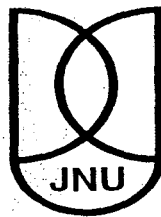


**Privatization of Water: *Contextualizing the  
Contemporary Debates in India***

*Dissertation submitted to Jawaharlal Nehru University  
in partial fulfillment of the requirements  
for award of the degree of*

**MASTER OF PHILOSOPHY**

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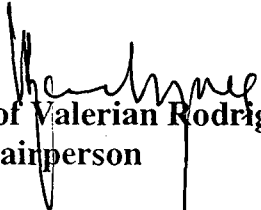
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It is to certify that the dissertation entitled “Privatization of Water: Contextualising the Contemporary Debates in India” submitted by Ruchi Shree is in the partial fulfillment of the requirements of the degree of Master of Philosophy of Jawaharlal Nehru University. This dissertation has not been submitted for the award of any other degree in this University or any other University and is her work.

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*With  
remembrances of  
loving mummy-papa*

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**RUCHI SHREE**

## Abbreviations

- ADB** – Asian Development Bank.
- AKVN** – Audyogik Kendra Vikas Nigam.
- BIGC** – Borai Industrial Growth Centre.
- BOOT** – Build Own Operate Transfer.
- CEO** – Chief Executive Officer.
- CETP** – Common Effluent Treatment Plant.
- CISED** – Centre for Interdisciplinary Studies in Environment and Development.
- CPR** – Common Pool Resource.
- CSE** – Centre for Science and Environment.
- CSIDC** – Chhattisgarh State Industrial Development Corporation.
- GATT** – General Agreement on Tariff and Trade.
- GoI** – Govt. of India.
- GoM** – Govt. of Maharashtra.
- GWP** – Global Water Partnership.
- GWP-TAC** – Global Water Forum – Technical Advisory Paper.
- HEG** – Hindustan Electro Graphite.
- IMF** – International Monetary Fund.
- IWRA** – Indian Water Resources Associations.
- IWRM** – Integrated Water Resources Management.
- LPG** – Liberalization, Privatization, Globalization.
- mld** – million litres per day.
- MMISFA** – Maharashtra Management of Irrigation Systems by Farmers Act.
- MNCs** – Multi National Companies.
- MPAKVN** – Madhya Pradesh Audyogik Kendra Vikas Nigam.
- MSWP** – Maharashtra State Water Policy.
- NAFTA** – North American Free Trade Agreement.
- NGOs** – Non Governmental Organizations.
- NH 6** – National Highway six.
- NWP** – National Water Policy.



**NWP** – National Water Policy.  
**O&M** – Operation and Maintenance.  
**PIL** – Public Interest Litigation.  
**PPP** – Public Private Partnership.  
**PSP** – Private Sector Participation.  
**PWC** – Price Waterhouse Coopers.  
**RFSTE** – Research Foundation for Science Technology and Ecology.  
**RWL** – Radius Water Limited.  
**SRC** – State Reorganisation Commission.  
**SWOT** – Strengths, Weaknesses, Opportunities, Threats.  
**TBS** – Tarun Bharat Sangh.  
**UN** – United Nations.  
**UNESCO** – United Nations Economic, Social and Cultural Organisation.  
**WB** – World Bank.  
**WSR** – Water Sector Reforms.  
**WTO** – World Trade Organization.  
**WWAP** – World Water Assessment Programme.  
**WWC** – World Water Council.  
**WWF** – World Water Forum.

## Introduction

“Ecologically and culturally speaking, water is priceless”

-- Vandana Shiva<sup>1</sup>

“Water promises to be to the 21<sup>st</sup> century what oil was to the 20<sup>th</sup> century: the precious commodity that determines the wealth of nations”

-- Fortune Magazine<sup>2</sup>

In the last decade, massive protests have erupted worldwide as privatization has been pushed in the water sector. The privatization of water in India has been quite a late phenomenon vis-à-vis the other parts of the world. It has been among the last sectors to be opened up for privatization after the policy of Liberalisation, Privatization, Globalization (here after LPG) was introduced in India in 1991. Privatization in water sector involves all elements – hydropower, industrial and domestic water supply, and irrigation. However, globally speaking, water became an issue of contestation much earlier.

Many scholars have argued that privatization has failed to deliver on almost all the claims it made; and what it has delivered has been at great costs.<sup>3</sup> They have questioned one of the most important reasons for favouring privatization in the water sector that is the claim of bringing finances needed to build needed services infrastructure in the developing countries. They argued that the experience in the third world tells a different story. A study conducted for the Asian Development Bank (ADB) in 18 major Asian cities concluded that “.....investment monies....have not flowed as expected into the major concessions. ....It must be concluded that Private Sector Participation (PSP) has not proved to be a panacea for the shortage of development funding in the water supply sector.”<sup>4</sup>

Another argument favouring privatization rejected by the critics is that it will bring a regime of cheaper tariffs for users as competition will grow under the free market systems. They have collected evidences to show that across the third world water rates

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<sup>1</sup> Shiva, Financial Times (22 march, 2005).

<sup>2</sup> Fortune Magazine, ( May 2000).

<sup>3</sup> See for example, Deepak Nayar,

<sup>4</sup> McIntosh Arthur C. (2003) as quoted in Dharmadhikary (et. al.) (2006).

have skyrocketed after privatization of water. To mention a few, in Cochabamba, Bolivia, the tariffs rose sharply to the point that the average worker was being charged about 25% of his/her salary as the monthly water bill.<sup>5</sup> The company had no hesitation in disconnecting the supply of people who could not pay the hiked tariff. In Ghana, the World Bank-International Monetary Fund (now onwards WB-IMF) policies forcing the sale of water at market rate required the poor to spend up to 50 percent of their earnings on water purchases. In Guinea, privatisation resulted in tariffs increasing by 750%, and severance of 10,000 connections – about a third of the total – as a result of non payment.<sup>6</sup> The most striking consequence and failed promises of privatization seems be the sacrifice of the social responsibility of providing water to the poor. For the private sector, profits are the primary and only concern, and they have exhibited the lack of concern for the larger societal obligation.

