

# Consumer Protection & Fair Trading





# Diary of Events

## January

**3** The UNESCO Reactive Monitoring Mission has strongly recommended against the construction of an airport base at Kimbissa within 2 km off Sigiriya. The mission has submitted its report to the Government and relevant authorities for examination and consideration.

The Embassy of the United States announced that Sri Lanka will again this year to be included in the short list of countries receiving benefit under the PL (Public Law) 480 Title I Programme. Under this programme, Sri Lanka will be receiving approximately 63,800 metric tons of wheat, valued at \$ 8 million in fiscal year 2002. Last year, Sri Lanka received approximately 58,000 metric tones of wheat.

**4** The Commerce and Consumer Affairs Ministry in an effort to wipe out bribery and corruption and ensure maximum possible service to the public has set up a Public Complaints Unit at the Sri Lanka Insurance Corporation building at Vauxhall Street Colombo. The public should submit their complaints in detail to ensure quick remedial action on them.

**9** Sri Lanka will benefit from a US\$ 1 million (Rs 90 million) free tourism promotional services, in the prestigious "sights and sounds" CNN international holiday destinations programme this year. The free, 364 one minute spots will be an extra bonus of free air time received by Sri Lanka Airlines for their extensive advertising contract with CNN over the 1999-2000 period. Sri Lankan Airlines has offered this free bonus air time to the Tourist Board to promote the country's diverse attractions.

**11** The Ministry of Fisheries and Ocean Resources will make an investment in ten modern trawlers, a fish canning, plant and maldivian fish production project. These monies are being worked out in pursuance of the Ministry's plans to impose restrictions on import of canned fish, dry fish and allied products during the year 2002.

Sri Lanka airlines recently tied up with Sasianet, the internet based reservations service provider, for the services of Roomsnet, its state-of-the art automated interactive hotel reservations system which will help to position Sri Lanka as an ideal hub for air travellers as well as promote the country as an adventure, special-interest and eco-tourism destination.

Roomsnet, which will be implemented in phases will enable Sri Lankan Airlines overseas stations to directly book passengers in hotels in Sri Lanka during their stay-overs in the country.

**15** Tokyo Cement group through its subsidiary samudra Cement Company Lanka (Pvt) Ltd., opened one of the most modern and efficient cement bagging plants at the Colombo Port. Set up with an investment of over Rs 500 million the plant has an initial capacity to bag 600,000 metric tons of cement per annum. (Daily News)

**25** The Cabinet of Ministers has given approval to deal with three ADB Loans amounting to US Dollars 86 million to develop and expand the small and medium enterprises in the country. Of these three loans the US dollars 60 million loan will be granted to improve credit assistance for the small and medium enterprises.

The other two loans amounting to US dollars 20 millions and US dollars 6 million will be for the strengthening of budgetary allocations and for the improvement of business services related to enterprise development respectively. Time frames of 24 years and 32 years have been given to repay these loans. The interest for all these three loans stands at 1 per cent.

A relief assistant fund worth US\$ 200,000 (Rs 18.75 million) is now available to Sri Lankan industries to convert their ozone depleting chlorofluorocarbon (CFCs) dependent refrigeration plants to ozone friendly conversions. Industries and companies can draw upto a maximum of US\$ 10,000 (Rs 930,000) or 50 per cent of the total cost they have to bear for converting their refrigeration plants. The funds are disbursed to the Environment Ministry through the UNDP and the Ozone Secretariat.

**29** A Japanese national has invested Rs 70 million in a factory exporting packed shark fin products, shark fin based products fetch a high demand in European countries a senior official of the BOI told. The shark fin factory has been built at Kapugama in Gandara. The factory supplies shark fins for cosmetics used in European countries, various types of drugs and medicated drinks.

A Rs 20 million crash programme to increase milk and other livestock products has been launched by the Agriculture and Livestock Development Ministry. Under this project steps have been taken to improve the quality of milk products to enable the producers to fetch a better price. In addition three animal farms will be set up under the community-farming scheme in Welik Oya, Ranwewa and Kirikoswala. Meanwhile two new goat farms will be set up in Polonnaruwa and Mahabematenne to meet the increasing demand for mutton.

## February

**2** Sri Lanka tea exports will shortly be given a major boost following three land mark deci-

sions - trading teas in US Dollars, the imminent establishment of a new 30 acre Duty Free Shopping Complex on the Colombo Katunayake Road, aimed at making Sri Lanka the premier tea exporter in the world.

The Colombo Tea Trader's Association (CTTA) has expressed concern over to land mark proposals concerning the industry, the formation of a Tea Federation which is meant to be an umbrella organization for the industry and conducting training operations at the Colombo Tea Auctions in US dollars.

Eagle Insurance said that the company's Life Fund has increased by a billion rupees, this bringing the Fund to Rs 4,653 billion as at end 2001 a 27% growth over the previous year following the annual independent actuarial evaluation.

**13** The Government of Japan presented a cultural bouquet to the historical Tower Hall Theatre marking the 50<sup>th</sup> anniversary of the establishment of diplomatic relations between Japan and Sri Lanka by providing a sum of upto forty-nine million nine hundred thousand yen (49,900,000) approximately Rs 34 million as cultural grant aid. This fund will be utilized to supply state of the art audio and lighting equipment that are currently required for the efficient functioning of the theatre.

**14** The Indo Lanka Free Trade Agreement will be renegotiated end March. Among the core issues reduction of tariff barriers from the current 50 per cent to 90 per cent which will enable Sri Lanka exports to find free access to the Indian sub-continent had access, though any Indian ports but Sri Lanka's tea and garments had access only through Mumabi, Cochin, Chennai and Calcutta.

Sri Lankan Airlines has agreed to grant a concession of 20 to 30 per cent air fares changed effective from February on Sri Lankan going to take up jobs in the Middle East. This in response to a request made to the Sri Lankan Airlines authorities by employment and labour Minister. Consequent to the decision of the Sri Lankan Airlines all other Middle East Airlines too have agreed to grant a corresponding reduction on their fares charged on Sri Lankan workers seeking jobs in the Middle East.

**15** The Government has decided to encourage the private sector to contribute to the country's power generation by providing concessions and increasing the payments for privately generated electricity, private institutions and persons who are interested in installing mini hydro power projects by using 52 water falls identified by the CEB. The private sector will also be encouraged to establish wind power projects to be connected to the National Grid.



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# State Policy & Legal System for Consumer Protection in Sri Lanka

**T.B. Dassanayake**

Asst. Commissioner of Internal Trade

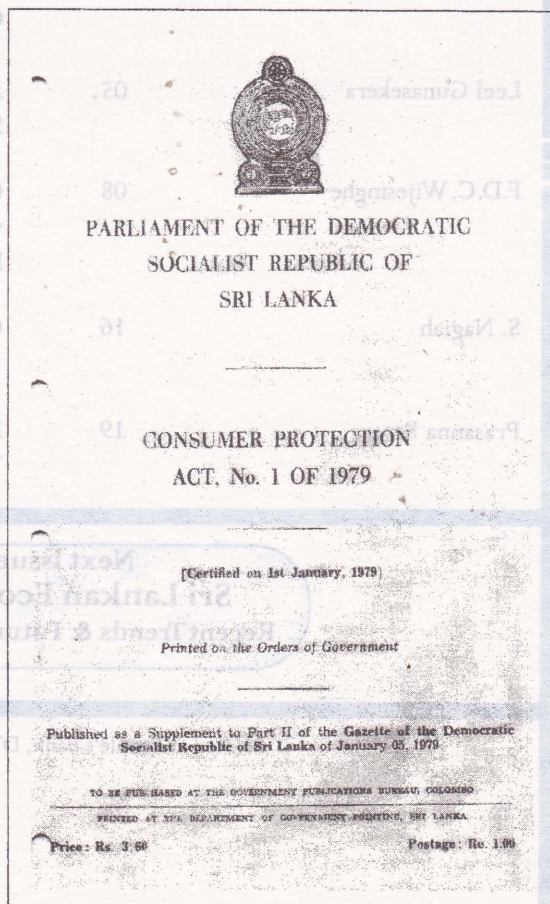
The last two decades have seen enormous changes within the economic pattern and challenges, which consumers face in this country. It is undeniable that these changes owe its genesis to the introduction of open market economy and the subsequent globalization of economic affairs unprecedented in the history of the world. The government has launched some promising reforms to cope with this situation. Government is taking every step possible through structural adjustment programmes to keep the inflation at lowest possible limits. Attempts are made to eliminate fiscal imbalances. Market liberalisation, opening of foreign trade and abolition of price control mechanism resulted in a better supply of services and commodities. However, it is the view of the legislators and the consumers that the time has come to review and renew the measures adopted to protect the consumer and the trade and industry in the context of these far-reaching changes. We are also in the center of a debate taking place within the consumer movement and the trade and industry about the extent to which the open market economy and the globalisation benefit all stakeholders. It will be interesting to have an overview of the government policy and campaign, development support and the diversity of the work and the extent to which key consumer issues and trade issues in regard to liberalisation of trade have been addressed.

Consumer protection in Sri Lanka has its route in consumer law principle of caveat emptor (let the buyer beware) and the sanctity of the contract continued to outweigh concept of consumer protection. The consumer demands that government establish policies to head off sellers' abusive trade practices. This in a shift, the common law and various statutory laws safeguarding consumers began to be consolidated and strengthened in the late nineties.

Trade is conducted in a relatively free market environment with minor state

intervention in regulation of trade. The government considers further intervention essential in preventing harmful effects arising from anti-competitive practices such as collusive price fixing, dumping, predatory pricing and monopolies as a result of mergers. The government also intends to ensure consumer and producer welfare by minimising harmful effects of drastic price fluctuation.

The political, social and economic experience of the last decade have profoundly incorporated transformed the image of the state and its functions with regard to its consumers. Every endeavour is made to check poverty rates and inequalities in the distribution of income and access to opportunity along with the challenge of meeting high rate of economic growth as a necessary condition for alleviation of poverty. On the other hand world market forces, globalisation, scientific and modern technological progress, emergence of issues such as environment, quality of life, consumer safety etc. shed light on our achievements and the complexity of the needs and concerns that must be incorporated in developing of innovative force that can adjust the role of the state to fit the expectations of the consumer. The following thrust areas are receiving priority of the government in this exercise:





- I. Designing of policies and programmes on development and social justice,
- II. Stabilise peace and generate consensus necessary to confront and resolve the country's serious problems and status in the world with particular attention to monitor operation and protection of values that the market alone can neither guarantee nor enforce,
- III. Guaranteeing and promoting common good which implies promoting equal opportunities, social justice and quality of life,
- IV. Regulation of market dynamics and their impact on the economy, job quality, environmental protection, consumer protection and standards and quality for goods and services,
- V. To act as an entity that is about to answer for and respond to the concerns from consumer participation and innovation which aims to strengthen democracy.

We live in a time when significant sectors tend to confuse the need for economic freedom, which allows all the potential of private initiative with unlimited deregulation of economic activity. This could only be justified if all markets were sufficiently, if not perfectly competitive, or at least approaching that situation. In other words if everyone involved had sufficient alternatives and necessary information to make the best decision.

Reality however, differs considerably from the models of perfect competition analysed in basic texts frequently used as a basis for the elaboration of political and corporate plans. More advanced economic theory, which analyses the effects of a variety of asymmetries barriers and distortions found in the markets does not lend itself, so easily as a basis for consumer discussion.

The idea that the market and private initiative constitute essential factors for dynamic economic performance has already been strengthened in our country which has some experience of liberalisation and deregulation as well as controversies concerning the

role of the market and the state. However, in our real experience-past and present we are increasingly seeing the need to consolidate and improve the markets, thereby improving the institutional, regulatory and investigative framework to guarantee more effectively the rights of an important part of the market economy the consumers, workers, small investors, small and medium size businesses in total the overwhelming major of its citizens' participation in the market and economic decisions is not only important for social justice, but also for an efficient economy.

We are committed to continuing to open our economy to international competition. As international competition advances, we believe that our economy and the consumers benefit. But as we overcome the initial stages and advance towards new horizons, new challenges arise. We must not allow our markets to be invaded by defective or unsafe products. To prevent this, we must establish appropriate standards and efficient methods of control.

In 1776 Adam Smith remarked, "**Consumption is the sole end and purpose of all production, and the interest of the producer ought to be attended to only so far as it may be necessary for promoting that of the consumer**". This observation is still as relevant even after 225 years but I feel that many of us in administration and business need to be reminded more frequently of the importance of consumer in the economic system. Protecting the rights of the consumer in a way that is both genuine and well balanced is not only an ethical and legal imperative but also one of efficient economic managements.

Although it is true that the primary objective of consumption is the satisfaction of vital or basic needs that ensure the maintenance and development of life, it also has secondary objectives that relate to obtaining a better quality of life and consequently to actions that are associated with personal, intellectual, educational, cultural and recreational growth. Seen from this perspective that we are consumer and we are all leads us to look at the phenomenon from a po-

sition that goes beyond simple legal regulations to delve into a value analysis in which the overall dignity of the human being is at stake. When we refer to the protection of the consumer there is no doubt that, we are speaking of human rights.

The protection of the consumer therefore is related to generating a citizen's conscience both individual and collective in which the social being seeks the formation of a fair and just society that satisfies all the community needs at individual, family, group and social level.

Human dignity, which is the basis of modern civilization and incorporated in the United Nations Charter, has been enhanced by the Consumer Protection Guidelines of the General Assembly in 1985 to which we are also committed. Objectives of those guidelines in a simplified form are as follows:

- I. To help countries achieve and maintain suitable protection of their inhabitants as consumers,
- II. To facilitate types of production and distribution that respond to consumer needs and desires,
- III. To encourage those in-charge of the production and distribution of goods and services to adopt strict ethical rules of conduct,
- IV. To help countries stop abusive commercial practices at national and international level that harm consumers,
- V. To facilitate the creation of independent consumer defense groups,
- VI. To encourage international cooperation in the area of consumer protection,
- VII. To promote the establishment of market conditions that give consumers a greater selection at lower prices,

Sri Lanka, which is now committed to the market economy, requires the mechanism of operation to be fair and transparent. This will be possible to the extent that civil society the consumers has the ability to put ethical limits on the market. The inevitable



question that arises here is “**how powerful and knowledgeable the consumer is in this regard?**”

We were living with shortages in the matter of articles contributing to our existence and comfort in pre-independent and post-independent Sri Lanka, and the helpless consumer looked upto the government for protection and save them from wayward behaviour and exploitation by the unscrupulous trade and industry. In 1939, the Colonial Secretary who administrated the country introduced Price Control along with Foods Control Regulations for this matter. Even after independence in 1948 price control and food control laws were permanently incorporated in our statutes in 1950 with subsequent amendments from time to time to make more effective protection for the consumer. A Food and Drugs Act was introduced to regulate the health aspects of food and pharmaceutical drugs while the Weights and Measures Regulations were in operation since last century. The Sale of Goods Ordinance introduced in the last century codifies the rights of the seller and buyer. Besides these penal and civil enactments, the successive governments since 1948 have taken a number of positive steps to help the consumer. With all these legislative and administrative measures, the situation was dismal with a frustrating feeling that nothing improved the lot of the consumer.

In this background, the country faced the open market economy in 1977. All forms of restrictions and controls were gradually removed thus allowing the inflow of a market where commodities were available in abundance. However this situation led the consumer to demand legal norms that protect there economic interests since there was unequal conditions of the market, defective good and services, the absence of conditions guaranteeing the production, the uneven flow of information and the lack of adequate institutional resources with which to resolve conflicts and be partners in the decision making process.

The introduction of the consumer protection Act No. 01 of 1979 was considered a remedy for this situation and it made a revolution, any change in the administration of consumer protection affairs, although it was not a foolproof solution to all consumer problems. It is however, a first step in the formation of a consumer policy necessarily and primarily focused on the need to legislate with a goal of guaranteeing a level of protection of basic rights while ensuring the transparency in the market, equitable selling conditions, indemnity for defective products, mis-leading advertising etc.

In 1987, the government also introduced the Fair Trading Commission Act with a view to formulate a national price policy, and deal with monopolies, mergers, and anticompetitive and restrictive business practices. The administration of the Consumer Protection Act was entrusted to the Department of Internal Trade while the administration of the Fair Trading Commission Act is vested in the Fair Trading Commission. The Measurement Units Standards and Services Department administers the Weights and Measures affairs of the country while the Food Act and the Cosmetic Devices and Drugs Act is administered by the Health Department. The Sri Lanka Standards Institutions formulate standards and specifications for the country and implementation of any mandatory standards is entrusted to the Department of Internal Trade. Environmental protection is undertaken by the central Environmental Authority Act. It will thus be seen that a consolidated effort of all these institutions is needed for the proper protection of the consumer.

It will be interesting to note that offenders who breach the provisions of the above statutes are being prosecuted in law courts and appropriate punishments prescribe in law are meted out to them. But the expectation of the consumer is to get redress for their problems faced in the market place and this redress should be speedier, easily accessible, inexpensive and fair. The conflict resolution machinery is not adequately provided in the above statutes and there-

fore the government considered the strengthening of the legal institutions to cover all areas in the complexity of the present legal system. Therefore, action is being taken to replace the Consumer Protection Act and the Fair Trading Commission Act by the introduction of Consumer Protection Authority Bill, which is already before the parliament.

At present the fundamental area of consumer participation in the decision making process is of a merely testimonial nature although they are very common in daily life. Social and consumer organisations should consolidate their efforts on drawing attention to well defined key issues.

Consumer rights can be protected in this atmosphere only if there is sufficient awareness. Therefore, the highest priority should be given for consumer education as we often say that “**knowledge is power**”. It is the driving force the power behind development. The proper empowerment of the consumer should therefore begin with creating sufficient awareness or knowledge for him to exercise his rights in the liberalised economy.

With sufficient knowledge consumer should give up his traditional helplessness and rally-round the consumer organisations to protect rights. The media can play a major role in this exercise. The consumer organisations, media and other interested groups should work towards achieving this goal.

The Consumer Protection Authority Bill addresses many issues referred to above and when implemented will definitely strengthen the hands of the authorities in conflict resolution, conflict management and problems solving which become increasingly important to the consumer.

In conclusion, I wish to quote what James Herbert said of consumer awareness. “**The buyer needs a hundred eyes, the seller not one**”.





# Aspects of Consumer Protection in Sri Lanka

Leel Gunasekera

President, Federation of Consumer Association of Sri Lanka (FOCAS)

“Consumer is King” is the normally accepted saying. However John Galbraith the noted economist has mentioned that “It is not the Consumer who is king, but it is the large corporation who is the king in the economy whatever happens is not because the consumer want it that way has simply because large powerful corporations prefer that way”.

In a developing country like Sri Lanka where the incidence of poverty and unemployment is very high above John Galbraith holds true and the population faces a large number of problems, which have been accelerated. Hence, consumers have not been able to play a significant role in the development process.

