most of these outlying villages are considered by the Thuruwila group to be inferior in caste, communities with whom connections such as kinship through marriage is rare. The proposed transfer affects these communities too, perhaps even more than Thuruwila due to possible inundation. But perhaps due to the prevailing limited connections between communities they did not join the Thuruwila protest, except on one occasion.

Table 2 Demographic Data

Place	Population	Families	Women	Men
Siyambalagaswewa	131	39	65	66
Vettankulum	458	147	227	23
Rathmalwetiya	69	17	45	24
Selesthimaduwa	453	135	233	220
Rotawewa	264	85	124	140
Mawathawewa	425	133	238	187
Thuruwila	1800	400	907	893

Like many irrigation systems in Sri Lanka, Thuruwila had been a community-managed system with a hereditary Velvidane until it was vested in the state. The Velvidane family continues to be involved in water management through the now operational Farmer Organisation (FO). At the beginning of each cultivation season, a Kanna (cultivation) meeting is held with all farmers with the Divisional Secretary and Irrigation Engineer in attendance. This is attended by landholders who decide on cultivation pattern, date of water issue, management of water rotations, crop type etc. Earlier these decisions were the sole prerogative of the community--but partial loss of decision-making rights was experienced with 1960 Agrarian Services Act, which reclassified Thuruwila from a Purana tank to an Irrigation Services reservoir.

The main source of livelihood for Thuruwila and the adjoining villages is paddy cultivation. Thuruwila incomes have been much more closely aligned with paddy cultivation than other irrigation systems in the region because of the tank's ability to constantly support two full cultivation seasons(Yala and Maha). Some income is also derived from remittances from garment factories and overseas Eastern employment for women; especially girls tend to migrate for work in garment factories prior to marriage. Some younger men migrate seasonally to find work in urban areas in between peak cultivation periods.

Table 3 Land usage in Thuruwila

Land	AC
Privately owned land	188
Temple land	3
Housing development authority	35
Water project	12
Paddy fields	AC
Farmed by the owners	90
Tenant farmers(Ande)	25
Rotating cultivation (Thattumaruru system)	63
Swidden (Chena)land	335
Paddy field	178
Agricultural land	513
Govt land owned by the Divisional Secretariat	225

Those landholders who do not cultivate their own field due to some reason (employment outside village, lack of labor, shortage of ready cash) usually give out their fields to be worked as “Badhu” (Cash lease which at the time of the study was SL Rs. 3500 – 4000 for an acre for one season.) or on “Vee Poronduwa” (Lease payment in paddy at a fixed payment of 20 – 25 bushels for an acre per season). The leasees are usually landless persons from the village or members of kin group. Sometimes adult children could lease out lands from the parents. Landless persons derive considerable income through leases and agricultural labour even though they have not been recognized as stakeholders/farmers for purpose of negotiations in relation to the water transfer.

Apart from irrigated rice cultivation, the second most important source of livelihood is fishing especially for the second and third generation who live in the villages that are situated around Thuruwila tank. A substantial group earns their living through fishing, which is also an important source of nutrition for the community. It was noted that though the NCP villages often have high levels of child malnutrition, Thuruwila does not fall into this category.

The Thuruwila fishery was intensely studied for 6 days during the census of fish catch. The fishermen lay their nets twice a day – one group at about 6.30-7.30pm and the other at 6.55-8.30in the morning. Those who fish in Thuruwila tank use the nearby fishing ports - Thuruwila, Nellikulum, Siyambalagaswewa, Rathmalwetiya and Dembatawewa. The majority of fishermen are however from Thuruwila.

The fish catch varies from time to time differs according to the rainfall, wind and other weather patterns. The upper part of the lake yields a higher catch than in the lower part. According to their experiences the amount (in kg) that is collected by each boat according to the months are as follows.

*February-May	35-40	
*November-January	8-10	
*June-September	4-5	windy season
*October-December	5-6	rainy season

About 500-600 people fish from all surrounding areas but the number of fishermen declines according to season and availability of fish. Therefore when fish catches are reduced in the windy season, only about 100-150 persons go on fishing. Even this number changes according to the circumstances. In the lean season, fishing is merely for consumption needs and not for sale. Often these fishermen who are the landless “second sons” from the poorest families also get an opportunity to cultivate paddy fields periodically under the Thattumaru system. But they are not recognized by the Farmer Organisation.

Gathering of lotus yams as well as lotus flowers (to be sold at the Sacred Bo Tree in Anuradhapura) provide a livelihood for the very poor while seasonal sand extraction for building purposes is another source of income.

5. Nature of Proposed Transfer

The Anuradhapura water supply project was initiated in 1950 and expansion was expected within a period of 20 years, 1992. Nevertheless financial constraints posed delays. Finally in 1993, support was obtained from Asian Development Bank and the French government. The new water supply project for Anuradhapura urban and sub-urban areas which experience an annual six month drought was intended to be a total solution with the sub-urban areas getting most of the planned benefits. The National Water Supply and Drainage Board (NWSDB), which had hitherto supplied domestic water to the city of Anuradhapura through extractions from Nuwarawewa and Tissa Wewa, made several attempts to meet the increased demand by increasing the volume of extractions, but failed to get agreement due to objections from the Department of Irrigation, which repeatedly expressed concern on possible adverse impacts on farmers.

