

Protecting of Reservations in Irrigation schemes in Sri Lanka- Legal, institutional and social Issues

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Abstract

Reservation in an Irrigation scheme which is a very important common that is needed for the sustainability of the whole system, can be broadly classified into three types, one on the catchment and another associated with the headworks and downstream system and the third one the borrow areas and pasture lands. Reservation on the catchment is usually set apart to ensure quality and quantity of inflow to the reservoir. Due to limited land resources in a country like Sri Lanka, it is difficult to enforce strict regulations on catchments. Most of the time it is considered as a buffer zone where certain human activities are allowed as long as these do not conflict with the prime objective of the catchment reservations. But the reservations set apart adjoining the irrigation headworks and downstream system are to be protected strictly as areas thus reserved are essential for safety of the structures, use as access by the operation and maintenance personnel or may need for future developments of the project.

In the recent past it was observed that incident of encroaching irrigation reservation had been increased. It was further observed that authority over the reservations is vested with many government organizations which are individually responsible for land or environment matters in the scheme or operation & management of the scheme. Overlapping these functions had prevented timely action on unauthorized activities in the reservations. In this paper shortcomings in the current legal and institutional framework will be discussed with the suggestions for improving the system. The social background that led the individuals to encroach the reservations also will be highlighted to suggest what intervention the government can make to control this situation.

Key Words: Irrigation reservations, commons, Sri Lanka,

Introduction

Being an agriculture based country, Sri Lanka has developed its water resources sector, making it densely endowed with Irrigation schemes. There are more than 350 major irrigation schemes (those serving irrigable are more than 80 ha) scattered across the country serving over 500,000 ha, while close to 15,000 small irrigation schemes (schemes serve less than 80 ha of irrigable lands) too serve a command area of about 100,000 ha of agricultural lands within the small land mass of 65,525 km². (Arjuna Atlas of Sri Lanka, 1997)

Management of these schemes is vested with four government organizations which practice different standards and norms and govern by their own regulations. It is accepted by all the organizations that reservations are needed to set apart and maintain in these irrigation schemes for sustainability of the whole system. However encroachment by illegal squatters and cultivators has become a major threat to the sustainability of these commons in recent past due to demand for land by the increasing population. This paper discusses certain measures taken by the organization to alleviate these efforts, to highlight the achievements and reasons for failures.

Reservation Classification

There are few types of irrigation schemes in operation viz; reservoirs, barrages, flood protection schemes, drainage schemes and salt water exclusion schemes. In general, main features of the schemes that need reservations are listed as follows. (Technical Guidelines, re-pint 2005),

- Dam, spill, spill tail canal
- Trans basin canals/feeder canals
- Reservoir water spread area
- Access roads, internal roads in the schemes
- Irrigable area including Main canals, distributory canals, field canals and Drainage canals
- Borrow areas, quarry sites, pasture lands and other reservations
- Catchment

Reservations in above can be broadly classified in to three types, one on the catchment boundary other associated with the headworks and downstream system and the third category the plots of land set apart as borrow areas, quarry sites and pasture lands.

Reservation on the catchment is usually set apart to ensure quality and quantity of inflow to the reservoir. Reservations set apart adjoining the irrigation headworks and downstream system are to be protected strictly as areas thus reserved are essential for safety of the structures, use as access by the operation and maintenance personnel or may need for future developments of the project. The borrow areas are to obtain gravel when improvements and repairs in the system are done and the pasture lands are the common grazing area for cattle and buffaloes herds used in agricultural purposes.

Irrigable lands under irrigation schemes are usually owned by individuals or have been given on long-term lease or license to cultivate by the government. Hence the commons in the irrigation scheme is normally the reservation as defined above.

