The Authors of Water Policy in Sri Lanka

By the Movement for National Land and Agricultural Reform

MONLAR is a non-profit organisation working with peasant farmers and others to help them through information, analysis and organised action to understand the present processes of globalisation that are destroying their livelihoods and to identify and implement sustainable alternatives. MONLAR links with fisher organisations, women's groups, plantation worker organisations, trade unions, human rights organisations, non-governmental organisations, academics, clergy and others from across Sri Lanka in the Alliance for the Protection of National Resources and Human Rights.

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Introduction

**'Water is one of the prime resources of our country.
The owner of these valuable resources
should be the people of this country.
I will firmly assure this position.'**

Mahinda Rajapaksa

'Complete privatisation is preferable.'

World Bank

In October 2006, the national newspapers carried a one-page advertisement inviting public views on a draft water policy for Sri Lanka.

It is a sensitive topic. There have reportedly been almost twenty versions of the draft policy and at least eight draft bills since the first version emerged in March 2000[1].

It is not supposed to be about privatisation. Public opinion is clear: there should be no marketing of water in Sri Lanka. Mahinda Rajapaksa agreed when he said in his manifesto for the presidential elections only a year ago: *'Water is one of the prime resources of our country. The owner of these valuable resources should be the people of this country. I will firmly assure this position.'*

However, the first version of this water policy was written by foreign consultants working for the Asian Development Bank. They are regular recruits of the Asian Development Bank and the World Bank.

Any cursory glance at the documents would show that the process of revision has been confined to cutting a few controversial words and adding some charming prose by way of introduction, with no fundamental change in the meaning or purpose. The resulting contradictions in the text would have been spotted if somebody had subsequently read it all the way through. Certainly no new thinking has been done by the Government.

It is generally understood that the Asian Development Bank and the World Bank have been pushing privatisation in Sri Lanka. The World Bank made it clear when it said in one of its reports about Sri Lanka, *'Water is a private good and so should be directed by market forces…complete privatisation is preferable'*.

It is therefore relevant to ask a number of questions. Who are the authors of water policy in Sri Lanka? If it is not the Government but the Asian Development Bank and the World Bank, have they confined themselves to writing documents or are they intervening in other ways too? Is water being privatised? These are the questions that this paper attempts to answer, based largely on documentation from the Asian Development Bank and the World Bank[2].

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[1] 'National water resources policy - why can't we achieve consensus?' by Rajindra de S. Ariyabandu in the Daily News 11th February 2005.

[2] While the World Bank has been working in Sri Lanka since 1954, some documentation is more reliably available from 1980, and details of contracts only from 2000. Similarly the Asian Development Bank has been working since 1966, has been publishing some papers since 1996 and does not yet provide notices of contracts awarded. These institutions interpret commitments to disclosure selectively, see for example 'Disclosure or Deception? Multilateral Institutions and Access to Information', by Shamali Guttal, in 'Good Governance or Bad Management: an Overview of the ADB's Decision-Making Processes and Policies', by Focus on the Global South, May 2002.

Chapter 1: The Privatisation Paradigm

Privatisation of water has been on the increase around the world since the 1980s.

It has been driven by ideologues attached to an economic model that blindly favours the market over the state. Water is considered an economic good whose distribution should be governed by market forces to ensure the most effective outcome for economic growth.

In many countries, this has been pushed either overtly or surreptitiously by the World Bank. It has had strong support from the Asian Development Bank in Asia. These agencies make no secret of their support for privatisation of water. They have both published water policies based on the principles of privatisation[3]. They have also adopted overarching strategies for private sector development aiming in particular to advance privatisation in sectors such as water[4].

They have been encouraged by the private sector. Water can be big business. In the year 2000, more than three hundred million people were buying their water from big corporations, and the trade was estimated to be worth over $1 trillion[5]. It is controlled by less than a dozen multinationals. These companies see tremendous potential for expansion of their empires. Three hundred million people make up only five percent of the global population.

Problem of process

Privatisation of water is a process. Policy can be changed overnight and legislation passed in a day or two, but the water resources of a country can only be sold if the market is made sufficiently attractive for companies to want to buy in.

That means that efforts have to be made to ensure that companies can make profits from marketing water, preferably that they will have a monopoly in doing so, and that they will face as few risks as possible in the process.

There are a number of implications. There should be a charge for water. Nobody should be exempt. There should be laws and effective enforcement procedures to ensure everybody pays. The price should be high enough to enable companies to make profits. Any regulation should bear this in mind. Everybody should get their water through centrally controlled systems. These should be in good working order. They should have meters installed throughout. Separate sources of water should be closed down.

It is often not possible to achieve all of these in an entire country at once. It should then be possible to split up the country and separate out markets that are currently attractive from ones that are not yet up to scratch[6]. It might also be necessary to separate profitable from unprofitable functions, for example splitting water supply from wastewater handling or separating treatment from transmission and distribution[7].

Companies should be guaranteed sufficient water to operate their systems. Use of all ground, surface and rain water in the country should therefore be controlled by a central authority with powers to confer water rights and make water allocations. Companies should be able to buy more if they are in the position to sell more. Rights and allocations should therefore be marketable. There should be an effective means of preventing extraction or collection of water outside the market system. This should be enforceable by law.

Conservation should only be promoted through the use of price incentives.

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[3] World Bank published its Water Resources Management Policy in 1993 and reaffirmed this in its Water Resources Sector Strategy of 2003. Asian Development Bank released its Water Policy in 2001.
[4] World Bank published its Private Sector Development Strategy in 2002, Asian Development Bank in 2000.
[5] 'Blue Gold', by Council of Canadians, Spring 2001
[6] This is called horizontal unbundling.
[7] This is called vertical unbundling.

Other state institutions should be prevented from interfering in the market system. Existing bodies should have their functions cut back or be shut down.

It may still not be possible to ensure that companies do not face risks. There should then be the option of offering arrangements such as short-term management contracts or medium-term affermages and leases, in which the state faces most of the risks, as opposed to long-term concessions or divestitures[8].

The World Bank and the Asian Development Bank push for changes in policy and legislation to allow privatisation, while also bringing their influence to bear in implementing these steps that make privatisation possible in practice.

Steps in the privatisation process

Company interests	**PROFIT**	**MONOPOLY**	**RISK FREE**
WB/ADB actions	1. Introduce charges in water supply and irrigation systems 2. Increase prices beyond cost of supply 3. Connect more people to such systems 4. Install measurement devices throughout 5. Restrict conservation measures to price based mechanisms 6. Establish a pro-corporate regulator that will not restrain price increases 7. Divide up the market to separate profitable areas like cities from loss-making rural areas	1. Establish principle of ownership of all water resources, including ground, surface and rain water 2. Set up central agency to oversee the allocation of water to different groups 3. Create system to allow purchase of additional amounts of water 4. Introduce system of permits to restrict extraction of groundwater and collection of surface and rain water 5. Eliminate sources of free water such as street taps and common wells	1. Pass laws and establish effective enforcement measures to ensure payment of charges 2. Pass laws and establish effective enforcement measures to prevent extraction or collection of water without permits 3. Reduce role of or close down state institutions engaged in the water sector 4. Offer privatisation arrangements in which the state retains the risk and companies rewards

Avenues of attack

Privatisation of water is pushed in various ways. This is made possible by the dependence of governments on external financing, which puts power into the hands of the World Bank and Asian Development Bank.

In Sri Lanka, government debt amounted to around Rs. 2,222 billion by the end of 2005[9]. Foreign sources held Rs. 956.6 billion. About half is due to the World Bank and the Asian Development Bank. Servicing this debt cost Rs. 344.9 billion in 2005. Foreign sources took Rs. 28.4 billion. This left a government budget deficit of Rs. 205.0 billion. This was financed

[8] Common definitions of these terms are as follows: in a management contract, the company runs the business in return for a fixed fee; in an affermage, it runs the business, retains a fee based on the amount of water sold, but all investment is financed by the state; in a lease, it runs the business, retains revenue from water sold and pays a fixed fee to the state, and again investment is financed by the state; in a concession, it runs the business and finances investment, but doesn’t own the infrastructure; in a divestiture, it runs the business, finances investment and owns the infrastructure.

[9] Figures on government debt, debt service, budget deficit, loans and grants are taken from ‘Annual Report 2005’ by the Central Bank of Sri Lanka, April 2006

in part through taking Rs. 75.2 billion in foreign loans and Rs. 32.6 million in foreign grants. Around one third came from the World Bank and the Asian Development Bank.

Lending levels

The World Bank and the Asian Development Bank undertake extensive policy dialogue on the subject of privatisation of water. This is largely confidential advice but also includes some publications. In an evaluation of its work in the last decade in Sri Lanka, the World Bank said it *'constantly reminded the Government of the reform agenda in its…policy dialogue and aid coordination activities'*.[10] This has had a strong focus on privatisation of water. The Asian Development Bank intensified its involvement in Sri Lanka after the establishment of its office in Colombo in 1997, and by the end of 1998, it felt it was well on its way to becoming *'the lead agency engaged in policy dialogue in…water supply'*[11].

