

FACTS *against* MYTHS

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Endangering Peoples' Right to a Natural Resource: The Myths behind Water and "Water Scarcity" – II

"Natural resources, meant for public use, cannot be converted to private ownership".

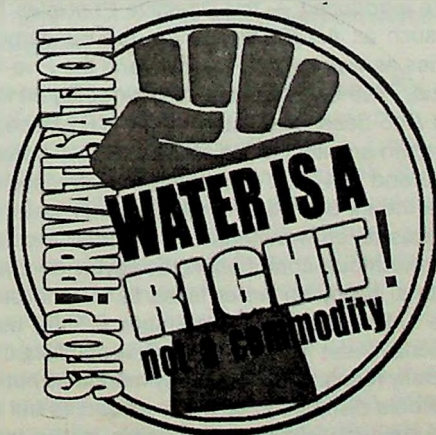
— Supreme Court of India, 1996

"There is enough for everyone's need, but not for everyone's greed"

— M. K. Gandhi, The Constructive Programme, (1945)

COMMENT

Irrigation in India has historically always been central to agriculture since rainfall is confined to just a few months, often uncertain, and also because part of the country lies within the rain shadow region. Various types of irrigation works had been maintained. Dams were constructed on the major rivers from around 2nd c. CE onwards, channeling water to extensive paddy growing tracts. These systems often relied on controlled innovation, involving the flooding of land, which spread silt over the fields and saturated the soil with water, allowing for the production of rich crops. This was a major feature of the irrigation systems in South India, the Bahawalpure State in the 18th c. and early 19th century, and in the plains of North India that used water flowing from off the Himalayas. The other characteristic feature was that the management of natural resources was community-controlled even amongst despotic regimes of the period. However, with colonial occupation these indigenous irrigation systems were discredited as being backward and outdated. The colonial administrators maintained that they could transcend the limitations of these traditional systems through their superior scientific know-how and technology. They also emphasized that nature could be mastered, transformed and made more productive, allowing agrarian products to be sold competitively in a rapidly expanding global market. However, a major downside of their policy was that by substituting a subsistence form of agriculture with high-input commercial agriculture this proved disastrous to both humans and nature.¹¹ With Independence, however, the post-colonial governments followed the same policies on the management of natural resources, reinforcing the colonial paradigm.



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Governments since then have consistently failed to see the need to change many of these archaic laws governing water use, etc. A cursory look into the practice of water use reveals that water resources, like forest resources, have mainly benefited the rich and the powerful, as before. Till today the right of access to the numerous tanks, wells, etc., is reserved for the upper castes and out of bounds for for Dalit communities.¹²

Water resources continue to be under the control and domination of the upper castes, which grow water-intensive crops like sugarcane even at the height of the summer season while denying drinking water to Dalits by mixing cow dung in the well water, fearing caste contamination. Besides, watershed management systems as well have become sites for discriminating. The rural kulak also ensures the digging of bore wells mostly in upper caste localities. This form of caste discrimination is also a manifestation of privatisation in that these water resources are privatised by the high caste. Moreover, thousands of canals and dams have since been constructed without sufficient consideration to a whole range of water rights of the people. Irrigation continues to benefit the rich farmers. Clearly, dams and water supply in urban areas have changed the use of water — to supply electricity to urban areas and industries — at the expense of the poor. Today there are frequent floods in areas which did not experience floods earlier due to dam bursts or release of excess water, and drought in what once were fertile lands e.g. the Kutch region of Gujarat. Floods and droughts are therefore the consequence of a water, land and forest use policy, which are not only inconsistent with each other but also ecologically unsound.