In 1991, the Government of India announced its policy of opening the power sector to private players. As a part of this, hydropower was also opened to private sector participation. This meant that the private companies could build, own and operate dams, establishing control over river waters. There are several private sector hydropower projects like Vishnuprayag (Uttaranchal), Malana (Himachal Pradesh) and many more. Now, state is promoting privatization in the other parts of water sector e.g. industrial water supply, drinking water supply, etc.

In India, privatization in water sector is taking place through two modes.<sup>7</sup> The first mode is Outright Privatization of Water Services through the likes of Build Own Operate Transfer (BOOT) projects or management contracts. This mode is being used for industrial water supply projects and is likely to be used for irrigation projects. The second mode, which is more insidious, is through Water Sector Reforms (WSR) pushed by the World Bank (WB) and ADB. They are following the same line as power sector reforms in India, and indeed similar to the WSR all over the world. It seems the underlying thrust of the Indian state is of converting the whole water sector into a market.

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<sup>5</sup> Dvivedi, Rehmat and Dharmadhikari (2006), p. 6.

<sup>6</sup> Ibid, p. 6.

<sup>7</sup> Ibid, p. 14.

The privatization projects funded by the WB, ADB and other aid agencies are usually labelled as “public-private partnership”. It is not difficult to see that this label is powerful, both because of what it suggests and what it hides. It implies public participation, democracy, and accountability. But it disguises the fact that public-private partnership (PPP) arrangements usually entail public funds being available for the privatization of public goods.<sup>8</sup> PPPs in the water business are meant to replace water services as one of the public services.<sup>9</sup> It is critical to understand the implications of phenomena privatization and reforms in the water sector, i.e., the process of transformation and transition from PSP to PPP to WSR.<sup>10</sup>

### **Statement of the Problem:**

The debate over privatization of natural resources in general and water in particular is quite complex and confusing. Every party in debate asserts that it is advocating on behalf of the people, in the general interest of the society and for the common good. It is important to examine this debate in order to explore the layers of their interests to decipher the appropriation and misappropriation of the concepts and categories to mystify the real intentions.

In case of water, the worldwide experience of privatization shows that people at large have suffered. However, the Indian state, despite this, is agreeing with the WB-IMF strategy and government after government irrespective of their political ideologies, is adopting these policies. In this context, it is pertinent to examine the nature of the debate so that ideological and rhetorical dimensions are deciphered to clearly differentiate between the interest of the people and interest of capitalism. To take stock of the debate on water this thesis takes up a test question that is ‘who owns the natural resources’. This question can help us in exploring the theoretical and

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<sup>8</sup> Shiva (2002), p. 89.

<sup>9</sup> Ibid, p. 90. Shiva quotes Meera Mehta, “first is the focus on *commercial exploitation* through institutional reforms and restructuring. First step may be restructuring the water and sewage department on a profit center basis. Over time, corporatisation of the utility or separate joint venture companies to manage the water and sewage system will help to bring the necessary commercial orientation.”

The second aspect relates to the need for an appropriate regulatory framework. The basic objective of such institutional reform is to move towards a commercial and consumer orientation in service provision. The entire outlook changes from publicly provided free services as a right, to a consumer orientation with access to service.

<sup>10</sup> Dwivedi, Rehmat and Dharmadhikary (2006), p. 9. I have written about this transition in detail in the concluding part of this work.

ideological underpinnings of the positions taken by different participants in this debate.

### **Survey of Literature:**

A cursory look at the range of literature produced in last few decades directly or indirectly related to privatization of water shows that there is a wide range of issues involved and they are quite varied too. Some of the scholars have directly taken up the questions raised by this dissertation, but many of them have not reflected on it directly. In order to create operational categories for survey of literature one way can be dividing them as 'pro' and 'anti' privatization literature. Within that also there is variation of 'degree' of favouring or opposing it and also the way they are arguing. There are scholars who have explored the possibility of a midway between this kind of binary approaches.

Let us look at the literature that argues against privatization. There is a group of scholars/activists like Maude Barlow, Tony Clarke, Vandana Shiva and others who take up water privatization as a worldwide phenomenon and see the WB-IMF as its main perpetrators. Maude Barlow and Tony Clarke's *'Blue Gold: The Fight to Stop the Corporate Theft of the World's Water'*<sup>11</sup> portrays water as precious as oil, the blue gold of the future. The issues like privatization of water services, community rights, etc. don't provide substantially new facets of the existing debates. A new concept introduced here is, 'to share and protect the global water commons'.<sup>12</sup> The underlying philosophy is that water is the common property of all and must be protected and used as such, and should not be monopolised by a few. More or less on the same lines, the global character of the debate has been outlined in Vandana Shiva's *'Water Wars: Privatization, Pollution and Profit'*<sup>13</sup>. Shiva has used the international water trade and industrial activities such as damming, mining and aquafarming as her lens to expose the destruction of the earth and disenfranchisement of the world's poor as they are stripped of a precious common good i.e. water. She celebrates the spiritual and traditional role that water has played in communities throughout the history and warns that water privatization threatens cultures and livelihoods worldwide. She traces the

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<sup>11</sup> Barlow and Clarke (2002).

<sup>12</sup> Ibid, p. xvii.

<sup>13</sup> Shiva, Vandana (2002).

roots of privatization in Locke's treatises on property which partially resembles the larger picture to be drawn in this work.