The United Nations have adopted in 1985 a set of guidelines for Consumer Protection (revised) in 1999 which addresses the needs of consumers worldwide and provide a framework for Governments specially those in developing countries strengthen consumer policies and legislation.

It is noteworthy that the Government of Sri Lanka has recognized the need for consumer protection long before the adoption of United Nations guidelines, which cover eight consumer rights namely – basic needs, safety, choice, introduction, consumer education, redressed, representation and healthy environment.

Even before the adoption of the Consumer Protection Act in 1979 the eight basic needs, have been recognised directly or indirectly.

An attempt is made here to discuss some salient aspects of consumer.

## SOME SALIENT ASPECTS

In the present times, increasing trends in globalisation characterise the national economy of most countries, which impinge heavily on the trading systems of developing countries. This development signifies the demolition of restrictive practices, taxes, tariff barriers, duties and other impediments to a *lassie-faire* dispensation. In a sense, uninhibited liberalisation is bound to result in a “free for all” state of affairs. If production, sale and distribution of goods and services are to be permitted to go unquestioned, and without let and hindrance countries on the bottom of the line will be left behind.

Hence, it is imperative that some form of regulatory measures, which stop short of complete protection, be observed. Viewed in the context of the international economy the parallel is between the local producer and consumer. No developing country can afford to push an economy totally untrammelled by built in safeguards in the laws, regulations of the consumer and undiluted liberty of the producer/seller.

It is well known, making of goods and services is normally conducted in an organised manner in Sri Lanka. However, the local consumer is normally not trained in market affairs and is no match for the businessman who attempts to persuade the consumer to buy goods or services on terms and conditions favourable to them. It is because of this aspect that the consumer needs the protection of the law. In Sri Lanka, Consumer Protection is currently under the supervision of the Department of International Trade (DIT).

It is the policy of the Government of Sri Lanka to provide for better protection of consumers through regulation of trade and prices of goods and services and for the protection of traders and manufacturers against unfair trade practices and restricted trade practices.

The Government of Sri Lanka is also desirous to ensure healthy competition between the traders and manufacturers of goods and services.

In Sri Lanka, there is a fair spread of legislative measures meant to shield the consumer from being exploited by unfair trading practices. The Consumer Protection Act No. 1 of 1979 is the core legislative enactment, which is enforced by the Department of International Trade supplemented by the Fair Trading Commission Act No. 1 of 1987, which is implemented by the latter body.

THE PREAMBLE TO THE CONSUMER PROTECTION ACT NO. 1979 SPECIFIES  
that it is:

An Act to make provision for the regulation of international trade; for the establishment of fair trade practices; for the amendment of the National Prices Commission Law, No. 42 of 1975; for the repeal of the Licensing of Traders Act, No. 62 of 1961; and for matters connected therewith or incidental thereto.

The fair trading commission act no. 1 of 1987, which came into operation over eight years subsequent to the enactment of Act No. 1 of 1979, stipulates that it is:



An Act to provide for the establishment of a Fair Trading Commission for the control of monopolies, mergers and anti-competitive practices and for the formulation and implementation of a national price policy; for the repeal of the National Prices Commission Law, No. 42, of 1975; and for all matters connected therewith or incidental thereto.

In 1993 with the initiative of Dr. Neelan Tiruchelvam, Director of Law and Society Trust, a study was undertaken by Dr. Saman Kelegama, Director of the Institute of Policy Studies and Mr. Casie Chetty, Attorney-at-Law. They produced a comprehensive report entitled Consumer Protection and Fair Trading in Sri Lanka. They made some useful recommendations.

#### COMMISSION FOR CONSUMER AFFAIRS AND FAIR TRADING (CCSFT)

The authors of this report have dealt with the salient aspects of Consumer Protection and Competition Policy (focusing principally on the latter), and have suggested measures that could be adopted by the State to remedy the shortcomings in the prevailing law. It has been recommended that an entirely new body named the Commission for Consumer Affairs

and Fair Trading (CCSFT) should be established combining the functions of the present Department of International Trade and the Fair Trading Commission. Such an agency should have only investigative powers and thus the creation of a Competition Tribunal is suggested. Other innovations recommended are the establishment of a Public Enterprises Monitoring Sections under the aegis of the CCAFT and prove an asset in its functions and the realisation of its intended objectives.

#### 1. Absence of an Effective Federation of Consumer Associations

There are about 4000 voluntary consumer associations in Sri Lanka (this figure refers to the year 1987) that functions with the objective of highlighting various complaints of the consumers to the Director Internal Trade TI. Only a few are functioning effectively. Recently, steps were taken to bring them under one umbrella.

2. Hence, it was suggested that a Federation of Consumer Associations should be established as a more organised body and it should mobilize more funds in order to conduct an effective campaign among consumers. Moreover, it should have representation in the Ministry of Trade and the new CCAFT.

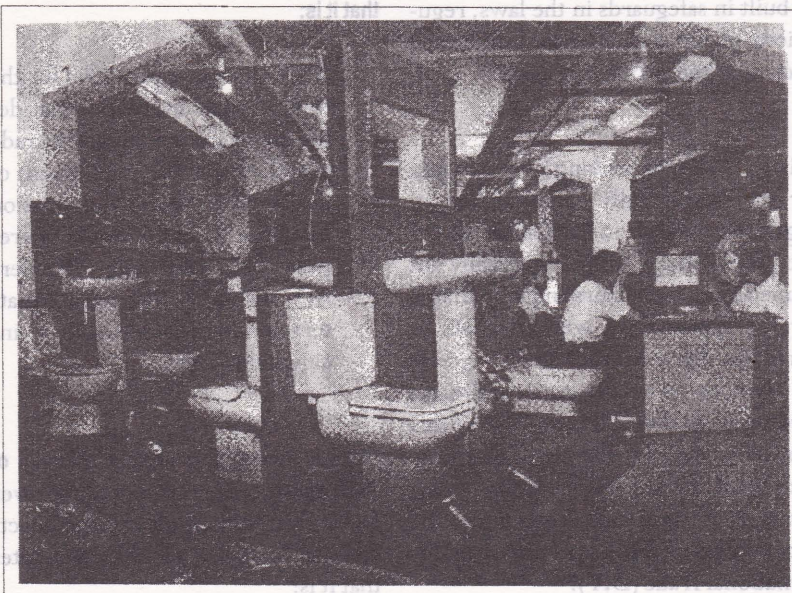
#### The Federation of Consumer Associations of Sri Lanka (FOCAS)

It is against this background that a non-government agency was established as the Federation of Consumer Association of Sri Lanka (FOCAS) in 1996. It binds together about 4,000 voluntary consumers operating in most parts of the country of which about 250 are registered under the Department of Internal Trade.

The Federation was established to be an independent voluntary organisation to represent the consumers through their societies. The Executive Committee is elected from the district units and societies. It is the umbrella organisation registered as Voluntary Social Service/Non-Government Organisation under the NGO National Secretariat Ministry of Social Services Sri Lanka. The Registration Number of FOCAS is L28304.

3. Objectives of the FOCAS  
Focus is now empowered to be the voice of the consumer societies with the following objectives in its constitution:

- a) to promote and advise consumer association in Sri Lanka that are members of the FOCAS;
- b) to educate consumers on the basic consumer rights of access to safe food, water and durable consumer goods and services;
- c) to improve the quality and standard of goods and services available to consumers and ensure that the standards are acceptable;
- d) to encourage State Institutions and Non-Governmental Organisations (NGOs) further the interest of consumers and consumer associations;
- e) to provide possible solutions to consumers and problems;
- f) to collect and disseminate information relating to consumer laws and practices;





- g) to assist independent consumer associations and NGOs working on consumer issues in promoting consumer interests in national and regional forums;
- h) to act as a forum for the exchange of information and publications;
- i) to publish information on subject concerned with the interests of the consumers;
- j) to give assistance to the development programmes on consumer education;
- k) to help consumer associations to acquire skills on performing their all as consumer "watchdogs";
- l) to disseminate information to the consumer through the publications and media; organising workshops, seminars, conferences, exhibitions, screening of films and such other activities;
- m) to undertake research on consumer needs, protection and make recommendations to the authorities.

VI)  
VII)  
VIII)  
IX)

nars workshops and international seminars, promote awareness programmes and training workshops in Colombo and the Districts, organised the annual World Consumer Day (15<sup>th</sup> March) celebrations and rally in association with the Sri Lanka Housewives Association and Department of Internal Trade during the last four years, published newsletter and other documents, take part in media programmes.

**Consumer Protection Authority**

It is to provide for the establishment of the Consumer Protection Authority; for the promotion of effective competition and protection of consumers; for the regulation of international trade; for the establishment of a Consumer Protection Council; for the repeal of the Consumer Protection Act No. 1 of 1979, the Fair Trading Commission Act No. 1 of 1987, the Control of Prices Act No. 29 of 1950; and for all matters connected therewith or incidental thereto.

This proposed bill has been accepted by the Cabinet of Ministers and it was referred to the Ministry of Justice before being introduced in Parliament in June 2001. It is now referred to a Select Committee of Parliament.

**Functions of the Consumers Protection Act –**

**Activities of FOCAS**

During the last four years, FOCAS has been active –

- I) it serves as the advisory body to the Ministry of Internal and International Trade,
- II) FOCAS represents the consumer at the National Food Committee and National Codex Committee under the Ministry of Health,
- III) FOCAS represents the Elderly as consumers in the National Committee on Elders – Ministry of Social Services and UNDP,
- IV) organised high-level seminars and workshops in association with the Society for International Development (SID) Human Resources Development Council (HRSD) and the National Institute in Social Development (NISD),
- V) represented consumers at Asian Pacific regional semi-

- (a) control of eliminate:
  - I. restrictive agreements among enterprises;
  - II. arrangements amongst enterprises with regard to prices;
  - III. acquisition or abuse of a dominant position with regard to domestic trade or economic development within the market or in a substantial part of the market; or
  - IV. any restraint of competition adversely affecting domestic or international trade or economic development.

- (b) investigate or inquire into monopolies, mergers and anti-competitive practices and abuse of a dominant position;
- (c) maintain and promote effective competition between persons supplying goods and services;
- (d) promote the interests of consumers, purchasers and other of goods and services in respect of the price, availability and quality of such goods and services and the variety supplied;
- (e) carry out investigations and inquiries in relation to any matter specified in this Act;
- (f) promote competitive prices in markets where competition is less than effective;
- (g) undertake studies, publish reports and provide information to the public relating to market conditions and consumer affairs;
- (h) undertake public sector and private sector efficiency studies;
- (i) promote consumer education with regard to good health, safety and security of consumers;
- (j) promote the change of information relating to market conditions and consumer affairs and other institutions; and
- (k) do all such other acts as may be necessary for the effective discharge of the function of the Authority.

It is hoped that the establishment of the Consumers Protection Authority will usher a new era for consumer protection with proper coordination of activities and peoples participation.

Peoples participation of course has to be effectively organised by the Federation of Consumers Associations (FOCAs) which has to be strengthened at the head office as well as at the level of affiliates, which have to be activated with financial, and human resources.





# Consumer Rights in Comparison with other Countries UK, Australia, India

F.D.C. Wijesinghe

President Federation of Consumer Association of Sri Lanka (FOCAS)

Consumer Rights and Consumer Protection in Sri Lanka - granted that the consumer has rights - how can they be enforced? By embodying them in legislation or by a general understanding in the community, that all concerned should concede these rights to the consumer? In my view both legislation and acceptance by the community of consumer rights are necessary. Saman Kelegama and Yohesan Casiechetty in their excellent paper Law & Society Trust Occasional Paper Services, Paper No. 2. "Consumer Protection and Fair Trading in Sri Lanka" (1983) state in page 3 "the concept of consumer sovereignty requires that a consumer should be adequately protected against both enforced and misleading marketing techniques and abuse of market power by monopolies". Since the Fair Trading Commission and the Department of Internal Trade are to be replaced by a new organization the Consumer Protection Authority, it is implied that the rights of the consumer would be embodied in the new Act. However, when this bill was discussed in Parliament on Monday June 18, 2001, several speakers from the opposition pointed out that many amendments had to be made to make the bill workable. It is not proposed to discuss these amendments here since, at the time of writing, it has been referred to a Standing Committee of Parliament. The authority to be set up contains the following provisions to give the rights of the consumer legal backing. According to section 9-(i) The Authority may for the protection of the consumer, (a) issue general directions to manufacturers or traders in respect of labelling, price marking,

packaging, sale or manufacture of any goods and (b) it can issue special directions to any class of manufacturers or traders specifying: (c) the times during which and the place at which such goods may be sold and (ii) any other conditions as to the manufacturing, importing, marketing, storing and stocking of any goods

It is evident that if this Act is implemented it will not be possible for consumers to be fleeced by traders. For example, according to section 21 (1) where any goods are being sold or services are being provided at an excessive price and any member of the public or any association of persons or any organization requests the Council (set up under the Act) to investigate into the matter, such association or organization as the case may be, may require the Director General to refer the matter to the Council for investigation and report.

Again in Section 28, "No trader shall in the course of a trade or business engage in any type of conduct that is misleading or deceptive or is likely to mislead or deceive the consumer or any other trader.

## Public Sector Efficiency Studies

The Act has taken something of importance from the former Monopolies and Nevgers Commission in the UK relating to efficiency studies, which are not being carried out by anyone at present in Sri Lanka.

According to section 31, "At the request of the Minister, the Authority shall carry out a public sector or private sector efficiency study and submit a report to the Minister. It will be the duty of the

Minister to place such report before Parliament. One might ask how this affects the consumer, but it is the consumer who benefits from public sector activities eg. Telecommunication, Electricity, Water and it is the consumer who is the loser if these organizations fail to deliver the goods. It is not proposed to discuss here whether the Consumer Protection Authority and the Consumer Protection Council set up under this Act have the right machinery for looking after consumer interests.

The new legislation repeals the following enactments; (a) the Consumer Protection Act No. 1 of 1979, (b) the Fair Trading Commission Act No. 1 of 1987 and (c) the Control of Prices Act No. 20 of 1950. The question is whether persons who are genuinely interested in looking after the interest of the consumers are appointed to the Boards of the Consumer Protection Authority and the Consumer Protection Council. In Britain if you are interested in serving on a Board you have to look at the appropriate columns of the Times to see whether you are qualified to perform the functions of the Board Member in question. But here, the membership of a Board is often looked upon like a JP-ship to magnify the size of one's ego.

Also in Britain boards are functional boards and not merely policy-making boards.

One may set forth the legal framework for the protection of consumer rights. But it is also important that the acceptance by the community of these rights is ensured.



Rights of Patients – In the realm of health it is unfortunate that there is no organization to look after the rights of patients as consumers. The Health Policy Task Force which reported three years ago wanted the Ministry of Health to set up machinery to safeguard the rights of patients as consumers, but nothing has been done so far to make this a reality. Since there is no organization to look after patient's interest it is left to newspaper editors to look after their interests, eg. The Daily Mirror editorial of July 7, 2001 entitled "Cut medicine and Milk Prices" states, "As a campaign to bring down the cost of medicine gathers momentum, the decision announced in Geneva last week, shows that patients especially in poor third world countries are being plundered by huge multinational drug companies, and doctors have turned the vocation of healing into a sick business. The new campaign seeking justice for patients was launched in Sri Lanka and world wide after a landmark case in South Africa where an enlightened government acting in the spirit of Nelson Mandela fought and won the right to give a new drug for HIV/Aids victims at a price which was astounding - 90% reduction from the rates charged by the drug companies."

### II Consumer Rights in Britain

Consumer Rights in Britain are protected by the Director General of Fair Trading John Bridgeman, Director General of Fair Trading in part one of his report for 1999 entitled "Championing the Consumer" said "My job is to protect consumers and to champion their interests. This is the fundamental intention of Parliament which under-lies some 20 pieces of legislation accumulated over nearly 30 years and setting out my formal duties. He goes on to say that the task of protecting consumers is greater than many realise and was put into sharp relief in 1999 when his office commissioned pioneering research which for the first time put a convincing cash figure on the cost to the U.K. of defective consumer goods and services. Building on an earlier report "Consumer detriment under conditions of imperfect

competition" published in August 1997 which helped to identify the nature of consumer detriment it found that damage to the economy resulting from defective goods and services is causing Britain 8.3 billion pounds a year. It is a disturbing feature but one which still greater under estimates the true extent of the problem. It relates only to the detriment in the prices of goods and services, which are visible to consumers – it is more or less the tip of the iceberg.

### Vulnerable Consumers

In Britain as in Sri Lanka special attention has to be given to the more vulnerable groups in our society. The old, the very young, the infirm and the under educated. The report "Vulnerable consumers and Financial Services" published in February 1999, identifies the vulnerable as those who had particular difficulty in obtaining or assimilating information they needed. And those who as a result of low income suffered disproportionate loss. In the latter group are included those who suffer exclusion from the essential services of modern life.

Old people constitute a vulnerable group of growing size and significance. The British government has made clear that people will have to do more to help themselves by making provision for their needs in the years after retirement. But the markets for private pensions and for long term care are not easy for private individuals to negotiate.

The Department of Health issued a white paper "Fit for the future"? The White Paper consists mainly of the recommendation made in the Fair Trading Departments report "Older people in Consumer Care Homes". When these proposals are implemented it will go a long way to make life more comfortable for old people. In September 1999 in partnership with an organization called Rencap the Director General of Fair Trading launched the project to increase accessibility of information on basic consumer rights for 1.2 million people with learning difficulties. The Department of Internal Trade and its successor the Consumer Protection Authority in Sri Lanka should launch a project of this nature.

If you follow the inter-net you will be surprised to learn that many fraudulent or misleading practices still obtain. Those holding out bogus promises of get rich quick investments have been nabbed by the Fair Trading Department in the UK.

In Britain and in Sri Lanka there is the need to formulate modern consumer legislation. In the UK the Government recently has taken steps to amend part of the Fair Trading Act to make it easier to protect consumers from these activities and unfair transactions. Also in Britain wide publicity is given to steps being taken by the government to help the consumer. It is unfortunate that the same cannot be said about the consumer in Sri Lanka.

### Consumer Affairs Division

In the UK the office of Fair Trading has set up a Consumer Affairs Division which is responsible for the Director General's Consumer Policy and consumer protection duty including (a) monitoring consumer markets and offering advice (b) research, (c) encouraging codes of practice and promoting consumer information, (d) consumer credit policy (e) other regulatory duties under the Fair Trading, Consumer Credit and Estate Agent's Act. Also the control of misleading advertising regulations and general liaison with Trading Standards Departments. Finally The Director General's powers under the Unfair Terms in Consumer Contract regulation of 1999 and international liaison including work on the implementation of the European community legislation and on e-commerce.

The Consumer Affairs Division monitors markets for goods and services in order to analyse trade and identify practical problems for investigation. It is responsible for the office of Fair Trading's advice to the government on consumer policy issues. The Office of Fair Trading carries out investigations on its own initiative as well as responding to requests from Ministers.



## Information

In Britain the office of Fair Trading has put out a number of publications for consumers. During 1999 the Office of Fair Trading built up successful collaboration ventures with charitable organizations which have an expert knowledge of problems relating to vulnerable consumers.