Current arrangements

As stated earlier, there are four main organisations responsible for management of irrigation schemes. Any river crossing more than one Province is categorized as Inter-

Provincial river. Major irrigation schemes located in these river basins will be the responsibility of Irrigation Department and Mahaweli Authority, the two main organizations operating under Central government. Other minor schemes and major schemes located in the Provincial river Basins will be the responsibility of the Agrarian Services Department, Provincial Administration and the farmer organizations latter especially in case of very small schemes. (Kamaladasa Badra, 2006)

For each type of schemes, reservations are defined according to the requirement of those schemes and are based on technical reasons. The reservation limits are theoretically specified in technical guidelines, BOPP or in other internal documents of the owner organizations. In the State Lands Ordinance, reservations for canals, streams and rivers are specified. However marking these reservations physically on the ground and protecting same is a difficult task due to extensiveness of the schemes.

In few major reservoirs, catchments have also been declared as National Parks, Strict National Reserves, nature reserves, jungle corridors and Wild life Sanctuaries. (Imbulana Senerath, 2006), The Department of Wildlife Conservation has declared those areas as National Reserves under the Fauna and Flora Protection Ordinance. Within one mile of the boundary of these reserves development activities are either prohibited or restricted.

Due to limited land resources in a country like Sri Lanka, it is difficult to enforce strict regulations on all the reservoir catchments. Hence, most of the time it is considered as a buffer zone where certain human activities are allowed as long as these do not conflict with the prime objective of the catchment reservations. But there are many schemes where no control could be enforced as the land ownership remains with the individuals and had not been acquired during the development stage of the scheme. Borrow areas, quarry sites and pasture lands are identified in the Blocking Out Plans and set apart as commons. However if these plots are not being used for a long time, the owner organisations also will lose the track of same and encroachment is inevitable.

Shortcomings in the current System

There are several shortcomings in the current management system of the reservations. According to the Irrigation Ordinance, once an irrigation scheme is constructed that scheme should be gazetted by the Land Commissioner according to the Layout plan prepared by the Director General of Irrigation, case by case. (Irrigation Ordinance, 1968), Only very few gazette notifications have been issued under this provision defining the reservations. Majority of the schemes have not been gazetted/ declared and hence it is not possible to establish the legal status of the reservations. When the Irrigation schemes were developed decades back, majority of the lands in the project area were state lands and hence there was no necessity or urgency in establishing legal status of reservations and acquiring the private lands for commons. Settlement of the cultivators also was done with difficulty in those early days since the demand for the land in the dry zone was minimal. With the development that came after

commencement of the operation of irrigation schemes only the land became a scarce resource and encroachment gradually started.

The reservation limits specified in technical guidelines, BOPP or in other documents will become legally valid only if they are gazetted or scheduled as annexures to the Ordinance. This is another procedure to get and made validated the reservations acceptable to legal procedure. But the legal coverage has not been given to most of such guidelines, but referred as the internal documents of the reservoir owner organisations and hence sometime do not hold ground in a legal process.

It has become necessary to declare the reservation limits now to prevent encroachments. But generalizing the reservations for all the irrigation schemes is not reasonable, since the topography of the area plays a significant role. Reservation in a canal running in a steep slope may have to consider in an entirely different context than in a canal running in a flat land. Similarly reservations for reservoir periphery and catchment in reservoirs located in flat areas may differ to the requirements of those in hill country. Hence it is necessary to identify the limits suitable for different topographical situations.

Physical demarcation of the boundaries is not possible due to extensiveness of the works. Hence the reservation boundaries are normally restricted to the documents and when only critical issues arise the area is demarcated.

In many technical organisations legal Division is not strong enough to prevent or mitigate encroachment The legal procedure is very tedious and hence technical officers would prefer to avoid such processes especially because of their work load associated with more important development and management activities.

Encroachments are getting regularized in informal processes when electricity and water supply is provided for their settlements. These service organisations do not consider the status of land ownership when an application is received for their services. Hence encroachers used to produce the bills paid as supporting documents when claiming entitlements for the encroachments.