Barlow and Shiva's biggest attack is against the corporate interests in water i.e. the global nexus of big business lobby organisations, the World Bank and for-profit water corporations, are separating water from the 'commons' to which it belongs. But the critics argue against Barlow's criticism of the entire WTO framework as anti-water as not only unreasonable but also not helpful in saving water resources by any means. Another criticism is that though they accused the international framework of being anti-conservationist, but don't provide us an alternative model. Shiva's writings are criticised as they lack explanation as to how the 'community based' institutions create incentives for appropriate water use, and they are selective in their choice of communities.<sup>14</sup>

Another group of writers like David Mosse and Sunita Narain are not directly raising the issue of privatization but they are focussing on the institutional changes which have taken place over a period of time in India's water sector. Centre for Science and Environment's *'Dying Wisdom: rise, fall and potential of India's traditional water harvesting systems'*<sup>15</sup> traces the roots of Indian water harvesting systems lying in a pre-colonial 'organic village economy' which was risk-reducing and surplus-generating. It also reinstates this familiar (often explicitly Gandhian) representation of India's autonomous traditional 'village republics' as the primary locus of the management of natural resources as well as economic and political affairs.<sup>16</sup> David Mosse' *'The Rule of Water: Spacecraft, Ecology, and Collective Action in South India'*<sup>17</sup> tries to show how water resources of all kinds are never simply there, but are produced, used, and given meaning by shifting social and political relationship. He shows how water control systems come to inscribe new forms of power and new

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<sup>14</sup> Mitra, Okonski, Satyanand (ed.) (2007), p. 72. Morriss says that Shiva is highly critical of 'cowboy economics' and the prior appropriation doctrine of the American West but fails to recognize that the development of prior appropriation was a community response to arid conditions in the West. At the same time, she praises communal water system in India, which were based on existence of a landless caste whose neutrality in allocating water stemmed from their lack of resources. She does not explain how the existence of a 'landless caste' is consistent with democracy nor how they would maintain their neutrality if they were allowed to own land.

<sup>15</sup> Agarwal and Narain (1997). Sunita Narain is also the director of CSE.

<sup>16</sup> Ibid, p. 274-381.

<sup>17</sup> Mosse, David (2003).

articulations of state and society. The intervention of the state and particularly the colonial state's assertion of proprietary rights over commons resources are judged as the principle force behind the demise of village traditions.

The need to revive India's traditional water harvesting systems as the essence of both the books seems to be missing the economic aspect of water. However, these two are very important for my work as both the books have stressed upon the fact that British rule converted village common property into state property and centralized bureaucracies overtook the decentralized village water systems. It continued in the post-independence India where Nehru's vision of modern India with large dams as its temples<sup>18</sup> was preferred over Gandhi's vision of independent India upon its village heritage.

All the above described literatures have a tilt towards community ownership of a natural resource like water. However, each of them certainly approached in a different way. Now coming to the pro-privatization literature, we will have a look at a few of them. John Briscoe and R.P.S. Malik's *'Handbook of Water Resources in India: Development, Management and Strategies'*<sup>19</sup> presents a set of papers on major water policy issues in India. Foreword of the book mentions that the original version of the chapters was commissioned by the World Bank as inputs to help define India's water challenges and the needed responses. The book uses the terms like 'water rights and entitlements' as an urgency in the backdrop of increasing water-scarcity and poses it as distinct from water privatization and commercialization. These need not be ownership rights as they can be equally effective as usufructuary (or use) rights.<sup>20</sup> Integrated Water Resources Management (IWRM) has been provided as one of the best possible way to overcome the water scarcity.

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<sup>18</sup> Ibid, p. 11. Mosse has quoted it from Peter Mollinga's Ph. D., dissertation (1998: 84). Mollinga has given a reference to Nehru's famous description of dams as the new temples of India, which also gave 'engineers an aura of priesthood'.

<sup>19</sup> Briscoe and Malik (2007).

<sup>20</sup> Ibid, p. 282.

Barun Mitra, Kendra Okonski and Mohit Satyanand's *'Keeping the Water Flowing: Understanding the Role of institutions, Incentives, Economics and Entrepreneurship in Ensuring Access and Optimising Utilisation of Water'*<sup>21</sup> outlines the institutional framework necessary to reform the water sector. The contributors of this book view markets as the best institutions, especially when compared to alternatives, producing the fairest and least discriminatory outcomes, the most environmentally beneficial and the most efficient uses of scarce water. However, they agree that markets, like all human institutions, work "imperfectly".<sup>22</sup> They argue that the govt. has failed to deliver water supply and thus private sector should be given a chance as it has ability to provide quality service at a low price provided through competition. They favour the creation of tradable water rights<sup>23</sup> to help reduce wastage of water. It will encourage people to develop an interest in conserving the water in order to sell it.

These two books favouring privatization of water stress on treatment of water as a commodity and as any other tradable good. A. Vaidyanathan and Ramaswamy Iyer, two prominent and senior-most water sector researchers in India seem to be looking forward to strike a balance between the 'pro' and 'anti' camps on water privatization. Vaidyanathan's *'India's Water Resources: Contemporary Issues in Irrigation'*<sup>24</sup> is focused on agriculture but covers larger issues of water policy and management. He says that different aspects of water – physical, environmental, technological, economic and institutional – are closely interrelated. Though, he admits that recognition of this is easier than its implementation. This book has immensely helped me while doing the Indian state's part in the second chapter of my work. Ramaswamy Iyer's *'WATER: Perspectives, Issues, Concerns'*,<sup>25</sup> and *'Towards Water Wisdom: Limits, Justice, Harmony'*<sup>26</sup> examine the inadequacies of India's water laws and policies. He redefines the projected water crisis as one of mismanagement rather than scarcity and there is a need of sustainable management of the resource.

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<sup>21</sup> Mitra, Okonski, Satyanand (et. al.) (2007).

<sup>22</sup> Ibid, p. 23.

<sup>23</sup> Ibid, p. 99. The difference between water rights and right to water need to be understood clearly.

'Water rights' refers to ownership rights of water, similar to property rights. 'Right to water' refers to an individual's right to have access to a certain minimum quantity of water that is necessary to sustain life.

<sup>24</sup> Vaidyanathan (2006).

<sup>25</sup> Iyer (2003).

<sup>26</sup> Iyer (2007).



### **Structure of the argument:**

I will suggest that the survey of the debate in this dissertation shows that there is a deep linkage between the arguments and positions taken on natural resources within the liberal, welfare and Gandhian philosophy regarding the ownership of natural resources and positions taken by three parties in the debate. In fact, the point is made here that to understand the complex debate today we need to go back to the three philosophical positions taken earlier. The survey reveals that three concepts: rights, needs and wants, are most crucial in this debate. The complexity of debate emanates from the definition and redefinition of these terms and their interrelationship. These points are strengthened when we take a concrete case of river privatization and analyse the positions taken by different parties.