The Office of Fair Trading also looked at new methods of reaching customers and put out a new publication a "Shopper's Guide" to offices in the North and East region to which copies were handed over free. In 1998 the Director of Fair Trading launched an alliance of consumer education and trade organizations called National Consumer Education Partnership (NCEP)

## Research

Research is most important. Research in mortgage redemption fees was commissioned by the Director General of Fair Trading from University teachers from the London School of Economics and Reading University. The Commission commissioned this study with a view to establishing the extent of consumer problems within the UK economy. More than 2,000 persons throughout the UK were questioned with regard to the problems they encountered when buying unsatisfactory goods or services. But no research is done in Sri Lanka by the Department of Internal Trades. It is hoped that such research will be done when the new Consumer Protection Authority is established.

## II Consumer Rights in India

For this section on India I have to thank Ms Reenat Sandhan First Secretary Indian High Commission in Colombo.

The Department of Consumer Affairs under the Ministry of Consumer Affairs and Public Distribution is responsible for the formulation of policies for Consumer Co-operatives, Monitoring Prices, availability of essential commodities consumer movements in the country and Controlling of statutory bodies like the Bureau of Indian Standards, and Weights and Measures. The Department deals with the following which of vital in-

terest to the consumer: (1) Internal Trade, (2). Inter-state Trade (3) Control of Futures Trading and Forward Contracts (4) The Essential Commodities Act, 1955 (5) Prevention of Black Marketing and Maintenance of supply of essential commodities. (6) Regulation of Packaged Commodities and Training in Legal Metrology. (7) Standards of weights and measures (8) Consumer Co-operatives (9) All matters pertaining to the Consumer Protection Act - 1986 (No. 68 of 1986)

## About the Programme

The Government has accorded a very high priority to the consumer protection programme. The Department of Consumer Affairs and Public Distribution in the Central Government has been designated as the nodal department to deal with the subject of consumer protection. Since 1986 the Department has taken a number of measures to promote a strong and broad based consumer movement in the country. Some of such measures include (a) the enactment and enforcement of the Consumer Protection Act of 1986, (b) the amendment of legislation such as the prevention of food adulteration Act of 1954 (c) to enable consumers to file complaints in the Courts, (d) institution of National Awards for consumer's organisations youth and women (e) grant of financial assistance to consumer organizations, (f) preparation of audio visual material (g) publishing a quarterly magazine *Upphokta Jagaran* (h) Publishing of printed material and its free distribution.

The various measures taken by the government have aroused a lot of expectations among consumers. In the last few years a major thrust has been given to the consumer protection programme and a number of additional steps have been taken to protect the interests of consumers. The Enactment of the Consumer Protection Act 1986 was one of the most important steps taken. The present position of the implementation of this Act is as follows: (i) all the provisions of the Act came into force with effect from 1.7.1987, (ii) the state level consumer protection councils are functioning in all states. The Central Government constituted the first Central Consumer Protection Council on 1.6.1987. This Council since then has been re-constituted with effect from

6.3.1997 for a period of three years. So far 19 meetings of the Council have been held. The main object of the Council is to protect and promote the rights of consumers such as the right to safety, the right to information, the right to choose, the right to be heard, and the right see and the right to consumer education. (iii) The National Commission started functioning with effect from 27.12.1988. The present President is the Hon. Justice Sri S C Sen (iv) Initially the progress in the establishment of state commissions and District Forums was slow. However after the constant persuasion of the Central Government and a writ petition filed by a consumer organization "Common Cause" in the Supreme Court the position has improved, 31 state commissions and 541 district forums are functioning in the country now. In addition a State Commission and two District Forums are functioning under the Jammu and Kashmir Consumer Protection Act (v) Earlier State Governments requested the Ministry to provide financial assistance to strengthen the Consumer Courts and the Ministry took up the matter with the Planning Commission. The Planning Commission has agreed to provide one time assistance to the State Government over and above their annual Plan Budget. The State Government has been asked to submit their proposals to the Planning Commission.

## National Convention on Consumer Protection

The National Convention on Consumer Protection was organised in 1993 and it was inaugurated by the Minister for Civil Supplies, Consumer Affairs and Public Distribution. Four topics were discussed at the Convention, (i) Taking the consumer movement to the rural areas, (ii) the need for training and education and creation of awareness among the consumers (iii) structural/organizational changes required in the consumer redressal machinery to make it more effective (iv) Liberalisation and consumer protection

To discuss the problems of the three tiered machinery set up under the Consumer Protection Act 1986, the National Consumer's Disputes



Redressal Commission, with the help of the Ministry, organised a all India Conference of the Presidents members of the State Commissions on 24.1.1984.

### **Meeting of the Central Consumer Protection Council.**

The xvth meeting of the Central Consumer Protection Council was held in January 1994. At this meeting resolutions were passed to set up working groups (i) introducing the concept of Citizen charter in India (ii) To consider a code of conduct for consumer organizations and (iii) to implement the report the working group on the perspective plan. Two matters, which are now being given priority by the government, are the Consumer Courts and State Consumer Protection Councils.

### **Grievances**

To ensure prompt attention to consumer grievances the Ministry has designated an officer of the rank of Deputy Secretary as Director of Consumer Grievances; similar action has been taken by a number of states.

Survey in the field of consumer protection - The Ministry has conducted its survey in consultation with the Association of the Consumer Protection Associations, New Delhi to assess the impact of the consumer protection programme and the functioning of district forums in Five States. Pre budget discussions are held by the Ministry. The Finance Minister holds the pre-budget discussion with the representatives of Consumer Organization every year. This is an extremely important measure and should be followed by the Minister of Finance before he presents his budget in Sri Lanka.

### **IV Consumer Rights in Australia**

Consumer rights in Australia are embodied in the Trade Practices Act 1993 and the various Reports of the Australian Competition and Consumer Commission. Much credit must be given to Professor Alan Fels who has been Chairman of the ACCC for over a decade.

A consumer who can be either an individual or a business, is someone

who acquires:

- (a) goods or services of a type normally bought for personal or household use, whatever they cost; or
- (b) any other type of goods or services costing \$ 40,000 or less, or
- (c) a commercial road vehicle or trailer of any cost that is used mainly to transport goods on public roads, provided that the goods are not acquired solely for re-selling, for using up or transforming to produce other goods commercially, or in repairing or treating other goods.

The Australian Government recognizes that the protection of Consumers and Competition Policy go hand in hand.

### **Product Safety**

One aspect of consumer rights to which the ACCC has given priority is product safety. In a recent address the Chairman Professor Allan Fels explores the Commission's role in enforcing the product safety provisions of the Trade Practices Act. He points out that in Australia an estimated 650,000 injuries occur annually that are associated with design problems or malfunctions in consumer products. Many are avoidable and making safer products is one prevention strategy. Too often companies become active in product safety when their customers are injured. With competition increasing, companies will be required to be more consumer conscious if they are to survive commercially.

The consumer has a right to obtaining safe products from manufacturers and traders.

Manufacturers can assist retailers by presenting their goods in a way that clearly conveys their intended and safe use. It is important that the retailer not be in a position to 'talk up' the capabilities of a product by telling the customer that it can perform in ways that the manufacturers never intended.

Before 1995 product safety enforcement was undertaken by the Federal Bureau of Consumer Affairs. Since gaining the function in 1995 the Commission's actions and reputation as an active enforcement agency has led to significant increases in awareness and

compliance with the Trade Practices Act.

### **National Competition Policy and Consumer Rights**

In 1991 the Council of Australian Governments (COAG) established an independent Committee of Inquiry to consider and advise COAG on the need for a national competition policy. The Committee was chaired by Professor Fred Hilmer.

Following on the Hilmer Report a National Competition Council was set up in April 1997. The NCC is the COAG advisory body on the implementation of National Competition Policy. In conjunction with private rights of action, enforcing Australia's competition laws (and hence consumer rights) is one of the principal functions of the Commission. The Commission has also a relevant adjudicative function. Recognizing that in some instances anti-competitive practices do deliver off-setting public benefits which can outweigh the anti-competitive detriments, Australian legislation also empowers the Commission to authorise some forms of anti-competitive conduct for the misuse of market power.

### **Regulation and Consumer Rights**

Consumer Rights should be provided at the least cost. This is done very efficiently by the Australian Competition and Consumer Commission. The Commission regulates Electricity Pricing, Telecommunications, Pipelines, Airport Investment and Professional Markets.

In Sri Lanka we have a separate body for each of these public utilities. For example we have the Telecommunications Regulatory Commission at Elvitigala Mawatha. The Commission has impressive buildings, fairly substantive staff and all the appurtenances of such a new body. When you read the ACCC Journal you see how efficiently all these regulatory duties are combined in the ACCC. Unfortunately the consumer is the loser with the detailed apparatus of regulation in Sri Lanka.





# Recent Exchange Rate Movements in Sri Lanka

Dr. H.N. Thenuwara \*

Impact of exchange rate is manifold. It affects imports, exports and competitiveness; domestic prices and wages; domestic interest rates and investment; capital inflows and outflows; production specialization and resources allocation; and more seriously it can lead to crises and breakdown of economic and social structure. In the recent past countries have shown a tendency either to choose a hard peg or freely float the currency. Following the trend, Sri Lanka had to float the exchange rate in November, 1977, with interventions in guiding the rate. In January 2001, the intervention through quoting buying and selling rates was abandoned allowing greater freedom in the determination of the exchange rate through market forces. This paper explains basic facts about exchange rates, exchange rate regimes and the need for regime switches.

## Exchange Rates and Exchange Regimes

### 1.1 Defining Exchange Rates

Exchange rate is a price. It is the price of one currency in terms of currency of another country or a group of countries. The price can be defined in nominal or real terms. The nominal exchange rate is the price of a unit of currency in one country in terms of currency of another country. Our nominal exchange rate is commonly stated as our currency per unit of foreign currency. eg. Rs. 93 per US Dollar.

Exchange rates in all countries move relative to other currencies. All exchange rates continuously move subject to market pressure. Even if countries have pegged and fixed rates, those currencies are pegged to floating currencies. Thus, they float with respect to other currencies.

The real exchange rate is the price of a good produced in one country in terms of the value of goods produced in a foreign country.

Real exchange rate =  $EP^*/P$

eg 1.  
Sri Lanka's price index =  $P = \text{Rs } 105$  (say)  
Foreign country price index =  $P^* = \text{USD}110$  (say)  
Nominal Exchange Rate =  $E = 79 \text{ Rs/USD}$   
Price of domestic goods in terms of Dollars =  $P/E = 105/79$   
Price of foreign goods in terms of domestic goods =  $110/(105/79) = EP^*/P$

eg 2.  
Price of US Mango =  $\$ 10 = P^*$   
Price of Sri Lankan Mango =  $\$ 2 = P/E$   
Price of a US Mango in terms of Sri Lankan Mangos =  $5 = EP^*/P$

### Nominal Effective Exchange Rate (NEER)

NEER is computed as a weighted average of several important nominal exchange rates. Weights are based on the relative importance of countries to Sri Lanka. Usually they are based on the bilateral trade volumes. The index is usually computed to reflect foreign currency value of the rupee. It is published in the Central Bank Annual Report. The following formula shows the computation of the index.

$$NEER = \prod_i E_i^{w_i}$$

Where  $E_i$  is the rupees per unit of foreign currency. Thus, lower NEER as given in Figure 1 shows Sri Lankan rupee depreciation.

### Real Effective Exchange Rate (REER)

REER is computed as a weighted average of important real exchange rates as shown in the following formula:

$$REER = \frac{P}{\prod_i (P_i^* / E_i)^{w_i}}$$

Where  $P_i^*$  is the price index in the foreign country, and  $P$  is Sri Lanka's price level. REER is shown in Figure 2.

### 1.2 International Financial System and Evolution of Exchange Rate Regimes

An exchange rate regime is an arrangement used by a group of countries to settle payments among themselves and to determine their exchange rates. More common regimes are dollarization, fixed exchange rate regime, managed floating regime, pegged regime, crawling or adjustable regime, and free floating regime.

Before World War I, the world operated under a gold standard in which the currencies of most countries were convertible directly into gold. For example, a US Dollar was equivalent to approximately 1/20 ounce of gold, the UK Sterling was 1/4 ounce of gold. Central Banks had to guarantee to buy or sell gold in unrestricted amounts at a fixed price. Adherence to this gold standard meant that a country had no control over its monetary policy. With the coming of the World War I, which led to massive trade disruptions, countries could no longer

convert their currencies to gold, and the gold standard collapsed. As the world economic crisis developed in the 1930s, governments began to introduce exchange controls to ensure that there were sufficient reserves available to pay for essential commodities. After the World War II, victorious Allies met in Bretton Woods, New Hampshire, USA to develop a new international monetary system to promote world trade and prosperity. They introduced Gold Exchange Standard, created the International Monetary Fund and the World Bank. The objectives of the new monetary system were: to establish an international monetary system with stable exchange rates; to eliminate exchange controls; and to achieve convertibility for all currencies.

In the fixed system US Dollar was used as the reserve currency fixed at \$35 per ounce of gold. Central Banks had to intervene in this system to maintain the fixed exchange rate. Central Banks devalued or revalued their currency depending on 'fundamental disequilibria' such as persistent balance of payment deficits or surpluses.

The Bretton Woods system was effective for about 25 years, although there were occasional crises and problems. Throughout most of the

Figure 1 - Normal Effective Exchange Rate

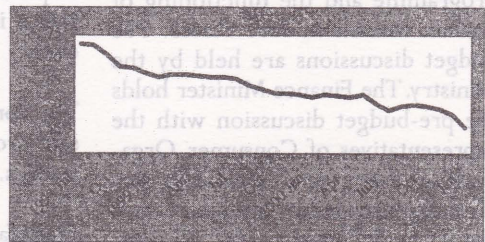
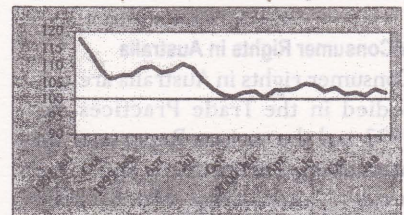


Figure 2 - Real Effective Exchange Rate



1950s the international currency scene was reasonably calm and progress was made towards the objectives of the Bretton Woods system. In December 1958, the European Monetary Agreement came into force and convertibility (to a greater or lesser extent) was introduced for western European currencies.

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At the end of 1958, however, the USA's huge balance of payments deficits started a run on gold, and the price rose above \$35 per ounce for the first time since 1951. The central banks had to step in to resolve the crisis by establishing a gold pool and stabilizing the price by market intervention. The 1960s saw gathering difficulties, caused largely by the difference in growth rates between individual countries. Throughout the remainder of the 1960s there were further stresses. The May 1968 riots in Paris caused such a loss of confidence in the French Franc that the Banque de France used up so much of its currency reserves in supporting it that it eventually had to devalue it by 11 per cent in August 1969. The Deutsche Mark, on the other hand, was suffering pressure in the other direction. A huge inflow of capital into the Mark forced the Bundesbank in September 1969 to cease its intervention in the market and let the currency float for a short time. A month later, the Mark was revalued by 9.3 per cent.

The early 1970s saw a loss of confidence in the Dollar, due chiefly to the massive US balance of payments deficits. During the 1960s these deficits had been responsible for reducing the US's gold reserves from \$18 billion in 1960 to \$11 billion in 1970. By 1970, also, foreign official short term claims on the USA were more than double its gold reserve. As a result, the Dollar's convertibility into gold was increasingly brought into question. With confidence in the Dollar under attack, a decline in US interest rates from 1970 set off a Dollar crisis at the beginning of 1971.

A massive capital outflow from the US took place, seeking higher interest rates in Europe. This forced the major European central banks initially to intervene in the markets and then either to revalue (in the case of Switzerland and Austria) or, like Germany and Holland, to float. The Dollar crisis continued, however, and by August 1971 the US finally abandoned Dollar-gold convertibility. The Smithsonian Agreement of December 1971 attempted to establish a realignment of the major currencies and a return to fixed parities. In February 1973 the US devalued again and raised the gold price to \$42.22. This failed to stop the outflow of capital, however, and in March 1973 Japan and the European hard-currency countries announced that they would no longer intervene in the market. This action marked the demise of the Bretton Woods system. Since then countries have resorted to various regimes.

**Why do Exchange Rates Move?**

**Determination of Exchange Rates**

Researchers have observed that the exchange rate follows economic fundamentals in the long-run such as export growth, BOP surplus or deficit, output growth, relative inflation and interest rates.

**2.1 Long-run Rate — Purchasing Power Parity Argument**

Exchange rate fluctuates to equate prices of goods across borders.  
 $EP^* = P$

**Balance of Payment Argument**

Demand for Rupees (Supply of Foreign Exchange)  
 = f(Exports, Capital Inflow)  
 = f(Foreign Income, Price Differential, Interest Rate Differential)  
 Supply of Rupees (Demand for Foreign Exchange)  
 = f(Imports, Capital Outflow)  
 = f(Domestic Income, Price Differential, Interest Rate Differential)

In this framework exchange rate fluctuations follow economic fundamentals. Some illustrations are as follows:

1. Increase in domestic income may lead to increased imports causing the exchange rate to depreciate.
2. Increase in foreign income may increase the demand for domestic goods causing the exchange rate to appreciate.
3. Increase in domestic price may divert domestic consumers to purchase foreign goods leading to a depreciation of domestic currency.
4. Increase in interest rate may attract foreign funds to a country leading to an appreciation of the domestic currency.

**Short-run Determination of the Exchange Rate**

In the short-run exchange rate is determined by activities in the foreign exchange market. The banks are the natural intermediary between foreign exchange supply and demand. The main task of a bank's foreign exchange department is to enable its commercial or financial customers to convert assets held in one currency to assets held in another currency. The conversion takes place as a 'spot' transaction or a 'forward' transaction. Banking activities in the foreign exchange field tend inevitably to establish a uniform price range for a particular currency throughout the financial centers of the world. If at a given moment the market rate in one center deviates too far from the average, the balance will be restored by arbitrage. In Sri Lanka foreign currencies are traded with prices quoted in terms of rupees. There is no international market for rupees as it is not a convertible currency. Daily rates are determined by the activity levels in foreign exchange markets, and are subject to formation of market positions.

**Interest Rate Parity**

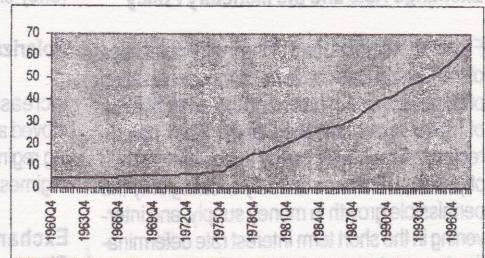
The parity argument asserts that exchange rates fluctuate to equalize returns to investment. The return depends on the difference between foreign and domestic interest rates and the expected exchange rate depreciation. Thus, when the market expects a greater depreciation the domestic interest rate tends to rise.

