

Bureaucracy and Human Right in the age of Globalization

with Reference to Kerala

Executive Summary

Bureaucracy is a dominant form of origination that has occupied a significant place in the modern nation-state. It not only fulfills a number of needs of the society but also affects the social, political and economic aspects of human life. No society can carry on the process of administration without bureaucracy. Whatever be the system of government, bureaucracy is inevitable for the design and implementation of policies, programmes and governmental decisions. The role of bureaucracy in the socio economic and political development of Kerala has assumed significance in the context of globalization policies adopted by the central and state government. Though the term bureaucracy is of eighteenth century origin only, bureaucracy as a system dates back to the origin of societal administration.

Along with the changes in political system, bureaucratic system also got changes especially in the pattern of recruitment. From being the patronage of those in ruling position, with the rise of modern democracy, bureaucratic position began to be on the basis of merit. The merit system of the recruitment gave bureaucracy added importance as they are men of talents. Moreover, under democracy, bureaucracy got a legal-rational base making its authority rests upon laws, status and regulations. Weber's ideal model of bureaucracy with its features of hierarchy, division of labors, merit based selection, impersonality; rationality and neutrality become a fashion for the modern Nation for the State to apply. Being selected on the basis of merit and because of impersonality and neutrality, bureaucracy was capable of achieving the highest degree of rationality in decision making. The change from patronage or spoils to merit, strength of the bureaucracy made them a key player in administration of modern State. Its role has considerably increased with the State taking upon itself the task of welfarism. Bureaucracy forms the permanent executive in every society and serves in office for the fixed period of time. One king may be replaced by the other or the Ministers may be come and go, but bureaucrats remain the same. In democracy they are expected to serve any political masters irrespective of their party considerations.

In a developing country like India bureaucracy is considered as the back bone of development programmers and civil servants who are engaged in development activities constitute the development bureaucracy. The responsibility of bringing about socio-economic changes has fallen upon the bureaucracy, which is permanent in nature.

With the new economic policy of 1991 began the unbalanced phase of Indian economic development. Globalization has made India the land of rich with poor and there occurred a concentration of wealth in the hands of a few. Globalization has totally changed the socio-political and economic scenario of India and Kerala is not an exception. The policies of globalization resulted in the decline of agriculture, cottage industries and small scale industries, increased unemployment and poverty, decline in the standard of living and availability of basic facilities, especially in rural areas. Agricultural production declined and unemployment increased. The globalization adversely affected agriculture, the back bone of Indian economy. The rate of growth of food gains production declined. Indigenous cottage and small-scale industries also suffered heavily. Due to unemployment poverty shoots up. The total employment in the organized sector decreased. The restructuring of PDS system affected the food security of the poor, especially in the rural areas. The withdrawal of state from essential services allowed big corporate to monopolies the market. The shrinking of the role of the state has resulted in increased private sector. The disinvestment policy of the government made many of the public sector undertakings under the control of big Corporates. The quality of life especially in rural areas declined sharply especially in social services like education and health. The special economic zone created another form of crisis, large tracts of lands including prime agricultural lands have been acquired for the project, forcing thousands out of their livelihood. 27 years have completed India enforced globalization. The advocates of globalization used the twin theme of economic development and stability in the furtherance of this principle. But experience shows that the development during this period was one sided and devoid of human face. Privatization became a license to exploit the nature, without constraint degrading the environment. The worst affected of these are farmers, tribals and those who are directly dependent upon land and forest for their livelihood.

Now it seems that the higher bureaucracy in India has learned to reap the benefits of globalization for their own advancement. Many of the higher bureaucrats are lured by the opportunities in the private sector. During the ten years period from 2002 to 2012 181

officers quit. The reason stated for disenchantment includes political interference, handsome pay at the corporate houses, Professional reasons and freedom in the private sector. India Today, June 15,2012 reports a serving IAS officer pointing political interference as the reason why IAS officers were leaving their job. The post retirement activities of this officials reveals that majority are motivated by the financial benefit from corporate employment for seeking voluntary retirement and Kerala is not an exception.

The withdrawal of the state increased misery in the social service sector. In tune with the policies of globalization the state withdrew itself from a number of areas ranging from health care to education. As a result the quality of education and healthcare declined deeply affecting the poor at the same time there occurred an increase in the number Private educational institutions and private hospitals. Its services cannot be afforded to the common man. The deregulation in the Pharma industry increased the price of essential medicines including life saving drugs which worsen the situation of the poor. The contribution bureaucracy with regard to right to water is not good. Public water supply has been privatized and International agencies like World Bank and IMF etc. are forced for water privatization. This resulted the increase of prices of water more than 400% in Kerala. The Jalanidhi Project in Kerala is an example. But at the same time the bureaucrats can do a lot of things to prevent water pollution and for conserving the water resources and for the protection of the environment.

Protection of Human Rights is the top priority of all governments. The general principles of human rights have wide spread acceptance. The situation of human rights in developing societies like Kerala has been complex and worsened due to the policies of globalization. So the responsibility before bureaucracy in developing countries is protection from corruption and getting things done without delay. In strengthening social sectors bureaucrats have to play a constructive role. They have to work hard to strengthen the Public Distribution system, Health care system, Public water supply, protection of environment and to reduce corruption. More over the civil servants should keep in mind that they are the servants of the society not the masters. Then only the state of Kerala can face the challenges of Globalization

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PUBLICATIONS

**GREEN
GOVERNANCE
AND
HUMAN RIGHTS**



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GREEN GOVERNANCE AND HUMAN RIGHTS

Editor P. K. RAJAGOPAL



**KALPAZ
PUBLICATIONS**

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E-mail: books@gyanbooks.com www.gyanbooks.com



₹ 850

ISBN: 978-81-7835-979-3



9 788178 359793

interrelated, interdependent and indivisible. These rights enable a person to develop his personality and lead a decent life on earth. Under the shadow of human rights all people are entitled not to starve, not to suffer from preventive disease, to have opportunity to better their economic condition, to have access to knowledge and information and to decide on anything that affect their life (Anita et. al. 2003: 4).

These basic human needs and values are at the foundation of universal ideas of human rights and which is in Article (2) of the Universal Declaration of Human Rights (UDHR 1948), which states:

"Everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non self governing or under any other limitation of sovereignty." (UNPI 2005)

Environmental protection and human rights protection have many commonalities. Environmentalists and human rights activists work together towards common goals. It is quite natural that environmental degradation or pollution has its repercussions on environment as well as human rights. This is because many of the environmental rights are part of human rights. **The Right to Life** becomes meaningless in the absence of a clean and safe environment. The nature of environment and human rights problems are similar in all countries. Such common concerns include water pollution, i.e. lack of access to drinking water, pollution of water resources, pollution due to toxins; air pollution that includes industrial air pollution, emission of sulphur and nitrous oxides, carbon dioxide and CFC emissions; land pollution; pollution due to dumping of waste; deforestation; destruction of ecosystems and biodiversity etc. In all these cases the destruction of natural resources invariably affects the very basic fabric of human rights.

When the environmental groups work for sustained utilisation of natural resources, for the greater common good and enjoyment of basic environmental rights of present as well as future generations, the human right groups argue for the welfare of the present generations and equitable distribution of available resources in the process of guaranteeing their basic rights. Thus, the focus of environmental groups is mainly inter-

ENVIRONMENTAL RIGHTS, HUMAN RIGHTS AND SUSTAINABLE DEVELOPMENT

Dr. S.R. Jitha

The issue of the relationship between environment and development is not of recent in origin. In ancient times Plato was concerned about environmental degradation and he said the environment had been turned into bones of wasted body: richer and softer parts of the soil having fallen away and the mere skeleton being left.