They link progress in policy dialogue with the amount of money they are willing to lend. The World Bank says: *'While [World Bank] has always maintained a fairly strong presence in Sri Lanka, [World Bank] assistance to Sri Lanka fluctuated largely depending on the rate of progress in the policy dialogue with the country'*[12]. The Asian Development Bank puts it as follows: '*[ADB's] ability to undertake meaningful policy dialogue is leveraged by its ability to lend sizeable amounts [to Sri Lanka]'*[13].

They also bring in other agencies to support them. Many institutions regard the existence of an agreement, particularly with the World Bank, to be a positive indication of policies followed by a government. Agencies are also brought in to co-finance projects, particularly by the Asian Development Bank. They say this is a way of strengthening their hand: *'funding agencies united approach to the policy reforms will mitigate against any interventions'*[14].

These are implicit conditions, but there are also explicit links between the amount they lend and moves towards privatisation of water. The World Bank and the Asian Development Bank both prepare medium-term plans for their lending[15]. These outline three lending scenarios for a period of between three and five years and contain a set of conditions that have to be met to graduate from the lowest level to the mid level and then to the highest level[16]. The World Bank sets its lowest level 50% below the mid level and its highest level 25% above, while the difference is usually around 20% each for the Asian Development Bank. These targets have included steps along the road to privatisation of water in Sri Lanka.

Technical assistance

The World Bank and the Asian Development Bank also provide governments with consultants to design projects, to plan and carry out reforms in institutions, and to draft policy and legislation. These have been extensively employed towards the privatisation of water.

They have only begun publishing notices of contracts awarded in the last couple of years, so often information is not available on the companies or individuals recruited, but such information as is available shows that there has rarely been open competition for contracts and sometimes recruitment is carried out at the overseas headquarters without any input from governments. The result is that the vast majority of the consultants chosen are known proponents of privatisation of water and regular recruits of the World Bank and the Asian Development Bank.

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[10] 'Country Assistance Evaluation: Report 21771' by the Operations Evaluation Department, January 2001
[11] 'Country Operational Strategy Study – Report SRI 98017' by the Asian Development Bank, December 1998
[12] 'Private Sector Assessment: Report 12514-CE' by the World Bank, March 1995
[13] 'Country Operational Strategy Study – Report SRI 98017' by the Asian Development Bank, December 1998
[14] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[15] The World Bank calls this its Country Assistance Strategy, while the Asian Development Bank refers to it as a Country Strategy Paper
[16] The conditions are often called 'triggers' and the lending levels the 'low case', 'base case' and 'high case'.

The World Bank has included such technical assistance in Sri Lanka in its Private Sector Infrastructure Development Project from 1996. Water was one of the sectors to be worked on and the objective was to *'influence and accelerate the transitional process from public dominated infrastructure to private operation and ownership'*[17]. It has also made use of the global fund it manages called Public Private Infrastructure Advisory Fund, established in 1999. This was given the explicit mandate of promoting the private sector in water. It *'provides funding for a wide range of activities related to the reform of water and sewerage and the development of public-private partnerships in the sector…[until] 2003 [amounting to] 23% of PPIAF's portfolio in value terms (although many multi-sectoral projects include water and sanitation components)'*[18]*.* The World Bank has also grasped opportunities to move reforms rapidly when there was greater willingness on the part of governments. It funded a $15 million package of technical assistance called the Economic Reforms Technical Assistance Project from 2002. This included half a dozen contracts for work on reforms in the water sector, as well as for top-level economic and political advisors for the Prime Minister[19].

The Asian Development Bank tends to make even more extensive use of consultants than the World Bank. They are brought in through water sector projects. These are prepared by consultants and also almost always include packages of technical assistance for consultants to work on reforms in the water sector.

Projects

The World Bank and the Asian Development Bank fund projects in water supply and irrigation. They are designed in such a way to implement steps towards privatisation of water.

The Asian Development Bank also includes in its project agreements several lists of conditions, one set that have to be met in order for the project to start and another that should be complied with during project implementation. These have included moves towards privatisation of water. The World Bank tends to use more informal pressure during the negotiation process, which is generally not documented.

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[17] 'Private Sector Infrastructure Development Project: Staff Appraisal Report 15391' by the World Bank, May 1996
[18] 'Dogmatic Development: Privatisation and Conditionalities in Six Countries' by PSIRU, February 2004.
[19] Jim Robertson and John Earl (see http://www.cynosura.com)

Chapter 2: On Irrigation Systems

The privatisation of irrigation systems began in the early 1980s in Sri Lanka.

Government considered the expansion and rehabilitation of irrigation systems to be an essential task of the state to allow the settlement and cultivation of land to provide food and livelihoods to the people.

However, they relied on loans from the World Bank and the Asian Development Bank to finance many of their projects, to the tune of $750 million.

The World Bank and the Asian Development Bank consider irrigation to be a commercial activity that both can and should be carried out by private companies, and they have used these projects to push for privatisation. Further, they have come to regard privatisation as a means of reducing water available for agriculture and therefore discouraging paddy production, which they believe to be an impediment to economic growth in Sri Lanka.

Loans for irrigation from the World Bank and Asian Development Bank

Project	Amount	Date	Agency
Walawe Development Project	$7.7 million	1969	ADB
Mahaweli Ganga Development Project I	$29 million	1970	WB
Tank Irrigation Modernisation Project	$5 million	1976	WB
Kirinda Oya Irrigation and Settlement I	$45 million	1976	ADB
Mahaweli Ganga Development Project II	$19 million	1977	WB
Mahaweli Ganga Technical Assistance Project	$3 million	1980	WB
Anuradhapura Dry Zone Agriculture Project	$15 million	1980	ADB
Kirinda Oya Irrigation and Settlement II	$45 million	1981	ADB
Village Irrigation Rehabilitation Project	$30 million	1981	WB
Mahaweli Ganga Development Project III	$90 million	1981	WB
Walawe Irrigation Improvement Project	$15 million	1984	ADB
Major Irrigation Rehabilitation Project	$17 million	1984	WB
Kirinda Oya Irrigation and Settlement III	$45 million	1985	ADB
Agriculture Program Loan	$80 million	1989	ADB
Southern Province Rural Development Project	$38 million	1991	ADB
National Irrigation Rehabilitation Project	$29.6 million	1991	WB
North Western Province Water Resources Development Project	$30 million	1992	ADB
North Central Province Rural Development Project	$20 million	1996	ADB
Mahaweli Restructuring and Rehabilitation Project	$57 million	1998	WB
North-East Irrigated Agriculture Project I	$27 million	2000	WB
North-East Irrigated Agriculture Project II	$64.7 million	2004	WB
National Water Management Improvement Project	$36 million	2005	WB

First tack: charging for water

In the early 1980s, the World Bank succeeded in getting the Government to declare that it would start charging farmers for water by threatening to cut off funds for irrigation. It was also able to extract a promise to move towards full cost recovery. Farmers would need to pay at least that amount if irrigation were to be made a viable undertaking for the private sector, more for it to be attractive. It is reported as follows by the World Bank: *'In 1981, during the negotiations for the [Mahaweli Ganga Development Project III], extensive discussions on cost recovery took place between the Bank and the Government. Water charges were to be collected in the Mahaweli starting in September 1982 at a level equivalent to 22% of the expected operation and maintenance costs, rising to 100% of those costs by 1991. The*

Government initially stalled but eventually responded because the Bank made it clear that it would not support further investment in irrigation if cost recovery was not addressed. In July 1983, the Cabinet approved the introduction of a nationwide program of water charges, aiming to achieve full cost recovery within 5 years'[20].

The Government did not manage to implement the policy because of resistance on the part of farmers, so the Asian Development Bank started pressing the Government by insisting on a list of actions to be undertaken during the first year of their new project that would ensure enforcement (Agriculture Program Loan). Such mechanisms would need to be in place if irrigation were to be privatised in order to give companies confidence. The steps included: *'conduct policy dialogue with the Bank on the findings and recommendations of World Bank study on procedures for the collection of operation and maintenance costs from farmers'; 'establish an administrative system and implementable procedures for the recovery of operation and maintenance costs'; 'amend the Irrigation Ordinance Chapter 453 and any other legislation necessary to enable the government to quickly prosecute wilful defaulters on operation and maintenance fee payment through civil courts'; 'amend the Agrarian Services Act of 1979 in line with the government's thrust for farmer participation in irrigation management'*[21].

The Government lagged behind in the amendments to the Irrigation Ordinance and Agrarian Services Act, so the Asian Development Bank delayed the disbursement of the second instalment of funds for the project until they agreed. Its report on the project said: *'the second disbursement was delayed due to legislative difficulties in processing amendments to the Agrarian Services Act and the Irrigation Ordinance to enable Farmers' Organisations to collect irrigation service fees'*[22].

The World Bank did not give up on these efforts and later made the total amount of its total financing to the country conditional on progress. In its 1996 Country Assistance Strategy, the World Bank expected to lend only a minimal amount of on average $50 million per year because of the *'unmanageable fiscal deficit and stalled reforms'*, and qualifying for more finance required *'significant improvements in cost-recovery (e.g. in irrigation)'*[23].

Second approach: devolution

Meanwhile, by the late 1980s, as it was proving difficult to make farmers pay directly, the World Bank decided to try another indirect approach. It introduced a concept called *'participatory irrigation system management'*. This devolved responsibility for sections of the new or newly rehabilitated system to farmer organisations created for the purpose.