With the framing of the Indian Constitution a number of policies governing natural resources were introduced — the Directive Principles such as such as Art.39 (b) and (c), the Fundamental Duties as well as the Preamble and the Five-Year Plans.¹³ At the same time a national policy on water had also been formulated by Dr. B.R. Ambedkar the main architect of India's Constitution between 1942 and 1944. Dr. Ambedkar had stressed way back then the need to conserve water and to focus on environmental safeguards. In spite of his enormous contribution, however, an overall national policy on water failed to materialise. It was only as late as September 9, 1987 that a National Water Policy of India was established and officially recognised. The policy mandates not only equitable distribution of water resources but also a sustained-yield use. However, in the Indian

statecraft policy statements these policies are not inding on any government or administration. This new Policy is also no exception and has since been revised as the "National Water Policy – 2002". Such documents, therefore, have had little to do with enforcement and ultimately remain just that – Grand Statements. However, a highly disturbing feature of the new Policy is the provision for 'Private Sector Participation'. This provision is bound to result in the corporatisation of India's water resources and render ineffective the community-based approach that various environmental groups have been demanding which the new Policy fails to consider. Those who drafted the National Water Policy continue to believe in the redundant paradigm of mega dams, irrigation canals, electric and diesel pumps, and borewells that over-draw groundwater. They also view themselves as the real custodians and guardians of natural resources like water rather than duly recognizing the community as the primary authority.

The basic issue in resource utilization, then, is one of power over access and distribution of resources. Irrigation systems like the Narmada Dam take this power away from the people — the type of control they have over local ponds, tanks, wells, etc. — their control over water resources. Channeling water through such technologies is, therefore, also channeling power or control over community resources unless it is ensured that the redistribution of the control over resources does not result in inequities or a skewed separation of powers as is the present situation.¹³ Ultimately, it is the engineers — seeing their dreams translated into reality — the civil contractor envisioning a business goldmine — the politician anticipating massive scope for minting money — and TNCs seeing an opportunity to repatriate huge profits out of the country — who all end up as the "real beneficiaries". Meanwhile water rights of those in the recent past and those existing, let alone the future generations, continue to be grossly violated.

If future generations have a right to inherit an ecologically stable and naturally endowed world, and live with the marvels of the natural world in the same way as we, or our past generations, have lived, is the introduction of especially inappropriate technologies ranging from electric pump sets to the harebrained proposal — currently on the drawing boards — to link all Indian rivers into one mega river-network that permanently damages the natural eco-system and life of a river, justified?

As a vital resource the deprivation of water to communities is a violation of human rights. The

pursuit of water rights is, hence, also simultaneously the pursuit of human rights. Linked to this issue of rights is the World Bank conditionality of water privatisation. This represents a fundamental shift in the nature of the water privatisation. In the past, private operators were mostly individuals – individual farmers in the case of tubewell based water markets, or contractors in the case of tanker water-supply. Many of the tankers operated under contracts from civic or government authorities and were in a sense a part of the public sector and had no private control. Today however the players are increasingly TNCs backed by the World Bank who influence government policies to adopt greater privatisation of all utility services.

Other institutions backing privatisation include the Asian Development Bank (ADB) and the Department for International Development (DFID) of the British Government. Banding together with industrialists, financiers, and insurance agencies, among others they have together launched the "new approach" to resolving the water crisis viz., the Public-Private Partnership in Management of Water Resources. (see box on pg. 7) The driving force behind this effort is profit covering many thousands of crores. Estimates of investments needed to upgrade the urban water and sewerage services in the near future range up to Rs.30,200 crores per annum at 1996-97 prices over the Ninth Plan period (1997-2002). Water privatization¹⁴ involves any or all components from the source of water, filtration and distribution, to the collection, treatment and disposal of wastewater and sewage. Hence, the term, Water Supply and Sanitation (WSS). The supply of clean drinking water is also a vital component in Government projects on "poverty alleviation", social policy and healthcare with the common refrain: "Drinking water provided for 100,000 people". Contrary to such claims, however, many of these projects end up as failures due to gross mis-management, atrocious planning and outright violation of people's rights. As a result, Adivasi and rural communities abandon their habitation because of non-availability of water. Hence, the issue of water rights, especially the right to fresh water takes priority. Further, when MNCs take control of public utilities demanding these be viewed as commodities and rejecting water as a basic human right, calling for Private Public Partnership approach to the "water crisis" must be rejected. It is essential therefore to challenge some of the grandiose schemes on water and water resources and dismantle the myths that justify such claims under the façade of Sustainable Development.