Water in most of the wells in this area has a high percentage of fluoride and is very saline in some areas. Therefore it was seen as important to utilize a surface resource for the augmentation. Rather than promoting small separate projects for a particular area, the NWSDB felt it was more appropriate to initiate one permanent, durable and complete water supply project in the Anuradhapura area.

The coverage at present in Anuradhapura is as follows- domestic connections 56% commercial establishments- 8% and governmental institutions 36% (including army camps for which water supply is unmonitored and free). The coverage of the expansion was as follows -

Table 4 Population and coverage

	Current	Prospective
Beneficiaries	56,000 (This 56,000 is our of the total population of 120,000)	156,000
Hours of supply	8 – 12	Throughout 24 hours

The project was planned to augment current supply as shown below.

Table 5 Proposed Extension of Water Supply

	Current amount MGD	Prospective amount MGD
Intake of Nuwara wewa	2.5	2.5
Intake of Tissawewa	1.0	1.0
Wells in Mihintale	0.2	0.5
New intake in Thuruwila	-	4.6
Total	3.7	8.6

In 1994, a window of opportunity for reaching inter-agency agreement on supply of water to Anuradhapura was presented when the ID suggested the use of a medium sized tank sited 20 kms away from Anuradhapura , Thuruwila Wewa, as a storage tank. It was proposed that Thuruwila tank be used for temporary stocking or excess water from the large Mahaweli River project, which would release a daily supplementary intake of 25,000 cusecs. Thuruwila tank was thus to be replenished by water from the Mahaweli project and its size was to be enlarged (bund raised by two feet) to accommodate the amount of extra water.

This solution would it was felt, reduce the difficulties that may have arisen had the alternative solution, an increased intake from Nuwarawewa, had been selected. Available documentation does not suggest that the planning process included the formulation of a water savings strategy or an overall system rehabilitation for the current Anuradhapura system. Neither is an indepth feasibility report focused on a stakeholder consultation processes available.

The NWSDB choice of option seem to have been more guided by the anticipated level of intensity of possible protests from Tissawewa and Nuwarawewa as against those from Thuruwila. The Government of Sri Lanka Pre Feasibility study (1997) states as follows

“ the majority of households in Thuruwila do not favour the idea of water extraction(for urban water supply) from the tank...A reasonable number of households disagree with the water extraction from the tank as they feel that this would affect their cultivation.....the majority of the farmers in Thuruwila do not oppose the extractions of

water provided that their needs are fulfilled. Their main concerns were water for cultivation in two seasons...It has been promised that ...sufficient water (is) ensured. It is evident that the Thuruwila option would be less problematic (in comparison to an increased urban water supply from Nuwarawewa and Tissawewa) and would not create any social unrest. “

It is noted that the owners of paddy lands worked under Nuwarawewa and Tissa Wewa include parliamentarians, national and provincial level ministers, provincial level politicians and many wealthy persons in the province.

In keeping with ADB requirement of having to secure written commitment from the owner of the source as a precondition for project funding, the NWSDB was able to get agreement for using the Thuruwila tank from the Department of Irrigation. There was no felt need by either agency to inform the community through community consultations during the early planning stages or during the period of inter agency negotiation; from 2000 onwards, some scant information regarding the project did reach the community via politicians and meetings with a few selected community leaders. At these meetings, economic benefits including employment opportunities accruing through water transfer were suggested and promises of compensation, including land-for-land compensation was made. However when the community finally realized the full implications of the project, a process of collective action culminating in a campaign of dissent claiming customary rights over the tank based on their long history of managing the tank was launched.

The reasons for the community gathering its resources to oppose the transfer were as follows -

- a) The security of livelihood following the project was the major cause for concern for Thuruwila farmers who had ample food security with their successful two seasons of cultivation.
- b) At the time of the proposed transfer, Anuradhapura was receiving drought relief for the third consecutive year. Thuruwila was almost the only system in the NCP, which did not require drought relief.
- c) Farmers doubted the possibility of a daily transfer of 25000 cusecs from the Mahaweli project for the project as the Mahaweli System H itself is chronically water short - its Yala (Dry season) is usually cultivated only on a Bethma (field sharing) basis. Moreover the transfer was to be made available in the wet season where the Thuruwila tank would be more often than not, spill, sometimes several times, during the monsoon rains.
- d) The tank based irrigation system and related livelihoods provided a strong sense of identity for Thuruwila, which prized its Purana gam status. Having enjoyed decisionmaking rights over the use of the tank (although on diminishing scale after 1960) the community saw the proposed transfer alienating that ancient right.
- e) The fear of further erosion of its Purana Gam characteristics and lifestyle due to the possible loss of paddy centred livelihood was another reason for the protest.

The following excerpts from community statements capture the perceptions of the Thuruwila community

For the moment we've managed to farm with any trouble. But in future paddy, fields will be inundated, environment will be polluted, people won't be able to fish, and they will lose their homes ...

Now they are earning an income from plantains and coconuts. This won't be that successful after the project. This income will be lost. ...

About 30 tractor owners will lose their work, so will the paddy mill owners. ...

Freshwater fish supply will be limited if fishing is banned.

Inundation of paddy fields and stoppage of fishery cause malnutrition of children.

The sand miners will lose their income....

A tax should be paid to us if water is taken from farming to the city.

For the moment we are cultivating in both seasons (Yala and Maha). Don't know whether water will be available in the future...