Major Irrigation schemes are either governed by the Irrigation Ordinance or by Mahaweli Development Act. A peculiar situation arises in major irrigation schemes which are covered under the Irrigation Ordinance. The power of this ordinance is vested with the Agrarian Services Commissioner whereas management of the scheme is vested with the Director General of irrigation. Authority of the Agrarian Commissioner has been delegated to the District Secretary/Divisional Secretary on Irrigation reservations, while Director General of Irrigation is responsible for operation and maintenance of Irrigation schemes. Whenever a land dispute or an encroachment is reported Irrigation Department has to refer it to Divisional Secretary with whom the responsibility of state land rights available. This situation has created confusion over the responsibility over the commons.

Overlapping the institutional boundaries also has made further confusion among the irrigation officials. There are many recent instances where irrigation reservations are declared as reservations of other government organization under the provision of their legislations. Ministry of Inland Fisheries has declared all the reservoir water bodies as property under their control while the Wild Life Department has declared certain reservoirs including the embankment as the wild life territory. This situation has arisen due to ambiguous nature of the authority over the irrigation reservation and has weakened the authority of the Irrigation officials in exercising the limited powers vested with them .

Farmer organizations operating in the irrigation schemes too have the legal authority to a certain extent to take action against those encroaching the reservations. However this process does not take place at the ground as the people in the same locality normally reluctant to complain against the neighbors. In some situations, people with wealth or political power would misuse the common properties while the locals keep silence.

Recent Initiatives

There was a recent initiative launched by the irrigation officials to demarcate the reservations with low cost vegetative lines. Trees which will have economic value are planted along the reservations and protection of this vegetation was handed over to the community based organization. This had become a successful project where farmers have shown enthusiasm in protecting the reservations.

The Ministry of Irrigation and Water Resources management started collecting information on encroachments in reservations in order to take legal action against the encroachers. A formal legal unit is yet to establish, but an interim arrangement has been made to initiate legal procedures.

The Ministry of Land and Lands Development conducted a series of consultative workshops to identify the issues related with all types of reservations with the participation of institutions responsible in managing land reservations. It recommended to form An Inter-Ministerial Committee that includes Ministry of Lands, Ministry of Environment, Ministry of Irrigation, National Physical Planning and other relevant agencies. All matters pertaining to the declaration or re-declaration of reservations and buffer zones are supposed to be forwarded to this Committee by the relevant agency and such declaration or de-declaration shall be made as a collective decision. This Committee may be established as a Standing Committee under a relevant Act that will create an umbrella organization with the mandate to monitor the maintenance of the present buffer zones and reservations and ratify the declaration of any new reservation or buffer zone under any other Act. (Ministry of Lands and Land Development ,2009),

It was further emphasised that while the proposed committee monitors the buffer zones and reservations as an umbrella organization, each relevant agency shall be solely responsible for the proper maintenance and protection of such zones and reservation with due regard to the permissible uses. The committee further recommended that each

responsible agency be provide required resources for the maintenance and enforcement of restrictions pertaining to such reservation.

Conclusion

It is emphasized the fact that most of the reservations and buffer zones in irrigation schemes are absolutely necessary in order to protect the scheme and arrest further degradation of the environment. Ambiguity in defining the reservations and inadequate power vested with the irrigation organisations had prevented or retarded action against those who exploit the commons for their individual benefit. Certain initiatives by the government in understanding the issues and rectify the shortcomings are underway at present.

References

1. Arjuna Atlas of Sri Lanka (1997), Arjuna Publications, Colombo
2. Imbulana Senerath (2006), Development Strategy for the Irrigation Sector of Sri Lanka 2006 -2016, Ministry of Mahaweli Development & Irrigation.
3. Irrigation Ordinance (1968), Government Printing Department, Colombo
4. Kamaladasa Badra (2006), Irrigation Development in Sri Lanka, Centenary Publication Volume I Institution of engineers Sri lanka
5. Ministry of Lands and Land Development (2009), Report of the working committee on Conservation of Reservations
6. State Land Ordinance (1947), Government Printing Department, Colombo
7. Technical Guidelines (re-pint 2005), Irrigation Department of Sri Lanka, Colombo