This was also taken up by the Asian Development Bank. They went a step further and insisted that farmer organisations also contribute a percentage of the cost of the project itself. Criteria for the selection of an irrigation system to be rehabilitated under one of their projects were established (North Central Province Rural Development Project). They included *'the majority of the farmer beneficiaries in a scheme are willing to form a formal Farmer Organisation, in case none is operational, and agree in writing to contribute at least 10% of the scheme cost in the form of labour, cash or kind, and assume operation and maintenance upon completion'*[24].

The World Bank explained the objectives of this *'participatory irrigation system management'*, saying that it would eventually lead to full privatisation of irrigation. The farmer organisations could buy and sell water from private companies on behalf of their members, or they could be converted into or be taken over by private companies. It said in a report on the private sector

[20] '3rd Mahaweli Ganga Development Project Performance Reassessment Report 29489' by the OED, World Bank, June 2004
[21] 'Agriculture Program Loan: PPAR SRI 18145' by the Asian Development Bank, December 1996
[22] 'Agriculture Program Loan: PPAR SRI 18145' by the Asian Development Bank, December 1996
[23] 'Country Assistance Strategy – Progress Report: Report 18711' by the World Bank, December 1998
[24] 'North Central Province Rural Development Project: RRP SRI 27186' by the Asian Development Bank, August 1996

in Sri Lanka: *'[World Bank] lending has [already] supported the transfer of operations and management of small-scale irrigation systems to local private farmer organizations… In the long-run, these reforms…and supportive technical assistance will provide the basis for the eventual complete takeover by local farmer organizations, with the view toward reducing government expenditure and converting to a market oriented system of irrigation which is user responsive.'*[25].

Third line: reform of policy and institutions

The World Bank found that this approach was also not working as anticipated in the face of opposition from farmers.

In the early 1990s, they decided that a more comprehensive approach was needed to effect change and that reform of the entire water sector would be required, in particular through attempts to change overall policy and the implementing institutions. Privatisation from below was not proceeding as planned, so it would have to come from the top. An internal evaluation of their irrigation projects in the 1980s said: *'Many lessons have been taken into account in the design of more recently prepared Bank projects. For example, there is widespread recognition today that investment in infrastructure needs to be accompanied by measures to reform the policy environment and to strengthen institutions. Water needs to be priced and irrigation operation and maintenance charges need to be recovered from farmers'*[26].

Meanwhile…

By the mid-1990s, as work on the water policy was just being started, the World Bank decided that it would include reform of one of the major irrigation institutions in its latest project (Mahaweli Restructuring and Rehabilitation Project). If the Government wanted any more funds for irrigation, it would have to agree to major reform of the Mahaweli Authority. *'The Bank facilitated discussions with the senior management of MASL on the need to reform MASL in view of the country's growing budget deficit…MASL was initially reluctant…however, at the Bank's suggestion, MASL sought the technical assistance (TA) of the Tennessee Valley Authority (TVA) in the design of a restructuring program for MASL…the stakeholders, including key MASL staff, were sensitized to the serious fiscal and policy issues involved…Efforts were also made by the Bank to bring key donors on Board such as Organization for Economic Corporation and Development (OECD), the leading donor for Mahaweli programs at that time, as well as the Asian Development Bank (ADB), United States Agency for International Development (USAID) and European Union (EU). As a result of this process, MASL demonstrated its commitment to restructure and prepared an acceptable institutional restructuring program. Further [World Bank]-financed additional TA from TVA enabled MASL to prepare a detailed restructuring action plan.'*[27]

Getting the Government to agree to this reform of the Mahaweli Authority was described by the World Bank in a progress report on its Country Assistance Strategy in 1998 as a *'breakthrough'*. It was '*expected to demonstrate the advantages of downsizing and transferring functions to farmers and the private sector'*[28]. This contributed to an overall increase of about 25% in World Bank financing to Sri Lanka.

Part was privatised, some functions were passed to farmer organisations and the remainder was converted into a River Basin Management Agency. The institutional component of the project included: *'funds to right-size MASL…for a target 35% overall staff reduction…; support for privatisation of commercially nonviable MASL business units; handover of non-irrigation infrastructure to appropriate line agencies; strengthening farmers' organizations (FOs) in all*

[25] 'Private Sector Assessment: Report 12514-CE' by the World Bank, March 1995
[26] '3rd Mahaweli Ganga Development Project Performance Reassessment Report 29489' by the OED, World Bank, June 2004
[27] 'Mahaweli Restructuring and Rehabilitation Project – Implementation Completion Report 28927-IN' by the World Bank, May 2004
[28] 'Country Assistance Strategy – Progress Report: Report 18711' by the World Bank, December 1998

Mahaweli systems and handing over distributary and field (D&F) canals to Distributary Canal Farmers' Organizations (DCFOs)'[29].

The infrastructure component of the project, which was to rehabilitate a number of irrigation systems, included the installation of meters to measure water flow at all points in the system. This would be essential for privatisation. They would make it possible to measure usage by individual or groups of farmers and therefore allow charging per unit used. The same *'participatory irrigation system management'* described earlier was employed in the infrastructure component. The project document said it aimed for *'the eventual handover of O&M of the MASL-managed irrigation systems to farmers groups formed principally for this purpose'*[30].

The World Bank acknowledged that all the reforms being carried out as part of the institutional component had *'no legal standing'* until the Government passed the water policy and legislative amendments that were *'in drafting stages even at the time of project completion'*. It later added passage of the policy and bill as key indicators in the project and for their *'continued support for the sector'*[31].

New momentum: private sector development

Meantime, the World Bank was looking for opportunities for the private sector. It undertook a study that identified infrastructure as a key sector for development and it recommended irrigation in particular. It said: *'[Government should] enable private sector competition in the infrastructure sector; mobilise private funds for infrastructure through BOO/BOT schemes; establish a regulatory framework to enable private sector provision of infrastructure services; privatise selective infrastructure services [including] irrigation operations.'*[32].

The same paper went on to describe plans for its own lending including direct funding of the private sector: *'[World Bank] plans to focus lending support on the mobilization of resources from the private sector for infrastructure in various ways: enhanced cost recovery, private provision of certain services through BOO/BOT schemes (Private Sector Infrastructure Development Fund), and privatization'*[33].

New objective: ending paddy production

The World Bank also discovered another reason for privatising irrigation. They said that it would discourage the production of paddy, which they considered to be a low value crop that was holding back growth in the agricultural sector.

An advisory paper said, *'Growth from non-plantation agriculture remains stagnant…Despite its low returns per acre…low valued paddy remains the dominant crop… With free water, farm families maximise income through growing paddy and working off-farm.'*

'Priority actions to get agriculture moving again [include] commercialization of the irrigation system, through creating water property rights and markets and a system of management by owners'

'Full correction in the current situation requires a policy of full cost recovery (capital costs as well as O&M) from…farmers.'

'To start, it must be accepted that, in economic terms irrigation water…is a private good, and so should be directed by market forces. For this, the basic legal and institutional structures

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[29] 'National Water Management Improvement Project Information Document AB1549' by the World Bank, April 2005
[30] 'National Water Management Improvement Project Information Document AB1549' by the World Bank, April 2005
[31] 'National Water Management Improvement Project Information Document AB1549' by the World Bank, April 2005
[32] 'Private Sector Assessment: Report 12514-CE' by the World Bank, March 1995
[33] 'Private Sector Assessment: Report 12514-CE' by the World Bank, March 1995

needed to permit market forces to operate must be developed. These center around enforceable water property rights for individual farmers and water markets.'

'Treating irrigation water as a public good inhibits much needed institutional reform, and the creation of independent and (eventually) private irrigation agencies.'

'Complete privatization in the form of a user-owned and operated utility company is preferable.' [34]

These statements made in 1996 were reinforced in 2003. Another paper said, *'Providing water for free, however, leads to other closely related negative effects. It reduces the incentive for farmers to save and use water efficiently...[and] encourages the cultivation of water-intensive crops, such as paddy.'* [35]

It went on to explain that these issues were being addressed through the working out of the water policy in collaboration with the Asian Development Bank. *'With assistance from the Asian Development Bank (ADB), the Government is developing a national water policy for Sri Lanka, approved in draft by the Cabinet of Ministers in March 2000, and a National Water Resources Management Authority is being established to implement the water policy…As policy revision proceeds [in view of the concerns expressed] a serious risk arises from the proposal to drop key measures, including provisions for cost recovery and water pricing and the establishment of water entitlements and their tradability and transferability.'*

'[In the] short- to medium-term, [Government should] Implement National Water Policy and reorient and restructure existing multiple water agencies to be consistent with the Water Policy.' [36]

This was again pressed in the submission of the World Bank to the Sri Lanka Development Forum in 2005. It said, *'The provision of free water has reduced the incentive for farmers to save and use water more efficiently. Building consensus on a national water policy-which effectively addresses maintenance, rehabilitation, and water management issues to deal with growing competition for water-will be essential for the sustainable development and management of water resources.'* [37]

[34] 'Non-Plantation Crop Sector Policy Alternatives: Report 14564 CE' by the World Bank, March 1996
[35] 'Promoting Agricultural and Rural Non-Farm Sector Growth - Report 25387-CE' by the World Bank, February 2003
[36] 'Promoting Agricultural and Rural Non-Farm Sector Growth - Report 25387-CE' by the World Bank, February 2003
[37] 'Development Forum: the Economy, the Tsunami and Poverty Reduction - Report 32221-LK' by the World Bank, April 2005

Chapter 3: On Piped Water Schemes

The privatisation of piped water schemes has also been going on since the 1980s.