Out of the 14 families in Rathmalwetiya 10 engage in cattle rearing. They use too Thuruwila. They will be unable to do so in the future...as there isn't enough space with the inundation.

The sluice will be controlled...so we won't be able to take water when we want.

The daily water needs in the city is about 4500 liters, which means that every single drop of the Thuruwila Wewa will be taken.

No details of compensation is known ...about 42 houses would be affected (the NWSDB estimated indicated that only 2 houses of squatters would be affected).

A further concern was the cultural loss, which may have been incurred if the planned structures were to be constructed over unexcavated archaeological sites. The project area is thought to have extensive unexcavated sites, as it is part of the ancient Anuradhapura kingdom. The Archaeology Antiquities (Amendment) Act No.24 of 1998, section 43A titled "Impact assessment of proposed development projects" – states that 1% of a development project is retained and the Dept of Archaeology be requested to carry out an archaeology impact assessment within a month. However the Department of Archaeology currently seems to be too weak and short of manpower to

implement this Act. Therefore there was no move by the Dept of Archaeology to enforce this clause.

6) Mobilizing Action Resources

While fully accepting the need to provide water the Sacred City of Anuradhapura and mindful of the religious importance of such an act, TSV put forward its own set of alternatives, which they felt, would not damage Thuruwila's own water security and livelihood. The project proponents did not accept this solution. The TSV constantly demanded and was denied relevant data (including project report, environmental reports and the agreement between the ID and NWSDB).

When it was quite clear that their proposals would not be heeded, in October 2001 the FAS formed the Thuruwila Surakeeme Kamituwa (Committee to Save Thuruwila). The TSK using the FAS as its organizational forum, mobilized external resources including the media as part of their campaign. They tried to unify the whole village to one platform and thus appointed two committees a) information gathering committee and the b) education committee. External organizations including local and national NGOs (PALTRA, Janodaya, Green Movement of Sri Lanka) were accessed and contributed to build awareness within the community about the Thuruwila protest. Eventually the TSK managed to build a national level group to support their campaign including support for provision of legal costs. Families underlined the commitment to the cause by contributing financially towards costs of the campaign an amount of Rs 100/=(US \$1)from each family.

Various methods were employed to mobilize and build awareness in the community regarding the threat to the village. This included religious ceremonies with invocations to guardian deities of the reservoir (Kadawara Pooja), Buddhist ceremonies(Bodhi puja). Black flag campaigns were held and protest posters put up in the village and its environs. Signature campaigns were carried out during the most sacred feast in Anuradhapura to raise awareness nationally.

The Chief Priest of the temple, traditionally the community leader and guide in a Purana village, played a significant role in the mobilizing the dissent. Apart from a few significant exceptions, in particular one family, the majority of the village supported the TSK. It is remarkable that the key figures supporting and opposing the transfer within the village were both "outsiders" who had married into the village.

Selected villagers, men and women attended mobilization training conducted by NGOs. Women in particular came forward in tense situations such as which arose when the police was brought into the village when land surveys were being conducted, challenging them to try and arrest the leaders of the dissent. Physical violence was however averted due to the dissenters' control of their supporters and the existent social cohesion within the village. Barbed wire fences belonging to the NWSDB property were damaged and boards put up on the bund by the NWSDB torn down.

In the close vicinity of Thuruwila is Eppawela, well known for its collective action campaign which successfully challenged a subsidiary of a multinational, Freeport

Macmoran's attempt to start open cast mining of phosphate. The Thuruwila dissenters initially drew strength from the fact that the Supreme Court upheld the right of the Eppawela community to block the entry of the multinational but tried to negotiate a settlement.

When the possibility of legal action finally seemed unavoidable, the TSK was renamed as Thuruwila Surakeeme Vyaparaya (TSV) which launched a campaign to collect 25,000 signatures for a protest petition at the sacred Udimaluwa (Sacred Bo tree) and Mahamewunawa park. It also held an exhibition of protest banners in a "Poson Day Adhistana Pooja" on the most sacred of all Anuradhapura festivals, the Poson Poya (Full moon day in June 2001).

Through such protests, TSV was able to get coverage for its cause in print and visual media. Sustained coverage in the Sinhala language newspapers (Ravaya, Dinamina, Diwaina and Lakbima) was important in building awareness among the extended group of stakeholders especially those who could be affected in the long term. For instance the neighbouring Mahaweli System H farmers who suffer perennial water short Yala cultivations were first made aware of the MASL plans for a water transfer through the media.

However to a certain extent most members of the community refused to believe that the transfer would actually happen until large water pipes were unloaded in the village. At that point almost the entire village barring one family united to support the TSV. To this end they held a workshop in Anuradhapura and invited all relevant agencies. Not all invitees attended this activity, the Mahaweli Authority being the notable exception.

Politicians, both local and national, played a significant role in the Thuruwila case. The TSK tried its utmost to avoid a legal battle and to that end negotiated with a series of politicians. When the project was first mooted, both opponents and proponents sought the support of politicians. In the initial stages, all information (scant as it was) regarding the project came to the community via politicians. Politicians of different camps were approached by their supporters in the TSV in a search for redress and the proposed transfer was made a platform issue in the subsequent general election. However due to the proportional representation system operational in Sri Lanka, the smaller vote base of Thuruwila lost out to the larger vote base of Anuradhapura - on one recorded instance one politician promised to oppose the transfer in Thuruwila while supporting it in a meeting in Anuradhapura on the same day.