$R = R^* + \text{Exp}(\text{Depreciation})$

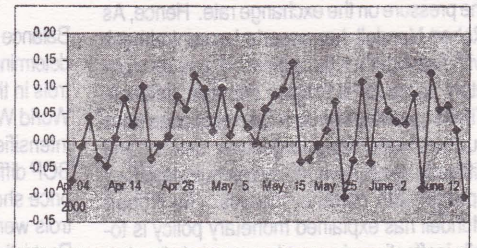
Determination of short term rates also depends on the market perception by each individual foreign exchange dealer. Dealers acquire their skills through experience. However, even a skillful dealer could be swayed by adverse expectations and herd behavior leading to wide fluctuations of the exchange rate.

Empirical research shows that short run exchange rate movements follow a random walk.

**Figure 3a - Long-run Exchange Rate**



**Figure 3b - Short-run Exchange Rate**



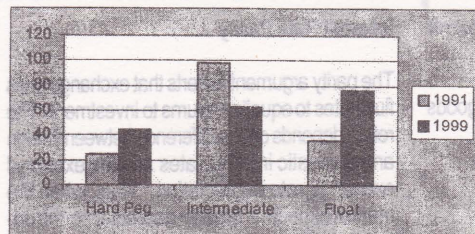
This implies that the difference between today's and tomorrow's rates is not predictable.

**Exchange Rate Management and Choice of Regimes**

In a dollarized economy national currency is abandoned in favor of dollars (or any other currency) as Ecuador and El Salvador did recently. In a currency board system national currency is linked to a foreign currency. In the fixed exchange rate regime (conventional peg or pegged with a horizontal band) a Central Bank maintains a fixed value for its currency with respect to one major currency or a basket of currencies. Whenever the national currency shows a tendency to move away from the fixed value, Central Bank intervenes by buying or selling national currency to mop-up the excess demand or supply. In a crawling peg, the currency is



Figure 4 - Exchange Regime Switches



Source: International Monetary Fund

adjusted periodically in small amounts at a fixed, pre-announced rate. In a crawling band the currency is maintained within certain fluctuation margins around a central rate. In a managed floating regime the central bank intervenes in the market by buying or selling domestic currency using foreign currency without any pre-specified path. Freely floating regime is where the exchange rate is determined by market forces. Central Bank does not intervene in the process. Therefore, the Central Bank has the control over the domestic money supply, and it could be used to curb domestic inflation.

**Exchange Rate and the Monetary Policy**

From the inception, two of the major objectives of the Central Bank have been the preservation of domestic value of rupee and the external value of rupee. Over time the Central Bank has directed the monetary policy to achieve the two objectives. This was done by allowing only the permissible growth in money supply, and intervening in the short term interest rate determination to contain excessive cost of borrowing.

The money supply in the country is dictated by the pressure on the exchange rate. Hence, As Robert Mundell has asserted, a central bank with fixed exchange rate cannot use its monetary policy for stabilizing domestic inflation. Those countries with rigid fixed exchange rates such as Hong Kong, Argentina, Estonia and Lithuania do not have central banks, instead they operate with currency boards. As Robert Mundell has explained monetary policy is totally ineffective when exchange rate is fixed. It is effective when the exchange rate is fully flexible.

In view of new theoretical and empirical findings, many central banks have increasingly focused their attention on the sole objective of price stability, while letting exchange rates be determined by market forces. However, there still exist interventions to eliminate extreme fluctuations. Central Banks use exchange rate as an intermediate target to guide monetary policy. Their main instrument is the short term interest rate. The interest rate affects exchange rate in the short run through interest rate parity condition.

**Exchange Rate and Competitiveness**

It is generally agreed that misaligned exchange rate, especially when it is overvalued could affect a country's competitiveness. However, ex-

change rate alone cannot enhance a country's competitiveness. As recent discoveries show country competitiveness is a function of many microeconomic concepts of a firm.

**Adverse Expectations and Financial Crises**

An overvalued currency is the key to a crisis. It is now well accepted that misaligned fundamentals will decide IF a crisis will occur, and adverse expectations will decide WHEN it will occur. If a central bank maintains a higher value for its currency market players will form adverse expectations and stage a run on the central bank, similar to a run on a commercial bank by depositors. Recent episodes in East Asia, Russia, and Brazil clearly show adverse impact of overvalued currency. If a central bank does not regularly revise the value of its currency market players will form adverse expectations and stage a run on the central bank, leading to a currency crisis.

**Polarization**

Increasingly central banks have moved away from managed or crawling regimes to either hard pegged or freely floating regimes. Figure 4 shows the world experience.

**Exchange Rate Movements and Regime Changes in Sri Lanka**

**Evolution of Exchange Controls in Sri Lanka**

Balance of Payment situation determined the exchange controls in the early years since World War II. Controls were intensified in late '50s due to BOP difficulties. With the oil price shock of '70s the controls were further tightened. Restrictions were relaxed with the liberalization of the economy in 1977. Sri Lanka accepted Article VIII of the IMF and fully liberalized the current account, i.e. no exchange restrictions are applicable to trade and travel. Sri Lanka has relaxed the following set of the capital account transactions.

**Investment**

Incoming investment is free (Outgoing investment is under control) Certain BOI projects are exempted from the above controls Portfolio investment via SIERA (Share investment external rupee accounts) Investment abroad approvals case by case Borrowing and Lending

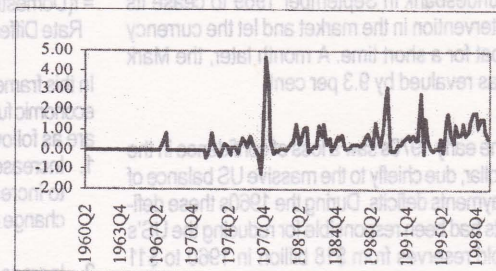
Banks could borrow up to 15% of their capital Corporate sector can borrow - case by case

Repatriation is allowed for foreigners but, controlled for locals.

**Evolution of Exchange Rate Regime**

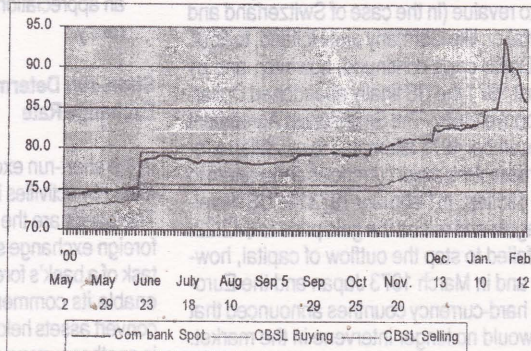
After the Independence Sri Lanka continued with a fixed exchange rate system until 1968. (See Economic Progress of Independent Sri Lanka, Central Bank, 1998). In 1968 a dual exchange rate system was introduced in the aftermath of rupee devaluation of 1967. The unsatisfactory export performance led to the devaluation in 1967. The dual exchange system known as the Foreign Exchange Entitlement Certificate Scheme

Figure 5 - Exchange Rate Movements in Sri Lanka, 1960-98



was introduced in 1968 and operated with one exchange rate applicable to essential imports and non-traditional exports (low rate) and a higher rate applicable to exports and 'non-essential' imports. In November 1977 the dual exchange system was abolished, and Sri Lanka adapted a floating system. The Dollar was depreciated from Rs. 8.83 to Rs. 15.56. Changes in ex-

Figure 6 - Recent Exchange Rate Movements



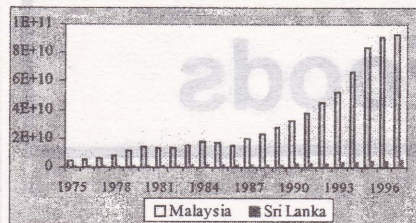
change rates before and after the collapse of Bretten Woods

**Sri Lanka Rupee Rate**

Central Bank began quoting fixed daily rates for six major currencies. In 1982 the quotation was limited only to the US Dollar. The Dollar was Rs. 21.03, with intervention band of Rs. 21.02 & 21.04 (roughly .07%). In March 1987 the band was widened to 0.1%, the buying and selling rates were Rs. 28.4 & 28.77. In March 1992 the



Figure 7 - Exports of Malaysia & Sri Lanka



margin was widened to 1%, intervention rates were 42.98 & 43.42. In March 1995 the band widened to 2%, intervention rates were Rs. 49.41 & 50.41. In June 2000 Central Bank begins intervention on a horizontal band. (Figure 5)

On January 23rd, 2001 Central Bank stopped announcing the buying and selling rates. Temporary prudential requirements were imposed to manage drastic fluctuations of the rupee. (Figure 6)

**Behavior of Exchange Rate and Central Bank Intervention**

Central Bank monitors exchange rate movements in relation to an array of factors such as—

- developments in the exchange rates of major trading partners;
- expected developments in international currency markets;
- developments in domestic foreign exchange and money markets;
- projected developments in the balance of payments;
- developments in the Real Effective Exchange Rate; and
- tendency to form adverse expectations

Central Bank has also imposed several prudential measures to avoid adverse fluctuations of the exchange rate. Limits were placed on daily working balances maintained by commercial banks in foreign exchange, on the basis of past export-import transactions. This was to prevent banks building up foreign exchange for excessive trading. Banks were instructed to ensure settlement of export proceeds within 90 days. Penalty interest rates were to be charged when overdue. Forward sales and purchase of foreign exchange were to be backed by a rupee deposit of 50 per cent, to discourage excessive forward contracting. Banks were advised not to permit early or prepayment of import bills, in anticipation of a depreciation. Banks were also instructed to limit their forward market operations only to trade based transactions.

**Matching Experience with Fundamentals**

During the fixed exchange regime, Sri Lankan rupee was fixed at 4.76 rupees per dollar. The currency was devalued in the late sixties in view of large BOP deficits and falling external assets. After 1973 the rate continued to slide downward responding to the deficit in the current

account, and increasing domestic prices.

**Current Account Balance of Sri Lanka**

Central Bank was able to contain undesirable short term fluctuations through intervention both at low and high values. The exchange rate was given sufficient freedom to move and be on its own course by allowing gradual upward or downward movements. The long-run movements are monitored by observing the behavior of real exchange rate.

**Matching Experience with East Asia**

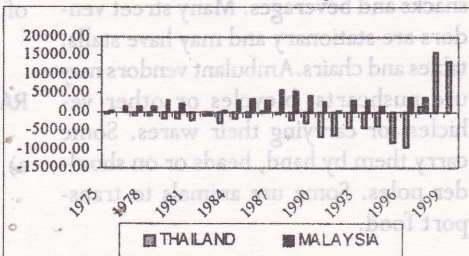
**Malaysian experience**

Malaysian ringgit rate was stable unlike the Sri Lanka's exchange rate. This is illustrated by high export volume and positive trade balance in Malaysia. For example, in 1997 Malaysian exports was US \$ 90 bn compared to Sri Lanka's exports of US \$5.5 bn.

**Thailand experience**

Thailand experienced an exchange rate crisis as the exchanged rate was fixed irrespective of worsening fundamentals. Figures 7 and 8 illustrate the experience.

Figure 8 - Balance of Trade in Malaysia & Thailand



**South Asian Experience**

South Asia is typically a region with low export growth, low productivity, closed economy concepts in macroeconomic management. Hence, exchange rates in South Asia have had a depreciating trend as shown in Figure 9.

**Recent Exchange Rate Developments and Impact**

Sri Lanka's exchange rate was subject to increased pressure due to the following major factors:

- Adverse international oil price shock
- Escalating defence expenditure
- Worsening trade deficit and balance of payment deficit
- Worsening external reserves
- Adverse expectations

Central Bank attempted to contain the pressure by increasing interest rates and by granting greater

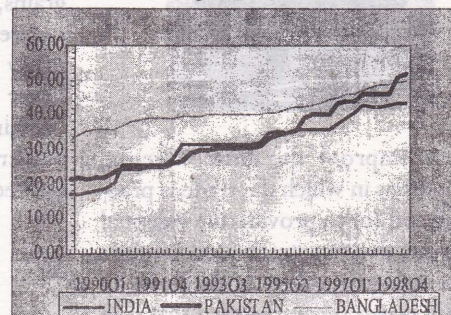
freedom to the determination of the exchange rate.

**Why Float? Large and Complex Forex Markets**

Each day more than \$1.2 trillion worth of exchange (75 times of our annual income) changes hands around the globe. This is an amount far exceeds the daily value of world trade. Thus, even a small change in exchange rates can have immediate and profound effects on economic events, ranging from our level of consumption to profits of firms. Large changes can shake governments as we have evidenced in East Asia. Today's exchange rate regimes are profoundly different from the regimes existed few decades ago. In the current system exchange rates among the major currencies fluctuate in response to market forces. International private capital flows finance current account imbalances today unlike the financing of imbalances through official means few decades ago. Lower transaction costs arising from developments in telecommunications and information technology has fueled up the process of integration in financial markets and the world economy imposing serious challenges to the management of exchange rate in small economies. In addition to the influence by developments in external economy exchange rate movements are affected by adverse expectations of people. As evidenced from the 'tequila' crisis of Mexico in 1994 and repeated in East Asia, Brazil and Russia in 1997, a fixed exchange regime is not sustainable by a central bank.

The independent monetary policy contradicts with fixed or managed regimes. (Mundell 1962). If a central bank maintains a managed regime it should stand ready to support its currency. Thus, the system is not substantially different from a fixed regime. This leads to confusion over the final policy target; if it

Figure 9 - Exchange Rates in South Asia



should be external value of the currency (exchange rate) or the domestic value of the currency (domestic price level). Such a system is sustainable if financial markets are relatively small and rather unsophisticated. In today's world, financial system is very complex and new financial instruments and new developments

Contd. on page 18



# Control of Street Vended Foods

**S. Nagiah**

Chief Food & Drugs Inspector

Street - vended foods are very common to most countries and this has now become a rapidly growing industry. In terms of convenience and cost, most consumers prefer street-vended foods. However, street-foods are also recognized as potential hazard to health.



FAO/WHO Expert Committee in 1983, considering the possibility of chemical and microbiological contamination under street conditions concluded that efforts must be made (a) to educate the personnel involved;



(b) to improve the environmental conditions in which the trade is practiced and (c) to provide the essential services to assist street-food vendors in assuring the safety of the food. In 1986, it was recommended that - in addition to these efforts - simple techniques for regulation of street foods be implemented.

"Street-foods" have been defined as "ready-to-eat foods and beverages prepared and/or sold by vendors es-

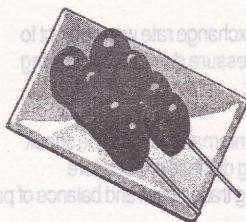
pecially in streets and other public places".

Many of the hygienic requirements of the street foods are the same as those for indoor foods. Street-food vendors should be categorized according to the type of food they sell and their mobility, for determining the type of requirements to be applied. Street-foods



can be broadly grouped as: meals, snacks and beverages. Many street vendors are stationary and may have stalls, tables and chairs. Ambulant vendors may use pushcarts, bicycles or other vehicles for carrying their wares. Some carry them by hand, heads or on shoulder poles. Some use animals to transport food.

Street foods include a large variety of items with different degrees of potential for causing diseases. eg: parched grains, dry bakery products, sufficiently sugared, salted or acidulated foods and many fermented items have a much lower disease producing potential than certain foods which readily support bacterial growth. Foods thoroughly cooked or fried and consumed on the



spot are safer than pre-cooked foods. Such as rice, especially when they are

held at ambient temperature (15 to 40° C) for more than 4 to 5 hours. Highly coloured foods and beverages more likely to have un-permitted ad-



ditives. Consideration of varying potentials of different food items to cause disease can be used in classifying local street foods for application of appropriate control measures.

## RAW MATERIALS & INGREDIENTS

a) Raw materials and ingredients should be obtained from known and reliable sources.



b) It should be assured that materials remain wholesome during transport, storage and handling through processing, cooking and sale.

## PLACE OF PREPARATION & SALE

a) Food should be prepared in a clean and well-lighted place protected from strong sun, dust, rain and wind. It should be away from



sources of contamination – solid and liquid wastes, animals including pets and pests.

- b) Equipment should be such that they can be cleaned easily made or covered with impervious materials. Preparation should not be carried out on or near the ground.
- c) Utensils, pots, pans and other containers should be clean and good condition which does not release toxic or hazardous materials (copper, lead, cadmium etc.) into food and beverages especially when they are acidic. They should not be used for any other purposes.
- d) All surfaces of cutting boards should be in good condition and



free from pits and cracks for easy cleaning. If raw meat or poultry is handled separate cutting boards should be used.

- e) Premises used for preparation and processing should not be used for habitation or storage of materials unconnected to food.
- f) Sale points, stationary or ambulant, should be located in a place where risk of contamination from rubbish, sewerage and other noxious or toxic substances is absent or minimal.
- g) Vending units should be designed and constructed so that they are easily cleaned and maintained.
- h) The time required to transport food between the preparation and vending units should be such

that bacterial proliferation does not reach hazardous levels.

### WATER

- One of the most critical problems in street-food vending is the supply of water of acceptable quality and in sufficient quantities for drinking, washing, for cleaning and other operations.
- As far as possible, the production and sales units should have their own supply of potable water.

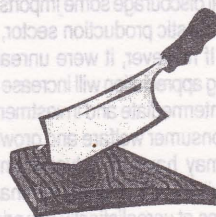


- Water used for drinking and preparation of beverages should be potable. Special care should be taken to assure that such water is maintained in a sanitary state.

- Water used for washing utensils, food and hands should be safe and should not be re-used.

### WASTE DISPOSAL

All waste should be handled and disposed of in such a manner as to avoid contamination of food, water and the environment. Access to food waste by pests (insects and rodents) as well as by



animals (dogs and cats) should be avoided. The following type of waste, if possible, should be disposed of separately:

- a) Liquid waste (except oil and fat) should be emptied into the nearest sewer or drain. Some form of trap should be used to ensure that only liquid waste is discharged into the sewer or drain.
- b) Remains of food may be separated and kept for feeding animals. Utensils on which food has been served to customers should not be licked by animals.
- c) Other solid waste should be kept in covered containers to be removed at least once daily.

### FOOD HANDLERS

1. All street-food handlers should be licensed.
2. Food handlers should be educated, encouraged or supervised to stop their business promptly, it at any time they suffer from diarrhoea or vomiting or have boils, sores or ulcers on exposed parts of the skin. Resumption of business after recovery may be subject to authorization by the appropriate food control authority.
3. Food handlers should wear clean and proper clothing according to



prevailing local standards. Where possible, should be encouraged to wear clean over-all aprons – light in colour.

4. Food handlers should wash their hands with soap and water after handling raw foods, before handling cooked foods, after using the toilet, after handling unsanitary objects such as garbage containers and after contact with toxic substances such as pesticides and disinfectants.



5. In the preparation and sale of food, food handlers should refrain from unhygienic and unsightly practices such as – chewing or smoking tobacco, chewing betel nut or chewing gum; touching mouth, tongue, nose, eyes etc and spitting, sneezing and coughing on or near food.