Government generally considered the provision of safe drinking water to be an important task of the state. The World Bank and the Asian Development Bank believe that the answer to this is to divert bulk supplies to be treated in processing plants and then distributed through piped water systems. They regard this as a possible and attractive activity for private companies.

The World Bank and the Asian Development Bank have provided financing of almost $450 million for the rehabilitation and expansion of piped water schemes.

Loans for Piped Water from the Asian Development Bank and World Bank

Project	Amount	Date	Agency
Water Supply Project I	$9.2 million	1977	WB
Water Supply and Sewerage Project II	$30 million	1980	WB
Water Supply and Sanitation Rehabilitation Project	$37 million	1986	WB
Water Services Sector Project	$30 million	1986	ADB
Community Water Supply and Sanitation Project I	$24.3 million	1992	WB
Second Water Supply and Sanitation Project	$40 million	1993	ADB
Private Sector Infrastructure Development Project	$77 million	1996	WB
Third Water Supply and Sanitation Project	$75 million	1997	ADB
Water Resources Management Project	$19.7 million	2000	ADB
Community Water Supply and Sanitation Project II	$39.8 million	2003	WB
Secondary Towns and Rural Community-Based Water Supply and Sanitation Project	$60.3 million	2003	ADB

The early projects of the 1970s and 1980s focused mainly on the rehabilitation and expansion of the piped water system in Colombo and in the coastal region between Kalutara and Galle.

In the 1990s, the World Bank moved on to finance construction of schemes in rural areas, while the Asian Development Bank initially focused its funding on urban areas. Efforts were continually made to link the funding of these projects with the push for the policy and legislative change necessary for privatisation, as well as to use the projects themselves to implement important steps in the practical process of privatisation of piped water schemes.

Rural schemes: pay to participate

The World Bank made it clear that water should come at a price in its work in rural areas. It selected villages to be included in its projects on the basis of the community's willingness to pay for water services. It called this a *'Demand Responsive Approach'* or *'Community Driven Development'*.

It formed water user organisations and provided them with initial funding to develop water services in the area. Once complete, the facilities were handed over to these organisations to operate, maintain and recoup capital costs on the basis of user charges. Again, after privatisation, these organisations could buy and sell water on behalf of their members, or could become or be taken over by private companies.

This approach was criticised in a review carried out by the Overseas Development Institute for the UK Government. It said, *'the approach is intrinsically biased towards cost recovery'* and *'the poorest people, unable to contribute either cash or labour time, are often excluded entirely; their 'demand' is not captured by the DRA, because they are not able to pay'* and *'with the new water systems, those who could pay moved away from tube wells, leaving poorer people to maintain these with less people'* and *'emerging [water user] organisations are often faced with the threat of political victimisation from various forces'*[38].

The World Bank itself has commissioned studies that have supported these conclusions. They said, *'system expansion will disproportionally benefit the non-poor households'* if it is based on *'willingness to pay'*[39].

In project evaluations, the World Bank has argued that there has been inadequate implementation of the principle. They claimed that *'cost recovery had rarely been handled adequately'* and advised *'imposing sanctions on households that do not contribute'*, with work to be carried out by paid staff (rather than volunteers) in order not to *'inhibit the professionalisation of the operation'*. They also concluded that *'the amounts of money that can be collected from the use of very simple systems rarely cover even ongoing O&M, much less full cost recovery. Maximizing house connections and yard taps fulfils community aspirations and creates the possibility of collecting enough money through fees and tariffs to make the continuing existence of a local water committee worthwhile'*[40].

The World Bank has directly implemented this approach in rural areas of Badulla, Ratnapura and Matara (Community Water Supply and Sanitation Project I), and has now begun in the areas of the Central, North Western and North Eastern Provincial Councils (Community Water Supply and Sanitation Project II). It also says that it has *'played a major role'* in the widespread propagation of the approach with other agencies funding piped water projects[41].

The Asian Development Bank adopted it when it began working in rural areas. It has projects in Kegalle, Kalutara, Moneragala, Puttalam, Anuradhapura and Hambantota. Criteria for selection of areas were set out. The first was *'responses from the community in terms of willingness to participate and contribute, including operations and maintenance'*. The first project expected to raise $7 million from beneficiaries, which was about 10% of total costs (Third Water Supply and Sanitation Project). The second planned to go further, saying *'the administrative divisions…willing to contribute 20% of the investment costs and take responsibility for the operation and maintenance of the facilities will be invited to apply for assistance'*[42] (Secondary Towns and Rural Community-Based Water Supply and Sanitation Project).

Urban areas: no free water

The Asian Development Bank also insisted that water should not be given free in its work in urban areas. It pioneered attempts to cut sources of free water such as street taps or standposts. When expanding or renovating piped water schemes, it insisted that standposts only be constructed if meters were fixed and standpost consumer societies established to allow charges to be collected. This drive for full billing would increase the attractiveness of the schemes to private companies after privatisation.

It found that this was not always implemented by the Government. It was reported that in one project the principle had only been put into practice in half of the project towns *'because political considerations had prevented the collection of tariffs from consumers'*[43] (Second Water Supply and Sanitation Project). The demand was reinforced in the next project, saying that standposts should in preference be removed: *'the use of standposts should, wherever possible, be phased out, by promoting domestic connections. In the event a community*

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[38] 'Secure Water Through DRA, the Sri Lanka Experience' by ODI, 2004
[39] 'Use of Willingness to Pay Experiments: Estimating Demand for Piped Water Connections in Sri Lanka – WPS3818' by World Bank, January 2006.
[40] 'Community Water Supply and Sanitation Project – Impact Evaluation Report 18113' by the OED, World Bank, June 1998
[41] 'Community Water Supply and Sanitation Project – Impact Evaluation Report 18113' by the OED, World Bank, June 1998
[42] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the Asian Development Bank, December 2002
[43] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the Asian Development Bank, August 2000

insists on retention of standposts, the maintenance authority must charge the consumers for consumption on a metered basis and ownership of the standpost must be vested in a standpost society'[44] (Third Water Supply and Sanitation Project).

Meanwhile, the Asian Development Bank was also working along the same lines in Colombo. It initiated a project to install 50,000 new meters, including at standposts. The National Water Supply and Drainage Board did not like the idea because it was extremely unpopular with consumers, particularly users of standposts. The project report said, *'only about 30,000 meters were installed, because of NWSDB's unwillingness to install them in the face of opposition from consumers, particularly standpost consumers'*[45]. Nevertheless, the amount of unbilled water reduced from an estimated 50-60% in 1993 to around 40% by 1999. The work was then taken up by the Government of Japan with the aim of reaching 30% by 2003.

In 2002, the Asian Development Bank decided to include progress in this work as one of the covenants included in their latest project (Secondary Towns and Rural Community-Based Water Supply and Sanitation Project). The agreement was to *'implement strategy to reduce O&M costs (including reduction in…non-revenue water)'* (within 2 years)[46].

Parallel tracks: increasing prices

The projects gave the Asian Development Bank and World Bank the means to insist that the Government increase the prices charged by the National Water Supply and Sanitation Board. This applied not just to the area being developed under the project in question, but throughout the country. It would be necessary to raise prices beyond the cost of operating and maintaining the systems if private companies were to be able to make a profit.

In 1993, the Asian Development Bank included a series of covenants and target dates in its latest loan agreement with Government (Second Water Supply and Sanitation Project). They insisted on raising prices. In addition, they introduced the idea that the provision of water should not be subsidised by insisting on the phasing out of grants by Government. The agreement said, *'adjust tariffs annually to ensure that…[they] cover O&M costs and debt service or depreciation, whichever is higher'* (immediately); *'develop a framework for a phased reduction of grant financing [in all areas outside the Greater Colombo Region]…which will be provided to ADB for comments…and the agreed recommendations will be implemented'* (by 1995); *'phase out grant financing of NWSDB capital works in the Greater Colombo Region'* (by 1998) [47].

In 1996, the World Bank decided to make its overall lending to Sri Lanka conditional on increasing prices. It said in its Country Assistance Strategy that it expected to lend only a minimal amount of on average $50 million per year because of the *'unmanageable fiscal deficit and stalled reforms'*, and that qualifying for more finance required *'significant improvements in cost-recovery (e.g. in urban water)'*[48].

In 1997, the Asian Development Bank made an attempt to effect a more permanent change in tariffs through its new project (Third Water Supply and Sanitation Project). It was to formulate a tariff policy and work towards the shifting of responsibility for tariffs from state control to an independent agency. It recruited one of its regular consultants to work on the tariff model[49]. This was to ensure in particular that domestic consumers paid at least as much as commercial and industrial customers. It was also to work towards the elimination of all state subsidies. Meanwhile, it introduced the idea of scheme specific tariffs, which would be necessary if individual schemes were to be sold off to the private sector. In addition, a separate sewerage tariff was to be introduced in Colombo. Government had to agree to

[44] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[45] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the Asian Development Bank, August 2000
[46] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the Asian Development Bank, December 2002
[47] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the Asian Development Bank, August 2000
[48] 'Country Assistance Strategy – Progress Report: Report 18711' by the World Bank, December 1998
[49] The consultant highlights 15 Asian Development Bank projects and 2 World Bank projects to demonstrate his experience on his CV.