It was only when the dissidents totally lost faith in the willingness of ruling party politicians to provide redress that they finally took their case to the Human Rights Commission and ultimately went to Supreme Court (SC) in mid 2002 (*S.C.F.R.329/2002* decided on 30.09.2002, unreported)

The main issues raised by the TSV were lack of information and the loss of livelihood. In the SC it was felt that they did not have strong enough evidence to request an injunction and nor could they prove that no community consultations were made at all. Therefore a

settlement was negotiated. (Annexure 3) whereby the SC upheld the right of the Thuruwila farmers to cultivate two seasons, giving priority to livelihoods.

But though they have since lost two cultivation seasons due to the ongoing rehabilitation work the community has not invoked the court ruling and applied for compensation. Short-term employment opportunities have been made available with the system rehabilitation. The TSV leaders have lost face in the community, are sidelined to an extent and have been disheartened; some have “been won over “ with the lure of contracts. In 2004 with a new government coming into power, the TSV has once again sought the assistance of the politicians regarding loss of livelihood during the construction period. The process of petitioning political decision makers was yet again resumed in June 2004 with a letter being sent to the newly appointed Minister of Irrigation of the ruling coalition requesting redress. But the campaign had lost much of its ground support by then.

7) National Water Policy Formulation Processes and its Impact on the Thuruwila Issue

In the mid 90s an attempt was made to rationalize the large number of Acts and Ordinances related to water in Sri Lanka. A Water Resources Secretariat set up under the Ministry of Finance and Planning developed a national water policy document entitled the National Water Resources Policy and Institutional Arrangements. The Asian Development Bank (ADB), Food And Agriculture organizations (FAO) and the Netherlands government from 1996 supported this activity.

The policy formulation process followed by the ADB sponsored project in the initial stages led by the agency-dominant process often followed in policy formulation though there had been a few policy issues such as forestry where public participation had been requested. The Water Resources Council was created, predominantly with involvement of Ministry Secretaries and state officers. It did have however NGO representatives. The Cabinet approved the policy on March 2001.

In a situation, which was unusual for Sri Lanka, following a media expose, a strong public outcry was raised against the water policy. A wave of protests by NGOs and farmer groups saw it become a major platform issue at the subsequent General Elections of 2001. Of major concern in the original draft policy was the leading statement that “All water belongs to the State”. This is in itself envisaged a role for the state which interestingly was contradicted in yet another national policy. The National Land Policy of Sri Lanka (formulated under the Sustainable Management of Land Resources in Sri Lanka UNDP project SLR 97/016) states as follows.

People’s participation in the sustainable use of Land resources will be promoted and the rule of the state will be limited to that of a facilitator/manager.

There was a growing fear that the proposed tradable water entitlements could lead to the control of water resources by multinational corporations. The top down policy process did not make positive reference of Sri Lanka’s history of successful

community management of water resources thereby strengthening the arguments of anti-privatization lobbyists.

The water policy was reformulated in 2003, which initiated an Interim National Water Resources Authority (INWRA) designed to function as an apex body in the water sector. Following fall of the incumbent government in the General Election of 2004, and the emergence of a coalition government with a Marxist coalition partner, there has been another interesting development in the policy process.

The former government had housed the interim National Water Resources Authority in the Ministry of Irrigation and Water Management. The new government split up all activities under this ministry between the Ministry of River Basin Development and Rajarata Development and the Ministry of Agriculture, Livestock Development, Lands and Irrigation. The former ministry has continued to have discussions for continuation of the earlier policy process. The latter, whose Marxist oriented minister had consistently criticised the ADB funded water policy formulation process while in the Opposition has set up, quite separately, an inhouse task force, to develop once more a “home grown” policy document and in late 2003 called for public comments on a document termed “Foundation for an Indigenous Water Policy”. The Interim National Water Resources Authority (INWRA) reportedly had been working separately, on yet another revision of the draft water policy originally formulated in 2001. In 2006 the funding for the INWRA was removed and the unit disbanded.

Apart from the fear of loss of livelihood, the Thuruwila project was thus played out within this broader scenario where water resources management became a key issue in national politics. Since the protest regarding the water transfer happened to go parallel to a national outcry over the proposed formulation of a new National Water Resources Policy therefore, water privatization was one of the fears that fuelled the Thuruwila protest.

The public hostility and fears regarding the draft water policy was seen to stem to a great extent from the lack of adequate consultation, as was the case with Thuruwila. A further contentious situation centring on water sector arose when another draft Act, the Water Sector Reforms Act of 2003, which had not seen any public consultation at all was challenged in Supreme Courts on the basis that it would strengthen the privatisation; it was ruled in the SC that it be referred to the Provincial Councils since water was a subject devolved for determination at Provincial level, according to the Sri Lankan Constitution.

The Thuruwila issue was deeply coloured by the ongoing problems related to the abortive attempts at formulating a national water policy. It raised the fears of water privatisation, which in the face of lack of adequate information sharing mechanism by Thuruwila project proponents, was believed by many of those involved in the protests. Like the water policy, it too suffered negative consequences due to lack of adequate information and timely public consultation.