### PREPARATION AND PROCESSING

- Some vendors carry out the final preparation with cooking (frying, grilling, baking etc.) in open stalls in front of their customers. This exposure tends to inspire confidence, and in many cases, improves the taste and enjoyment of food. However, this does not obviate the necessity of observing the basic rules of food safety.
- An important principle in preparing and processing food is to avoid direct and indirect contact between raw and cooked or prepared food, which will be consumed without adequate re-heating. Indirect contact may be caused by unwashed cutting board, knife or hands.
- Grains (rice, pulses, beans etc.) and vegetables and fruits should be soaked and washed sufficiently with safe running water to remove contamination adhering to their surfaces.
- Meat, poultry, fish and similar foods should also be washed, but should not come into contact with other food, which is to be consumed raw.
- If frozen foods are used they should be thawed before processing.
- If food is processed by heat treatment (frying, grilling, baking etc.) it should be thoroughly cooked – that is, the temperature of all parts of the food reaches at least 70 ° C.
- Utensils used for cooking should not be used for other purposes.

### TRANSPORTATION AND STORAGE OF PREPARED FOOD

- Ready- to- eat food and beverages should be transported to the sales point in clean, well-protected and covered containers.
- If foods, which easily engender bacterial growth at ambient temperatures, are to be transported over long distances, the container should be maintained at a temperature below 10° C. Chemical preservatives should not be used.
- Vehicle used for transport should be clean and should not carry animals, toxic substances or contaminating materials.
- If cold storage is used, bulk food should not be hot when put into the refrigerator.

### Contd. from page 15

information technology allow market players to be very sophisticated. Thus, they can make use of any managed system to gain arbitrage profits. When the central bank announces an intervention band it also gives signals to the market on the future exchange rate path assumed by the Central Bank. Since central bank also takes into account market signals, a vicious cycle of ever depreciating exchange rate could arise. Hence, a central bank has to be very clear about its monetary policy targets. If it intends to target the exchange rate, a currency board system is more useful, even though it is not ideal. If it intends to target domestic price level of inflation, the exchange rate has to be floated and it should be allowed to be determined by market forces.

#### Impact Immediate Overshooting (depreciation)

Estimates using Thai data show that one percentage depreciation in exchange rate will increase inflation rate by 0.03 percentage points immediately.

Impact of step depreciation on inflation diminishes gradually.

### Thai depreciation and inflation

Monetary policy could now be designed to curb long-run inflationary pressures. The inflationary pressures have so far been low, but after the rapid depreciation the pressure may rise. The increased mobility in the determination of the exchange rate will grant greater freedom to the monetary policy to aim at reducing inflation.

### Sri Lanka's Inflation

The true market rate will allow export supply and import demand functions to fall in line, result in a proper resources allocation. Thus, if previously the exchange rate was unrealistically high, gradual depreciation will discourage some imports giving a boost to the domestic production sector, and the export sector. If however, it were unrealistically low, the resulting appreciation will increase imports, all consumer, intermediate and investment goods boosting the consumer welfare and growth of the economy. It may have an adverse impact on exports, but it will avoid foreigners purchasing domestic resources at unrealistically low prices.

### Concluding Remarks

- Nominal exchange rate follows macroeconomic fundamentals of an economy in the long-run,

whereas short-run fluctuations follow a random walk.

- A central bank should not fix the exchange rate as it will invite the formation of adverse expectations and economic crises. Currency Board or Dollarization is more sustainable, if existing macroeconomic conditions permit such a move.
- Countries have moved away from intermediate regimes to polar regimes.
- Exchange rate could operate freely in an environment of capital account liberalization. Sri Lanka has partially opened the capital account, and is considering the complete liberalization.
- Freely moving exchange rate enhances the efficacy of the monetary policy.
- Stable and strong exchange regimes are outcomes of strong economic fundamentals. Thus, there is a need for promoting growth generating factors in the economy cannot be over-emphasized. Those are technology, human capital, research and development, and infrastructure.



# Building a Consumer Sovereign Trading Pattern

Prasanna Perera \*

It is said that consumer sovereignty exists in a market economy. This implies the possibility of the consumer behaving in the market at his will. On the other hand it appears that the producers operate only with the object of maximizing their profits. Although the producers and consumers seem to behave like this, as a perfect competition situation is not in force in a modern economy, the concept of consumer-sovereignty has become confined to a name sake utterance. It is possible to be that the consumer is often caught in the grip of the producer and the trader.

Even for an economy motivated by the market forces a powerful Authority is required for the protection of the consumer whether it is a state-sponsored organization or a organizations created by the civil society provided it has legal authority.

The history of consumer protection legislation can be traced to the past. It was in 1883 that the Sale of Goods Act in the United Kingdom was passed. However the provisions made by this Act for consumer protection could be seen only in a few limited areas. This was subjected to an amendment in 1979. Later protection required by consumer in bulk purchases and debt agreements were absorbed into.

In United States of America, the role of civil society in consumer protection is striking King, President Kennedy identified four consumer right in 1962.

## i. The right to safety

This emphasizes the consumer's right to purchase goods which are not harmful to his life or health.

## ii. The right to be informed

This right has established the right of protection from dishonest and deceitful advertising

and emphasizes the moral right of the consumer to have access to the true information about the goods.

## iii. The right to choose

No trader has a right to obstruct the consumers right of choice and compel him to consume. This implies the consumers right of consumption in accordance with his preference.

## iv. The right to be heard

This has established the right of the consumer to be protected from the injustices to which he is subjected.

In addition to this the consumers right of living and working in an environment which is not adverse to his health and life, also was added later.

The introduction of a strategy for the protection of the consumer (the United Nations guidelines for consumer protection) was adopted on 15<sup>th</sup> April, 1985. this led the international community to take several steps for the protection of the consumer with a view to achieve the following objectives:

- a. Assisting its member countries to possess and maintain consumer protection measures.
- b. Development of a production and distribution environment in keeping with the consumer needs and preferences.
- c. Persuading the producers and distributors to follow a higher level of moral practices.
- d. Assisting the prevention of irregular trading practices that are harmful to national as well as international consumers.
- e. Expansion of the need of creating independent consumer groups
- f. Encouragement of international assistance in consumer protection
- g. Guaranteeing the safety of the market economy based on consumer sovereignty

However in the process of the International Communities attempts to protect the consumer Sri Lanka also has engaged herself in the protection of the consumer through the implementation of the following measures:

- Establishment of the Sri Lanka Bureau of Standards
- Enactment of Consumer Protection Act No. 1 of 1979
- National Environmental and Traffic Regulation No. 16 of 1979
- Consumer goods Act No. 26 of 1980 and the price control enactments.
- Drugs and Cosmetics Devices Act No. 27 of 1980
- Sri Lanka Institution of Standards Act No. 06 of 1984.
- Sri Lanka Standardization Act No. 6 of 1986
- Fair Trading Commission Act No. 1 of 1987.

Of the above the most significant measure is the protection of Consumer Act No. 1 of 1979. This has established the consumers right to relief and assistance. This Act was amended several times and among them following should be mentioned.

In 1980 Section 33 (a) was amended to provide for the establishment of a Consumer Protection Fund. The Parliament allocates money for this fund. In addition it is possible to obtain funds for the promotion and strengthening them of consumer protection organization with the recommendations of the Commissioner.

In 1987 the Act was amended by giving a new definition to the terms "goods".

This indicates the attempt to strengthen the nature of legal protection expanded to the consumer several times in keeping with the social needs.

Enforcement of regulations in accordance with the consumer protection Act is the responsibility

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of Commissioner of Internal Trade. A Consumer Relief Division has been established under this Department and the process of settling disputes is entrusted to this Division. The Consumer has the opportunity of taking judicial action for relief with no cost to him, through the Consumer Relief Division. It is necessary to go to courts for this purpose. The Consumer Relief Division, considers the possibilities to bring about an agreement between the parties to the dispute and give suitable solutions.

**The preamble to the Consumer Protection Act of Sri Lanka embodies three objectives**

- i. Formalisation of Internal Trade,
- ii. Provision of Consumer Protection,
- iii. Introduction of Fair Trading Ethics.

Part I of the Act contains the provisions regarding the Commissioner and the Deputy Commissioner while Part II deals with special powers of the Commissioner. However the Department of Internal Trade is naturally entrusted with the functions given below:

- i. Settlement of disputes between consumers and traders,
- ii. Punishment of traders who do not follow the consumer Act through judicial procedure,
- iii. Educating the consumer regarding consumer's rights and duties,
- iv. Extension of activities relating to consumer protection,
- v. Organization of consumers through consumer societies,
- vi. Educating the traders about the traders' responsibilities and duties.

It is possible to evaluate the attempts so far made by Sri Lanka to protect the Consumer. The Department of Internal Trade is engaged at least to a certain extent in educating the consumer through their seminars, publications, and discussions. Further there is an increase in the number of complaints made to the Consumer Relief Division. It is not wrong to state that the Consumer Protection Division can handle 1500-2000 complaints a year, if the present Division is continued with the same vigour. However in the matter of settlement of consumer and trader disputes Department of Internal trade has experienced a slow progress. Mostly programmes for Trader and Consumer Education are limited to develop the International Consumer Day at

though attempts to form these into projects are also in the process. Under this situation even if the Department of Internal Trade is privatized, it is an essential condition to maintain a legal basis to protect the consumer under this trading environment. On the other hand, the fact that there is a possibility of reorganizing the Department of Internal Trade and thereby raise its efficiency and minimize costs.

It is appropriate to draw the attention to a number of measures that can be adopted to protect the con-

b. It is also essential to create organizations to reach a wider consumer group, in the civil society with the aim of protecting the Consumer. Accordingly, the awareness of the consumer can be raised. Specially seminars targeting schoolchildren are important. It is possible to contribute to the mission of protecting the consumer by exposing the injustices to which the consumer is subjected, through the media. On the other hand it is possible to direct the busi-



sumer in a society that has reached the zenith of 21<sup>st</sup> century. They are:

- i. Should expand the legal powers and the independence of the Commissioner of Internal Trade. Specially it is necessary to free the Commissioner General from the political grip of the relevant Ministry which has been the practice in other countries. The reason for the non of many state inefficiency institutions in countries like Sri Lanka belonging to the third world is the political interference.
- ii. Should remodel the Consumer Protection Act which is in force with new amendments, to suit 21<sup>st</sup> Century. The possibilities of bringing the services sector also under the law should be examined.
- a. It is possible to promote the existing Consumer Relief Division. The efficiency of the staff should be raised. The institutional facilities provided to them are not sufficient at all. Therefore if action to privatize this Division is not possible, it is necessary to increase institutional facilities and should retain a set of more efficient officers in the Consumer Protection Division.

ness community to consumer protection in an organized manner. For this it is essential to have consumer organizations and groups emerging from the Civil Society. The British Rail Passengers Group while representing the interests of the passenger on one hand, it has contributed to promote efficiency in the British Railway Service on the other hand. It is also appropriate to highlight the significance of the consumer protection struggle launched by Ralph Nodir in the United State. In response to his struggle the Ford Finto Company won forced to withdraw all their Ford Finto Motor Cars from the market.

**Reference Books and Documents**

- i. Report of the National Price Commission
- ii. Reports of the Standards Institution
- iii. Consumer Protection Act No. 1 of 1978
- iv. National Environmental and Traffic Regulations of No. 26 of 1979.
- v. Consumer Trade Act No. 26 of 1980 and Price Control Acts.
- vi. Drugs, cosmetics and Devises Act No. 27 of 1980.
- vii. Sri Lanka Standards Institute Act No. 6 of 1986.
- viii. Sri Lanka Standardisation Act No. 6 of 1986
- ix. Fair Price Commission Act No. 1 1987.



# Small Tanks Cascades as Development Units in the Dry Zone

Dr. M.U.A. Tennakoon\*

*[A nation's history is there, not for memorizing dates and events; it is there to interpret past events and their consequences to draw useful lessons to complete on-going work better and to project future activities still better.]*

As defined by the Irrigation Department, small tanks are those, which irrigate land extents of 80 hectares or less. Systematic studies so far undertaken, among others, Tennakoon (1974, 1986) and Panabokke (1999) have revealed that there is a tank for every 1.5 sq. km. in the Rajarata. Panabokke's study (1999) further reveals that there is a similar density of tanks in the northern part of the Kurunegala District as well. According to the same study, there are about 15,500 small tanks in the Dry Zone and approximately half that number of tanks remain either dilapidated or abandoned.

## Small Tank Cascades

The north central Dry Zone lowland is not so flat as it is generally believed to be. Starting from the Matale Foothills, its ridge-and-valley topography extends northeast, north and northwestwards in a fanlike formation. With increasing distance from the above mentioned foothills, the ridges of this topography become narrower and narrower at their bases, low in elevation, increasing frequency of dissection and forming into small hills and finally making themselves in to low earth mounds before they disappear in the northeastern, northern and northwestern littoral belts. With the declining stature of these ranges away from the Matale Foothills, they hardly deserve to be called

ranges or ridges. In fact in common parlance on the north central region they are identified as 'heennas' (earth mounds), except in places where they have prominently projecting peaks (e.g. Gommalewa Kanda, Mihintala Kanda, Labunoruwa Kanda etc)

The valleys in between them, near the Matale Foothills are narrow and deep, but in their outward movement in between the ridges, they become shallower and shallower as well as wider and wider to end up in the undulating landscape in the central zone of the great north central plain. Near the Matale Foothills, these narrow valleys offer relatively a few places for the construction of tanks. The few tanks constructed there, are significantly deep containing large volumes of water but downstream command areas of them are highly restricted by the terrain.

When these valleys reach the undulating land with innumerable seasonal streams that join them offer many suitable locations to block them and construct tanks. These seasonal tributaries falling in to these shallow valleys take their rises in the summits of the 'heennas'.

An ephemeral stream taking its rise from a 'heenna' finds its way through the bottom of the valley that it occupies and flows downstream until it reaches a major water course (stream) of a sub-watershed. In to this ephemeral stream, there flow many small ephemeral streams, taking their rise from the nearby slopes of the two 'heennas' which run parallel to the valley separating it from the other parallel valleys. These side-slope streamlets are highly seasonal. They are so short-lived, that they

disappear almost with the cessation of rain.

For easy exposition, let us call the larger ephemeral stream that passes from an upstream point to a downstream destination such as an oya or a large reservoir, the **main axis stream**. Those, which join it in the course of its downstream travel, are the **side-slope tributaries** or the **elas**. These streams offer suitable points to construct earth dams across them and form tanks, **main axis tanks** and **side-slope tanks** respectively. The former type of tanks are larger than the latter types. **The main axis tanks** are also referred to as **village tanks** because invariably there are permanent houses in their vicinity. Thus, the general picture is that there is a chain of tanks in the main axis valley with the side slope tanks on either side of that valley. These side slope tanks are generally in clusters around village tanks in the main valley. The side slope tanks belong to the residents in an around the village tanks. The whole catchment area in which all these tanks – main axis tanks (village tanks) and the side-slope tanks are located – is a cascade. Thus, during a rainy season one would see, that, while water is cascading down from the uppermost tank in the main valley from one to another, water also cascade from those side-slope tanks either in to the nearby village tanks if gravity permit so to happen or on to the main axis stream at the bottom of the main axis stream. The uppermost tank in the main axis valley often bearing any one of these names – **Udagama, Udugama, lhalawewa, lhalagama, Udangawa, Kandegama or Galkandegama** – denoting its location.

\* Former Executive Director, Central Bank of Sri Lanka



All these cascading tanks from the head-end of the main axis stream to its final destination and those side-slope tanks gathering their supply of water from the water divides of 'heennas' and downwards, constitute a single network of flows in the entire cascade. These cascades are of varying length and breadth in keeping with the local topography. A small cascade can be a one, which is, 3 to 5 miles in length and 2 to 3 miles in width. Relatively large cascades vary from 10 to 15 miles in length along the main axis stream and 4 or 5 or 6 miles across the valley at its widest point. The Rajarata alone has 457 cascades (Panabokke 1999). The number of village settlements in a cascade can vary from 5 to 10 or even more.

Generally there are two types of side-slope tanks associated with a main axis tank (village tank). The first category comprised of those very small tanks constructed upstream of a main axis tank, but on side slopes, only a few hundred yards away from, and upstream of, the upper shore-line of those main axis tanks. They are not very many. At most, there can be 2 to 3 of them upstream of a main axis tank and some upstream tanks may have none at all. They were constructed as silt-trapping tank, which, in the local parlance are *kulu wew* so that silt brought down in solution, suspension and dragging consequent to sheet or gully erosion following torrential down pours is deposited in them as sediments and relatively clean water is allowed to escape leisurely to the downstream main axis tank.

The second category of side-slope tanks are located on the side-slopes of the valley, but at some distance downstream of a main axis tank. When the main axis tank is full, excess water can be guided from its spill(s) to these side-slope tanks. While a main axis tank impounds these side-slope tanks with water, they in turn, become feeder-tanks, for irrigating in some field stretches down stream the main axis tank, in situations where the main axis tank runs short of water for irrigation of its own fields. When the main axis tank is unable to meet the domestic water needs of the village

community in association with the main village tank it is these side slope tanks which meet at least some of the villagers' domestic water needs such as drinking, bathing and washing.

It is to be noted, that, while many upstream tanks release water to a main axis tank down stream, that main axis tank too releases water to chains of side slope tanks, down stream of that main axis tank on the land sloping to the axis stream in the valley bottom. This particular network of tank to tank irrigation, in keeping with the gravity guided water flows in a small basin, that is, in a cascade, does not appear to be purely an accidental occurrence but an outcome of careful tank construction based on proper hydrological observations and planning a gravity-guided flow from tank to tank, fostering a frugal system of water and land-use together with the necessary environmental considerations.

The ancient irrigation engineers appear to have realized the importance of tank networking for frugal use of water to get the maximum possible use of water received from highly seasonal and limited rainfall. This statement can be substantiated with references to many historical records. However, this important consideration remained side tracked from the early 19<sup>th</sup> century to the present day.

#### - I -

#### Maintenance of Tank Network Ignored

Ignoring network development of cascading tanks is a disease that commenced almost with the British occupation of this country. Our irrigation policy makers and planners have not been able to fully, get rid of this paralytic disease. There is ample evidence that can be fished out of the British administrative records themselves to reinforce this argument. A case in point is, **Manual of the North Central Province** written in 1899 by **R. W. Levers** a veteran Government Agent of the same province, who held that position for 6 years in 3 spells during the last two decades of the 19<sup>th</sup> century.