Human Rights and Environmental Rights have many close affinities and the protection of one is essential for the realisation of other and for achieving sustainable development. The late twentieth century has witnessed an unprecedented increase in legal claims for both human rights and environmental goods. Almost all nations in the world have constitutional and statutory provisions to safeguard the fundamental rights of their citizens as part of human rights protection. Environmental degradation, depletion of natural resources, pollution of water bodies, lack of proper waste management and the deteriorating health level of people have prompted many nations to come out with legal frameworks to protect the environment at all levels.

Human Rights are the basic rights and freedom to which all are entitled. These rights are inherent to all human beings, whatever be the nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. All are equally entitled to human rights without any discrimination. So **Human Rights** are those rights which are inherent in our nature and without which one cannot live as a human being (Daren 2005: 399). Equality and Justice are at the heart of all human rights. It includes adequate and decent food, water, health, freedom from slavery, fair treatment under law, shelter etc. All these rights are

generational, i.e. distribution and enjoyment of natural resources in a sustainable developmental paradigm which meets the needs of the present generation without affecting the needs of the future generations to meet their own needs (WCED 1987: 43). The focus of human rights group is mainly intra-generational, criticizing the environmental movements for disregarding immediate human needs in the quest to protect bios, natural resources and basic needs of future generations.

The Constitution of India provides ample provisions for the protection of human rights and environment. A separate part (Part III) has been provided for the protection of basic rights, not only of the citizens but also of other population (it depends). As per the Directive Principles, the state is obliged to protect the environment, forest and wild life (Article 48A). It is the fundamental duty of the Indian citizen to "protect and improve the natural environment including forests, lakes, rivers and wild life" (Article 51A). Besides this, many environmental laws were enacted with the purpose of controlling pollution and promoting environmental conservation, which includes: Wildlife Protection Act, 1972; Water, Prevention and Control of Pollution Act, 1974; Forest Conservation Act, 1980; Environment Protection Act, 1986; Factories Act, 1987; and the Green Tribunal Act 2011).

During 1980's there underwent a sea change not only in administrative and legislative activities but also in judicial decisions. The Supreme Court of India widened the ambit of Article 21 (No person shall be deprived of his life or personal liberty except according to procedure established by law) to include Right to Safe Drinking Water, Right to Health, Clean Environment and so on. Maneka Gandhi's case was a starting point in this regard. In Francis Coralie case (AIR 1981), the Supreme Court ruled that **right to life is not** confined to mere animal existence, but extends to the right to live with basic human dignity. In Rural Litigation and Entitlement Kendra vs. State of Uttar Pradesh, the Supreme Court of India extended the scope of Article 21 to include the right to live in a healthy environment. The court upheld the right of people to live in a healthy environment with minimal disturbance to ecological balance (AIR 1985). This got concretized in Chhetriya Padushan and Subash Kumar cases, where the court declared (latter case) that "right to life enshrined in Article 21 includes the right to enjoyment of pollution free water and air for full enjoyment of life" (AIR 1991). By adopting international principles such as polluter pays principle, precautionary principle, sustainable development principle, public trust doctrine and the principle of absolute liability, the Supreme Court consolidated its position in strengthening "Right to Healthy Environment" concept under Article 21.

The landmark in the field of legal decisions was the Narmada Bachao Andolan vs. Union of India (AIR 1991a). In this case the Supreme Court recognized the relationship between the quality of human environment and the enjoyment of basic human rights:

"Water is the basic need for the survival of human beings and is part of right to life and human rights as enshrined in Article 21 of the Constitution of India. ...it is a matter of great concern that even after half a century of freedom, water is not available to all citizens even for their basic drinking necessity violating human rights resolution of UNO and Article 21 of the Constitution of India."

Here comes the importance of environment-friendly development, popularly known as sustainable development. The term 'sustainable development' in place of development has become increasingly popular in discussions among all the social scientists, organisations, statesmen, politicians etc. (Allam & Stein 2004: 5). The industrial-technological-economic development registered by human kind during the past 100 years has not proved to be a real development in so far as it has created imbalances in the environment as well as among the nations. Degradation of environment resulting from unprincipled and excessive exploitation of resources of our planet earth has threatened to negate and has already adversely affected the development registered by various societies.

Sustainable development stands for sustainability and it represents an approach to development which is concerned with such fundamental concerns like poverty, environment, equality, democracy, development and peace (UNESCO 2010). The Brundtland Commission on Environment and Development defined sustainable development as *the development that meets the needs of the present generation without compromising the ability of the future generations to meet their needs* (WCED 1987: 43). The four indicators of sustainable development includes:

- (1) Development in no way should lead to environmental degradation;
 - (2) Development should be in tune with the health of land, water, air, forests and other natural features of planet earth;
 - (3) The earth and its resources are the common possession of our civilisation and benefits must be shared equally; and
 - (4) Development in the present should in no way hinder or damage the developmental needs and abilities of the future generation.
- Sustainable development** involves the concept of "prudent management of available global resources and environmental capacities

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and the rehabilitation of the environment previously subjected to degradation and misuse" (Johan 2003: 15). It is the duty of the bureaucracy to ensure that development in no way should lead to environmental degradation and the development should be in tune with the health of land, water, air, forest and other natural resources. They also have to ensure that development should benefit all classes of people living in all parts of the world.

Sustainable development encompasses a number of principles: Basic needs of life should be available to all human beings; Consumption of natural resources should be utility based. Economic growth should be made within the safeguarded interest of the future generation to come; Ecological process should continue unabated; The development and maintenance of environment should run simultaneously; Regional imbalance in conservation of nature should be minimized or removed; International fraternity should be united to fight the menace of pollution; A long term view should be adopted for a better relation between human and species generation. Sustainable development thus is a moderate position between *extreme of no growth verses unlimited growth* and is based on the use of renewable resources in harmony with ecological system. It is moderate in the sense that there is no restriction on using the resources for development. However, there is restriction in using the resources exhaustively. Therefore sustainable development should address effectively environmental degradation.

The dominant development model of our time is 'economic globalisation'. Key to globalisation is commodification. New commodities are created with the expansion of markets to new geographical areas and new sectors that may not yet have been marketised. For the profit of multinationals the 'free gifts' of nature – water, air and other natural resources have been commodified and commercialised. Commodification of water is a direct assault on the commons and is striking at the roots of **sustainable development**. Profit driven exploitation of water has resulted in environmental degradation round the planet. Commodification seriously affected the availability, accessibility (both physical and economic) and quality of water, which are considered as the indicators of human right approach to water. Commodification of water hampers human rights as it denies common man access to safe drinking water. When the exorbitant increase in water prices directly affects the current generation, depletion of water affects the future generation by its scarcity. So it is clear that commodification of water resource is against the principle of sustainable development.

The Draft Water Policy of India 2012, failed to address the question of water security. It opened up the doors of water supply across the country to domestic and foreign companies, by advocating corporatization and private sector participation. A situation is emerging in which instead of providing assured drinking water, the right to purchase bottled water is being pushed in (*The New Indian Express* 2012: 8). This is a clear violation of the human right to water together with violation of judicial interpretation making right to water a fundamental right under Article 21 of the Indian Constitution (AIR 1991). Instead of opening the doors for free trade in water, the government must first assure availability of safe drinking water and take steps to conserve water sources and ensure its equitable resources.

For sustainable development and the protection of environment, waste management is necessary. In India, cities and towns generate 50 million tonnes of solid waste and 38 million litres of sewage every year. Local bodies entrusted with the task of disposing it have neither resources nor capability to do that resulting most of these wastes get dumped up and untreated. This not only has a hampering effect on the environment but also on the human right to health. Environmental degradation due to accumulation of waste materials results in the outbreak of diseases like plague, chikungunya, dengue and jaundice. Fall in waste managements normally affects the dual cardinal rights to pollution free environment and right to health. These interrelated rights can be protected only through better waste management. Development and economic growth of a society or nation lead to increased accumulation of different types of waste. There should be efficient system of waste management. Reducing and recycling are effective alternative to disposal.