### **Scheme of the Chapters:**

This dissertation has three chapters. The first chapter, *'Who Owns the Natural Resources: An Enquiry'* starts with analysis of the very term 'natural resources'. There are many aspects of looking at its significance i.e. social, political, cultural, spiritual and economic. But in today's context, we can see that the economic aspect of natural resources has been prioritised over the other aspects. On the basis of its ownership and availability, natural resources can be divided in three categories – state-managed, market-managed and community managed. This categorization has been followed throughout the work. The chapter has been divided into two main parts and within that there are sub-parts also. *First* part has three sub-parts which elaborates each of the categories given above. Each of them has references from the writings of Western and Indian thinkers falling in different categories. In the proponents of state-managed natural resources, I have put Harold Laski, Jawaharlal Nehru and John Rawls. Since none of them have written on natural resources in particular, I have explored their views on state, property and conception of rights, which are in a way directly linked to the idea of ownership. John Locke's 'right to property', Adam Smith's 'free trade' and Robert Nozick's 'entitlement theory' reflect the philosophical moorings of market-managed natural resources. In the last category i.e. community-managed natural resources, the Natural Law Conception of Ownership and Gandhi's Economic ideas and its consequences have been mentioned. *Second* part elaborates the concepts like 'need', 'rights' and 'wants' in a liberal framework. How the 'needs'

and 'wants' are too distinct from each-other but at times treated in the same manner. How the very meaning of 'need' has been changed by the WB-IMF as they argue that water is a need and like all other needs it should be available in the market. We consider 'need' as the inherent principle behind 'right' but in case of water, rather than complementary these two are being pitted against each-other.

The second chapter, *'Debating Water: State, International Organizations and NGOs'* has continuity with the first chapter by introducing the stakeholders and their terms of debate. The main idea behind doing this chapter is to bring out the views of different claimants which in turn reflects their 'pro' or 'anti' attitude towards the privatization of water. As the title unfolds itself, there are three main parties which I am taking up for doing this exercise. However, the last chapter's category of market perspective has been introduced as the international organizations for doing this chapter. For the first one i.e. state, I will write about the Indian state that which kind of development trajectory has been followed by it in last sixty years, what has been its impact on the policies related to water (the influence of the WB-IMF), etc. Under the international organizations, I will look at the views of the UN and WB-IMF, which at times seem to have different notions regarding water but also overlap in certain cases as I will mention the dilemma of their ideologies in first chapter (right-need dichotomy). Their view is more or less based upon maximizing the use of water in an efficient manner, which in turn favours the market in general and the MNCs involved in water-business in particular. For doing the NGOs part, I will a look upon the arguments given by people like Vandana Shiva and Rajendra Singh, etc. They are basically opposing the state-model of development as a faulty one which favours the interests of only a few at the cost of others.

The third chapter, *'River Privatization in India: Case of Sheonath River'* will have a look at the first case of river privatization in India. How the different stakeholders have justified their positions in case of privatization at a practical level. Since the earlier two chapters were based on the philosophical moorings of the debate and its impact on policy-making, this chapter gives us empirical evidences. In 1998, Radius Water Limited, an Indian company, entered into a BOOT (Build-Operate-Own-Transfer) agreement with Madhya Pradesh Govt. (now the part of Chhatisgarh) – a 23 km stretch of the Sheonath River was given at lease for 22 years. BOOT system is the

product of World Bank's policies related to water (to be discussed in detail in the second chapter). The company denied the local people their access to water for their daily needs. For some of them, it was the only source of livelihood (the poor fishermen and others who needed water for agriculture, etc). A civil society organization filed a PIL in the State's high court in Raipur, challenging the privatization of the river on the grounds that it had adversely affected the lives of the poor local people, threatening their 'right to life' and also 'right to water'. Finally, due to massive protests, the govt. had to cancel its contract.

### **Conclusion:**

To sum up, I will show in the following pages that the debate on water is quite complex and it is very difficult to clarify the positions taken up by the parties in debate. On the one side there are pro-market forces like World Bank and IMF debating 'for' privatisation and on the other there are people's movements and NGOs arguing 'against' privatisation. The state seems to be standing somewhere in between and trying strike a balance. If water is a basic need and therefore a basic right, the state has a responsibility to ensure that no one is denied of it.<sup>27</sup> Even if the supply is entrusted to a private agency, the state's responsibility does not disappear and in case of failure on the part of private agency, the responsibility will subvert to the state.

However, under the regime of neo-classical economic policies, state seems to be changing its position. State is emerging as post-welfare capitalist state. There is a broad agreement on WB-IMF policies. But, as we know India is a complex society and state in people's imagination still remains quite welfarist. Consequently, grassroots are throwing new challenges and new dilemmas. This dissertation will try to demystify the debates on water by linking the contemporary debates with the philosophical and theoretical roots of them.

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<sup>27</sup> Iyer, Ramaswamy (2007), p.140-1.

## Chapter One

### Who owns the Natural Resources: *An Enquiry*

“Water is affected by everything, and water affects everything and everyone.”

-- World Commission on Water for the 21<sup>st</sup> Century<sup>1</sup>

Natural Resources such as land, air, water, petroleum, etc are naturally occurring substances that are considered valuable in terms of their relatively unmodified (natural) forms. In the analysis of the term ‘*natural resources*’, while ‘*natural*’ suggests an existence outside culture, something that is not an artifact of human making (like minerals, forest wealth or the bounty of rivers), ‘*resources*’ invoke utility, its culturally produced use and exchange values, something to be efficiently managed. Linking these antinomies are notions of property and possession, stewardship and responsibility, the right to use and appropriation.<sup>2</sup>

We may have various ways of looking at the significance of natural resources – social, economic, political, cultural, ecological. Each of them can be developed as a perspective in its own with certain overlapping with one another. Amita Baviskar and David Mosse have elaborated upon the cultural politics approach to natural resources.<sup>3</sup> A cultural politics of natural resources treats identities, interests and resources, not as pre-determined givens, but as emergent products of the practices of cultural production. By emphasizing power, process and practice, this approach treats “culture itself as a site of political struggle”.<sup>4</sup> When we talk about an issue like ‘privatization of water’, though

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<sup>1</sup> This commission was set up by the World Water Council in 2000. This quote is from its report named ‘*A Water Secure World*’, which came in the same year.