It could be seen in this publication at least three reasons for ignoring the res-

toration of cascade-based tanks in their network entirety. First is the systematic and careful efforts launched by the British administrators to make the villagers believe that tanks are meant for irrigated paddy cultivation only and that all energies should be directed to reach that end. As profits were uppermost in the minds of the British administrators coming from a region of trading nations, they found that among all crops grown, paddy is the easily taxable commodity. During the early period of British administration in the Rajarata, the administrators were aware that a grain tax collected from paddy cultivated largely for subsistence was inadequate to meet administrative cost incurred in the district. Still, they wanted to collect whatever possible revenue to reduce administrative costs. At times the grain tax imposed on paddy was as high as 1/10<sup>th</sup> of the harvest. There also have been changes in the tax collection in grain to cash collection and then back to grain collection stating that villagers found difficult to pay tax in cash. This may be partially correct, as the villagers were not accustomed to a cash economy. But the untold part of the fact was that the British desired to revert back from a cash tax to a grain tax, as large quantities of rice were required to feed their local military recruits for defence and power consolidation.

Not that the British administrators were not interested in taxing other dry grains widely cultivated in this province, but they were cultivated in forest clad isolated *chenas* in which monitoring systematic tax collection from such crops was found to be extremely difficult. Even an effort was made to collect taxes from such crops, the monitoring costs would not have been comfortably lower than the tax returns. Hence, the choice opened to the British administrators was discouraging *chena* cultivation and encouraging irrigated paddy cultivation, the monitoring of which was easier than that of the *chena* cultivation at the times of tax collection

Considering all these, the British administrators followed a policy of : (a)



discouraging *chena* cultivation under a controlling system introduced with the issue of *chena* permits, which, in any case, was procedure-wise not easy for the ordinary villagers to follow successfully; and (b) encouragement of villagers to use every available drop of tank water for irrigated paddy cultivation expected to be of least cost to the administration.

The villagers were required each to work for a minimum number of days (30 days per year), to do all earth work in tank mending while the government was expected to provide the ordinary types of sluices to be fixed to the village tanks by the villagers themselves.

In placing sluices in the tank embankments, the need for a 'dead storage' of water in them was ignored particularly during the 19<sup>th</sup> century and the British administrators saw to it, that, the sluices are replaced or newly constructed to facilitate the complete draining out of tank water for irrigation. Either ignorantly or unintentionally, the inter-relationship of cascades had not received due consideration and each small tank came to be considered an individual entity with water in it irrigating a certain extent of paddy land downstream of tank. There is no convincing evidence of British administrators' concern about the use of tank water for several social, cultural and environmental development considerations.

Secondly, the British administrators propagated the idea that if some water is to remain in the tank as a 'dead storage', that it is of no economic use to the village. It was Robert Knox, the English prisoner in the Kandyan kingdom from 1657 to 1679 who expresses this view as follows:

*These ponds in dry weather dry up quite. If they should dig these ponds deep; it would not be so convenient for them. It would indeed contain the water well, but would not so well nor in such plenty empty out itself into their grounds.*

(Knox, 1681 : 135-136)

This gained acceptance of the British administrators in the 19<sup>th</sup> century. 'dead storage' itself is a derogatory term that the colonial rulers appeared to have deliberately used to a much treasured 'live storage' of water in a tank during the dry season and without that water human and all forms of other lives in the dry zone would have been impossible. This is simply telling the farmers that it is useless for you to have stored water in your village tanks and that you should release all available water in tanks to irrigate paddy fields downstream and secure good harvests to pay grain taxes in full as government dues. Thus, during the period of early British administration, sluices were repaired but no effort made to desilt tanks to hold water as *dead storage*.

The third reason which led to the way in which the colonial rulers went about 'improving' small tanks, repair and maintenance was a complex one. It resulted from the abolition of *Rajakariya* — the system of providing free labour during a certain number of days (about 30 days in a year) or a certain measurable volume of work for construction or repair of village roads, reservoirs, canals etc. The immediate consequence of the abolition of *Rajakariya* was the discontinuation of annual silt removal carried out in village tanks. Under this service system, the volume of earth to be removed from a tank and heap on tank embankment was determined in advance every year. Then, the individual volume of earth to be removed by the individual villages was determined in proportion to the extent of irrigated land that each individual held in the old field (mahawela) downstream of that tank. Each farmer removed due volume of earth from the tank bed and used that to mend the tank embankment damaged either due to frequent hoofing of the village cattle or due to the other agents of erosion and damage. The possible loss of a fraction of water due to siltation of a tank was regained by this process of regular earth removal from the tank bed before the next monsoon rains arrived. The villagers viewed this particular activity as one of their bounden duties to the 'tank and field' (*Wew ta wela ta rajakariya*).

It was the *gamarala*, an accepted village elder who organized and monitored the *rajakariya* from immemorial times in the past. His moral obligation was to his fellow villagers and not to any government, and as a responsible person in the village, he worked together with the fellow-villagers. The villagers were spontaneously willing to follow him as he worked for the community without any dictation but in consultation with each other. His actions were not profit-motivated; but service-oriented. The colonial administrators replaced him with a new appointee, the *vel vidane*. As he was a government appointee, naturally, his obligations were to the government and not so much to the community. He was to order the villagers, on behalf of the government, on what they should and should not do. He was not a fellow worker with the other villagers in the village. He was not a leader in the community sense of the word, but a commander of the community for the state. His orders were always there to be carried out, not to be ignored. Unlike the *gamarala*, the *vel vidane* was paid for his role played in the village, not by the state; but by the villagers in the form of a grain tax which he collected as 'salaris' or 'divel' from each individual farmer. This change of office for whatever the good reason may be, led to the eventual disintegration of the village community life paving way for the emergence of individualism.

However, *vidane* being the pinnacle of power in agriculture in the village, had not conducive but, an imposed leadership, and at least the people were compelled to get around him as children unwilling to school. Even this leadership disappeared from the village with the introduction of the cultivation committee system during the mid-20<sup>th</sup> century. The intention was to set up a democratic form of irrigation management. This institution did not take much time to be a heavily top-down, bureaucracy where the Divisional Officer (*DO Mahattaya*) was the 'king' behind the curtain. It is ex-



tremely doubtful whether the intended democratic form of management was achieved. It has done more damage than good to the farmer-psychology.

Though the policy intention was to democratize village irrigation management, top-down directives and guidance provided, became too bureaucratic. Officials occupied the center-stage, pushing the beneficiaries to the periphery. This is not to say that all cultivation committees failed. However, those successfully long lasted ones were exceptions rather than the rule. People have started to think that 'all tanks belong to the state; it seems that government is taking the responsibility of providing irrigation water; the officials are interested in doing' so. Thus, the people have come to be in a new dependency syndrome.

Finally, there was a complete break down of tank network maintenance where the government efforts were directed to modernize small tanks as individual entities, notably during the mid-20<sup>th</sup> century and afterwards. This has not only isolated each small tank, which throughout the past centuries remained in a highly connected network of reservoirs maintained in a cascade, but also paved the ways for the appearance of a plethora of irrigation and land management problems anew. These include : (a) excessive water storage in some tanks upstream thereby starving some tanks downstream; (b) sudden release of excessive water in upstream tanks, notably at the height of the monsoon rain, placing severe stresses on embankments of downstream tanks; (c) delaying seasonal cultivation of land immediately down stream of those starved tanks ;(d) unduly increased water in a downstream tank pushing its upper shore-line further upstream causing the lower parts of the paddy fields cultivated downstream of the tank immediately upstream of that excessively water impounded tank ; and (e) accelerating the siltation of tanks. All these caused inter- and intra-village disputes associated with land and water management.

#### How the small tanks are viewed today?

Different people in government and in villages perceive small tanks differently, when these small tanks are to be taken up for improvement/renovation. According to one school of thoughts these are very small reservoirs with very limited storage capacities and are capable of irrigating only a few hectares of paddy lands. As government allocation of funds for irrigation development is being limited, a choice has to be made between expenditure on renovation or these small tanks and those relatively large village tanks with greater prospects of irrigating more paddy extents. Naturally, the tilt of the scale will be placed in favour of the latter where the return to investment will be greater than that of the former.

There is a second school of thoughts, which is somewhat a continuation of the first school of thoughts, in which the broad conscience is, that, often the cultivated field stretches downstream of these small tanks, there is no assured harvest every year. Owing to the limited storage capacity of these small tanks and the high rates of surface evaporation experienced in them, often the cultivated field stretches whither for want of irrigation water towards crop maturity. In some seasons, these fields remain uncultivated as well and the consequential cropping intensities are very low. If funds are generously made available, one remedy would be to enlarge these small tanks to hold more water. Hereto, the return to investments will be still low, because a tank may be enlarged by raising and extending the length of a tank-bunt, but land available downstream for asweddumization will be still limited.

The third school of thoughts, which dramatically surfaced during the last decade of the 20<sup>th</sup> century is the so called economists' view – a view promulgated as an antithesis to the beneficiaries' view that they need state support for increasing food production. This economists' view is, that, the cost of production of rice in this country is excessively high and that cheaper rice could be imported and as such, the concern has to be on the over all economic

development in other more viable and promising areas making the economy strong and competitive in the ever expanding globalization and free market economy, facilitating easy rice imports with increased export earnings in the other promising sectors

It was largely prompted by the visiting experts of the international donor agencies, which, some of the local planners and economists were inclined to accept tamely. However, not all were willing readily to gulp it down as at least at present, there is increasing evidence to ascertain that there is a yawning gap (still widening) between the predominantly paddy cultivating majority of the poor which totals to any thing between 30 and 50 per cent of the country's population and those earn their living from non-agricultural occupations. The political decision makers, therefore, thus far remained hesitant to accept publicly, the suggestion of the donor agencies, as votes seem to matter to them more than pleasing the donors who proposed it.

The concept has not died altogether; its sparks remain hidden under ashes for the time being. Economists and planners need to be extremely careful of the donor agency suggestions because for any nation food security is of paramount importance.

Finally, the latest inclination of the agricultural scientists and a limited range of experts and scholars in the agricultural development related fields is, to ascertain the extent to which the small-tank irrigated farming can ensure future food security in the country. **It is their expressed concern, that, the state-sponsored large irrigation schemes though contributed to increase food production in the country, that, they are liable to fail or collapse if state aid is withdrawn in a free market economic climate where the state may be compelled to discontinue its support and even its active patronage!**

**Farmers themselves will be unable to manage those large schemes all by themselves. Hence, if the state support is withdrawn or ceases to exist, these massive schemes are**



liable to fail. Historically, this had been always so. In ancient Sri Lanka where the state patronage was not forthcoming, all the major irrigation schemes degenerated and finally collapsed while the small systems stood the test of time, because the technological knowledge required to sustain them was found well within the management capabilities of the beneficiary villagers themselves. Indications, therefore, are that the small village tank irrigation systems have a higher potential for their continuous existence even under difficult circumstances, contributing their shares to food security without a serious collapse as such.

**The Role of Small Tanks Underestimated**

It has become almost an established norm now to assess the importance of a small tank on the basis of a 'rupees-and-cents' value attributed to the quantity of paddy produced in fields irrigated by these small tanks and how much do they contribute towards the long-term environment sustainability. It is to be reiterated that, a tank, big or small, should not be viewed solely as a 'water tank' that releases its limited quantity of water to irrigate a small patch of paddy cultivated downstream of it. A village tank, small or big, is the **heart of the village with its entire physical environment. It has certain veins through which it receives its life blood, the water (from upstream supplies) and it is the heart which pumps blood (stored water) through its numerous arteries to economic, social, cultural and environmental organs of the village society (fields, home gardens, households, temples, nearby vegetation through ground water impact) and its total environment, making them collectively sustainable and effectively functional.** To nurture and foster only the economically functional organ(s) of the village community is only underestimating and staving the other equally important organs of village life, and then, the lonely functioning economic organ(s) alone cannot sustain the complex structures or their functions in the village society. It is, therefore, clear that the planners and developers need to recognize not only the manner in which the village heart

(tank) makes economic organs work, but also recognize how all other organs' function as a unified whole. Recorded evidence of this kind of treatment abounds the historical records in the country.

**Muttimangallaya**

In the *muttimangallaya* which is a ceremony organized for coupling of culture with physical environment in a cultural milieu, the above development perception in the Rajarata appears to have continued throughout the 19<sup>th</sup> century and possibly up to the middle of the 20<sup>th</sup> century or even to a still later date. Leveres in his noteworthy book — **Manuals of the North Central Province** published in 1899, refers to this total development approach in describing the above ceremony organized in fulfillment of vows made to the god **Ayyanayaka** thus:

*The god Aiyana presides over tanks which are supposed to be under his special protection. When a tank fills and is about to spill the elders of the village, chiefly Gamarala, proceed to the tank, and at the muttinamana tree a salute is offered to the god by the firing of two guns. The chief gamarala then steps forward and sends up a yatika, or an address, in which he announces to the god that the tank is being filled, and that cultivation will be begun, and that after the harvest is gathered, the imangalle will be performed by closing this ceremony by committing the tank, village, its residents, and its cattle to the protection of the deity.... The villagers assemble and appoint a day for the performance of the mutti ceremony.... The pots, incensed and daubed with saffron, are now placed on the platform [specially prepared for the purpose] or the yahana ..... The god through his Anumetirala [master of ceremony-cum-interpreter] makes known that the offerings are accepted, and that the tank, the village with its inhabitants, both man and beast, are taken under his protection for a period—one, two, or three years, according to the pleasure of his divine majesty'*

Leveres, 1899 :109-110

It is quite clear from the above that the protection of tank does not mean only 'the protection' of water collected in it for irrigation. It has a wider meaning, well being of all the villagers and all other living beings and vegetation with the proper maintenance of bio-diversity of village's total ecosystem.

come pregnant with such water, once out a certain amount of that water in capillary action or siphon or in places down of springs (upstairs) at places down

**A Case in point**

There is also provisional evidence of total development effort made in our past hydraulic civilization. In common parlance, we frequently hear of a royal wish or a vow of King Parakramabahu the Great which goes on to say, 'let not a single drop of rain water freely flows in to the ocean...'. Often those who hear it tends to take it very superfluously as a wish of that king to construct tanks and large reservoirs and store rain water for irrigation. That great ruler must have meant much more than surface Water storage for irrigation only. He must have meant that whilst arresting the free flow of rain water at every conceivable location, creating surface water storage for every possible direct use of them let surface water stored be induced to seep down in to the subsurface to raise the ground water stored level artificially high, enabling the enrichment of moisture requirement of entire vegetation and there by support animal life as well which together will exert a profound influence on human existence. If this was so, how justifiable are the modern moves mode to value water in a tank only in monetary terms pegged to the crop harvests gathered in irrigated field cultivation?

**Tank Ecology**

Admittedly, irrigation had been one of the principal objectives of constructing most of the main axis tanks (village tanks). However, many if not most small tanks have been constructed for purposes other than field irrigation, including ecosystem enrichment. It is common knowledge that the free flow of rain water is arrested at least temporarily by vegetative debris entangled with plant roots at the ground surface level. The thicker the layer of debris on the surface beneath the vegetation cover, the grater the prospects of retaining the water derived from rainfall giving sufficient time to percolate a good amount of water in to the sub-soils. The sub-soils which eventually be-



come pregnant with such water, ooze out a certain amount of that water in capillary action or simply in the forms of springs (ulpath), at places down stream. Water emissions though capillary action is generally short-lived, may be for a few days after the cessation of rain, but springs lasts longer and some of them will be perennial. Presence of springs also conditioned by the geological formations of the bed-rocks and soil characteristics of the sob-soils.

Forest covers and high grounds or mountains are then, reliable sources of both surface and ground water which facilitate agricultural activities and vegetative growths down stream of them, during the times of rain and afterwards. If seepage to sub-soils is encouraged and springs are protected and maintained they are dependable sources of supplies. But man's reckless interference with forest cover is likely to hurt or totally destroy these sources affecting down stream irrigation activities and vegetative growth.

The ancient tank builders who constructed tanks in undulating land, one downstream of another by blocking an ephemeral axis stream in the keel of a valley have adopted a strategy of constructing small tanks on the valley slope, below its crest. These side-slope small tanks are not constructed one down stream of another as in the case of village tanks across the main axis stream, but along a suitable contour in such a manner that they can be fed with spill over waters of a nearby village tank. Thus, these small tanks are networked in to a main tank. Down stream of these small side-slope tanks there are very limited extents of land suitable for asweddumization for gravity guided irrigated farming. Because of this land limitation, these small tanks are able to retain considerable amounts of water during many months of the year. There are many instances where the main village tanks run dry because the demand for draining of water from them for irrigating large extents than from those small side slope tanks are high and as such resident villagers use

these small tanks to meet their domestic water requirements.

More than for irrigation, these small side-slope tanks, were meant at least for three other purposes. First, to ensure a regulated supply of water for certain cultural needs of the society which revolved round the village temple. Such tanks are called **pinvewas** or the tanks constructed to acquire merit. They were exclusively meant for the pilgrims' and temple dwellers' use. Second, They are to keep ground water levels high so that vegetation and micro-climate around them are satisfactorily maintained. Finally, they serve as water holes for village cattle and wild animals, thus these contour based small tank chains were largely meant for cultural ecological and ecosystem maintenance.

#### Benefits of Multifunctional and Multipurpose Tanks

Because of the multifunctional nature of all tanks, it is extremely difficult to make a clear functional categorization of these tanks. Even a particular tank had been constructed with a specific purpose like silt trapping or providing water for temple use, they have been useful in many other ways, at least indirectly. Hence, only an inventory of uses is attempted here, without resorting to any systematic categorization as such

##### 1. Tanks for irrigation of paddy lands

down stream of them, enabling the villagers to meet their staple food requirements and use a fraction of it for sale to meet their cash requirements.

##### 2. Tanks constructed to maintain a regulated water supply

avoiding short falls in supplying to irrigated field.

##### 3. Tank is a device of keeping water arrested

to make use of that water during the rainless, periods mitigating drought stress and releasing excessive amounts of water received in it when such releases are necessary to safeguard the tank embankments downstream.

##### 4. Tanks which have their own devices to discharge sudden influx of water from

upstream sources (from freak floods and releases from upstream tanks) avoiding bund breaching. The devices that they have are specially designed sluices and spills.

##### 5. In the event of a water storage in a tank down stream, the tank immediately upstream has the ability to release a certain quantity of water to the former with a mutual agreement of the settlers in association of both villages

##### 6. In a situation where it is observed that a tank downstream is already under the stress of too much water accumulated in it, the ability of the upstream tanks to control their discharges giving sufficient time to the down stream tank to release its excess water and be relieved of a possible bunt breaching and then exercise a regulatory release of water so held temporarily in upstream. However, it should be noted that, these operations have their own limitations, notably in seasons of excessively 'above average rainfalls'.

##### 7. As already noted, there is some provision in some situations, to release excess of water in a main village tank from its spill(s) to the side-slope tanks of the same village down stream of the main tank so that they in turn have an assured supply of water to irrigate land down stream of them or some extents under the main village tanks.

##### 8. The ability of some of these side-slope tanks to supplement the irrigation needs of some portions of the fields fed by the main village tank, when that becomes really necessary due to water shortages in that main tank.

##### 9. The silt-trap tanks (**kulu wew**) in the upstream side slopes of a main village tank, which reduces the silting of that main tank, by accumulating silt in themselves and releasing only the clean water to the main tank.