8. The Thuruwila crisis – is collective action the solution?

Thuruwila was not alone in facing this situation: during the time of the SC case, nine other sites in Sri Lanka were experiencing or had experienced farmer protests against water transfers. However Thuruwila is unique in that it has sought legal redress claiming infringement of fundamental rights, engaged in a prolonged campaign to raise awareness regarding its right to water and though unable to stop the transfer, was able as a result of its collective action to establish its right to cultivation.

The crisis related to the water transfer and its consequences has created a lasting impact on Thuruwila. Apart from the possible future losses related to livelihoods and water security, community harmony seems to have been seriously and probably irretrievably fractured. Was this situation inevitable or could it have been averted?

Opposition to the project mainly arose due to the perceived loss of livelihood as well as loss of decision-making rights of the community over what they consider to be their water heritage. Since the dissident group never objected totally to the project in the first instance (giving water to pilgrims is considered a particularly meritorious act for Buddhists) had there been greater transparency, timely information and an appropriate negotiation mechanism – all of which has strong global acceptance currently due to the broadbased acceptance for principles of integrated water resources management- much of the tensions could have been averted.

Sri Lanka has a strong Environment Impact Assessment (EIA) framework, which has been seen to be effective in many cases to uphold local interests through mandatory community consultations. But currently it is not mandatory for water supply projects to conduct an EIA. Such a mechanism too would have ensured that timely consultations were held and any dissenting voices and alternate proposals be taken into consideration by the mandatory Public Hearing. Comprehensive EIAs, with emphasis especially on social impact assessments at feasibility stage may be particularly useful in identifying stakeholder needs and responses as well as defuse community protests. This situation calls for expertise from the agencies concerned or external social auditors. However lack of social impact assessments in a project does not always stem from lack of available expertise. It could be due the lack of organizational will or a lack of an enabling environment. As was seen, in Thuruwila, the existent and easily accessible inhouse social science expertise of the NWSDB was not utilized to check what is perceived as a avoidable situation.

It is somewhat surprising that this crisis occurred within a NWSDB project .The NWSDB has especially in the area of rural water supply, pioneered many initiatives in participatory management and community consultations; it has an explicit official policy for rural water supply and for urban water supply . Both policies mention the importance of participatory decisionmaking and consultative process. The Rural Water Supply policy also specifically recognizes the importance of the role of women.

The NWSDB is also the only water agency in Sri Lanka, which has its own inhouse cadre of experienced sociologists. Therefore it is a matter for conjecture why the available inhouse expertise was not mobilized in a timely and effective manner to defuse tensions in Thuruwila. A possible answer is as follows- The Anuradhapura project is listed as an urban project and therefore the sociologists whose work is mostly concentrated for rural water supply projects were not automatically included in the team.

Thus rural-urban water transfers seem to fall into a grey area between the rural water and urban water policies and is not covered adequately by either. A relatively new phenomenon it is seen as calling for a new institutional response in the form of a framework or guidelines. Since the State has responsibility to provide drinking water to its citizens, ensure livelihood security and food security, water transfers out of agriculture, which brings together all these issues, calls for a national policy response.

The Thuruwila collective action has been inspirational for other communities faced with similar situations. It has highlighted the need for community consultations on pursuance of IWRM principles. It has led to an increased recognition of prior water rights. There are indications that policy makers within the water sector have now begun to recognize this situation as is seen in the following Guidelines.

Use of water sources for drinking purpose has been a major issue during last few years. Strong resistance from farmers, traditional villagers, groups with vested interests and environmentalists had created public outcry against the use of water sources for urban water supply.
(Dissanayake 2003: 8-9).

Partly in response to the action taken in Thuruwila, the new Guidelines for Community Participation in Implementation of Urban Water Supply under ADB projects has recommended suitable agency action in future projects (Annexure 2).

Stakeholders have been narrowly defined for purpose of the compensation by the project as landholders only, thereby ignoring multifunctional uses of the reservoir and its impact on provision of livelihoods other than agriculture, especially for the poor. Broad based feasibility studies that would have revealed the wider range of uses and extended network of users of Thuruwila reservoir (see Annexure 1) would have been useful at project feasibility stage. This factor has not yet been officially recognized. Therefore more Thuruwila type scenarios were and are being experienced in Sri Lanka.

9. Conclusion

The case of Thuruwila sheds some interesting insights into the impacts of emerging instances of water transfers, an escalating phenomenon, affecting rural communities sustained by irrigated paddy cultivation in many Asian locations. Irrigated agriculture is under pressure from demands for water from urban and industrial sectors with their greater political and economic clout, resulting in major impacts on livelihoods, landscape

and cultures. Strong urban and industrial interests are able to ally with political power to effect water transfers with minimum consultations with rural users. The lack of space or will for a negotiation mechanism results in an erosion of livelihood and the asset base of the rural poor. Consequent friction would further damage an already strained social fabric, especially in situations such as Sri Lanka, which has seen long term civil conflict.

Global discourse on integrated water resource management is replete with catchphrases such as consultation, informed choice and participatory mechanisms. Integrated water resource management with its emphasis on participation and community consultation is accepted as the most sustainable way forward and national IWRM plans are part of the MDGs. Nevertheless, many processes currently governing intersectoral transfers are weak on creating opportunities for negotiation and recognition of compensation for affected stakeholders. Such water transfers are most likely to make sideline community decision making, in favour of decisions by a strong “hydrocracy”.