<sup>2</sup> Baviskar (2003), *EPW*, p. 5051-5055.

<sup>3</sup> *Ibid*, p. 5052. Cultural politics suggests that natural resources have value within a larger economy of signification which crucially shapes their modes of appropriation. They are also resources for collective representations that exceed the concern with immediate material use. This ‘social life of things’ is well-illustrated in David Mosse’s study of village water tanks in Tamil Nadu where Dalits mobilized for representation in the association that managed these bodies (Mosse, 2003: pp. 279-282). Cultural politics thus embeds resource struggles within a larger symbolic economy where the ‘roles’ that resource perform are many.

<sup>4</sup> Moore (et al) (2003), p. 2.

the economic aspect of water becomes central but still the cultural aspect is inherently linked to it.<sup>5</sup>

For my research on 'Privatization of Water', I have taken 'water as a natural resource' due to its availability in the nature of a 'common pool' serving multiple uses and its numerous users.<sup>6</sup> The specification of the quantum and quality for different users is not only complex but ensuring a match between supplier and individual user is extraordinarily difficult. In case of natural resources, the ownership is a contested issue individual claim' or 'community on behalf of the people' or 'state on behalf of the people and community both' or 'markets as the most efficient institution' to effect the worldwide.

Who is the owner of natural resources: market, state or community? Like other natural resources, the ownership of water is also too complicated and these three main claimants i.e. community (including various groups of people, in urban as well as rural areas, defined in the sense of being geographically located in the area of natural resources and dependent on it.), state and market often contest with each other. There are pros and cons of each of the parties considered as owners. Earlier the natural resources like land and water were in abundance and they were mostly managed by communities before the evolution of nation state. With the rise of the modern concept of private property the issue of private ownership of land as natural resources and emergence of state as the custodian of people, the issues like property and the role of state became central to the political theory. Many of the natural resources were hitherto available in abundance. But, today we are living in an age where with the emergence of scarcity of the natural resources, a fresh debate on its ownership and management has emerged. There are many claimants and they are engaged in fierce debate regarding its ownership. One can easily locate the struggle for defining the ownership of water as natural resource in the theory and practice produced by different parties in struggle. The effort in this dissertation is

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<sup>5</sup> Here I would like to mention something specific about India. We as Indians value water not only for the issue of survival but also the spiritual attachment is deeply embedded in us. The importance of River Ganga to us makes it beyond our imagination to think of its privatization. Though the possibility is there as once the drive of privatization of rivers starts, the market will not recognize any kind of difference among them.

<sup>6</sup> Vaidyanathan (2006), p. 131.

made to map out the contours of this debate by exploring the positions different parties involved are taking in the debate on water.

It would be convenient to capture the nuances of this debate by putting them into three categories: **a) Market-managed Natural Resources;** the argument here is that market is an efficient institution and it works on the rational ground, it can take care of striking a balance between the interest of multiple stakeholders, therefore, management of natural resources should be left to the invisible hands of market; **b) State-managed Natural Resources;** it suggests that state is the only legitimate custodian of natural resources and therefore, it should be managed by the state; **c) Community-managed Natural Resources;** natural resources are used by the communities as they are defined by their location in a particular geographical regions, their knowledge systems are competent to make best use of these natural resources and their survival depends on them, therefore, these communities should have priority over the state as far as ownership of natural resources is concern.

This categorization will be followed in my work to study the thinkers as well as the institutions (in the second chapter) concerning the management of water as natural resource. One of the aims of this chapter is to engage with the philosophical debates regarding the ownership of natural resources. I am looking at the writings of political philosophy which are directly or indirectly linked with natural resources and with the pattern of its distribution. It will also help me in the next chapter to see the philosophical moorings of the arguments given by the parties involved in debate.

This chapter has two sections – the first section elaborates upon the issues raised by three categories mentioned above. I will select two or three thinkers from each category for this purpose. Though, the selection of thinkers in each category is not very neat as boundaries of these discourses are fuzzy and they incorporate mixed set of arguments. For instance, very often the state may function with market or community may function with state. The second section tries to abstract some of the core concepts (i.e. rights, needs, wants) in these debates and suggests that debates on natural resources in general and on water in particular revolves around these core concepts. Since these concepts very often lead to

confusion when we discuss an issue in a liberal framework, it becomes important to know if right and need be treated as opposite or complementary to one another. In the next chapter, I will show that this need-right dichotomy is core idea in the ongoing debate on water privatization even in the contemporary period.

As mentioned above, in this section there are three sub-sections discussing the ideas of different claimants in order to trace their philosophical roots. To do so, I have analysed the ideas of thinkers like Locke, Smith, Laski, Nehru, Gandhi, etc. depending on their view on rights, property, state, etc.

### **1.1 Natural Resources: Invisible hand of the Market**

As we know that market is a structure that allows buyers and sellers to exchange any goods, services and information. The availability of buyers, sellers and of goods they are interested in determines the price of the commodity. This definition implies that at least three actors are needed for a market to exist; at least one actor, on the one side of the market, who is aware of at least two actors on the other side whose offers can be evaluated in relation to each other. The market facilitates trade and enables the distribution and allocation of goods and services in a society. Markets are allocative mechanisms whereby price signals indicate opportunities for exchange. They are coordinating structures whereby the revealed subjective values of participants are thought to reflect the expression of free will.

Markets allow any tradable item to be evaluated and priced. It is sometimes thought that market emerges more or less spontaneously and natural. Another claim is that it is constructed deliberately by human interaction in order to enable the exchange of rights (of ownership) of services and goods.<sup>7</sup> But, it is often claimed that markets have existed as long as there have been more than two individuals.<sup>8</sup> While exchange may indeed be as old as human race, mere exchange – while necessary – is not sufficient to establish market. A more fundamental issue is involved here i.e. to say that markets have existed “forever” is to leave the impression that markets are naturally free and autonomous

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<sup>7</sup> Encyclopaedia of Political Economy (1999), p. 691.