10. Ability of the tanks to store water and thereby enrich ground water table in its immediate environment, artificially high, fostering tree crop plantations in the village compound usually located at or near one end or both ends of the tank bund.
11. The artificial maintenance of the water table high, to facilitate water supplies to home garden wells intended to supply all domestic water needs and water supply to agro-wells facilitating limited farming practices.
12. As the vegetation in the vicinity of a tank flourishes well, and some trees flower well, the presence of bees become ubiquitous and as a result the numbers of bee hives increase providing honey to the villagers.
13. Clay soils available in the upper tank bed areas is ideally suited for making bricks and during the dry season many brick making sites are established in upper tank beds. The same soil is suitable for wattle and daub constructions in the village
14. Tanks provide fresh water fish. The general restraint of villagers from eating beef and the severe shortage of game animals because the forests have been butchered already, the demand for fresh water fish has risen. Even in the past where hunting was not uncommon, there remained a very high demand for fish. In fact tank fishing had been an important social and economic event in the Dry Zone villages. Many indigenous devices of fishing in tanks, streams and even in paddies have been evolved over the centuries and there are accepted norms to be followed in fishing and in sharing the fish harvest among all families in a village.
15. Tanks have become storage of food not only in terms of fish available for harvesting, but also storage of other varieties of food which are able to supply supplementary food to the 'family food basket'. A variety of food items — roots, yams, stems, leaves and seeds of water plants and water frontage plants are gathered, cooked and added to the plate.
16. With the recession of the upper shore-line of the tank water and barring a grater portion of the upper tank bed, limited extents of quick growing guard varieties of vegetables are grown using indigenous methods of lift-irrigation .
17. Also, with the recession of the upper shore-line of the tank water, women plant reeds in enclosures and use that harvest for bag and mat weaving / which can be developed as a lucrative cottage industry.
18. When the village paddy lands are cultivated and the cattle forced out of the paddy fields the tank bed and its upper catchment area is used as a grazing land.
19. Tank is also the source of drinking water for the domesticated as well as wild animals.
20. There are mini-tanks called **godawalas** primarily intended as water holes for the wild beasts and village cattle (buffaloes in particular) frequenting the forested areas in search of tree fodder.
21. A tank serves the purpose of providing drinking water to the people. Tank is also the place where people bath and do a great deal of washing
22. A water body in a tank ameliorate the climate in its immediate environment;
23. Tanks add to the environmental beauty with lush vegetation around them, and the water plant growth attracting numerous water loving birds, local and migratory. Tank environments are in fact mini bird sanctuaries so long as water is retained in them tanks can be special attractions to serious kinds of tourists interested in fresh water biology.
24. Tanks offer many opportunities for local and foreign tourists in terms of boating and fresh water fishing for recreation.
25. As already referred to elsewhere, temple tanks provide water needs of the pilgrims and the temple residents.
26. It is now evident that tanks were constructed in the past not only for the purpose of irrigated farming. They were truly multipurpose creations. In the mid twentieth century, it was the expressed view of the irrigation department that, 'a tank means a village and a village means a tank' (Arumugam, 1957). This is half the truth. No village settlement was possible without a tank and a village certainly meant a tank. But the converse is not true. In association with all functional tanks there were no settlements. A village settlement besides a tank constructed across a main axis stream in a cascade own several small tanks (**olagamas**) on the side slopes of that cascading valley, but down stream of the main tank. Even the silt-trap (**Kulu wew**) tanks belong to the village settlement beside the main tank.
27. There were no irrigated cultivation down stream of each and every tank. The silt-trap tanks(**Kulu wew**) and the **godawalas** in the forest which were the water holes for the wild animals and the **pinwewas** the temple tanks were never used as sources of irrigated paddy cultivation . As already noted many tanks were multipurpose constructions made to facilitate a total development of villages with due concern for the improvement of their physical environment. **Tank construction in an inter-connected network in a cascade was an ingenious human invention made to out wit the limitations otherwise imposed on beneficial human activities in a water deficit climatically harsh environment.**
28. In dealing with these tanks, we should



never fall into the mental trap of considering each of them in isolation; they need to be always considered as all-in-one network of reservoirs, big or small, in an entire cascade and that cascade requires to be taken as a total development unit.

-IV-

**The Latest Approach to Study Cascades**

From time to time during the past three decades, many individual scholars have attempted to study the cascades in the Dry Zone confining themselves to their chosen study areas (Panabokke, 1999, 2000; Tennakoon, 1974, 1980, 1994, 2000; Madduma Bandara, 1985; Somasiri, 1979; 1992; Itakura and Abernethy 1993; Handawela, 1994; Nawaratne 1998; Dharmasena, 1992; Senaratne, 1996; Sakthivadivel et al, 1996; Perera, 1997 and Ulwischewa 1995). The International Irrigation Management Institute (IIMI), now International Water Management Institute (IWMI) has shown a considerable interest in cascade based studies.

Recently, Dr. C. R. Panabokke (1999) a doyen of soil science and hydrography has completed a study of small tank cascade systems of the Rajarata amplifying their setting, distribution patterns and hydrography, in order to "provide the professional staff of the Mahaweli Development Authority of Sri Lanka (MASL), a clear depiction of the Rajarata, based on properly demarcated main and sub-watershed boundaries, together with the individual small cascades that make up each of the sub-watersheds." He has identified the boundaries of the main river basins, boundaries of 50 sub-watersheds in those river basins and the boundaries of 457 cascades in those sub-watersheds in the entire Rajarata.

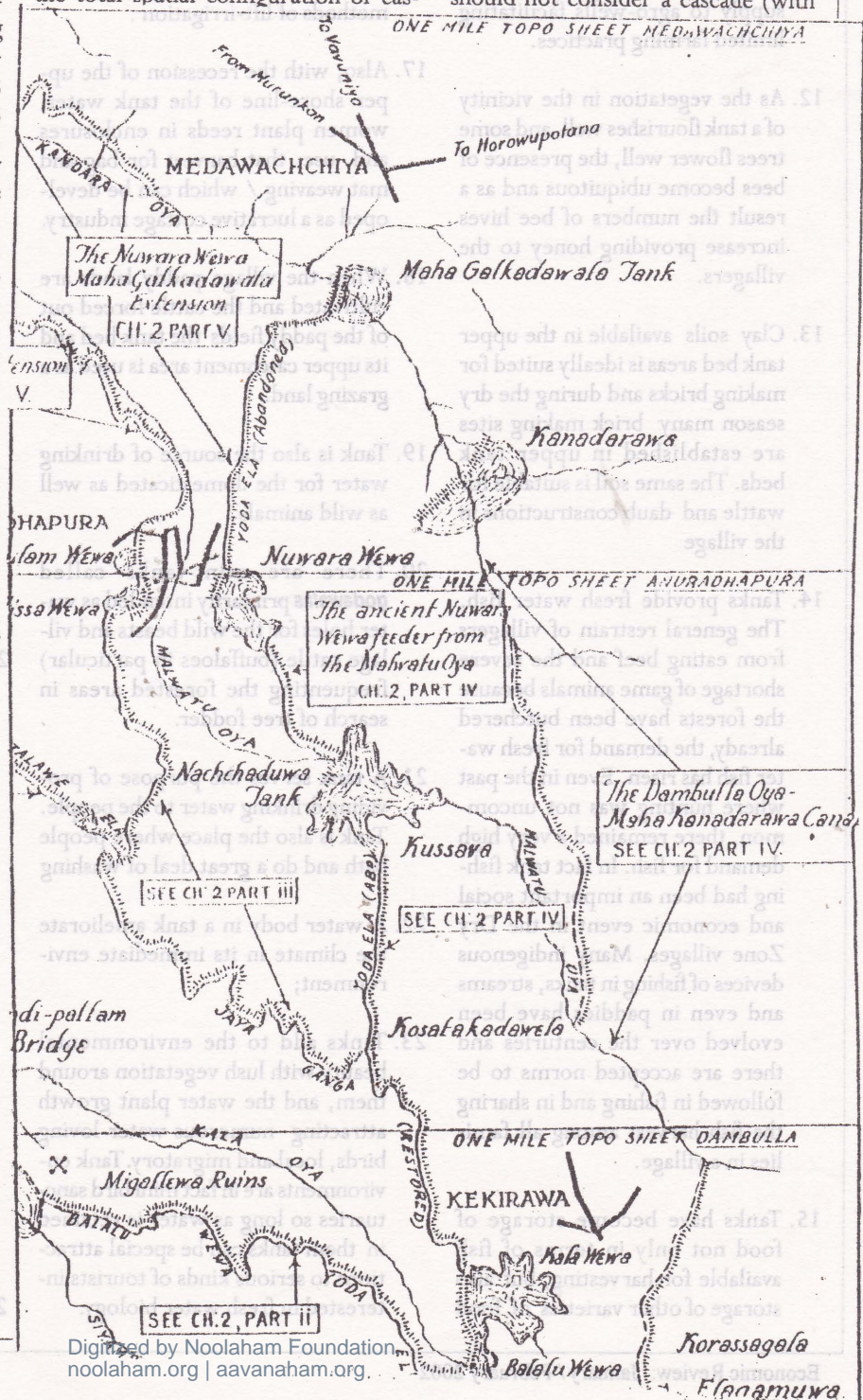
The study is well substantiated with requisite master maps of (a) the main river basins; (b) the soil distribution; (c) the *maha* season's rainfall probability in selected sub-watersheds; (d) a schematic representation of a small tank cascade near Anuradhapura. This study also contains an authentic statistical information in respect

of main and sub-watersheds and cascades. This study would be of an immense value to all professionals connected with planning, designing and laying out national irrigation network in the future development areas in the Rajarata outside the Mahaweli Development Area. This benchmark study has undoubtedly, opened a new chapter for studying the cascade based hydrography of not only the Rajarata but also of the entire Dry Zone

It is time to call for more and more authoritative techno-analytical works on the total spatial configuration of cas-

cade-based indigenous irrigation systems based on Panabokke's benchmark study and also press for policy attention on the role of cascade based irrigation systems which should be heard as a priority development issue.

When Panabokke's contribution (1999) is closely examined, it becomes inevitable to formulate the question – Whether we have not followed a wrong policy in attempting to develop Dry Zone tanks and villages in isolation, and whether we should not consider a cascade (with





several villages in association) as a viable development unit to provide food security in the first instance, and withstand, at least to some extent, the challenges of globalization with its monstrous free market economic operations.?

**It is unjustifiable to keep pushing the above question under the carpet any more. Over the past seven decades the state has committed huge amounts of money in terms of financial and other resources towards the Dry Zone development. Undeniably some development has taken place in it, but all that remains below expectations. Anuradhapura district remains the poorest district in the country! What is the level of economic and social achievement of an average Dry Zone peasant family in development attempted from 1950 to 2000? And at that slow pace of achievement, if the same development, strategies are continued, where will that family be in the year 2010 or 2020?. If not for the remittances of housemaids working in the Middle-east countries, and soldiers in the battle front, the plight of rural families could have been either same as before or even worse-off. These remittances have brought about only a temporary solace. These income-sources are not going to be perennial any way. What we have is only a borrowed time to well prepare ourselves to accelerate Dry Zone rural development.**

Cascades appeared to have been the viable economic units and social entities in the past. There are historical palimpsests which can be cited in support of this thinking. How come that all the villages in a cascade appeared to have had a single ancient temple (as often depicted in One Inch to One Mile Topographical sheets), and not a dagaba and a temple in every village? If that was really so, not a single village but all the villages in a single cascade would have had a single focal point and a single apex management organization and hence, a federated (one) economic organization.

There are still other historical palimpsests that require painstaking studies to ascertain whether such economic and social federations existed during the times of Anuradhapura and Polonnaruwa agro-based hydraulic civilizations. A careful study of one-inch-to-one mile topographic map

sheets, covering the Rajarata area has shown that, at least in four locations, distantly located from each other are four Medawachchiyas – one in the north, one to the west of Anuradhapura, one in the Negampaha Korale in the southern extremity of the Anuradhapura district, and still another close to Gomarayankadawala near Trincomalee. Lervers, in his book (1899), states that Medawachchiya is a corrupt Tamil expression of the Sinhala term, *meda wata* (around the centre or focal point). Within about the radius of 10 miles of each of these *meda wata*, there is a *Kallanchiya* which is also a corrupt Sinhala term for the Tamil term, *Kalanchi*, (meaning, granary). In between them there is a *Rambewa* in each location, (unloading points of “ran”) at stream crossing points. This term “ran” would have meant paddy, because in Sinhala literary works we hear of *ran wan karal* (sheaves of paddy like gold). These three place names of locations in clusters need an explanation. There could have been many other clusters of. *Meda wata, Kalanchi and Rambewa* in many other localities in the Rajarata but their names have been either lost during the peoples drift to the Central Highlands or changed them by the new settlers who came back to the Rajarata in the early 19<sup>th</sup> century, that is more than 1,000 years of abandonment.

Even the existing 4 clusters of these village trio appeared to have been abandoned and resettled at different time of history. In some of them the last resettlement would have been during the early 19<sup>th</sup> century, without any significant change in their names. By the time of re-occupation and thereafter, they would have lost their strategic positions in respective federations. On of the factors responsible for the loss of importance and identity of these centers is the road system that developed under the British rule, primarily to meet their military and administrative requirements. The British designed road network in the Rajarata, envisaged no interior area development as such. So the interior remained neglected and the wealth of the region was drained out via the main roads which were sucking out the areas wealth to other district capitals particularly to those in the South

As a series of growth poles in the interior connected with present trunk roads

that traverse the Rajarata, is very necessary to accelerate interior development, taking cascades as physical development units, each with suitably located villages as growth poles. This needs the approval of the policy makers after careful planning of requisite development activities in them. Initially it would be necessary to connect these growth poles with each other to facilitate collection of produce and distribution of farm inputs and other needs of the populace. Then (like Dambulla), they pick up momentum calling for numerous services and industrious. People will respond to those calls. Services demanded and made available as responses to those demands, new technology and new skills would come in and so long as there are basic infrastructure facilities such as water, electricity and transport, these growth poles become habitable places for the service providers and those willing to invest in new ventures offering employment opportunities and furthering the skills that the people will be having in or around those growth poles. As these small growth centers become conducive to live with basic facilities available, people will be less inclined to move into big cities to live. They will remain where they are, and in place of going in to urban areas, they bring urbanism to their own environment. This would greatly facilitate the increased urbanization that is under way. During the next 10 years, at least 50 per cent of our population will be in the urban and semi-urban areas.

Finally, looking through many windows that Panabokke has opened in his 1999 study, new thinking, new visions and re-discoveries in cascade-based development would be necessary. In this regard, scholars and planners in this subject area are also reminded of the need to shift their emphasis from the single purpose of using tank water for irrigated paddy cultivation, to multiple use of that water for social, cultural and economic advancement of the village communities. It is high time to challenge the long-prevalled misconception that, tank water is meant for gravity-guided irrigated paddy cultivation only.



# Urban Profile Distorted

## - Implications of the census of population - 2001 -

E.H. Premaratne \*

Sri Lanka which had an urban population of 260,376 or 10.8% living in 19 towns at the first Census of Population in 1871<sup>1</sup> increased it to 3,192,489 or 21.8% in 1981 living in 134 administratively<sup>2</sup> recognized urban areas. However this has dropped to 2,466,474 or 14.6% living in 45 towns in 2001. Only Municipal (MC) and Urban councils (UC) are considered as urban in 2001 by the Department of Census and Statistics. The enumeration has covered only the towns falling within these categories situated in Provinces other than North and East but includes Ampara which is an Eastern Province District. This is due to the impossibility of carrying out the enumeration in full in those seven Districts. The Department has dropped all Town Council (TCC) areas created under the Town Councils Ordinance No. 3 of 1946, "as they are considered"<sup>3</sup> rural after the establishment of Pradeshiya Sabhas (PS) under the Pradeshiya Sabha Act No. 15 of 1987 (PSA). The above drop has occurred in a situation where the average annual growth of Urban population in the given 45 towns is 1.4 percent or is above the growth of the national population, an experience unprecedented in the Urban Sector. In all past Censuses a higher urban growth has resulted from either declaration of new areas as towns or enlargement of the physical area of existing towns. The definition followed by the Department of Census and Statistics is not their own invention. Even the Report of the Commission of Inquiry into Local Government Reform- 1999 shares the same opinion. According to it<sup>4</sup> there are three types of Local Authorities namely Municipal Councils, Urban Councils, and Pradeshiya Sabhas. Generally Municipal Councils have been established for cities and large towns, urban Councils for less urbanized areas and Pradeshiya Sabhas for rural areas<sup>4</sup> Section 6.2.2.1 of the report further states that "it is revealed that by the adoption of Urban area classification under Municipal councils, Urban Councils and Town Councils Ordinances the Urban Population which was calculated as 21 p.c. in 1981, had dropped to 14.8 p.c. in the same year, consequent to the abolition of 83 town councils and inclusion of these areas as sub-offices by the Development Councils. The Country's Urban population in 1994 was 15.5 p.c. (this however excludes the Northern and Eastern Provinces. After the establishment of Pradeshiya Sabhas from 1998 these institutions have been classified as rural areas whereas in fact they are composed of urban and rural areas. On the establishment of Pradeshiya Sabhas former Town Councils are

included in Pradeshiya Sabhas, although they are defined as Town Councils in the now defunct Town Councils Ordinance.<sup>5</sup> However this pro Urban growth which may be the first in our history has been distorted as a result of the standing taken by the Department of Census and Statistics. The above approach of the Department of Census and Statistics and the Report of Commission of Inquiry into Local Government Reform -give rise to three issues, namely:-

1. The PSA has repealed the TCO.
2. PSA has defined the old TCC as rural.
3. This has reduced the share of urban population.

### REPEAL OF THE TOWN COUNCIL ORDINANCE

According to S. 234 of the Pradeshiya Sabha Act (PSA) No. 15 of 1987 it is not only the Town Councils Ordinance that is repealed but also the Village Councils Ordinance. Therefore it is rational to hold that PSA abolished not only TCC but also VCC and created an entirely new Unit. The objective of the PSA is not the creation of a rural local authority amalgamating the former village councils and the Town Councils but to create a community level organization "with a view to provide greater opportunities for the people to participate effectively in decision making process relating to administration and development activities at local level. To specify the powers functions and duties of the such Sabhas, and to provide for matters connected with or incidental thereto".<sup>6</sup> As a result of this the number of local authorities in the country were reduced from 682 consisting of 12MCC, 39 UCC, 83 TCC and 509 VCC in 1981 to 309 consisting of 14 MCC, 37 UCC and 258 PSS. The last combined the 83 former TCC and 509 VCC. From an integrated development point of view this is a healthy sign as it reduced the number of planning units thereby facilitating the decision making process except for the illogical nature of boundary formation. This may be compared with the county councils in Great Britain, which consist of both rural and urban areas.