Erosion of centuries-old tradition of community responsibility and the corresponding advancement of state authority has weakened efforts and ability of affected communities to press their claims. Therefore there is a need to formulate national guidelines for dealing with such situations. Such guidelines would also be useful in protecting communities’ prior rights even in situations where water resources such as springs and streams are being tapped for the increasing production of bottled water.

Globally the right to drinking water is been recognized as a priority and water transfers out of agriculture will be needed to feed the “thirsty cities”. What then are the factors that will support balanced and equitable water transfer cognizant of the main principles of IWRM? What type of efforts are needed leading to a democratization of decision making regarding water transfers and a mitigation of Thuruwila type stress filled situations for the rural communities whose livelihood is tied up to irrigated agriculture?

The World Commission of Dams (WCD) has raised awareness of the situation of affected and displaced persons due to dam development. The WCD process has highlighted and gained broad acceptance for establishing the participation of affected persons in decision-making, restoration of livelihood and equity in compensation. Such a process for formulating guidelines with an inclusive approach is now needed in the case of rural – urban water transfers. Formulating a framework, strengthening the rights to consultation and compensation mechanisms of marginalized groups will support marginalized groups such as landless poor, low castes and women who are too weak to enforce or even present their claims.

A broader interpretation of role and rights of stakeholders (not only those live directly within affected communities as was shown by the Thuruwila census) is also seen as necessary to provide equity. The multifunctional uses of water and the many faceted livelihoods supported by a water resource such as a reservoir or river needs be identified.

Compensation if available for the dispossessed in Thuruwila would, in the current context, be cash. Cash compensation has been recognized in many instances of displacement, as not sustaining livelihoods unlike land compensation. Recognition for compensation for lost livelihoods, in the current context would benefit only legal landholders and not the marginalized squatters, and agricultural labourers whose

contribution is a major resource for the rural economy. It is also the poor who would be the first to migrate if their asset base is eroded due to diminished sources of income.

Tensions in water transfers carried out with a limited consultative process is partly due to the lack of a suitable guideline or policy framework within the agencies and that the fact that existent laws do not recognize such instances. That situations such as the Thuruwila case had a definite positive impact on the project proponent is made clear from the preparation of *Guidelines for Community Participation in Implementation of Urban Water Supply under ADB projects* issued in 2003(Annexure 2) which highlights the need for negotiation, respect of prior user rights and the NWSDB's own responsibility in mitigating adverse impact in social, environmental and cultural aspects in future transfers.

Water professionals, and to a lesser extent the politicians, are seen to have been the leading decision makers in the Thuruwila case. Professional attitudes need undergo a dramatic change to replace the supremacy of the professionals with the pre-eminence of community concerns if situations such as Thuruwila avoided. The need in the new millennium is for socially cognizant and environmentally sensitive water professionals who are trained to be able to move outside a purely techno centric orientation. Training in universities and other professional training institutes with its emphasis on specialization promotes the supremacy of the professionals. It gives inadequate recognition of the more holistic community wisdom, which has long contributed to the sustenance of Asian irrigation systems. In Sri Lanka there is frequent and just pride of water professionals regarding its 2500-year-old ancient irrigation systems by professionals but it is not always adequately recognized that this feat was due to a collective effort by the community and the state. Though the role of the farmer in operation and maintenance of systems below distributary canal level is constantly emphasized by state programs, the right of the farmer to define his needs of irrigation water and safeguard prior rights is not adequately recognized. Therefore intra-agency capacity-building programs, which support the development of a community orientation, needs be initiated.

The displacement and protests associated with various high profile projects in Asia are well known in the water sector. However most of these projects that have generated such protests are financed by international agencies, which subscribe to integrated water management principles and support the need for community consultations. However there are practical problems when these agency norms need be operationalized at ground level. The importance of negotiation and adequate flow of information to stakeholder is seen in the Thuruwila case, where the lack of information, or even misinformation about the project as well as fear of losing decision-making rights over their reservoir created opposition to the water transfer. The willingness of a sensitized local staff to support community consultations, to recognize the importance of social dynamics and community identity can become a key factor in minimizing tensions related to water transfers. Therefore significance of the roles and responsibilities of donors and financial institutions in ensuring equity for rural communities in water transfers cannot be stressed enough.

Finally it may be necessary that urban rural water transfers are preceded by attempts to rehabilitate existing urban systems to control system losses while water conservation

strategies be introduced to the rural source system, to cushion the impact of possible reduced availability of irrigation water.

In the 21st century, Asian rural sector and irrigation systems will be increasingly called upon to reallocate water resources to cater to the needs of urban centres. Water transfers out of agriculture are necessary and inevitable. The various stakeholders, at different levels and agencies must work towards a win-win solution, improving consultative processes towards consensus building through negotiation in order to ensure equity and support for rural communities and livelihoods. Then such water transfers need not and will not inflict avoidable social trauma and livelihood losses on rural communities.