MYTH: The management of water resources in India is efficiently maintained as is evident from the country having achieved self-sufficiency in food-grain output.

FACT: Self-sufficiency in food grain production implies, first, the capacity to produce all food necessary to feed the entire population of the country at an acceptable level of nutrition. However, this concept has been mis-used to mean that India today does not have to import food grains to keep the Public Distribution System (PDS) running. In reality, the PDS has failed. It has not been able to address the needs of particularly 30 to 40 percent of the people who are extremely poor to buy essential food grains from even the subsidised ration shops of the Government. In other words, the water resources in the country are not at all managed efficiently let alone in a sustainable manner. Consequently, the country continues to experience severe problems e.g. desertification, floods, droughts and water shortages for irrigation, industries and domestic use.

MYTH: Dams are the only effective means to solve the water crisis.

FACT: This is both a mechanical and knee-jerk response to trap, conserve and utilize rainwater. Such an approach will merely lead to further extraction and exploitation thus resulting in a net depletion of this rapidly depleting resource.

Nevertheless, some problems do get addressed through this approach like increasing flows of water to urban, industrial or agricultural areas. But in the long run it causes major problem in the catchment area in terms of submersion, displacement as well as loss of bio-diversity. It also adversely affects downstream tradition water users who previously enjoying unrestricted access now have to be content with greatly diminished or non-existent flows.

Furthermore, even if one were to accept this as a legitimate response, notwithstanding the associated problems (often of a cruel and inhuman kind when one considers the abysmal record on rehabilitation and the resultant fate of the outstees and conflicts that arise) such a response is highly specific to the hydrological flows as well as to geographical locations. It is not a response that can be widely implemented across a region or a country experiencing water shortages. It is estimated that if all the rivers in the country were dammed and all the potential fully exploited, even then it would not irrigate more than 30 percent of the arable land, thus leaving

70 per cent beyond the application of such a technology.

Further, technically sophisticated interventions through such technologies to impound water and the like require the interventions of specialized agencies, intensive inputs, professional maintenance and huge resources for operations as well as skilled management. And, finally, awhile solving to an extent the problems of a particular locale, they fail to remotely address similar problems affecting a far greater number of people and communities elsewhere.

Finally, new research commissioned by WWF has warned that dams built with the promise of reducing flooding can often exacerbate the problem with catastrophic consequences, as some recent floods have shown. It shows that dams are often designed with very poor knowledge of the potential for severe flood events. Where data does exist it may fail to consider current risks such as increased rainfall due to climate change or increased run-off of water from land due to deforestation or the drainage of wetlands. The loss of these natural sponges for floodwater within the river basin increases the risk of severe floods. WWF maintains that many of these problems could be avoided if the recommendations of the first World Commission of Dams (WCD) were applied to future dam projects. Further according to another researcher¹⁵, (see also box on pg. 5 of Part I) lack of adequate information means that dams are often built without adequate spillways to cope with severe floods. In a 1995 study of 25 dams in India, World Bank engineers themselves calculated the amount of water that these dams should have been able to release at the height of a flood. In each case, they found the expected floods were greater than those that the dams had been built to discharge over their spillways. Only 2 had been able to cope with 1/7th of the expected peak discharge!

MYTH: The long-term solution to the water crisis is to interlink or network of Indian rivers as this will i) help in transferring water from surplus rich to deficient poor rivers, augmenting the flows of the latter, ii) obviating disputes over the sharing of rivers iii) help in controlling droughts and floods and iv) boost agricultural production

FACT: This grandiose plan along with similar proposals is an old one which was rejected as way back in the 70s but is being resurrected today as the Government contemplates its implementation. These earlier plans include the following:

- ✧ The Brahmaputra-Ganga Link Canal was rejected by Bangladesh for a number of reasons, few of which continue to hold valid to this day. A tentative link canal passing entirely through Indian territory (the Siliguri chicken-neck) will involve massive lifts even if it is physically achievable and funding is available;
- ✧ The Garland Canal or the Ganga-Kaveri link projected to cost (then) Rs.24, 025 crores. Two expert committees on examining the proposal rejected it finally on ground of it being technically unsound and economically unviable with global implications. And this holds very true even today. Under the Indo-Bangladesh Treaty (1996) on the sharing of the Ganga water, India has undertaken to protect the flows arriving at Farakka, which is the sharing point. How will a diversion of waters from the Ganga to the rivers in South India be consistent with this? Will the flows at Farakka be left intact, and water diverted from (say) whatever is now being used in UP and Bihar? Bihar has already a major grievance that its interests have been overlooked. Above all, in the context of the Indo-Bangladesh talks, both agree that the Ganga today is water-short and needs to be 'augmented', through both sides interpret the notion of augmentation differently: one has reservations of that proportion, but if that is correct, then where is the scope for diversion from the Ganga?
- ✧ Such illusions of grandeur – long-distance transfers of water from one basin to another – have blinded its avid proponents – the engineers – them to a simple fact that we have failed to even persuade neighboring states to agree upon a sharing of water (e.g. Ravi-Beas, Kaveri). The National Water Development Agency has been studying the possibilities of linking the peninsular rivers (Mahanadi-Godavari-Krishna-Pennar-Cauvery), but Orissa does not agree that there is a surplus in the Mahanadi, and A.P. does not agree that there is a surplus in the Godavari.

Finally the Union Ministry itself has raised major hurdles over this claim:

- ✧ on funding. The National Commission on an Integrated Water Resources Development Plan (NCIWRDP) will

Water in the Indian Constitution (Excerpts)¹⁵

In India, most river systems are inter-State responsibilities and the regulation and development of its waters is a source of inter-State differences and disputes. In the Constitution, water is a matter included in Entry 17 of List II i.e. the State List category (Union List I and the Concurrent List III are the other two categories). The specific provisions are as follows:

ART. 262 – In case of disputes relating to waters,

- 1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley;
- 2) Notwithstanding anything in this Constitution, Parliament may, by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any dispute or complaint as is referred to in Clause (1).

Entry 56 of List 1 of Seventh Schedule – provides that

“Regulation and development of Inter-State rivers and river valleys to the extent to which such regulation and development under the control of Union is declared by Parliament by law to be expedient in the public interest”.

Entry 17 Under List II of Seventh Schedule – provides that “...water supplies, irrigation and canals, drainage and embankments, and water power subject to the provisions of Entry 56 of List I”.

As such, the Central Government is conferred with powers to regulate and develop inter-state rivers under Entry 56 of List I of Seventh Schedule to the extent declared by the Parliament by law to be expedient in the public interest.

It also has the power to make laws for the adjudication of any dispute relating to waters of Inter-State river or river valley under Art.262 of the Constitution.

consume Rs.180, 000 crores over the next 10 years to complete these projects.

- ✖ states are highly apprehensive of the Project's impact on the already implemented inter-state river dispute tribunal ruling on sharing of water
- ✖ since a number of canals would have to pass through national parks and sanctuaries, clearance is essential from the Ministry of Environment and Forests (MEF), and
- ✖ The crucial issue of R & R for the thousands of people that will necessarily be displaced and even dispossessed by these canals.

On the claim that such a scheme will eventually help in preventing disasters like drought and floods, the most likely possible reality will be one in which drought will be instead transferred where one did not exist!

MYTH: Bottled water is the only protection against water contamination and adulteration as well as being eco-friendly and a healthy lifestyle

FACT: However, the very industry that champions the cause of bottled water — providing “pure” water to the elite in society — contributes, ironically, to the destruction of public water resources through the generation of non-renewable plastic water containers. Apart from this, complaints are now frequently arising on the questionable nature in the quality of these bottled water!. In 1999 the Natural Resources Defense Council (NRDC) in the US noted that much bottled water is no safer than tap water and some decidedly less so. One third of the 103 brands of bottled water studied contained levels of contamination, including traces of arsenic and E.coli and at least 1/4th of bottled water is actually bottled tap water. Similarly, in 2002 a consumer awareness publication, Insight, from Ahmedabad, in its July issue reported that the Ministry of Health prohibited the sale of bottled mineral water, Perrier, product of the MNC, Nestle, as it had failed to observe the notification of the guidelines laid down in the Prevention of Food Adulteration (PFA) Act. The product contained pH and calcium content and is therefore not water.