'ensure that (a) NWSDB will meet O&M costs plus the greater of debt service or depreciation from revenues derived from water supply tariffs; (b) every water supply scheme will meet at least its O&M costs from water supply tariffs; (c) the cross-subsidy from non-domestic to domestic consumers will be progressively reduced' (December 2000); *'establish an independent regulatory structure to review, adjust and approve water supply and wastewater tariffs'* (December 2000); *'introduce a separate sewerage tariff to cover O&M costs of the sewerage systems in Greater Colombo'* (January 2002) [50].

The Asian Development Bank was still not satisfied with the level of tariffs and decided to include another consultancy in its latest water project in 2000 (Water Resources Management Project). It said, *'although considerable work on policy development has been done, work is still required in cost recovery'*[51].

Parallel tracks: introducing private sector

The Asian Development Bank and the World Bank also tried at every possible opportunity to use their projects to involve private companies in the water sector in whatever way they could.

In 1993, the Asian Development Bank commissioned consultants for what it called management strengthening of the National Water Supply and Drainage Board (Management Strengthening of the NWSDB Project). The brief included looking at privatisation. Consultants were to *'assess the potential for privatising some services'*[52]. This was pushed through the agreement for its latest water project, which included undertakings to complete these studies and implement the recommendations (Second Water Supply and Sanitation Project). The document said, *'complete…a series of privatisation studies'* (December 1994) and *'implement the agreed recommendations'* (June 1995) [53].

In 1996, the World Bank started a project that would create a government-owned company to provide long-term finance to private companies for infrastructure projects including water (Private Sector Infrastructure Development Project). It explained that this would assist the process of privatisation. The project rationale said, *'a major objective of the World Bank Group is to influence and accelerate the transitional process from public dominated infrastructure to private operation and ownership'* and *'despite the shift in government policy in favour of private participation, translation into real transactions has been a difficult and contentious process'*. It then referred to a similar project of the World Bank in Pakistan, which *'gave the Bank and other donors the ability to influence the process of private investment in infrastructure early on'*. Examples of possible proposals to be funded through the project were given in the proposal, including the attempt by World Bank to *'delink Greater Colombo from NWSDB's operational jurisdiction and to encourage the provision of water supply and sanitation services by the private sector'*[54]. This was the beginning of the efforts to separate the market of Greater Colombo, the life support of the National Water Supply and Drainage Board. The Asian Development Bank said in a report, *'[NWSDB] derives about two-thirds of its revenues in Greater Colombo'*[55].

In 1997, the Asian Development Bank convened two major policy workshops, inviting all major agencies financing the water sector, as well as Government. They recommended greater private sector participation in general and also handing responsibility for decisions on privatisation issues to an independent agency. A report on the workshops said, *'Some of the more significant recommendations were to (i) have greater private sector participation in the sector, (ii) set up a water supply and wastewater regulatory structure to approve tariffs and other regulatory matters, including privatisation issues'*[56]. It went on to say, *'a second round*

[50] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[51] 'Water Resources Management Project: RRP SRI 31288' by the Asian Development Bank, August 2000
[52] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the Asian Development Bank, August 2000
[53] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the Asian Development Bank, August 2000
[54] 'Private Sector Infrastructure Development Project: Staff Appraisal Report 15391' by the World Bank, May 1996
[55] 'Preparing the Small Towns and Rural Arid Areas Water Supply and Sanitation Project: TAR' by the Asian Development Bank, October 2006
[56] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997

of dialogue focused on the introduction of private sector participation in the management of the water supply and sewerage services in Greater Colombo'[57].

Later that year, the Asian Development Bank included a covenant in its new project agreement promising the privatisation of water in Colombo (Third Water Supply and Sanitation Project). It said, '*introduce private sector participation in the Greater Colombo water supply and sewerage system'* (December 2001)[58]. The project included hiring consultants to carry it out. One company was asked to *'introduce private sector participation in the management of the Greater Colombo water supply and sewerage'*. It was anticipated that there would be opposition to this work, so *'a firm of public relations consultants will be recruited to assist with this program'*[59].

In 2000, the World Bank took on additional consultants to study how to privatise water in two other areas: the Greater Negombo Area and the Kalutara to Galle Coastal Strip (Private Sector Infrastructure Development Project). These were areas it had already worked on in its early projects for expansion and rehabilitation of piped water schemes in the 1980s. The contracts were given to Halcrow and Pricewaterhouse Coopers, both known privatisation proponents, and both with strong links to industry and to the powerful lobby groups, particularly in the UK[60]. These same companies would later be taken on to prepare and carry out the bidding process in these areas in 2003.

Shortly afterwards, the Asian Development Bank brought in consultants to prepare their next project (Secondary Towns Water Supply and Sanitation Project Preparatory Technical Assistance). This included undertaking a study to *'examine the possibility of private sector participation in the operation and maintenance of the Batticaloa water supply scheme'*. Consultants were also to give *'support for preparing to involve private sector in improving management of Greater Colombo water supply'*. The work also included making a proposal for the Polonnaruwa water supply scheme[61].

Meanwhile, the World Bank had in 2002 started a major programme of technical assistance to the Government (Economic Reforms Technical Assistance Project). Several consultants were employed and key indicators of their performance included privatisation of water in certain areas. Specifically: *'the signing of lease agreements for private sector participation in urban water supply and sanitation in selected secondary towns and significant progress towards concessioning greater Colombo water and sewerage services'*[62].

The next project of the Asian Development Bank was to hand over entire schemes to other bodies, preferably the private sector (Secondary Town and Rural Community-Based Water Supply and Sanitation Project). The project document said, *'the institutional component will assist NWSDB to transfer the management of small schemes to local governments, CBOs or the private sector and requires the outsourcing to the private sector of non-core activities for all new schemes'*. To that end, covenants included in the project agreement: *'identify water schemes with less than 1,000 connections for rehabilitation and eventual transfer to local government institutions, the private sector and/or CBOs, and transfer identified schemes'* (within 4 years). Meanwhile, other covenants committed to prepare for transfer of large schemes: *'complete an asset registry in all regional water supply schemes with more than 10,000 connections'* (within 2 years)[63].

In 2003, the World Bank decided to make the total amount of financing to the country conditional on privatisation. It also promised to fund private companies in water. In the 2003

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[57] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[58] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[59] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997
[60] See 'Halcrow and Water Privatisation' by World Development Movement, March 2005, 'Heading for Failure: How Water Privatisation Threatens the Millennium Development Goals' by WDM, September 2005, and 'Dirty Aid, Dirty Water' by World Development Movement, February 2005.
[61] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the ADB, December 2002
[62] 'ERTAP Project Appraisal Document – Report No. 25066-CE' by the World Bank, November 2002.
[63] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the ADB, December 2002

Country Assistance Strategy, the World Bank expected to lend a greater amount of on average $125 million per year. However, this would be cut by 50% if there was *'a lagging behind of structural reforms'*. It could be increased by about 25% if there was *'high performance in…progress in private participation in infrastructure'*, which *'would trigger specific operations to support those reforms, notably possible investments supporting private participation in water'*[64].

It should be noted that the experience with private sector participation in the water sector has not been positive in Sri Lanka. The Asian Development Bank, in its Water Policy worked out in 2001, said, *'Associating with the private sector does not always bring benefits. In Sri Lanka, the National Water Supply and Drainage Board contracted out meter reading and billing for its water supply services. With irregular readings and billing delays averaging 6 months, it decided to undertake the functions in-house. Bills are now sent out within a month of meter reading and consumer complaints have fallen from over 10% to less than 2%.'*[65]

Meanwhile…

The projects also provided the chance to push for policy and legislative change for the sector as a whole.

In 1993, the Asian Development Bank inserted a number of additional undertakings to be completed by particular dates in its latest project agreement. These included taking on consultants to consider how the water sector could be privatised. The undertakings were: *'complete…a series of privatisation studies'* (December 1994) and *'implement the agreed recommendations'* (June 1995)[66].

For the next project, the Asian Development Bank added further actions to be completed during the project cycle, including the development of a policy, passage of legislation, and elaboration of procedures for implementation. This was in 1997. The points were: *'adopt a national water policy'* (March 1999); *'create a permanent institutional arrangement for water sector coordination'* (March 1999); *'adopt a new national water act with amended water-related legislation'* (March 2000); *'establish policies and operational procedures for the determination of water rights and the allocation of water, particularly with respect to (a) the competing uses of water resources for water supply and irrigation, and (b) groundwater use'* (December 2000)[67].

In 2003, the Asian Development Bank decided to make approval of the water policy by Cabinet a condition for the start of their new project. The agreement included, *'draft of the water service industry act satisfactory to the ADB…approved by the Cabinet for submission to Parliament'*[68].