India has some of the most impressive legislative acts on environmental issues in the world. But lack of resources, training, corruption of officials and lack of will often conspire to delay in implementation. Unsustainable development for immediate and narrow economic benefits have proved to be a havoc in many areas and thereby affecting the human rights of people generations after generations. Mega dam projects have evacuated a number of villagers and tribals from their home land and deprived them right to property, livelihood and culture. Pollution and other environmental harm have affected the agricultural lands and brought drought and climate change. It is very clear that only when environment is respected and the human life is in harmony with nature the people can get everything from nature for their happiness. When human beings tried to become the masters of the nature, all sorts of exploitations and the consequent sorrows followed. Thus, it is evident

that only through sustainable development; human rights can be ensured forever. All efforts should be made to conserve natural resources and use renewable sources of energy as far as possible. Efforts such as effective rain water harvesting, solar and biogas plants, micro hydro electric projects etc. should be implemented at the government level. Big projects are not the only way to effect big development. Instead of that a series of small dams and bunds that require much less investment and cause minimum displacement is beneficial to human community as a whole.

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ENVIRONMENTAL GOVERNANCE IN INDIA AND CLIMATE CHANGE

Dhanasree Jayaram

"There is now general agreement that the environment cannot be protected by perpetuating the poverty of developing countries. Their basic concern is with development and this is as it should be. But it is also no longer acceptable to take as given that a certain degree of environmental degradation and over-exploitation of natural resources in the cause of promoting growth is inevitable."

— Dr. Manmohan Singh, Prime Minister of India

The issues of environmental governance especially with regard to climate change have gained salience in India in the past one decade. Any country's environmental governance does not stop at the duties and decision-making of the policy-makers; it extends to different levels – individual, community, State Government, Central Government and agencies, and international treaties. In this closely-knit system, the judiciary plays an important balancing role at all the levels.¹ However, this paper would concentrate more on the policy-making loop and its relationship with the rest of the system in terms of environmental governance and climate change policy. In this context, the issues of climate change and energy management would be discussed as the energy requirements of the country have been rising rapidly and at the same time the impacts of climate change have been worsening across the world. India has to grapple with the consequences of climate change on the one hand and the costs of mitigation and adaptation on the other. The question is whether the country should focus on alleviating poverty or on mitigation of climate change. The need of the hour is to understand that it is not a question of either-or; it is to synchronize alleviation of poverty and

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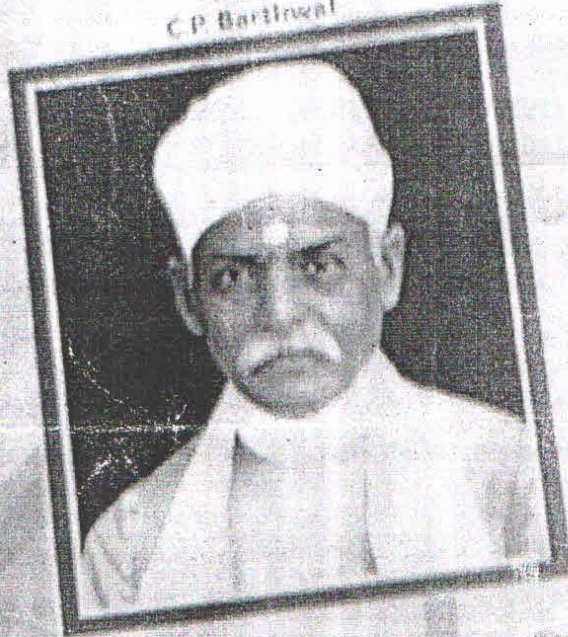
ISSN 0013-1344
CODEN IJPSDH
Volume LXXVI, No. 3
July - September, 2019

Volume LXXVI, No. 3

SPECIAL ISSUE

July - September, 2019

Editor
C.P. Barlowal



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The Quarterly Journal of Indian Political Science Association

GREEN BUREAUCRACY AND DEVELOPMENT

S.R. Jitha

Bureaucracy is an important instrument of state to administer its people and manage the affairs. It consists of officials at all levels, who are expected to carry out the day-to-day administration without any fear or favour. The relation developed by administrators with the people is of considerable importance, because the citizens depend upon the state to create necessary infrastructure and to find the necessary resources for development. Thus the duty of the administrator is to understand the problems of the people and to create a balanced socio-economic and political environment, so that the citizens could lead a meaningful life. The change in the role of the state from a police state to a welfare one increased the role of the bureaucracy. New duties have been entrusted to the civil servants, who are actually driving the steel frame of administration.

The term 'sustainable development' in place of development has become increasingly popular in discussions among all the social scientists, organizations, statesmen, politicians etc (Aliani & Stein 2004: 5). The industrial-technological-economic development registered by human kind during the past 100 years has not proved to be a real development in so far as it has created imbalances in the environment as well as among the nations. Degradation of environment resulting from unprincipled and excessive exploitation of resources of our planet earth has threatened to negate and has already adversely affected the development registered by various societies. It is the duty of the bureaucracy to ensure that development in no way should lead to environmental degradation and the development should be in tune with the health of land, water, air, forest and other natural resources.

Conservation of the nature has got added attention these days, most specifically in the age of global warming. It was too late for the human beings to understand that the progress he achieved during the last ten or twelve decades had created imbalances in the nature and it gripped to such an extent that if not taken into consideration one day or other the earth will perish. In the surge for profit man ignored the importance of the environment – the forests, rivers, lakes, streams, wetlands, glaciers, seas and oceans

and the innumerable animal and plant species living in that. By the time when human beings became aware of the need of protecting the environment, irreparable damage had occurred to the ecosystem, round the world. Almost all major river systems have got polluted. Studies conducted by the Stockholm International Water Institute points out that *in the global south, more than 90 percent of sewage and 70 percent of industrial waste are dumped untreated into the surface water. Every day two million tons of sewage and industrial waste are discharged into the world's water (UN 2011), the equivalent of the weight of the entire human population of 6.8 billion people.* World round, the water systems have become the dumping grounds of industrial, bio-medical and domestic wastes.

The damage to the nature didn't stop with the pollution of water system. Day in and day out the green caps of the world is declining at a startling rate. According to the World Resources Institute, the world has lost about half of its forest cover. Data from the U.N. Food and Agriculture Organization shows that deforestation was at its highest rate in the 1990s, when each year the world lost on average 16 million hectares of forest. From 4,168 million hectares in 1990, the total forest cover declined to 4,033 million hectares in 2010 (Emily 2012). In India too forest cover showed a decline. India State of Forest Report 2011 shows that there is a decrease of 367 square kilometer in forest cover, in comparison to 2009. Forests account to 78.29 million hectares or 23.81 percent of the geographical area of the country; of this the very dense forest accounts only 2.54 percent. Forests are primarily threatened by land clearing for agriculture and pasture and by harvesting wood for fuel or industrial uses. Brazil, home to the Amazon forests that has 13 percent of the world's forested area has lost 55 million hectares since 1990, an area three fourths the size of Texas. Between 2000 and 2010, Brazil lost 2.6 million hectares of forest each year, more than any other country. South America lost 40 million hectares of forest during the same period (Emily 2012).

Global rates of deforestation are not capturing up the full damage done to the world's forests. At the same time forest degradation from selective logging,

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life warden and the acumen of the collector saved not only the environment but also the human rights, especially right to water of the adivasi population in Silent Valley.