MYTH: As a commodity and an economic asset water is not a domain for human rights activities

FACT: On the contrary! As argued earlier (in this issue) water is a public asset and access to water

for the satisfaction of the vital needs of every human person and community is of vital importance, a basic obligation for human beings whatever the cost.

Basic access to water for all refers to the quality and quantity of water necessary to satisfy collective needs and to ensure the basic socio-economic well being of all. Access to water is a fundamental political, economic and social right for one and all, since the biological, economic and social security of every person and community depends upon the enjoyment of this right. Such a right therefore cannot be bought and sold, quoted in stock exchange, traded or swapped.

Indeed, as part of Earth's heritage water must be preserved as a public domain – for all time – protected by local, national and international law – rather than be viewed as private property. Such a claim puts at risk the whole notion of 'the commons' that must be preserved for future generations. Instead of this vital resource being transformed into a commodity it must be easily accessible and as an essential human need. It is for this reason that water has been recognised as an important component of human rights. A vast body of covenants and internal agreements already exist that formally identify and declare a whole range of human rights in which access to clean water has been duly recognized as a precondition in many of them.

Specifically, these rights¹⁵ are explicitly mentioned in the 1989 Convention of the Rights of the Child, viz., Art. 24 paralleling Art.25 of the Universal Declaration of Human Rights. Among the measures States are obliged to secure this right are those to "combat diseases and malnutrition...through, inter alia, ...the provision of nutritious food and clean drinking water".

Interpreted, Art.8 of the Declaration on the Right to Development adopted by the UN General Assembly in 1986 explicitly includes water as a basic resource when it states that the persistent condition of under-development in which millions of humans are "denied access to such essential as food, water, clothing, housing and medicine in adequate measure" representing a clear and flagrant "mass violation of human rights".

Although few States have made formal commitments in providing right to water, more and

more of the newer national constitutions discuss water. The Republic of South Africa has moved strongly in this direction. The Bill of Rights of the new Constitution of South Africa, adopted in 1994, offers a clear example of State practice relevant to an explicit human right to water. Section 27 (1)(b) states: "Everyone has the right to have access to sufficient food and water"

References:

1. Wastekar, S.(et al). Rethinking India's Future: Prosperity of the Periphery, Strategic Foresight Group, Mumbai, 2002.
2. Bhangar, N. Water Wars, www.indiatogether.com
3. Dividing the Water: Food Security, Eco-Systems and New Politics of Scarcity, World Watch Institute, September 1996.
4. Nikolaieff, G.A. The Water Crisis, The H.W. Wilson Company, New York, 1967.
5. Laptev, I. The Planet of Reason, Progress Publishers, Moscow, 1973.
6. Chopra, R. and Sen, D. natural Bounty and Artificial Scarcity: Population and Water Resources in India Paper prepared for inclusion in "Science, Population and Development to be released at the Indian Science Congress, January 1992.
7. Henderson, C. Eau Dear, The Ecologist Asia, No. 5, Bombay, 2000.
8. Martin, B. Privatisation and Globalisation, The Ecologist Asia, No. 1, Bombay, 1997.
9. Chatterjee, P. Consumers Give Thumbs Down for Water Privatisation, TWN Features, Goa.
10. Petrela, R. The Water Manifesto, Books for Change, Bangalore, 2001.
11. Hardiman, D. The Politics of Water in Colonial India South-Asia, No. 2, New South Wells, 2002.
12. Singh, C. Water Rights & Principles of Water Resources Management, N.M. Tripathi Pvt. Ltd., Mumbai, 1991.
13. Biswas, A.K.(Ed) National Water master Plans for Developing Countries, Oxford University Press, Mumbai, 1997.
14. Dharmadhikary, S. Water: Private, Limited, Mantha Adhyayan Kendra, Badwani, M.P., 2002.
15. Water, Advocacy Internet, #4, NCAS, Pune, 2001.
16. Vohra, B.B. Agenda for Water: Myth & Reality, Survey of the Environment, 1994, The Hindu.
17. Upadyyaya, D. Privatisation of Water, Lok Samvad, November, 2000. Raina, V. War Over Water, Combat Law, #3, Mumbai, 2002.
18. Ward, C. Reflected in Water, Cassell, London, 1997.
19. Liquid Assets: Is Water Privatisation the Answer to Access? Panos Briefing, #29, London, 1998.
20. Ehlers, K.E. Drinking Water Projects – Blockades, Myths, Illusions, D+C, Development and Cooperation, #1, Bonn, 2003.