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[64] 'Country Assistance Strategy: Report 25413-CE' by the World Bank, April 2003
[65] 'Water for all: the Water Policy of the Asian Development Bank' by the ADB, October 2001
[66] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the ADB, August 2000
[67] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997
[68] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the ADB, December 2002

Chapter 4: On Institutions

The process of institutional change, that is the reform of the state agencies in the water sector to allow and ease privatisation, took off in parallel with the work on policy and legislative change in the 1990s.

Bringing in the private sector

The first step was to bring the private sector into the process of planning for the water sector. This would create a constituency for privatisation within government itself.

This was achieved through efforts of the Asian Development Bank. In 1993, it commissioned an assessment of the water sector (Institutional Assessment for Comprehensive Water Resources Management Project). Consultants were asked to review all state institutions and prepare *'a strategic framework and an action plan for reform'*[69]. They recommended the establishment of a *'senior level'* body bringing together representatives of the public and private sectors to jointly oversee the process of reforms[70].

This was put into practice through another package of advisory services from the Asian Development Bank from 1995 (Institutional Strengthening for Comprehensive Water Resources Management Project). Consultants assisted in the establishment of what were called the Water Resources Council and a supporting Water Resources Secretariat[71]. This was undertaken by a regular recruit of the Asian Development Bank, Agriteam Canada Consulting Ltd[72]. The individual who served as Senior Technical Advisor to the Water Resources Council later filled the same position at the Water Resources Council established under Asian Development Bank tutelage in Vietnam[73].

Establishing central control

There are over a dozen state agencies involved in the water sector, each responsible for a different function. These range from the collection and analysis of data on rain, surface and ground water resources, to the provision and maintenance of infrastructure for irrigation and water supply, to the production of electricity from hydropower, to the development of inland fisheries, to setting and monitoring of water quality standards, to the administration of related legislation and so on.

Crucially, several state agencies have the power to extract water for use in irrigation or water supply systems. It would be necessary to superimpose a central body if the water sector were to be privatised.

The Water Resources Council and the Water Resources Secretariat provided some form of central control over the water sector, but these were only temporary arrangements and were not backed up by official powers. These would need to be supplemented and reinforced.

The Asian Development Bank began to press for this from the time of the establishment of the Water Resources Council and Water Resources Secretariat in 1996. It set a deadline for the establishment of a permanent authority in its next water supply project in 1997 (Third Water Supply and Sanitation Project). The project document contains the following covenant: *'create a permanent institutional arrangement for water sector coordination'* (March 1999)[74].

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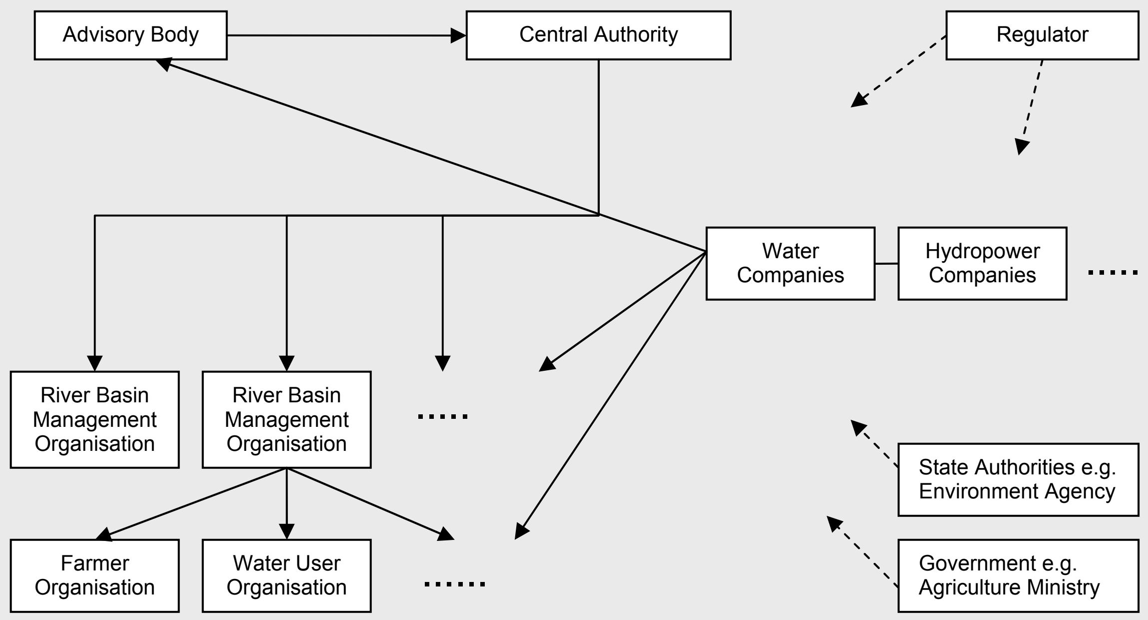
[69] 'Institutional Strengthening for Comprehensive Water Resources Management: TACR' by the ADB, October 2001
[70] 'Water Resources Management Project: RRP SRI 31288' by the ADB, August 2000
[71] 'Institutional Strengthening for Comprehensive Water Resources Management: TACR' by the Asian Development Bank, October 2001
[72] See http://www.agriteam.ca/details.cgi?uid=65 and http://www.agriteam.ca/projects.html.
[73] Alfred Birch. See http://www.adb.org/Documents/Events/2004/Leadership_in_Water_Governance/program.asp.
[74] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the Asian Development Bank, October 1997

In 2000, the Asian Development Bank moved on to prepare a loan to establish what was to be called the National Water Resources Authority (Water Resources Management Project). It set another deadline, '*National Water Resources Authority will be formally established and functioning'* (December 2001)[75]. The project agreement went on to say, *'in the event [the NWRA] is not established by then, the Government acknowledges that the loan may be suspended'*[76]. The loan was delayed because of non-compliance with covenants. The Asian Development Bank update in 2001 said, *'three loans of the portfolio [including the Water Resources Management Project, approved in 2000] are still not effective due to delayed compliance with conditions'*[77]. Another supposedly temporary body was established, called the Interim-National Water Resources Authority. The loan was eventually cancelled because of non-compliance.

Possible structure for the privatised water sector



In parallel, attempts were made to privatise the main state institutions. For example, in the irrigation sector, one of the major bodies is the Mahaweli Authority. This was part-privatised in the late 1990s through the interventions of the World Bank. In the water supply sector, the major actor is the National Water Supply and Drainage Board, which has been the subject of long battles to reduce its functions. Both the Asian Development Bank and the World Bank have been pressing for existing water supply systems in the most profitable areas to be handed to private sector, specifically in the regions around Colombo and Negombo and the coastal strip between Galle and Kalutara. Meanwhile, new water supply systems constructed under projects of the Asian Development Bank and World Bank have been immediately vested with the private sector or with NGOs. These details have been given earlier.

Pilots in river basins

In addition to the central authority, it was envisaged to establish regional bodies to gather and collate information at the level of a river basin, prepare recommendations and plans, monitor and so on. Progress has been made through a series of what are called pilot interventions.

[75] 'Water Resources Management Project: RRP SRI 31288' by the Asian Development Bank, August 2000
[76] 'Water Resources Management Project: RRP SRI 31288' by the Asian Development Bank, August 2000
[77] Country Strategy and Program Update 2002-4' by the Asian Development Bank, July 2001

In 1998, the Asian Development Bank asked consultants to prepare a project to introduce the concepts of water rights and allocations and to establish management systems in five river basins around Colombo: Kelani Ganga, Kalu Ganga, Maha Oya, Attangalu Oya and Bolgoda Lake (Western River Basins Project Preparatory Technical Assistance). The consultants were to undertake an assessment of all five river basins and then prepare detailed plans for two river basins. The Asian Development Bank said that this would effectively *'operationalise the policy'*[78]*.* This was carried out by Agriteam Canada Consulting Ltd.

Further work was done in the project approved in 2000. Pilot programmes were to establish River Basin Organisations and see how the policy and legislation would work in practice in three river basins: Menik Ganga, Deduru Oya and Attanagalu Oya.

The World Bank was also working on pilot programmes in its project with the Mahaweli Authority from 1998. It worked in another river basin: Kala Oya. The project document described it as follows: *'the outcomes included a pilot river basin management organisation, volumetric bulk water based water allocation, river basin committees and water users' organisations'.*[79]

Meanwhile, the major restructuring of the Mahaweli Authority undertaken by the World Bank aimed to transform it into a River Basin Management Organisation.

Local bodies

The World Bank and Asian Development Bank projects in irrigation and water supply have also involved the establishment of farmer organisations and water user organisations. New or newly rehabilitated schemes have as far as possible been vested with such bodies, which could buy and sell water from private companies on behalf of their members after privatisation, or could become or be taken over by private companies. This has already been discussed.

Setting up a regulator

At the same time, progress was being made in setting up a new institution to regulate the private companies it was anticipated would be entering the water sector. The establishment of pro-corporate regulators has previously been flagged as one of the ways the World Bank and Asian Development Bank disproportionately favour the interests of private sector[80].