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Sri Lanka
2006

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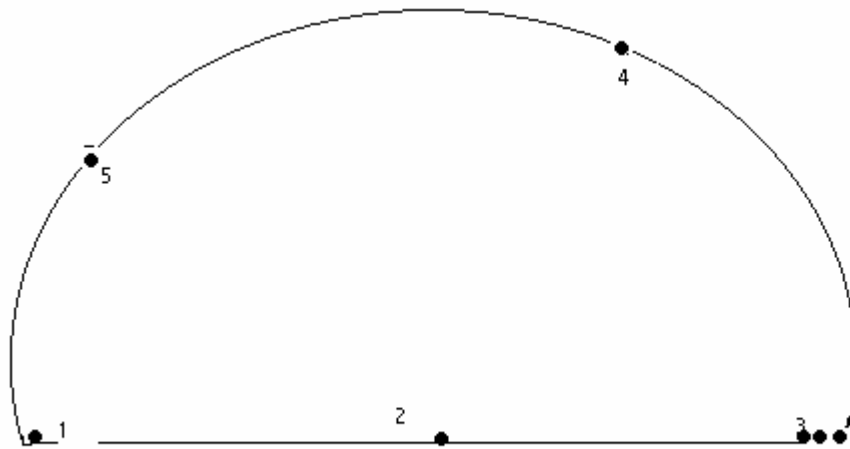
Annexure 1

Census of Users and Uses - observation of Thuruwila Tank in Yala Season 01.09.2002 to 07.09.2002

1. Information about the uses and users of Thuruwila tank was gathered from 01st to 7th of September 2002. During this period the most of the surrounding tanks and canals had little or no water since the cultivation season was at the end. Two researchers and two assistants from the village maintained a constant presence on selected sections of the tank from 7 am to 7 pm. This observation was conducted in the tail end of the *yala* season. In Thuruwila tank there are several well defined and safe bathing spots where users congregate. Five such bathing sites were selected for the census. They are-

- (1) Thuruwila spill
- (2) Thuruwila “Goda sorowwa” – Upper level sluice
- (3) Thuruwila “Mada sorowwa”- Lower level sluice
- (4) Siyambalagaswewa
- (5) Dematawewa.

Diagram 1 Selection of bathing sites for Census



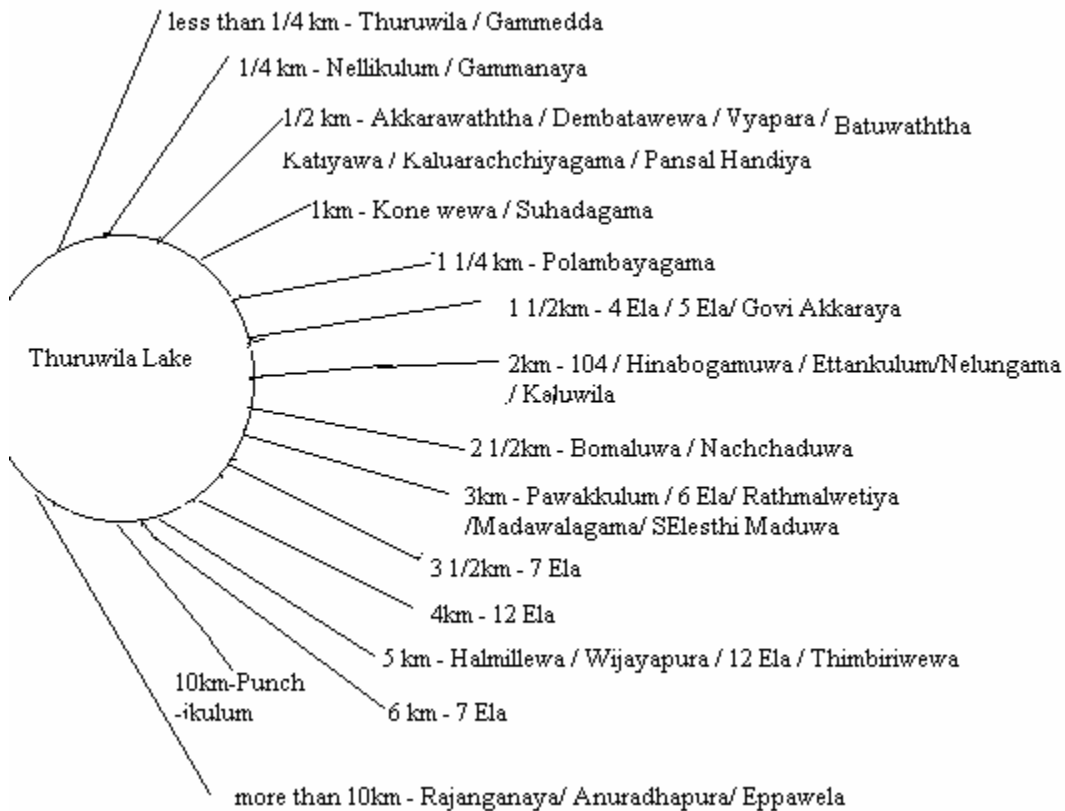
The sites which were selected for observations were points 1, 2 and 3.

2. A surprisingly large number of persons visited the tank during this period from as far away as Anuradhapura from 39 surrounding villages. The distance from Thuruwila to those particular places ranges from about $\frac{1}{4}$ km – 12km.

During this season (late Yala) water is available only in Nachchaduwa and in Thuruwila. Therefore a large number of people come to Thuruwila to fulfil their daily needs – bathing, washing. The number of users rises during weekends.

Compared to other tanks in the vicinity, the water in Thuruwila is perceived as much clean and always abundant. Due to this reason Thuruwila villagers take water for drinking from the tank. Though there are several wells in the village some of them are seen as not been “ good enough for drinking” (bad taste). In addition Thuruwila water is taken for cooking, washing kitchen utensils and hygiene purposes. The other uses/advantages of this lake are availability of water to wash vehicles, picking flowers to offer and sell at temples, watering of livestock etc.