Although the above sources hold that the TCO was repealed in fact the PSA is in essence a combination of the provisions contained in the TCO and the VCO. Some provisions found in parts III, IV, and V of the TCO have been included in the corresponding parts. On the other hand one who seriously studies the PSA along with the TCO and the VCO is sure to come to a different conclusion.

Another opinion popular among the Sri Lankan professionals is that MCO, UCO, and TCO pro-

vide a definition or at least a guidance to what an urban area is. They based this view on S. 2 of the TCO/UCO which empowers the Minister to declare any area which by reason of its development or its amenities is urban in character to be a town". According to Prof. Willie Mendis "in Sri Lanka Urban Status is conferred on an area by the Minister in charge of Local Government purely for Local Government administrative purposes. Ministerial discretion seems to have been based on the nature and development (of the locality) or its amenities and urban character. Accordingly the Municipal, Urban, and Town Council areas were termed as urban and used in such a context for purposes of computing Census data and for governance".<sup>7</sup> In fact although this statement is true for urban councils and (S.2 UCO) and Town Councils (S.2 TCO), it does not apply in case of Municipal Councils as Sec 2 of that Law simply empowers the Minister to declare any area to be a Municipality, define the limits of the Municipality and assign a name and a designation to the Municipal Council. Therefore if Pradeshiya Sabhas are designated rural simply because the PSA does not designate them urban for that matter Municipal Councils also should not be treated as Urban because it only empower the Minister to declare areas as Municipalities without any reference to the development and amenities and the urban character thereof as in the case of other two. However a deeper analysis of the relevant enactment would provide a clearer picture. Although S.2 of UCO and TCO refers to "its development or its amenities "which are "urban in character" in declaring them as a UC or a TC these legal terms are too vague to be considered as a definition of an urban area. This definition itself rests on the definition of what is urban character and development. India where a very precise definition of Urban area is in force considers an area with a density of 390 persons per sq. kilometer, with pronounced urban characteristics and at least three fourth of the male population employed in pursuits other than agriculture".<sup>8</sup>

### DEFINITION OF URBAN AREA

"Professionals generally hold that the term urban" has not been adequately defined so as to identify an urban area and classify them by status. First to discuss the issue was the department of Census itself which held that : it is very difficult to define the term urban and area" especially in a country like Ceylon, where the traditional economic heritage is agriculture, to

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distinguish for purposes of statistical comparison as "urban area" from a rural area.<sup>9</sup>

Although at a glance it looks simple to define legal terms certain terms are so complicated by nature they can be comprehended only by studying the whole legal enactment. A local authority ordinance is one such law. A common section to all four Ordinances except the VCO is sec. 4 in MCO, UCO, TCO and S. 3 of PSA. It states that a Municipality, a UC a TC or a PS "be the local authority within the administrative limits of the MC, UC, TC or PS area (as the case may be) charged with the regulation, control and administration of all matters relating to public health, public utility services, and public thoroughfares and generally with the protection, and promotion of comfort convenience and welfare of the people and the amenities of the area".<sup>10</sup> This object clarifying section is not found in the VCO. Thus a PS shares an important common object with the higher urban areas in the country. While under the TCO the powers given in Parts III, IV and V could be implemented only within the TC boundary now under the PS system they are enforceable throughout the PS which are very much larger than the TCC. The total area of TCC in the country was 448.2 sq. kilometers whereas the PSS cover an area of 60,779sq.kilometers.

It is pertinent to elaborate the Section further. This obligation entrusts the PS with the protection and promotion of convenience and comfort in the area. Such a measure is not required in all local authorities. It is a requirement created by densities which leads to the restraint of the natural environment due to the pressure exerted by over utilisation of natural amenities requiring the supplementation of the same by man made amenities. Such a situation does not occur normally in rural areas where densities are bearable to the environment. Average population density in rural areas is 1.8 persons per Ha. In 1981 whereas in urban areas it was 33 persons per ha. To meet this requirement the PS is given powers detailed in Parts III, IV and V, which are listed below.

- 1.0. Part III Powers and Duties with regard to thoroughfare.
  - 1.1. Preparation of a Street-line scheme within 3 years.
  - 1.2. Construct new streets and improve existing streets
  - 1.3. Obtain gift of lands required for this purpose.
  - 1.4. Dispose discontinued streets and take land adjoining new streets for building purposes.
  - 1.5. Construct roads for the benefit of individual property owners.
  - 1.6. Maintain vehicular communication.
  - 1.7. Cut trees.

**Table-I Change In Urban Population and Number of towns by status 1871- 2001.**

Census Year	Total Pop.	Percentage of total Pop.	Number of Towns by Status.			
			MCC	UCC	TCC	Total
1871	260,376	10.8				19
1881	281,065	10.2				20
1891	321,413	10.7				20
1901	414,025	11.6				28
1911	541,945	13.2				36
1921	637,870	14.2				42
1931	737,272	13.9				42
1946	1,023,042	15.4				42
1953	1,239,133	15.3				43
1963	2,016,285	19.1	10	34	56	100
1971	2,848,116	22.4	12	39	84	135
1981	3,192,489	21.8	12	39	83	134
2001	2,466,474	14.6	13	32	—	45

Source :- Census Reports.

- 1.8. Power to remove ruinous and dangerous buildings.
- 1.9. Control erection of buildings abutting public streets.
- 1.10. Demarcate building limits.
- 1.11. Remove unauthorised buildings.
- 1.12. Acquire adjoining lands for owners of land falling within the building line.
- 1.13. Prevent injury to streets.
- 1.14. Prevent nuisance on thoroughfares.
- 1.15. Recover expenses caused by excessive traffic.
- 2.0. PART IV. Public Health.
  - 2.1 Apply Nuisance Ordinance and Housing and Town Improvement Ordinance.
  - 2.2 Make public drains.
  - 2.3 Remove insanitary buildings.
  - 2.4 Prevent Nuisance.
  - 2.5 Licensing of slaughter Houses.
  - 2.6 Maintain public utility services.

Except the power to maintain public utility services which are found in the VCO also all others are common to MCO, and UCO also. It should be noted that these powers are granted to deal with situations arising from the level of development and urban character in amenities given in the section 3 and 4. of the urban Local authority laws. Thus there are powers peculiar to urban local authorities. True that the MCC enjoy greater autonomy in most of these situations. But what is important is that unlike in the case of former VCC these powers can be implemented in every part of the PS. Not only that an important provision is that S. 78 of the PSA that provides for the application of the Nuisance Ordinance and the Housing and town Improvement Ordinance within the jurisdiction of the PS. This empowers the PS to use planning control powers in the latter act and to create a physical environment for better housing. Thus they can prepare a zoning scheme under S. 28 of the Housing and Town Improvement Ordinance if necessary. It is important that a Local Authority can use planning powers, to protect and promote comfort and convenience of the people physical planning powers are essential. This could raise the productivity of urban

land as well as physical quality of life in a larger area than the old TC areas which extended only over a total area of 448.62 sq. kilometers of the island. As the urbanizing process continues the urban sprawl being a common feature in the process of urbanization in Sri Lanka this is a very favourable legal basis to extend amenities urban in character to such areas. The above two acts and the powers in parts III, IV and V in the PSA lay the foundation for the PS to have adequate technical support in the form human resources to deal with the legal responsibilities in the area.

Its financial resources can be enlarged by expanding the builtup areas, through rates. In fact the unified administration although a PS consists of several units based on the pre amalgamated period, for administrative purposes now the PS can integrate its financial and man power resources to extend its service network to a larger area than the old TC area. In fact S. 19 (xxii) provides for "integrated development of selected villages". It also should be noted that government policy as well as donor agencies have recognized PSS as urban areas for purposes of investment in urban infrastructure and both in 1991 and 1998 development under the Asian Development Bank funding program. In 1991 PSS of Monneragala, Tamankaduwa, and Beruwala were selected for donor funding in infrastructure development. In 1998 the PSS of Hikkaduwa, Akuressa, Tissamaharamaya, Ambalantota, Hingurakgoda, and Embilipitiya have been selected on the basis that they area among the Urban Local Authorities with the "greatest potential to contribute to national and regional economic development"<sup>11</sup>

**LOCAL AUTHORITY FUNDS**

Another important difference between Urban and Rural local Authorities (ULAA and RLAA) is the power to collect rates from properties on the basis of the annual value thereof. S.230 of MCO, S. 160 of UCO and S.159 of TCO have given a general power in this respect. However in case of PSS rates are chargeable only from properties lying in areas declared to be built up areas by the PS with the approval of the Assistant Commissioner of Local Government. When Development Councils were replaced by PSS S.16 (4) thereof provided for all " rates, taxes, duties, or other charges levied by a Development Council in the exercise of its local government powers with respect to a Pradeshiya Sabha area shall with effect from the date appointed under S.1 stand transferred to, and vest in the Pradeshiya Sabhas as constituted for that Pradeshiya Sabha". Thus the TC areas within the PS became rating areas while new built up areas can be declared under S.134 (1) The



urbanization pattern in Sri Lanka indicates that such built up areas usually form around existing urban centers, specially when the town is a larger one. This process can be clearly seen in the Western Province and other larger towns such as Kandy, Galle, Kurunegala, and Ratnapura for example. In addition to there area a large number of isolated centers which deserve urban status without which the allocation of human resources required for the running of urban amenities is impossible. example Embilipitiya, Medawachchiya, and a large number of Mahaveli towns can be listed under this category. Most of them are at present declared as built up areas. Thus built up areas are urbanizing areas, which receive urban amenities for which they pay user charges in the form of rates. According to S. 6 (3) of rating and valuation Ordinance No. 30 of 1946 rate is a charge made for the provision of services. The term services according to ULA enactments include maintenance of drains, public latrines provision of conservancy services, collection of garbage, maintenance of roads and prevention of nuisance. These services are required to make life comfortable and convenient only in areas where owing to higher densities individuals cannot themselves provide them. Such a situation arises only in higher density built up areas and urban areas.

The rural area of the PS is subjected to an acreage tax only. This is a provision borrowed from the VCO. Thus PS clearly is a hybrid unit of urban and rural areas although all do not compose of old TCC and VCC. The PS is at liberty to have the urban part declared as built up areas. There is no guideline to demarcate the boundaries of a Built up Area. So the PS is at liberty to demarcate it considering the future settlement pattern based on even expert opinion.

As the PS is unified for administrative purposes they continue to have the old VC or TC units separately administered and therefore there is no difficulty in identifying the old TC areas for enumeration purposes. In this context the argument of the Department that old TCC have been extinguished is illogical.

**REDUCTION OF URBAN POPULATION**

Towns which arose as service or administrative

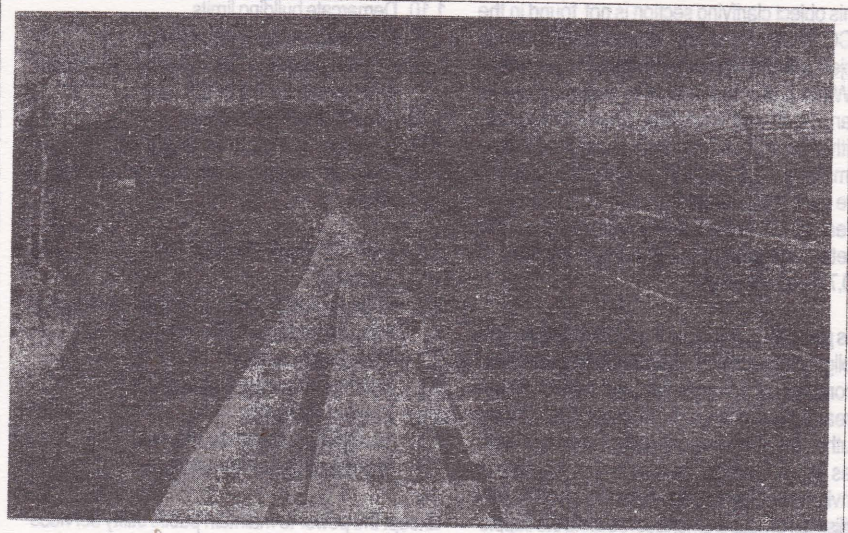
centers under the imperial Government experienced a slow growth until the Donomough Reforms which gave Dominion Status with an executive Committee system of Government. A significant event in the urbanization process is the enactment of the Town Councils Ordinance No.3 of 1946 by the then Minister of Health and Local Government Mr. S.W.R.D. Bandaranayake. Section 2 of the above enactment empowered the Minister to declare " any area which by reason of its development or its amenities is urban in character, to be towns for purposes of this ordinance". Between

**TABLE II - POPULATION DENSITY OF TOWNS BY TOWN CATEGORY -1981.**

Total	Total Num of towns Ha.	Total Area * 1981	Total Population persons/Ha	Pop. Density
Municipal Councils	12	21,040	1,304,846	62
Urban Councils	39	33,340	898,466	27
Town Councils	83	44,816	989,177	22
All towns	134	99,786	3,192,489	33

\*Based on Appendix 3(g), (w) and (f) of Local Government in Sri Lanka by Prof. W.M.G.J. Mendis. The above average density in TCC per ha. is 12 times larger than the rural population density.

Thus 70 or 84.25% of the towns came up in areas dominated by peasant and small-holder plantation agriculture. Thus it was complimentary to the new smallholder plantation agriculture. Thus it was complimentary to the new surge in the peasant economy based on the



1871 and 1946 the number of towns increased from 19 to 42. Between 1946 and 1971 it rose to 134 by 92 and 83 of this number were TCC. Of the urban population increase of 1824777 between this period 857,339 or 46.9% were resident in TCC declared under the above act. Of the 83 TCC 36 or 43.3% was in the dry zone while 34 (40.9%) are in the Western Province and Galle and Matara Districts.

rehabilitation of the ancient irrigation system. The following Table gives the change in urban population and the number of towns between 1871 and 2001 by administrative status.

It seems that although the number of towns grew continuously up to 1971, not a single new town has been declared, since then despite the significant changes in the socio-economic forces in the country in favour of a non-agricultural set up and the rise in educational standards which fosters higher density settlement formation. This was given a great impetus by the introduction of the free market economy in 1977. Professional opinion is that Sri Lanka's Urban population is very much higher than what the 2001 census reports. Prof. Willie Mendis holds that ' the Country's Urban Population is 22-30%' <sup>12</sup>, while the UDA thought it is about 34% <sup>13</sup>. However in the absence of a legally acceptable physical unit to represent the actual population growth such an estimate also is rather vague.

**Table III - Urban Population in Sri Lanka by Town Status and Population size -1981**

Status of Town	POPULATION SIZE '000							
	Over 100	50 99,999	20 49,999	10 19,999	5 9,999	2 4,999	Below 2,000	Total
Municipal	03	03	06	--	--	--	--	12
Urban	02	--	13	13	08	02	01	39
Town	--	--	13	21	21	26	02	83
Total	05	03	32	34	29	28	03	134

Source:- General Population of Census- 1981- Department of Census and Statistics



## FEATURE

The above estimates based on the practical experience of dedicated professionals and authoritative institutions very well matches with the change in the economic and social factors during the last three decades which are definitely pro-urban. In the sphere of economic change it should be highlighted that the GDP which composed of primary sector (30.7%) secondary sector (23.6%) and services sector (45.3%) in 1978 changed its profile with the primary, secondary and services sectors respectively contributing 20.9%, 27.9% and 51.2% in 1996.<sup>14</sup> The rise in the service sector which is the life blood of urbanization in Sri Lanka has reflected itself in the rise in urban population. Employment pattern by sectors as seen from the following information at least partially represents the above situation. The share of agricultural employment which was 52.9% in 1963 dropped to 36.8% in 1995<sup>15</sup>. However though this dropped further in 1997 to 35.4% again it rose in 1998 to 38.2%. The number of employees per GDP unit in primary sector rose from 53,592 in 1978 to 64,678 in 1998 thus representing a lower per capita income and an over employment situation in the primary sector. This indicates a great economic decline in the rural sector. In the absence of a proper approach to enumerate urban population how this can be physically represented in development policies is the issue in question.

The justification of the existence of TCC as a separate unit is supported by the information in the Table II.

However the general acceptance that the status of towns are arbitrary can be agreed in considering the grant of status without regard for the population levels of the towns as seen from the following table which gives a picture of towns by

population size and status.

This shows that there is hardly any relationship between the population size and the status of towns, at least in case of towns above 10,000. Legal justification of maintaining a hierarchy of status is to provide different levels of services and conveniences for which different rates, taxes and levies can be made from property owners. If the demand for different levels of services is based on the affordability of the property owners who pay a higher price for better serviced lands this is reflected in population densities in a free market economy and larger the population larger being the networks that have to be maintained by a Local Authority greater must be the powers and autonomy such a council should hold in order to meet this demand. However classification of urban areas has not considered this requirement.

### CONCLUSION

The above discussion adequately indicates that it is a distortion of the urban profile in the country to consider PSS as rural as PSA is a law applicable to both urban and rural areas. There is nothing to direct them as rural in the Law and therefore the Department's standing is arbitrary,

However the implications of this is significant if at all statistics are an important infrastructure in policy formulation and decision making. Declaration of an urban area is basis for user charges according to Rates and Valuation Ordinance S.6(3). High density settlements cannot be livable without the provision of common amenities and services. If an average density of 22 persons

It is generally accepted that level of urbanization represents the physical quality of life of a country. A

sudden drop in urban levels in the country could reflect the country's physical quality of life low or gone down.

Therefore there is still a possibility of correcting this situation as old TCC are identifiable separately on ground and they are

- <sup>1</sup> Demography of Ceylon- Country Monograph- ESCAP- p.65
- <sup>2</sup> General Report Census of population -1981 Appendix-1
- <sup>3</sup> Preliminary Results (Provisional)-Census of Population and Housing - 2001 Department of Census and Statistics- Colombo. P. ix.
- <sup>4</sup> Report of Commission of Inquiry into Local Government Reform -1999 p.27
- <sup>5</sup> Opt. Cite. P. 138.
- <sup>6</sup> Preamble to PSA No. 15 of 1987.
- <sup>7</sup> Prof. Willie Mendis- The Urban Definition and the Implications for Development. The Sri Lankan Perspective\_ The Economic Review- March 1997- Peoples Bank- p.28
- <sup>8</sup> IBID- p. 29
- <sup>9</sup> A.G.Ranasinghe- Census of Ceylon-1946 Vol.-I General Report- Colombo, Department of Census and Statistics-1950. P.73.
- <sup>10</sup> S. 3 PSA
- <sup>11</sup> Project Administration Memorandum for Urban Development and Low-income Housing project [ Loan No. 1632-SRI (SF) ] March 1998.
- <sup>12</sup> Urban Definition and the Implications for development: The Sri Lankan Perspective- Economic Review- March 1997- p. 29.
- <sup>13</sup> Colombo Metropolitan Regional Structure Plan, Urban Development Authority- 1999. Vol.II- P. 10
- <sup>14</sup> Review of the Economy- Central Bank- p.3.
- <sup>15</sup> H.Nakamura,P.Ratnayake and S.M.P. Senanayake- Agricultura Development Past Trends and Policies in Dilemma of Development Edt. By Professr W.D. Lakshman

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