The Asian Development Bank started working on this in 1997. It envisaged establishing a Water Services Regulatory Commission. Consultants were taken on as part of the latest water project to *'assist in the establishment of a regulatory authority'*[81] (Third Water Supply and Sanitation Project). This work included *'preparing a draft act for establishing the Water Services Regulatory Commission'*[82]. Even before privatisation, the establishment of such an independent structure could be used to reduce state involvement in issues such as price increases in the water sector. A deadline was set through a project covenant: *'establish an independent regulatory structure to review, adjust and approve water supply and wastewater tariffs'* (December 2000) [83].

In 2000, the World Bank commissioned a review of the privatisation of infrastructure services, amongst which water, which recommended the establishment of an institution to regulate all infrastructure services, beginning with water and electricity that were expected to be the first

[78] 'Water Resources Management Project: RRP SRI 31288' by the ADB, August 2000
[79] 'National Water Management Improvement Project Information Document AB1549' by the World Bank, April 2005
[80] See for example 'The Role of the IMF, the World Bank and the WTO in the Privatisation and Liberalisation of the Water Services Sector' by the Citizen's Network on Essential Services, October 2005.
[81] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997
[82] 'Strengthening the Regulatory Framework for Water Supply and Sanitation: TAR SRI 34315' by the ADB, December 2002
[83] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997

to be privatised. It was the first project of the Public Private Infrastructure Advisory Fund. The result was to be the Public Utilities Commission. This and three subsequent contracts in 2003 and 2004 were awarded to companies linked to a single individual originally at Frontier Economics, then later at Economic Consulting Associates from UK[84]. One of these was to develop an operations manual for the Public Utilities Commission and the other two were to advise on regulation with regard to reforms in the electricity sector.

Meanwhile, the Asian Development Bank brought in further consultants to prepare their next water project. They were to *'give support for introducing a regulatory body and benchmarking for the water supply and sanitation sector'*[85].

The World Bank then hired another set of consultants to draft new legislation for the establishment of the Public Utilities Commission. This was in 2002. It was the second project of the Public Private Infrastructure Advisory Fund.

The Asian Development Bank started to push the process harder. It made establishment of the Public Utilities Commission one of the triggers governing the overall amount of lending to the Government in 2002. It expected to lend to lend an average of $133 million in concessional finance (plus $66 million in non-concessional finance), but this could increase or decrease by about 20% if there were *'significant improvement'* and *'no actions'* respectively, with respect to the *'establishment of an autonomous regulatory body for infrastructure'*[86].

The Asian Development Bank then initiated another attempt to work out some of the details for the water sector within the framework established by the World Bank for the Public Utilities Commission. Consultants were briefed to *'develop regulations and guidelines for the water and sanitation sector within the existing PUC framework'* (Strengthening the Regulatory Framework for Water Supply and Sanitation Project). They were advised that these should be *'conducive to private sector participation*'. Performance indicators for the consultants specified that *'specific regulations and guidelines for water supply approved by December 2003'*[87].

At the same time, the Asian Development Bank made the establishment of the Public Utilities Commission a condition for the effectiveness of its new water project (Secondary Towns and Rural Community-Based Water Supply and Sanitation Project)[88]. It also added the inclusion of the water sector within the purview of the Public Utilities Commission as one of the triggers governing its overall lending in 2003. It was required to make '*progress in vesting responsibility for regulation of the water supply sector with the PUC'*[89] An amount of $133 million was allocated (plus $100 million in non-concessional finance) was allocated, but the amount of concessional finance was reduced to $90 million after the performance assessment, and remained at that level the following year[90].

[84] These were Frontier Economics (see http://www.frontier-economics.com/article.php?id=4), a Consortium led by Norton Rose by including Frontier Economics (see http://www.frontier-economics.com/articles.php?id=139), Frontier Economics, and Economic Consulting Associates (now with the consultant from Frontier Economics on staff, see http://www.eca-uk.com/pages/peoplewilliam_derbyshire.html).
[85] 'Secondary Towns and Rural Community Based Water Supply and Sanitation Project: RRP SRI 31501' by the Asian Development Bank, December 2002
[86] 'Country Strategy and Program Update 2003-5' by the Asian Development Bank, July 2002
[87] 'Strengthening the Regulatory Framework for Water Supply and Sanitation: TAR SRI 34315' by the ADB, December 2002
[88] 'Secondary Towns and Rural Community Based Water Supply and Sanitation Project: RRP SRI 31501' by the Asian Development Bank, December 2002
[89] 'Country Strategy and Program 2004-8' by the Asian Development Bank, September 2003
[90] 'Country Strategy and Program Update 2005-6' by the Asian Development Bank, September 2004

Chapter 5: On Policy and Legislation

The story of the water policy and related legislation begins in 1993.

In that year, the Asian Development Bank decided to press the Government to take on consultants to consider how the water sector could be privatised (Institutional Assessment for Comprehensive Water Resources Management Project). It included such a study as one of the activities to be carried out in its latest water project (Second Water Supply and Sanitation Project). Deadlines were also set. They were *'complete…a series of privatisation studies'* (December 1994) and *'implement the agreed recommendations'* (June 1995)[91].

In 1995, the Asian Development Bank duly hired consultants to write a water policy and related legislation (Institutional Strengthening for Comprehensive Water Resources Management Project). This was carried out by Agriteam Canada Consulting Ltd. The report on the work of the consultants said, *'the main activities [included] developing a National Water Sector Policy [and] preparing and enacting a National Water Act and amending water-related legislation'*[92].

Main points of the water policy

- The country is being transformed from an agrarian to an urban society
- Water is owned by the state
- Water is a scarce resource
- The state will promote the economic efficiency of water use
- The state will allocate water to people through saleable water rights
- Water resource management will be carried out by independent agencies
  - National Water Resources Authority: apex agency under head of state
  - Water Resources Council: advisory coordinating body including private sector
  - Water Resources Tribunal: independent appeal body
- There will be provincial and local level bodies supporting these national agencies
  - River Basin Committees: bodies responsible for preparing river basin plans
- People will pay the costs of managing water
- User groups will be made responsible for water resource management as far as possible
- Groundwater use will be regulated
- Rainwater harvesting will be encouraged
- Private sector management of water resources will be encouraged

Source: 'National Water Resources Policy and Institutional Arrangements' by the Water Resources Council and Secretariat (2000) quoted in 'Promoting Agricultural and Rural Non-Farm Sector Growth' by the World Bank (2003)

The next water project provided the opportunity to work out procedures for implementation of the policy, in particular how to confer water rights and make allocations, and how to license extraction of water to make the system work (Third Water Supply and Sanitation Project). Proposals were to be made for Anuradhapura. Consultants were to *'prepare policies and operational procedures for water rights where there are competing uses of water sources for water supply and irrigation purposes. For this purpose, the consultants will undertake a full case study of the Anuradhapura water supply and irrigation development options. Policies and operational procedures will also be developed for the licensing of groundwater use'*[93]. This was in 1997. The same project set new deadlines *'adopt a national water policy'* (March 1999); *'adopt a new national water act with amended water-related legislation'* (March 2000); *'establish policies and operational procedures for the determination of water rights and the*

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[91] 'Second Water Supply and Sanitation Project: PCR SRI 23209' by the ADB, August 2000
[92] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997
[93] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997

allocation of water, particularly with respect to (a) the competing uses of water resources for water supply and irrigation, and (b) groundwater use' (December 2000)[94].

In 1998, when it appeared that approval of the policy and legislation risked lagging behind, Agriteam Canada Consulting was given a new contract to help get it through (Western River Basins Project Preparatory Technical Assistance)[95]. It set a new deadline of November 1999. The brief by the Asian Development Bank said, *'assist the Water Resources Council and Water Resources Secretariat to secure approval of the new water law by November 1999'*[96].

The water policy was approved by Cabinet in March 2000, but immediately became subject to intense public opposition.

The Asian Development Bank then decided to make approval of the legislation by the Cabinet a condition for their latest water project (Water Resources Management Project). The deadline was pushed to May 2001. The project document said, *'Cabinet will approve the National Water Resources Act'* (May 2001)[97].

Meanwhile, the Asian Development Bank was working on procedures for implementation of the legislation. It engaged consultants to *'develop regulations and other subordinate legislation for implementing the Water Resources Act'* (Water Resources Management Project). Further, it wanted to *'provide guidance in policy formulation, river basin planning, water resource administration; and also advise partner agencies on the restructuring required'.* At the same time, the consultants were to pilot the policy in some areas. The brief asked for *'pilot water management activities to be carried out in selected river basins'*[98]. Agriteam Canada Consulting Ltd. said that *'much of the policy implementation will take place through the declaration of pilot 'water management' or 'groundwater management' areas'*[99].

Shortly afterwards, the Asian Development Bank brought in consultants to prepare the next water project, using the opportunity to try out the policy in Hambantota and Moneragala (Secondary Towns Water Supply and Sanitation Project Preparatory Technical Assistance). They were asked to undertake a study to *'[assess] the feasibility of trading water rights between farmers and water utilities [in Hambantota and Moneragala]'*, by looking at *'water supply versus irrigation for competing water use, drawing conclusions as to the way water should be allocated in the future'*[100].

Meanwhile, the World Bank hired two consultants to advise the Government on reforms in the water sector as a whole (Economic Reforms Technical Assistance Project). That was in 2002. The first person chosen would receive another contract the following year and would then go on to perform the same function for the World Bank in Mozambique[101]. The second was earlier involved in the now highly controversial privatisation of water services in Manila, the Philippines, about which he has written a book published by the World Bank[102].