Illegal human encroachment is ravaging the country's forests. According to a government document, prepared based on the information provided by the state governments in 2010 and 2011 and 2012, nearly 1.25 million hectares of ecologically fragile areas have been illegally occupied by humans. This is mainly in the states of Andhra Pradesh, Assam and Chhattisgarh. In Assam, 2,59,700 hectares of forest areas are under encroachment and in Andhra Pradesh around 2,56,000 hectares of forestland have been illegally occupied by humans. Forest areas under encroachment in Chhattisgarh is estimated to be 1,18,494 hectares. Chhattisgarh is also an area where Maoist insurgents and legal and illegal mining in biodiversity hotspots are very active. The encroachment in various states include: Karnataka (96,014 hectares), Maharashtra (85,388 hectares), Odisha (78,505 hectares), Arunachal Pradesh (58,553 hectares), Tripura (47,758 hectares), Kerala (44,420 hectares), Gujarat (34,791 hectares), Uttar Pradesh (26,795 hectares), Tamil Nadu (14,352 hectares), and Jammu & Kashmir (13,360 hectares). The report also points the vulnerability of the ecologically fragile Western Ghats region to encroachment. Interestingly, not a single case of violation has been reported from Bihar (Express News 2012: 1).

Large tracts of dense forestlands in India are getting cleared in the name of development. Be it Niyamgiri and Nuagaon in Odisha, Jharsuguda in Jharkhand, Bastar in Chhattisgarh or any other mineral-rich densely forested area this phenomenon is occurring, with the support of the state and central governments. So these regions are witnessing tribal people up in arms against the policies of the government that deprives them of their homely land and livelihood. Taking the case of POSCO Project, India's single largest foreign investment ever, it requires about 1,621 hectares of land, of which about 1,253 hectares is forestland. An additional 2,440 hectares of thickly forested land in Kandadhar hills, a part of the Eastern Ghats, has been identified for captive iron ore mine for the project (Venkatesan 2012: 35, 36). Thus a total of 3,693 hectares of forestland has been identified for the project. The project is for a 12 million tone integrated steel plant and port at Paradip in the Jagatsinghpur District of Odisha by the South Korean Corporation Posco

and the MoU between the Company and Odisha Government was signed on 2005 (Manshi 2009: 8). The project got environmental clearance (EC) and Coastal Regulation Zone (CRZ) clearance from the Environment Ministry and on May 2, 2011, Jairam Ramesh, the Minister for Environment and Forests gave final approval to the state government for the diversion of 1,253 hectares of forestland in favour of Posco (Venkatesan 2012: 36, 37); deeply negating the interest of the environment and tribal population there. However the newly formed National Green Tribunal (NGT) suspended the environmental clearance given to the Posco project citing environmental issues.

The case with Bastar in Chhattisgarh is no different from Paradip in Odisha. The Tata's Greenfield Project in Lohandiguda, with a capacity to produce 5.5 million tonnes of steel a year, on an investment of Rs.19,500 crore, envisages the acquisition of over 2,000 hectares of land. The project also got the Central Government's approval to divert huge tracts of forestland in the region (Purnima 2012: 32). Besides conversion of large areas of forestland, there are other associated environmental problems. The CAG in its appraisal of 48 power projects in Uttarakhand, allotted in between 1993 and 2006, found total neglect of environmental concerns. In four out of five operational projects, riverbeds downstream had almost completely dried up and water flow has been reduced to a trickle which is inadequate for the sustenance of the ecology. The muck generated from evacuation and construction is being dumped into the rivers, resulting in increased turbidity and deterioration of water quality. This has a negative impact on aquatic biota. Together with this, the diversion of river water had depleted the natural water resources used for drinking and irrigation purposes. The report also warns of about the environmental damage that can turn out, if the state government pursues with its policy of indiscriminate hydropower projects (Purnima 2010: 49). The report of the CAG was one substantiating the arguments and allegations raised by the project affected people and many non-governmental and environmental activist groups and organizations.

Express highways and mega dam projects also contribute to large scale diversion of forestlands in India. Though dams have proved to be a boon for irrigation and generating hydroelectric power, they have also severely disrupted ecosystems by interrupting the flow of major rivers, destroying freshwater habitats and leading to the disappearance

of unique species; dams have also uprooted the livelihood of millions of people who rely on the unaltered flow of river water, and they have also disrupted the structure of floodplain agriculture (Srinivasan 2008: 8). The Ganges and Brahmaputra in India is in the list of twenty-one river basins identified by the World Wildlife Federation's (WWF) Dam Initiative report at severe risk of ecological degradation (WWF 2004). The Narmada Valley Project has subdued hectares of forestland in the states of Gujarat, Madhya Pradesh and Maharashtra. The project became controversial in its early days itself on account of the need for displacing more than a million people and submergence of 350,000 hectares of forest and 200,000 hectares of cultivated land (Veena 1991: 1). It was in 1979, the Narmada Water Disputes Tribunal Award (NWDTA Award) set out the plan for the construction of 30 major dams, 125 medium dams, and 3000 small dams at various locations on the Narmada River that cuts across these three states, mainly for the purpose of irrigation and electricity generation. Geneva based International Environment Law Research Centre (IELRC 1986: 1) has pointed out that on completion, the Narmada Sagar Project (NSP) and Sardar Sarovar Project (SSP) would result in the submergence of 40,332 hectares and 13,744 hectares of forestland respectively. Massive submergence of forestland is not the case only with Sardar Sarovar and Narmada Sagar projects but with all the mega dam projects.

Together with forestlands the wetland ecosystems are also encroached upon in the name of development. Wetland ecosystems which are rich in biodiversity provides home for birds, aquatic species, mangrove forests, medicinal plants and migratory birds and are of greater significance and productive in nature. The decline of Ramsar sites results in the loss of fish wealth and other resources, and causes climate change and drought like situation. "A study conducted by a NASA scientist, on the land use pattern in Kerala revealed that rampant destruction of wetlands and paddy fields are the chief causes behind the drought like situation in the state." The situation is likely to worsen unless remedial measures are taken. Environmentalists say that about 80 percent of the total mangrove forest area in Kerala has been destroyed. Of the 1,358 sq. kms of mangroves that existed in Kannur District of Kerala, in 1975 what remains is only 9 sq. kms. Mangroves are helpful in preventing high salinity and its destruction leads to saltwater intrusion. The case of backwaters is also

the same. Pollution, reclamation, encroachment and tourism development activities have reduced the depth and water holding capacity of the backwaters. Shrinking wetlands reduces water availability and forces the conversion of paddy lands to residential or shopping plots which in turn affects the food security of the nation.

India has some of the most impressive legislative acts on environmental issues in the world. But lack of resources, training, corruption of officials and "lack of will," often conspire to delay in its implementation. Development for immediate and narrow economic benefits, without considering its impact on the environment has proved to be havoc in many areas and generations are now getting affected by this. Mega dams and other projects have evacuated a number of villagers and tribals from their home land and deprived them right to property, livelihood and culture. Pollution and other environmental harm have affected the agricultural lands and brought drought and climate change. It was when human being tried to become masters of the nature, all sorts of exploitations and the consequent sorrows followed. It has become very clear that only when environment is respected and when human life is in harmony with the nature, people can get everything from nature for their happiness. All efforts should be made to conserve the environment and its resources. Instead of mega energy projects, government should take initiative to tap renewable sources of energy, in areas applicable, as far as possible. This can save large tracts of forestland and thereby livelihood of thousands of whom depends on the forests across the nation. Big projects are not the way for development but many often means of displacement and environmental disasters.

The challenges to environment and its consequences, now-a-days demand the bureaucracy to be green in nature. *Green Bureaucracy* refers to those "bureaucracy that takes into account the question of environmental conservation in the process of decision making and its implementation, such that the process of development in its varied forms is in tune with the health and integrity of planet earth and its resources, for the survival of generations one after the other" (Jitha & Reinhart 2014: 223). In simple sense, green bureaucracy is one that addresses the central question of environment and its inclusion while making decisions and implementing it. Green bureaucracy is environmental friendly in nature and working and is the friend of the nature. A green

Bureaucrat knows the importance of environment and gives importance to its protection in the process of governance. They will give prime attention for the conservation of forests, lands, mountains, hills, rivers, lakes, ponds, streams, wetlands and all other resources of the nature. Steps will be taken not only to protect the gifts of nature but also to cherish the same. In the era of neo-liberalism they will use their administrative experience, skills and vigilance to prevent the captivism of the commons or the free gifts of nature, including air, water and seed. A green bureaucrat is a champion of indigenous development and won't be a fortune seeker in the pastoral yards of domestic or foreign corporates. He/she will try to strike a balance between the process of development and the question of environmental protection, in a way that the interests of the environment and sustainability of its resources gets added importance (Jitha & Reinhart 2012: 39). Such a bureaucrat is patriotic and is determined to protect the land and its people from getting polluted, degraded and destroyed by any forms or means.