Private Sector Participation: Three Models¹⁷

The South has been offered three models to select from in adopting the privatisation formula viz., the Partnership Model, The French Model and the British Model.

The British Model. In 1989 the water in England and Wales was privatized. In the 80s the UK faced demands from European Commission to clean up its environment. Delaring it was unable to make the investments needed to improve efficiency in water services while keeping public spending down, Margaret Thatcher's Conservative government privatized water services. Today the water sector controls the biggest construction businesses in the UK. High profits have seen large dividends and bonuses paid out to investors, while users have been placed at a disadvantage and paying more than they should or need to.

The Partnership Model. This model is a more common approach than the British model. It has been used in France and Spain for nearly a century, and the success claimed for these ventures has made the idea of water privatisation more attractive. But a number of questions remain unanswered viz., on ownership; on design, construction, infrastructure, etc. Different answers to these and other related questions lead to variations in formulating the model. At least 5 different forms of public-private partnership have been identified viz.,

- ✗ Management contract is awarded and a fee paid for a private firm to operate aspects of water and sewerage services for (say) 5 years. It is followed in Mexico;
- ✗ A lease contract, under which the private company operates the water and sewerage system for a period of 10 to 15 years in return for the right to a share of the revenue from customers. Common in France, this approach has been adopted in Senegal in West Africa and in Adelaide in Australia. Under this arrangement, the private operator has a performance incentive built into the contract while the state provides working capital;
- ✗ A concession contract, under which the private operator operates and maintains the facilities, while also being responsible for agreed new investments. These contracts are usually for 25 to 30 years and are common in parts of France, in Abidjan in the Ivory Coast, among others;
- ✗ A build-operate-transfer (BOT) contract, under which the government sells its stake in the monopoly to investors, who are granted a license to operate the system for their own profit for a fixed term, normally up to around 25 years. In return, investors must agree to invest a minimum amount in developing the infrastructure; once the license has run out, ownership reverts to the State;
- ✗ Cooperatives can be used as a successful way of organising urban water systems.

The French Model. In 1993, the utility services of the Buenos Aires (Argentina) area was transferred into private companies and local investors led by Lyonnaise des Eaux the largest global water TNC; it builds, co-owns and operates water facilities in 20 countries. The government of Argentina retained ownership of the assets and granted a 30-year full concession for operating, maintaining and managing the system.

In 1997, however, the official audit body of France, the Cour des Comptes, produced a damaging report on this model. For instance, among other things, it reported that there was lack of transparency, "the lack of supervision and control of delegated public services, aggravated by the lack of transparency of this form of management, has led to abuses" in one major city, Metz, the private company failed to submit any accounts to the city council for 20 years; in Bandol-Savary (near Toulon) the MNC Vivendi charged the Council twice over the same treatment, every year.

The Water Manifesto¹⁰

The World Contract

Founding principle:

Water is a vital common global heritage

Principal objectives

1. Basic access to water for every human being and every human community (an inalienable political, economic and social right, at once individual and collective).
2. Integrated sustainable management of water in keeping with principles of solidarity (duty of individual and collective responsibility to other human communities and the world's population, to future generations, and to the ecosystem Earth; principle of sharing, and conservation/protection of water).

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