It was then decided that the draft legislation was not sufficiently encouraging for private companies wanting to enter the water sector and so additional consultants were taken on. This was the third project undertaken through the Public Private Infrastructure Advisory Fund managed by the World Bank. The description of the activity says that *'concerns had been raised regarding the country's existing legal framework [because it] is not conducive to private sector participation reforms in the water and sanitation sector'* and that although bills had been drafted to try to correct this, *'while they address most of the barriers to private sector*

[94] 'Third Water Supply and Sanitation Project: RRP SRI 28153' by the ADB, October 1997
[95] See http://www.agriteam.ca/details.cgi?uid=105
[96] See http://www.adb.org/Documents/Profiles/PPTA/31288012.ASP
[97] 'Water Resources Management Project: RRP SRI 31288' by the Asian Development Bank, August 2000
[98] 'Water Resources Management Project: RRP SRI 31288' by the ADB, August 2000
[99] 'International Mentoring: Application of Australian Experience for Sri Lankan Water Sector Reforms Under Technical Assistance of the Asian Development Bank' published in 'Water International, Vol. 24, No. 4' by the International Water Resources Association, December 1999
[100] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the ADB, December 2002
[101] K K C Perera
[102] Mark A Dumol.

participation, they do not resolve all of the issues identified'. It was reported that *'The legal consultants, following two missions to Colombo, Sri Lanka, to consult with the various stakeholders, produced [their] final recommendations on the proposed changes for the draft Water Services Reform Bill…[which] were accepted by the Ministry and the final Bill has subsequently been submitted to and approved by The Cabinet in Sri Lanka.'*[103]

Simultaneously, the Asian Development Bank hired another set of consultants to help those employed by the World Bank and also to work out procedures for implementation of the legislation (Strengthening the Regulatory Framework for Water Supply and Sanitation Project). It set another deadline for passage of the legislation by November 2003. The brief asked them to *'[finalise] the draft Water Reform Act, [provide] a set of guidelines to implement the various provisions… [and provide] training'*. Particular stress was put on the necessity for all these to be *'conducive to private sector participation*'. Performance indicators for the consultants specified that the *'Water Services Reform Bill [should be] approved by Parliament by November 2003'*[104].

The following year, as the policy was still subject to debate following public protest and the legislation had not yet been introduced to Parliament, the Asian Development Bank decided to make approval of the water policy by Cabinet a condition for the start of their new project (Secondary Towns and Rural Community-Based Water Supply and Sanitation Project). The agreement included, *'draft of the water service industry act satisfactory to the ADB…approved by the Cabinet for submission to Parliament'*[105].

At the same time, the Asian Development Bank made enactment of the legislation one of the triggers governing its overall level of lending to Sri Lanka in 2003. It said, *'Water Supply Bill enacted by Parliament'*[106].

A year later, with the bill still not passed, the Asian Development Bank delayed its latest project to try to secure support (Greater Colombo Wastewater Management Project). The update on its activities said that *'The Water Services Reform bill is also crucial for one loan, the Greater Colombo Waste Water Management Project in 2006'*[107].

[103] See http://www.ppiaf.org
[104] 'Strengthening the Regulatory Framework for Water Supply and Sanitation: TAR SRI 34315' by the ADB, December 2002
[105] 'Secondary Towns and Rural Community-Based Water Supply and Sanitation Project: RRP SRI 31501' by the ADB, December 2002
[106] 'Country Strategy and Program 2004-8' by the Asian Development Bank, September 2003
[107] 'Country Strategy and Program Update 2006-8' by the Asian Development Bank, August 2005

Conclusion

The draft water policy upon which public views were invited is the product of a process rooted in privatisation.

The driving force has been and continues to be the World Bank and the Asian Development Bank. These agencies have consistently used their finance, consultants and projects to push for privatisation. It has been amply demonstrated in this report.

Only a week before the draft was published, consultants started work in preparing the next water project of the World Bank (National Water Management Improvement Project), and a week later, a consultancy package was approved to prepare the next water project of the Asian Development Bank (Small Towns and Rural Arid Areas Water Supply and Sanitation Project). Meanwhile, three water projects of the Asian Development Bank are awaiting approval by its Board.

Pending loans from the World Bank and Asian Development Bank

Project	Amount	Appraisal due	Agency
Jaffna Water Supply and Waste Water Management Project	$50 million	September 2006	ADB
Secondary Towns and Rural Community-Based Water Supply and Sanitation Project (Supplementary Financing)	$46.7 million	October 2006	ADB
National Water Management Improvement Project	$66 million	February 2007	WB
Greater Colombo Wastewater Management Project	$50 million	December 2007	ADB
Small Towns and Rural Arid Areas Water Supply and Sanitation Project	$50 million	2008	ADB

The draft water policy has been amended numerous times over the course of the last six years as politicians have sought to remove references to privatisation.

They have not been successful. The process began for the purpose of privatisation, was based on principles of privatisation and has been undertaken by proponents of privatisation. It is intrinsically linked to privatisation. This is now public knowledge and the public have learnt that the policy needs no further amendments. It must be scrapped.

The president said in his election manifesto that the owner of the water resources should be the people. This is not enough. The details documented in this report have demonstrated that the power to plan and make policy is equally important and for the last two decades this has been in the hands of the World Bank and Asian Development Bank. The people are the owners of the water resources, but the people must also be the planners and policy makers.

Annex 1: Acronyms

ADB	Asian Development Bank
BOO	Build Own Operate
BOOT	Build Own Operate and Transfer
BOT	Build Operate Transfer
CAS	Country Assistance Strategy
CDD	Community Driven Development
DRA	Demand Responsive Approach
FO	Farmers' Organisation
IMF	International Monetary Fund
INWRA	Interim National Water Resources Authority
MASL	Mahaweli Authority of Sri Lanka
NRW	Non-Revenue Water
NWRA	National Water Resources Authority
NWSDB	National Water Supply and Drainage Board
O&M	Operation and Maintenance
ODI	Overseas Development Institute
OED	Operations Evaluation Department
PUC	Public Utilities Commission
RBMA	River Basin Management Agency
RBMO	River Basin Management Organisation
UFW	Unaccounted For Water
WB	World Bank
WRC	Water Resources Council
WRS	Water Resources Secretariat
WUA	Water Users' Association

Annex 2: Relevant websites

Citizen's Network for Essential Services: www.servicesforall.org
Council of Canadians: www.canadians.org
Focus on the Global South: www.focusweb.org
Friends of the Earth International: www.foei.org
IFIwatchnet: www.ifiwatchnet.org
International Forum on Globalisation: www.ifg.org
Polaris Institute: www.polarisinstitute.org
Public Citizen: www.citizen.org
Public Services International: www.psiru.org
Transnational Institute: www.tni.org
War on Want: www.waronwant.org
World Development Movement: www.wdm.org
World Economy Ecology and Development: www.weed-online.org
World Resource Institute: www.wri.org

Centre for Environmental Justice: www.ejustice.lk
Environmental Foundation Ltd: www.efl.lk
Green Movement of Sri Lanka: www.greensl.net
Movement for National Land and Agricultural Reform: www.geocities.com/monlarslk
Trade Union Joint Front of the Irrigation Department: www.waterwarriors.bravehost.com

International Monetary Fund: www.imf.org
World Bank: www.worldbank.org
International Finance Corporation: www.ifc.org
Multilateral Investment Guarantee Agency: www.miga.org
Asian Development Bank: www.adb.org
Japan Bank for International Cooperation: www.jbic.go.jp

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- ‘Improving the Rural and Urban Investment Climate’ (March 2005)
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- ‘Development Forum: the Economy, the Tsunami and Poverty Reduction: Report 32221-LK’ (April 2005)
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- Operations Evaluation Department: ‘Community Water Supply and Sanitation Project – Impact Evaluation Report: Report 18113’ (June 1998)
- Operations Evaluation Department: ‘Country Assistance Evaluation: Report 21771’ (January 2001)
- Operations Evaluation Department: ‘3rd Mahaweli Ganga Development Project Performance Reassessment Report: Report 29489’ (June 2004)

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- ‘Agriculture Program Loan: PPA SRI 18145’ (December 1996)
- ‘Third Water Supply and Sanitation Project: RRP SRI 28153’ (October 1997)
- ‘Secondary Towns Power Distribution Project II: PPA SRI 19173’ (October 1998)
- ‘Country Operational Strategy Study: STS SRI 98017’ (December 1998)
- ‘Walawe Irrigation Improvement Project: PPA SRI 16051’ (December 1999)
- ‘Second Water Supply and Sanitation Project: PCR SRI 23209’ (August 2000)
- ‘Water Resources Management Project: RRP SRI 31288’ (August 2000)
- ‘Country Assistance Plan 2001-2003’ (December 2000)
- ‘Secondary Towns Water Supply and Sanitation Project: TAR SRI 31501’ (December 2000)
- ‘Institutional Strengthening for Comprehensive Water Resources Management: TACR’ (June 2001)
- ‘Country Strategy and Program Update 2002-2004’ (July 2001)
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