<sup>8</sup> Ibid, p.691-2.

institutional processes. On the contrary, markets must be socially constructed.<sup>9</sup> Markets as socially constructed means are to effect the exchange of present values for current and future benefit streams. They arise to mitigate the perceived imbalance of abundance and scarcity between individuals over time.

Taking up these arguments of market perspective, we will see how it affects a natural resource like water. Water is both a vital and instrumental good. It is vital because all life requires water and it is instrumental because human beings use water in a variety of products and processes, at different times, in different places and with different quality requirements. So, water is not only a common and social good but also an 'economic good'. The process of delivering a specific quality of water to the right place and at the right time involves expenditure of resources. Here we have the role of 'market' as an institution which has survived for time immemorial for various purposes.

Andrew P. Morriss<sup>10</sup> gives four arguments to show why it is appropriate to value water with market processes:

- a) Markets are a low cost means to provide important signals to people about the value of various uses of water. These signals help water flow to the uses where it produces the largest net benefit for water users.
- b) Markets allow the changes in knowledge and demand. Because they provide a dynamic – rather than a static – valuation, markets adapt to constantly changing circumstances.
- c) Markets encourage the production of new knowledge about water: new uses and new ways to think about these uses, new conservation methods, new delivery methods, etc. Thus, markets encourage investment in meeting human needs.
- d) Markets don't require large scale agreement among these participants on overall ends, allowing a diversity of individual ends to coexist peacefully.

Morriss further explains it by giving an example – Smith wants to water his lawn; John wants to drink: How do we know which use is more valuable, or how a wider set of individuals would prioritize those uses? Without a market to allocate the water between

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<sup>9</sup> Ibid, Karl Polanyi's (1957) statement has been quoted in the Encyclopaedia.

<sup>10</sup> Morriss, P. Andrew (2007), p. 53-78 in Mitra, Okonski and Satyanand (et.al) (2007).



Smith and John, we must use some alternative mechanism. Without prices, administrative allocations often rely on crude proxies for use-value. Thus, residential users often pay the same price for the water they drink and the water used for their lawns, even though a residential lawn would likely to be a lower valued use.

This argument of Morriss is particularly favoured one in the era of globalization, when markets have become the underlying institutions which are connecting the nations and people across the world. Markets and their supporting agencies are the means which enable us to fulfill our myriad needs of different ranges. Let us examine this idea little further what great advocates of Market, the liberal philosophers like Locke, Adam Smith and Nozick have to say. I will take up their views on property rights, limited role of state, etc. in order to see the philosophical moorings of market perspective. Locke as one of the earliest exponent of 'private property' uses the word property in two senses. In a broad sense, it covers a wide range of human interests and aspirations; more narrowly, it refers to material goods. He argues that property is a natural right as it is a product of human labour and this establishes the private ownership on natural resources. In addition, property for Locke precedes government and government cannot take away people's natural rights (right to life, liberty and property).

Originally published in 1689, Locke's *Two Treatises of Government* has long been recognized as one of the "great books" of political philosophy. Students and scholars have returned to it time and again, seeking out the intellectual origins of the fundamental concepts like natural rights, social contract, limited government and rule of law. This book was generally seen as a part of a great "liberal" tradition whose origins lay in the 17<sup>th</sup> century struggles against the Stuart monarchy and whose development was tied with the triumph of commercial and industrial capitalism in the 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> century. The secondary literature available on this book is almost as old as the book itself.<sup>11</sup> Interpretations and criticisms of it percolate through out the 18<sup>th</sup> and 19<sup>th</sup> century in the works of people like Mandeville, Rousseau, Hume, Smith and the two Mills. For them, this book remained a point of reference against which their own political ideas could be developed.<sup>12</sup>

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<sup>11</sup> Harpam. J. Edward (1992), p. 3.

<sup>12</sup> Ibid, p.3.

The *Two Treatises* is divided into the *First Treatise* and the *Second Treatise*. The original title of the *Second Treatise* appears to have been simply "Book II," corresponding to the title of the *First Treatise*, "Book I." *First Treatise* attacks patriarchalism in the form of sentence-by-sentence refutation of Robert Filmer's *Patriarcha* and the *Second Treatise* outlines a theory of civil society based on natural rights and contract theory. It is the chapter V of the *Second Treatises* which Locke has titled as 'of PROPERTY'.<sup>13</sup>

To put Locke's argument in little detail, he advances the theory that when one mixes one's labor with nature, one gains ownership of that part of nature with which the labor is mixed, subject to the limitation that there should be "enough, and as good, left in common for others."<sup>14</sup> In developing his theory of natural rights, Locke draws upon the natural law tradition that stretched back, in particular, to the thought of the 13<sup>th</sup> century philosopher St. Thomas Aquinas (1224-74), which had been revised by Dutch philosopher, Hugo Grotius (1583-1645). Moreover, within the context of English politics in the late 17<sup>th</sup> century, Locke was consciously formulating his theory as part of his broader attack on political absolutism.<sup>15</sup> To a large extent, his theory was a critical response to other contemporary theoretical accounts of political authority.

The chapter V of *Second Treatise of Government* has concentrated mainly on property in Locke's narrow and more restricted use of the term – that is, possession of land and other goods, such as houses, furniture and other personal belongings, that could be sold or exchanged for money. In this account of property, Locke begins by maintaining that both divine revelation and reason have demonstrated that God gave the earth to mankind in common for their use and enjoyment. Since all human beings have an equal right to life, they also have an equal claim over the fruits of the earth. But the question arises that how and why this common resource will become someone's private property? Locke has given two arguments in favour of private property – a) that an individual requires private property in order to preserve their lives, to stay alive and b) since an individual owns the labour of his body when he mixes it with nature, it becomes his private property.

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<sup>13</sup> Laslett, (1988), p. 21.

<sup>14</sup> Schrems, (2004), p. 54.

<sup>15</sup> Jones, Tudor (2002), p. 245.