Diagram 2 Place of Origin and Distance traveled by Users of Thuruwila Tank



The number of users by type of use observed during the Census is as follows

* Number of users	= 4141
* Bathing + washing	= 4087
* Drinking + cooking	= 90
* Other uses	= 82

Livelihood uses from Thuruwila Lake through collection of lotus yams and extraction of sand were not calculated for the Census.

The users' mode of transportation is as follows

(1) By foot	- 1060	
(2) Bicycle	- 687	
(3) Motor cycle	- 207	
(4) Tractor	- 45	
(5) Van	- 06	
(6) Lorry	- 02	
(7) Other	- 05	(bus/ three-wheelers)

Interestingly, the official project documents and feasibility studies do not list the range of extended users of Thuruwila tank as stakeholders.

Annexure 2

Excerpt from Dissanayake, Ananda *Guidelines for Community Participation in Implementation of Urban Water Supply. Final Report.* Colombo, Sri Lanka: Ministry of Housing and Plantation Infrastructure, Sri Lanka, National Water Supply & Drainage Board, Project Management Unit (PMU), ADB Assisted Third Water Supply and Sanitation (Sector) Project, ADB Loan No. 1575 SRI (SF). Dissanayake, Ananda

Use of water sources for drinking purpose has been a major issue during last few years. Strong resistance from farmers, traditional villagers, groups with vested interests and environmentalists had created public outcry against the use of water sources for urban water supply. ...

General notion is that people, especially farmers in the areas where water sources are located do not receive any benefits from the WS schemes while penalizing them of having same opportunity to use water for their farmlands. Certain groups of people and organisations have capitalised the issues related to the extraction of water from the sources and created social unrest among the farmers and other users. On the other hand, no action have been taken to invest towards water resource development (including water management) and also this has not been considered as compulsory elements in the competitive situation in obtaining raw water for urban water supply.

Being the leading responsible organisation in urban water supply sector, NWS&DB should understand their responsibility in mitigating adverse impact in social, environmental and cultural aspects in using existing water sources and continue the provision of water supply to urban communities. Also the implementers (NWS&DB) should respect the right of existing users of water sources and to take initiatives to formulate innovative systems to safeguard the livelihood of the existing users eg. Compensation for the existing users in the event of bad effects in their livelihood, comprehensive relocation programme for the existing users if necessary etc.

In addition the implementing agencies (NWS&DB) should, as far as possible, include the people in the vicinity of the water sources for the benefits (Dissanayake 2003: 8-9).

Annexure 3

Excerpt from Rajapakse, Ruana “*The Human Rights Dimension in the Management of Natural Resources*”, presented at International Conference on Global Ecological Integrity and the Sustainability of Civilization: Hard and Soft Law Perspectives, Venice 2005

Article 12(1) of Sri Lanka’s Constitution has been invoked in relation to water at least twice in recent years. The first occasion was the fundamental rights case of H.B. Dissanayake and 8 others v. Gamini Jayawickrema Perera, Minister of Irrigation and Water Management and 5 others,¹ better known as the “Thuruwila case”. The petitioners in this case were rice farmers who had traditionally cultivated their lands with water from the Thuruwila Tank, a self-contained rain-fed tank in Sri Lanka’s agriculturally rich Anuradhapura District in the North Central Province. An Asian Development Bank sponsored water supply scheme for the nearby Anuradhapura New Town proposed to convert this self-contained tank into a storage basin to accumulate water from the Mahaweli River system (Sri Lanka’s longest and most important river system) during the rainy season and feed the New Town during the dry season. The capacity of the Tank was to be increased so that 21,000 cubic metres of water per day could be drawn from it up to the year 2020 and the draw-out increased to 36,500 cu.m. thereafter. No mention was made as to how the water needs of the Thuruwila farmers were to be met.

The farmers went to court on the basis of an imminent infringement of their fundamental rights under Articles 12(1) and 14(1)(g) – right to equality and right to engage in any lawful occupation, profession, trade, business or enterprise of one’s choice. The Court, conscious of the water needs of both the farmers and the town folk, encouraged the parties to formulate a scheme that would look to the interests of both. Terms of settlement were accordingly entered that illustrate the degree of practical detail that is often required in judgments on economic rights. The main terms of the settlement were:

- *The Mahaweli Authority would as far as practicable ensure a daily input of 27,000 cu.m of water into the Tank;*
- *The maximum daily draw-out from the Tank would not exceed 21,000 cu.m;*
- *In any event the daily draw-out would not exceed the input;*
- *The daily input and draw-out would be monitored by instruments and a record kept, which would be accessible to the petitioners and other members of the public;*
- *Rs.2 million was to be made available to compensate the petitioners for any losses suffered as a result of the project;*

- *In the event of damage being caused to the tank bund in the execution of the project, the petitioners would be entitled to pursue additional claims for compensation from the relevant authorities.*

Apart from the nature of the settlement, this case was unusual because, while most fundamental rights cases involve the alleged violation of the rights of a person or group of persons by State action, this case required the State to balance the fundamental rights of two competing groups of persons, namely the urban and rural water users of water from the same water body. Ironically, the decision in this case was recorded just one month before the United Nations Economic and Social Council adopted General Comment No.15 of 2002 on the right to water, which lays down the duties of a State in ensuring equitable distribution of water resources.