In one day or the other, all bureaucrats will be forced to be green in nature and working as environmental damage is one that questions the existence of life on earth. The effects of global warming are alarming and are capable of altering, damaging and destroying all the known forms of life on earth. Land, water and air pollution has its negative consequences and leaves no one in the area spreading across by it. Water is needed for all and no one can live without water. Bureaucrats by their access to power or their position cannot remain aloof from all these. When the avalanche of destruction comes in, it doesn't matter what is their position or how much money they have secured, all will be washed out in the flow. Similarly no flue or diseases will spare any one only by the reason that he/she is a bureaucrat. Basically being a human being the bureaucrats have to endure all that the fellow beings have to suffer. Without nature there can be no life on earth and without human beings no society or government. Bureaucracy that quite often leads a parasitic life in the society by clinging to the body of corporate interests and sucking out the maximum by exploiting the masses loses its habitat without society or government. When such is the case there will be no bureaucracy, be it higher or lower. So the need for survival or existence will compel them to take decisions that are environmental friendly or ecologically sustainable.

Time demands a change from the side of

the bureaucrats, in the interest of society and environment on the one hand and their existence itself on the other hand. The only persons who can do something seriously to protect the environment are the bureaucrats. By their role in policy making and its implementation they can do a lot to protect the nature and its resources. Being the permanent executive and appointed by the President of the nation after a rigorous process of recruitment, the IAS and other top echelon officers are expected to play a lead role in this regard. Moreover the higher bureaucrats are the only group that has not been much affected on the onslaught of globalization. They should use their neutrality and wisdom in analyzing the policies of the multilateral lenders and corporates that has the hidden agenda of exploiting the natural resources of the domestic nation. In matters related to development, they should prioritize a balance between the needs of human beings and environment, in a way that development won't compromise the health of the environment and the resources in it. The theory at the same time keeps in mind the limitations in front of bureaucracy in the form of corporate nexuses and political interference. Whatever be the limitations, existence comes first, because it is for that all are doing whatever they can be it good or bad.

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Printed, Published & Owned by Dr. J. Prabhash,
Printed at University Press, Thiruvananthapuram and
published from the Department of Political Science, University of Kerala,
Kariavattom P.O., Thiruvananthapuram-695 581, Chief Editor: Dr. J. Prabhash



ISSN 0976-0210
Vol. 6 • Issue 2 • July- December 2014

Department of Political Science // University of Kerala

JPS

Journal of
Politics
&
Society

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Editor's Note

This issue of the journal carries quite a few articles which debate various theoretical issues in Political Science, ranging from epistemology and Kantian notion of democratic peace, to liberalism and world systems analysis. This is besides three other articles, two on International Politics and the other on the Muslims of Kerala. In his well researched paper on **Critical Medical Anthropology: Some Epistemological Issues**, Sajan Thomas seeks to find out the common thread that pulls critical medical anthropologists together. He makes this enquiry against the background of medical anthropologists using diverse theoretical traditions.

Three other articles which belong to this category are the ones written by Sushela Ramaswami on **The Kantian Roots of the Notion of Democratic Peace: Its Relevance in the Contemporary World of Democratization**, next article by B. Vijayalakshmi and V. Ravindra Shastry on **The Political Theory of Liberalism and Liberalisms and the last one by Krislin Plys on World Systems Analysis and its Relevance for Kerala Today**. In the first article the author argues that peace can be achieved in the contemporary world by applying universal parameters of rule of law, human rights, equity, justice and principles of international law under the auspices of the United Nations Organisation. In the subsequent article Vijayalakshmi and Ravindra Shastry trace the foundation of liberalism and liberalisms that has resulted in the evolution and development of liberal political philosophy. Article by Krislin Plys uses world systems analysis to explain some key contemporary, and historical features of Kerala's political economy: plantation economy, remittance economy and the Kerala model of development. And she argues that Kerala offers alternatives to the dominant ideas of capitalist world system.

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Dublin and Beyond, The "Commons" Versus The "Commodity" and the Human Right to Water

Dr. S.R. Jitha, Reinhart Philip

Abstract

The rise of economic globalization and free market fundamentalism crushed the health and integrity of the "commons". The enclosure of the commons, through the creation of a hypertrophic market disproportionately benefits the corporate class and effectively deprives ordinary citizens: access to resources that they legally or morally own. The present study explains the "commons" versus "commodity" debate and the impact of commodification of water on the human right to water*. The paper also elucidates the limitations of the "human right to water approach" as a conceptual counterpoint to privatization and echoes the need for developing an alternative to the market model of development, in the interest of sustainability and human rights.

Keywords: commodity, commons, globalization, human rights, market, privatization, water.

Recent years have witnessed a renewed awareness of the ancient concept of "the Commons." Denying a person or a family basic access to food, air, land, water and livelihood cannot be conceived of in many indigenous societies to this day because, in most traditional societies it was assumed that *what belonged to one belonged to all*. Many modern societies extended the same concept of universal access to the notion of social Commons, creating education, health care and social security for all members of the community (Barlow 2009: 2). But the health of the commons crashed when economic globalization and free market fundamentalism were introduced as the one and only one model of development for the world. Multinational corporations gained access to the genetic, mineral, timber and water resources of even the most remote parts of the earth. Some refer to

this process as the "enclosure of the Commons", while others as "green imperialism" or "green neoliberalism".

Perhaps, it won't be the opposition to the creeping commodification of water round the world, as that in Grenoble, Manila, Cochabamba, Tompel, Plachimada or in other towns, in the mind of Ismail Serageldin, the then vice-president of the World Bank, when he prophesied in 1995 that the wars of the twenty-first century would be over water. In the war of ideas about global water management the battle lines have been drawn around whether water ought to be treated as a commodity or not. On the one side of this argument there are those who claim that water, being a scarce resource, can be efficiently and equitably distributed and conserved, if it is allocated through a market mechanism by turning it into a commodity to be sold at the full price of its production. On the other side are those who argue that water, though a scarce resource, is in its essence not commercial and that a process of commodification is little more than theft of a common good (Ben 2005: 294). They suggest that corporatizing public water has negative social and ecological consequences because it organizes access to water on the basis of capacity to pay (Bakker 2005; Barlow & Clarke 2002; Shiva 2002). The concepts of commodities and commodification are at the centre of contemporary global debates about water management.

The present study divides itself into different parts. The first part explains the debate on the political economy of the environment. The literature on the "enclosure of the commons" is analyzed in this part. The second part explains the "commons" and the "commodity." After explaining the characteristics of both, the paper moves on into the Dublin Statement on Water and Environment, which formed the basis for commodification of water, together with its elaboration. The third part examines the debate of water as an economic good versus common good. The arguments of both sides are placed under study. The last part is on the human right to water. This part explains the impact of commodification of water on the human right to water by drawing examples from different nations. The paper then elucidates the limitations of the "human right to water approach" as a conceptual counterpoint to privatization and concludes by pointing the need for developing an alternate to the market model of development, in the interest of sustainability and human rights.