This does not yet say why an individual is allowed to take from the common store of nature. There is a necessity to do so in order to eat, but this does not yet establish why others must respect one's property, especially as they labor under the like necessity. Locke assures his readers that the state of nature is a state of plenty: one may take from communal store if one leaves a) as much and b) as good for others, and since nature is bountiful, one can take all that one can use without taking anything from someone else. Moreover, one can take only so much as one can use before it spoils. There are then two provisos regarding what one can take, the "as much and as good" condition and "spoilage."

To simplify it further by giving an example, gold does not rot, neither does silver, nor any other precious metal or gem. They are, moreover, useless, their aesthetic value not entering into the equation. One can heap up as much of them as one wishes, or take them in trade for food. By the tacit consent of mankind, they become a form of money (one accepts gold for apples with the understanding that someone else will accept that gold for wheat). One can therefore avoid the spoilage limitation by selling all that one has amassed before it rots; the limits on acquisition thus disappear. In this way, Locke argues that a full economic system could, in principle, exist within the state of nature. Property could therefore predate the existence of government.

In the 20<sup>th</sup> Century, many scholars made Locke into the founder of bourgeois capitalism. For instance, C. B. Macpherson<sup>16</sup> argued in his *Political Theory of Possessive Individualism* that Hobbes and Locke stood together in laying the groundwork for proto-capitalism. He saw them both as instigators of the liberal tendency to view the subject as a possessive entity in an economic sense, and argued that Locke's striking account of property rights in the state of nature should be read primarily as a justification for market economic relationships. According to MacPherson, Locke's major achievement in his theory of property was "to base the property right on natural rights and natural law, and then to remove all the natural law limits from the property right."<sup>17</sup>

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<sup>16</sup> Macpherson (1962), p. 199.

<sup>17</sup> Ibid, p 199.

In MacPherson's work, the theory of property took center stage in his overall evaluation of Locke. MacPherson argued persuasively not only that Locke's political philosophy reflected the "spirit of capitalism" as had Strauss<sup>18</sup>, but he claimed even more strongly that Locke consciously designed his theory of property to provide a rationale for the developing capitalist society of seventeenth century England. He saw Locke as one of the first apologists for capitalist appropriation and an advocate of the "dictatorship of the bourgeoisie." There is a lot of inconsistency in the secondary literature available on Locke. While a group of scholars i.e. liberals celebrate him as defender of capitalism (for taking private property as a natural right), on the other there are scholars who criticize him for the same.

Today, we are not living in the same age of Locke when it was state of plenty of natural resources and whom so ever mixes his labour with 'commons' will become his private property. However, to an extent the way corporate sector is grabbing the natural resources, they seem to be following the path shown by Locke. Though, it is very clear from Locke's writings that the 'rights' were given in order to satisfy 'needs'. The purpose of converting 'needs' into 'rights' was twofold, a) for survival, and; b) to maximize the production. These two purposes became the justification for private property though it is a very complicated and fuzzy process. Later, with the growth of capitalism, the 'maximization of production' aspect became too important. Locke's ideas are very important in our times as once again the role of state is being curtailed to provide more space to market.

Let us take Adam Smith as the second example under this category. Adam Smith was one of the most influential thinkers in the history of capitalist economics. He was writing during the earliest phases of industrial revolution and is often cited as in support of unregulated economy – the less the government interferes with business, the more prosperous the nation will be. Although, he was not an absolutist and he recognized that some tariffs are necessary but he generally opposed restrictions on international trade. These arguments have been repeated in recent years in U.S. in the context of debates over the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariff and Trade (GATT).

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<sup>18</sup> Strauss, (1953), p. 215.

In 1776, Smith published his famous economics tome, *The Inquiry into the Nature and Causes of the Wealth of Nations*.<sup>19</sup> The book was first systematic attempt to explain the workings of the economy in market terms, emphasizing the importance of the division of labour. Though, he is often seen as a free-market theorist, Smith was nevertheless aware of the limitations of the market. Smith opens *Wealth of Nations* with a lengthy description of how the division of labor, or specialization, benefits and increases trade. One of the early advocates of free trade, Smith deplores the use of tariffs and other protectionist measures. He argues, for example, that constraining imports sacrifices the good of the consumer to the profit of manufacturers.<sup>20</sup>

Smith rails against regulations meant to enhance domestic industries, claiming that they actually harm the nation. For him, trade conducted freely is always beneficial. "That trade which, without force or constraint, is naturally and regularly carried on between any two places is always advantageous . . ." <sup>21</sup> Smith says that the state should ensure the provision of public services, ranging from education to canals, harbours, bridges and roads – services which are: "of such a nature, that the profit could never repay the expence of any individual, or small number of individuals, and which it therefore can not be expected that any individual or small group of individuals should erect or maintain."<sup>22</sup> Smith also advocated taxing the rich to support the poor by the use of a tollway tax.

Smith criticized against capitalists and corporations but at the same time defended the free trade. What Smith criticized was not economic activity, prosperity, or initiative, but the effects of concentrations of power and wealth. He argued that such concentrations actually hurt society, because those who accumulated such power re-engineered society for their own benefit. Smith did not address a crucial difference between the corporation and government. He says that the governments, however imperfect, can be brought under a degree of democratic control.

Smith's argument against corporate privilege was due to his belief that the primary purpose of the corporation was to secure special privileges. In the book *The Emperor's*

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<sup>19</sup> Smith, Adam (1776) (later published in 1976, with an introduction by Max Lerner).

<sup>20</sup> Ibid, p. 715-16.

<sup>21</sup> Ibid, p.521.

<sup>22</sup> Ibid, V.i.c.i.

*Nightingale*, Robert Monks<sup>23</sup> analyzes *Wealth of Nations* and argues that Smith voiced four basic concerns about the corporation, at that time called as joint-stock company. These were the tendencies to seek unlimited life, unlimited size, unlimited power, and unlimited license. Smith also regarded the corporation as an impediment to free trade, which was one of his main concerns of writing this book.