Political Economy of the Environment: Clarifying the Debate

Much of the literature on the "enclosure of the commons" is concerned with the creation of private property rights for resources previously governed as common pool resources. The shift towards market governance is by no means unique to the water sector, but as Roberts (2008: 536) suggests, part of a broader extension of global capital into new, social and socio-environmental spaces and relations in the interest of capitalist

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accumulation. Capital, as Kovel (2002: 42) argues, sees "each boundary/barrier as a site for commodity formation." New commodities are created with the expansion of markets to new geographical areas and new sectors that may not yet have been marketed. Commodification is accomplished through the deregulation of exchange mechanisms, allowing penetration of market mechanism into under-marketed spheres. Water is one such commodity and commodification of water is considered as a direct assault on the commons. Commodification is a process integral to capitalist expansion and central to the marketization of all aspects of life (McDonald & Rutgers 2005: 9).

Lining with Marx's discussion of "primitive accumulation," David Harvey (2003) identifies privatization and enclosure of environmental commons as key mechanisms of accumulation by dispossession – a spatio-temporal fix aimed at overcoming the inherent contradictions of capitalism, which ultimately relies on the dispossession of populations from common pool resources and spaces previously shielded from the capitalist market (Roberts 2008: 540). As a by-product of capital accumulation specific instances of environmental degradation are mobilized as opportunities for continued profit (Bakker 2005: 543). Samir Amin (2001) speaks about as an imperial project for the control over the natural resources of the Third World. In *Imperialism and Globalization* he notes, "the objectives of dominant capital even in this third stage of imperial devastation are the same - the control of the expansion of markets, the looting of the earth's natural resources, and the super exploitation of the labour reserves in the periphery."

Building on the discursive construction of water scarcity, the proponents of privatization mobilized arguments that closely follow Hardin's (1968) *The Tragedy of the Commons*, which calls for restricted access and regulation of use of the common pool resources for its protection and preservation. By eliminating distribution based on ability to pay and by pricing water at rates determined by the laws of demand and supply, the true value of water can be made evident and this will in turn leads to conservation of the 'scarce resource.' Such a shift would be to the benefit of the poor because it would remove an existing subsidy system that only benefits the rich and because it would provide an incentive for private capital to invest in water infrastructure (Serageldin 1994). To the World Bank, "giving public services away to the people leads inevitably to waste and needs a proper system of charging for water" (Barlow & Clarke 2002: 155). This line of argument has informed what Goldman (2005) calls "green neo-liberalism," a mode of resource regulation which aims to deploy market as a means to serve environmental goods. Such a view, as Karen Bakker (2005: 543) writes, sees "market at a solution rather than being the cause of environmental problems."

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Case specific analysis of neoliberalization of nature sounds in the work of many writers (Bakker 2001, 2004, 2005; Barlow and Clarke 2002; Ben 2005; Castree 2005; Laila 2003; Robbins 2003). According to them, privatization of water and leaving of power in the hands of unaccountable institutions by introducing the pernicious logic of market is incompatible with guaranteeing citizen's basic right to water (Bakker 2007: 437). They point out successful examples of public water systems and asserts the effectiveness of democratic accountability of citizens when compared with corporate accountability to shareholders (Shiva 2002; TNI 2005). Opponents of water supply privatization invoke a human right to water approach to support their claims (Barlow 2009). This argument generally rests on two justifications: the non-sustainability of drinking water that is essential for life and the enjoyment of many other human rights are predicated upon the availability of water (e.g. the right to health, the right to food). This campaign for the human right to water by the anti-privatization activists have gained support from mainstream international and development agencies including the World Health Organization, the United Nations Development Programme and the Economic and Social Council.

The Commons versus The Commodity

Commons are resources that are held in common or shared among the communities. Traditionally, commons were defined as the elements of the environment – forests, atmosphere, rivers, fisheries or grazing land – that are shared, used and enjoyed by all. Today, commons comprises a wide range of shared assets and forms of community governance; some are tangible, while others are more abstract, political, and cultural. The tangible assets of the commons include the vast quantities of oil, minerals, timber, grasslands, and other natural resources on public lands, as well as the broadcast airwaves and such public facilities as parks, stadiums, and civic institutions, while the non-tangible assets includes the creative works and public knowledge not privatized under copyright law, the "cultural spaces" provided by communications media, public education, and nonprofit institutions and the scientific and academic research, much of which is supported by the public through government funding (Bollier 2002).

American Commons pioneer Jonathan Rowe (2001) captures the essence of the concept as, "the commons is the vast realm that lies outside both the economic market and the institutional state, and that all of us typically uses without toll or price. The atmosphere and the oceans, languages and culture, the stores of human knowledge and wisdom, the informal support systems of community, the peace and the quiet we carve, the generic building blocks of life – these are all aspects of the commons." Viewed in this perspective the commons have the quality of always having been there, one generation after another. To Richard Bocking (2003), the noted Canadian environmentalist,

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"Commons are those things to which we have rights just by being a member of the human family – the air we breathe, the freshwater we drink, the seas, forests, mountains, the genetic heritage through which all life is transmitted, the diversity of life itself." Commons can be defined as the free gift of nature and all are entitled to enjoy its benefits, without paying for it. The real owners of the commons are the people and the government is the trustee and steward of these resources.

The rise of economic globalization has resulted in what is known as "enclosure of the commons," the private appropriation of collectively owned resources. "Enclosures" disproportionately benefit the corporate class and effectively deprive ordinary citizens, of access to resources that they legally or morally own. The result is a hypertrophic market that colonizes untouched natural resources and public life while eroding the democratic commonwealth (Bollier 2002). The enclosure of the commons has been through the process of privatization, commercialization and commodification. From a neo-liberal perspective, neither privatization nor commercialization will ensure the conversion of resources into commodities, but commodification. Commodification entails the creation of an economic good through the application of mechanisms intended to appropriate and standardize a class of goods or services and enabling these goods or services to be sold at a price determined through market exchange (Bakker 2005: 544).

A commodity in neo-classical economic terms is anything that can be bought and sold in the marketplace in exchange for another commodity or for money. Commodification can therefore be defined as an act, practice or policy that promotes or treats a good or service, as an article of commerce to be bought, sold or traded through market transactions. To be commodified, a good or service must have the characteristics of a 'private good': it must be rival in its consumption (that is, one person's consumption of that good denies consumption by another person – for example, a cup of coffee) and it must be excludable (that is, people can be denied access if they do not pay – for example, admission to a theatre) (McDonald & Ruiters 2006: 13). Private goods yield utility only to a person consuming the good, it is denied to others. Again, a private good is priced in the market and only those may be allowed the use of it who pays its stipulated price (Pogue & Sgontz 1978: 49). The market can function only in a situation where the 'exclusion principle' applies (Musgrave & Musgrave: 1984: 47), that is, where A's consumption is made contingent on paying the price, while B, who does not pay it is excluded.

Neo-liberalists not only argue that it is theoretically sound to regard public services as private goods but go so far as to consider it as an economic, social and environmental imperative. They argue that subsidizing water as

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"Commons are those things to which we have rights just by being a member of the human family – the air we breathe, the freshwater we drink, the seas, forests, mountains, the genetic heritage through which all life is transmitted, the diversity of life itself." Commons can be defined as the free gift of nature and all are entitled to enjoy its benefits, without paying for it. The real owners of the commons are the people and the government is the trustee and steward of these resources.

The rise of economic globalization has resulted in what is known as "enclosure of the commons," the private appropriation of collectively owned resources. "Enclosures" disproportionately benefit the corporate class and effectively deprive ordinary citizens, of access to resources that they legally or morally own. The result is a hypertrophic market that colonizes untouched natural resources and public life while eroding the democratic commonwealth (Bollier 2002). The enclosure of the commons has been through the process of privatization, commercialization and commodification. From a neo-liberal perspective, neither privatization nor commercialization will ensure the conversion of resources into commodities, but commodification. Commodification entails the creation of an economic good through the application of mechanisms intended to appropriate and standardize a class of goods or services and enabling these goods or services to be sold at a price determined through market exchange (Bakker 2005: 544).

A commodity in neo-classical economic terms is anything that can be bought and sold in the marketplace in exchange for another commodity or for money. Commodification can therefore be defined as an act, practice or policy that promotes or treats a good or service, as an article of commerce to be bought, sold or traded through market transactions. To be commodified, a good or service must have the characteristics of a 'private good': it must be rival in its consumption (that is, one person's consumption of that good denies consumption by another person – for example, a cup of coffee) and it must be excludable (that is, people can be denied access if they do not pay – for example, admission to a theatre) (McDonald & Ruiters 2006: 13). Private goods yield utility only to a person consuming the good, it is denied to others. Again, a private good is priced in the market and only those may be allowed the use of it who pays its stipulated price (Pogue & Sgontz 1978: 49). The market can function only in a situation where the 'exclusion principle' applies (Musgrave & Musgrave: 1984: 47), that is, where A's consumption is made contingent on paying the price, while B, who does not pay it is excluded.

Neo-liberalists not only argue that it is theoretically sound to regard public services as private goods but go so far as to consider it as an economic, social and environmental imperative. They argue that subsidizing water as

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a public/merit good, leads to inefficient and unaccountable water provision, undermining its public good characteristics through waste, unresponsive behaviours and corruption. Treating water as a private good, on the other hand, creates efficient and accountable water delivery systems. So the neoclassical perspective is that if water is to be more efficiently managed, the conversion of it into an economic good is necessary. Such a view point is being promoted by international agencies like World Bank and affirmed by international declarations such as the Dublin Principles and Hague Declaration. This argument forms the basis for a newly emerging moral discourse on privatization, which argues that market competition and commodification of services is a 'pro-poor' policy choice.

Table 1
The Commons versus the Commodity

	Commons	Commodity
Definition	Public Good	Economic Good
Pricing	Free or "life line"	Full-cost pricing
Regulation	Command and control	Market based
Goals	Social equity and livelihoods	Efficiency and water security
Manager	Community	Market

The idea of water as an 'economic good' did not occur in vacuum and it can be cited to the 1992 "Dublin Principles" of the International Conference on Water and the Environment (ICWE). Since the controversial Dublin Statement on Water and Sustainable Development, international support for the commercialization has been growing. Many participants of the conference openly advocated the increased involvement of private sector in water supply management, in the endemic of "state failure." This International Conference came up with "four guiding principles" for water management: a) freshwater is a finite and vulnerable resource, essential to sustain life, development and the environment; b) water development and management should be based on a participatory approach, involving users, planners and policy-makers at all levels; c) women play a central part in the provision, management and safeguarding of water; and d) *water has an economic value in all its competing uses and should be recognized as an economic good* (Dublin 1992: 2-3). In order to justify the fourth principle, the Conference adds:

Past failure to recognize the economic value of water has led to wasteful and environmentally damaging uses of the resource. Managing water as an economic good is an important way of achieving efficient and equitable use, and of encouraging conservation and protection of water resources.

The fourth principle has been elaborated by John Briscoe, Economist and World Bank's Ranking Water Advisor in a paper entitled "Water as an Economic Good: The Idea and What it Means in Practice" (1996). His thesis is that, to manage water as an economic good, the value placed on it by all competing users has to balance with its 'use cost' and 'opportunity cost' ("Use cost" is defined as the amount needed for constructing and distributing the infrastructure necessary for collecting, storing, treating and distributing the water. "Opportunity cost" is a less obvious cost - that which is incurred when one user uses water and affects the use of the resource by another user). Pricing based on this balance will send the appropriate signals on how water will be best allocated, distributed and consumed. An environment of free market is where this balance can be best and most easily achieved (Briscoe 1996). This economic approach is often structured around the idea of "full cost recovery" - which is the implementation of a tariff system on users that will recover the initial cost of installing water infrastructure and expenses associated with operation and maintenance. To Briscoe, economic development and environmental sustainability in many countries depend on considering water as a scarce resource, and using economic principles for its management.

Water-as-an-Economic-Good versus Water-as-a-Common-Good

Leading one side of the debate of *water-as-an-economic-good* are some sections of the World Bank, arguing the case for private sector delivery of water. For them, water is no different than other essential goods and utility services and private companies can efficiently run and profitably manage water supply systems. The supporters of this view argue that 'water is often treated as if it is worthless, or that its value is not as immediately evident and observable as that given to oil, petrol etc. When water is abundant and readily accessible people will have no concern for water. Water conservation can be incentivized through pricing; users will cease wasteful behavior as water prices rise with increasing scarcity. So the objective of the economic approach is to make the economic value of water immediately evident and observable. This can be done most easily when a price that reflects 'true value' is attached to water. This is achieved most easily where the market model of development is pursued, and where prices can become the mechanism that sends appropriate signals for everyday decision-making on allocation, distribution and consumption.

The main aim of this approach is to facilitate the management of water as an economic good. At the policy level, this means creating competition and market-like incentives for water delivery through 'demand-driven approaches.' The central aim of their approach is not just to give a price to water, but to balance the value of water on one hand with its 'use costs' and 'opportunity costs' on the other (value = use + opportunity costs).

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That balance is said to be needed to bring prices to that appropriate level that provides signals on the most efficient allocation, distribution and consumption of water. A dictum that structures their approach is that "the less the restrictions there are on water trades, the more the true opportunity costs will come into play" (Briscoe 1996). In an environment of free markets, prices will be self-correcting and self-regulating - i.e. the forces of demand and supply will eventually move prices to settle on that level that achieves the greatest good for the greatest number.

Other side of the debate consists of the 'anti-globalization' activists who views water as a social resource necessary for life. To them, water belongs to the earth and all species for all times (Barlow 2009; Shiva 2002; TNI 2005). It is an inalienable human right and a public trust to be protected and nurtured by all peoples, communities and nations, and the bodies that represent them at the local, state, and international level. Therefore, water is not a commodity and must not be left to the whims of the market because no person or entity has the right to profit from it. Water must not, therefore, be commodified, privatized, traded or exported for commercial gain. Water must be excluded of being a "good", a "service" and an "investment" in all international, regional and bilateral trade agreements (Hernantha 2000: 1). Governments cannot transfer their responsibility to private sector. Water can be best managed by those who use it.

The commodification of water to them is ethically, environmentally and socially wrong. It only ensures that decisions regarding the allocation of water centre on commercial considerations, leaving aside fundamental environmental, social and human rights considerations. Their key argument is that profit motivation is antithetical to rights and sustainable resource management, and excludes those who are too poor to become "paying customers" (Eric 2003: 14). Thus, they favour the management of water as a common and public good, and maintain that access to water is a fundamental human right that the state has a responsibility to protect, uphold and deliver. They attack the World Bank for "consistently privileging multinational water corporations and emphasizing that water should not be supplied to the urban poor unless it is profitable to do so" (Barlow 1999; Yaron 2000).

The Human Right to Water

The call for the right to water came out of the suffering and struggles of thousands of peasants, indigenous people, marginalized and deprived, of many communities round the world seeking the dignity of clean water for daily living and basic sanitation services. Protection of local fresh water sources from corporate exploitation was a major goal affixed to the struggle. The campaign for human right to water has grown enormously during the last decade, mainly with the support of anti-privatization, anti-globalization activists and campaigners who see enclosure of the commons and the

logic of market pernicious to the interests of the common man. They reject the theory of the advocates of private sector involvement that, "through efficiency gains and better management, private companies will be able to lower prices, improve performance, enabling systems to be upgraded and expanded, critical in a world in which one billion people lack access to safe, sufficient water supplies" (Bakker 2007: 437). The entry of private companies working on market principles will deny common man access to safe drinking water and numerous specific instances have been pointed out throughout their work, to substantiate their argument (Bakker 2001, 2005; Barlow 1999, 2009; Barlow & Clarke 2002; McDonald & Ruiters 2006; Robbins 2003).

The application of market principle displaces social equity in water pricing with economic equity, i.e. willingness-to-pay gets weighted over ability-to-pay. In pricing, rather than access or equity, economic efficiency is prioritized. Consumer access is legitimated not by a citizen's entitlement to water as a service, but by a customer's purchase of water as a quasi-commodity. Consumers paying per unit volume at cost-reflective prices will use water more efficiently than unmetered households or farmers accustomed to treating water as a public service. Full cost pricing is inevitable under market conditions, otherwise services are prone to 'free riders' making it too risky for a private firm to invest in and produce them. When the forces of demand and supply interplay freely to determine a value to water that reflects its true cost, it will result in the pricing of water to such an extent that the common man cannot afford it. That is what happened in Tombel, Bolivia, Ghana, Uruguay, Michigan, Wisconsin, Argentina, Manila etc. (Bakker 2001, 2005; Barlow & Clarke 2002; Ben 2005; Robbins 2003).

The people of Tombel, Cameroon have experience with corporatization of water, twice. Water in Tombel first became a commodity in 1940s. It was partially de-commodified in the 1960s, re-commodified in the 1980s and de-commodified again in the 1990s. By 1960s water market became a significant economic burden on the households that the daily cost of water in Tombel was more than 50 percent of their daily income (Ben 2005: 296). This led to the de-commodification of water and by 1963 a pipe network was introduced across the town for the first time. In 1984, the government was introduced across the town for the first time. In 1984, the government department that had officially operated the water supply system for the previous 20 years was replaced by a parastatal corporation, called the Société Nationale des Eaux du Cameroun (SNEC). As revenue collection was the top priority of SNEC, computerized bills and water meters were introduced for both private homes and also public taps. An active programme of disconnections for those who defaulted on the bills was also there. The price of water rose dramatically. From, 7.7 FCFA/m³ [FCFA is the currency of Cameroon when pegged to French Franc. The currency is franc de la Coopération Financière Africaine (CFA franc)] in 1963 it rose to 70.5 FCFA/

m³ in 1971 and to 129 FCFA/m³ in 1982. By April 1982 there occurred a steep rise to 225 FCFA/m³ (Ben 2005: 297, quoted from *Cameron Tribune*, 13 January 1982; 18 August 1982).

Corporatization of water in Tombel resulted in the closure of public taps. The Local Council has to pay the bill for the public taps. By 1984, the bill was about 12 million CFA, around 27 percent of the council's annual budget. The regular default of the bill by the council mounted it to 113 million CFA by the early 1990s. So SNEC began to close the public taps (Tina & Anne 2005: 66). When this strategy became impossible politically, SNEC proposed privatizing each public tap by handing over them to individual entrepreneurs, who would sell water to consumers by bucket full. This project has led to the protests by the women of Tombel and it culminated in the expulsion of SNEC from Tombel in 1994 and the subsequent operation of the water network by a community committee. Water was de-commodified and water meters installed by the SNEC were all removed and public taps were reinstalled.

The enclosure of water commons in Bolivia was under World Bank's pressure. The Bank refused to guarantee a loan to refinance the water services in the city of Cochabamba until the local government sold its public water utility to the private sector and passed on the cost to consumers. The control of Cochabamba water utility has to be handed over to Agus del Tunari, a subsidiary of US water giant Bechtel. The World Bank granted monopoly to the company, called for full cost pricing, pegged the cost of water to US dollar, and instructed the Bolivian government that the loan monies could not be used to subsidize the poor for water services arguing that all water users, including the very poor should be called to bear the full cost of water system and its proposed expansion (World Bank 1999). Water rates increased up to 35 percent forcing families to spend more on water than for food. It went to such an extent that each household has to spend 20\$ out of their monthly income of 100\$ (Barlow & Clarke 2002: 155).

In Manila, Philippines, after seven years of water privatization under a Suez company (Maynilad Water) contract, water rates increased in some neighbourhoods by 400 to 700 percent (Global Exchange 2010). In Argentina, Suez charged high consumer rates and cut off water access for citizens unable to pay (Robbins 2003: 1078), leaving those most in need without access to a life-sustaining natural resource. Water cut-offs occurred in United States, where in 2001, the Detroit Sewage and Water Department cut off water to almost 42,000 residences unable to pay their rising water bills (Barlow 2009: 19). This reminds of the water cut-offs in UK, when Prime Minister Margaret Thatcher privatized and deregulated Britain's water services in the late 1980's. Water has become a private good and access to water is measured by the willingness to pay. Together with enclosing the commons, denial of

water to those who cannot pay gets legitimized under the market system. Besides this, the application of market principles have resulted in corporate exploitation of water reserves, environmental degradation, depletion of water resources and its pollution, all assaults on the human right to water.

The claim to human right to water rests on a shaky legal ground because an explicit reference to right to water is absent in many international documents, while water as an economic good has reference in many. Even though state parties to the ICESCR can no longer deny their responsibility to provide safe water and sanitation for all individuals, after the adoption of the UN Human Rights Council Resolution (2010) affirming that water and sanitation are human rights, concern has been raised from many corners regarding its implementation. Because the states are free to opt the involvement of non-state actors in water and sanitation services. Private sector management has now become the most vociferous supporters of the human right to water. Eyeing on the benefit out of water delivery, water industry representatives identified water as a human right on company websites and began speaking out in favour of water as a human right in the high profile events such as Kyoto World Water Forum and the Davos World Economic Forum. The paradox is that, on the one side when private companies are arguing out for human right to water, on the other side they are acknowledging the 'high risk' and low profitability in supplying the poor (Robbins 2003: 1078). High profile cancellations of water supply contracts in Atlanta, Jakarta, La Paz and Manila, by the water giants following the 'crisis' manifests the 'risk'. As full cost recovery became unable in the South, the private companies has started concentrating on the soundest markets of Europe and Latin America, by leaving or selling out investments in the south.

Conclusion

Garret Hardin in his *The Tragedy of the Commons* (1968), called for restricted access and regulation of use of the common pool resources for its protection and preservation. This argument formed the base for the neo-liberalists to privatize, commercialize and finally commodify the free gift of nature, water. World Bank and its associates, Multi National Companies and the Triad Governments used this free market solution for protecting their interests, in the guise of attempts to preserve the nature. But the corporate enclosure of the commons resulted in gross abrogation of human rights and environmental degradation, round the world. Privatization of water services has become a failure in almost every community where it has been tried. Commodification of water everywhere has left a legacy of corruption, high water rates, cut-offs of water to millions, reduced water quality, abrogation of human and environmental rights and broken promises. The private enclosure of the commons gave hard time for millions of indigenous peoples, peasants and common man, while profit mounted up for the corporates.

The market model, being environmentally unsustainable and anti-human needs to be challenged with alternate models, both in academics and in practice. Academically, it can be done by developing a coherent conceptual framework and a precision in our analysis of neoliberalization. The adoption of human rights discourse by the private companies elucidates the limitation of human right to water as a conceptual counterpoint to privatization. It seems that anti-privatization, anti-globalization strategies centered on the concepts of "commons" are more conceptually coherent and more successful as activist strategies. In the practical side, the alternative to this lies in reforming state governance rather than abolishing it and in fostering and sharing alternative local models of resource management that counterpoises "commons" to "commodity" based property and social relations. The antidote to commodification lies in its decommodification and this can be initiated through the "commons" model of water management. A collaborative management by the state and by those who use it (commons) is often more cautious than the private management, because water can be best managed by those who use it. Being influenced by the cultural, religious and social norms, the use and management of water resource will have its uniqueness everywhere, like the Consumer Councils in England, Public-Public Partnerships in Stockholm, Water Cooperatives in Finland, Community Watershed Board in Canada and the Orangi Project in Pakistan. So no one model of water governance can be imposed elsewhere as they are built on local resource management and community norms, but this non replicability makes them potentially powerful alternatives to neoliberalization.

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