While mercantilist economic theory and the political theory of John Locke emphasized the accumulation of money, Smith stressed the importance of the “accumulation of stock” (i.e. physical means of production) and its results.<sup>24</sup> He presumed that only private entrepreneurs accumulate, while the govt. and the landed aristocracy only consume. Accumulation allows the extent of the market rise, allowing the benefits of expansion to trickle down to the lowest orders of the population. Adam Smith not only created an “economic blueprint” that defined the natural mechanisms of a free economy, but he was also a moral philosopher.

Robert Nozick is the last thinker I am taking for doing this sub-section on market perspective. He revived the Lockean idea that individuals are absolute owners of their talents and capacities. He used this argument to justify private property. Nozick along with F.A.Hayek and Milton Friedman is among the contemporary proponents of the view that equality is incompatible with freedom. For Nozick, the liberal egalitarian principles of Rawls and Dworkin are a threat to freedom because they require redistributive policies which violate the rights of individuals to keep what they have justly acquired. Any liberal commitment to welfare proposition to enlarge equality or opportunity, according to Nozick, requires interference with individual freedom in order to improve the situation of others. Many classical liberals argued similarly against the pursuit of social and economic equality on the grounds that it would undermine market freedom and would inevitably lead to coercion by the state.<sup>25</sup>

Nozick’s famous book *Anarchy, State and utopia* (1974)<sup>26</sup> is one of the several attempts made in the second half of the 20<sup>th</sup> century to reaffirm the values and beliefs of ‘classical’

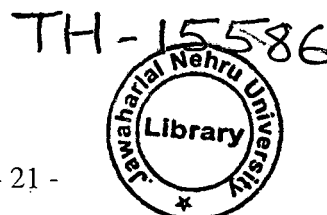
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<sup>23</sup> Monks, (1998), p. 27.

<sup>24</sup> Encyclopedia of Political Economy (1999), p.1.

<sup>25</sup> Ramsay, (1997), p. 92.

<sup>26</sup> Nozick, (1974).



liberalism. The book quickly became one of the key texts of the 'New Right'. Its central premise is the traditional Lockean doctrine of inalienable 'natural' rights. In words of Nozick, 'Individuals have rights, and there are things which no person or group may do to them (without violating their rights). So strong and far-reaching are these rights that they raise the questions of what, if anything, the state and its officials may do'.<sup>27</sup> Because people have right to dispose of their holdings as they see fit, for him government interference is equivalent to forced labour.

Here I will take up Nozick's 'self-ownership argument' and 'entitlement theory' to make it clear that it will be very difficult to follow this in case of ownership of natural resource like water. Starting with Nozick's *Lockean proviso*, as summarized by Will Kymlicka:

1. People own themselves.
2. The world is initially owned.
3. You can acquire absolute rights over a disproportionate share of the world, if you do not worsen the conditions of others.
4. It is relatively easy to acquire absolute rights over a disproportionate share of the world.

Therefore,

5. Once people have appropriated private property, a free market in capital and labour is morally required.<sup>28</sup>

Nozick takes his inspiration from John Locke's idea that everyone 'owns' themselves and, by mixing one's labour with the world, self-ownership can generate ownership of some material part of the world. However, of Locke's mixing metaphor, Nozick legitimately asks: '...why is not mixing what I own with what I don't own a way of losing what I own rather than a way of gaining what I don't? If I own a can of tomato juice and split it in the sea so its molecules...mingle evenly throughout the sea, do I thereby own the sea, or have I foolishly dissipated my tomato juice?'<sup>29</sup> Nozick concludes that what is significant about mixing our labour with the material world is that in doing

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<sup>27</sup> Ibid, p. ix.

<sup>28</sup> Kymlicka, (2002), p.116.

<sup>29</sup> op.cit, p. 174.

so; we tend to increase the value of it, so that self-ownership can lead to ownership of the external world in such cases.<sup>30</sup>

Nozick extends his argument in his 'entitlement theory'. He argues that if we assume that everyone is entitled to the goods they currently possess, then a just distribution is simply whatever distribution results from people's free exchanges. More precisely, it has three main principles:

1. a principle of transfer – whatever is justly acquired can be transferred.
2. a principle of just initial acquisition – an account of how people initially come to own the things which can be transferred in accordance with (1).
3. a principle of rectification of justice – how to deal with holdings if they are unjustly acquired or transferred.<sup>31</sup>

The conclusion of Nozick's entitlement theory is that 'a minimal state, limited to the narrow function of protection against force, theft, fraud, enforcement of contracts, and so on, is justified; and anymore extensive state will violate person's rights and is unjustified'.<sup>32</sup> Hence there is no public education, no public health care, transportation, roads or parks. All of these involve the coercive taxation of some people against their will, violating the principle 'from each as they choose to as they are chosen'.

While following his *Lockean Proviso*, Nozick fails to give an alternative to Locke's principle of 'as much and as good to be left for others' and 'no one has a right to waste'. How to determine whether the initial acquisition is just or not? As in case of water, which is the essence of life for everyone, is being privatized. Here, in most of the cases, states are selling it off to the MNCs, here which of the stakeholders is to be blamed? How the logic of 'as much and as good...' will follow if the MNCs come to occupy the role of sole owner in case of a natural resource like water. Nozick believes himself to be writing in defence of liberty, but, in practice, he makes no appreciable distinction between the individual's right to liberty and right to property.<sup>33</sup> This move – the creation of an

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<sup>30</sup> Ibid, p.149-182.

<sup>31</sup> Kymlicka, pp. 103-104.

<sup>32</sup> Nozick, p. ix.

<sup>33</sup> Adams, et.al., (2003), p. 229.



effective synonymy between liberty and unrestricted property rights – is a frequent feature classical and neo-classical liberalism. Nozick's minimal argument is linked with, and reinforced by, an uncompromisingly libertarian stand on the question of justice. This kind of view will give a great scope for market to flourish at the cost of diminishing role of the state.

To sum up, we can say that justification of private property by the proponents of market perspective is also a justification of the capitalist form of property because it is under capitalism that production basically takes place for the purpose of exchange; the exchange of commodities. For Locke, Smith as well as Nozick, market is the most efficient institution to manage the resources. To them, state as an institution with limited govt. has to function on the basis of rule of law. Individuals are given property rights as natural and absolute rights. Though, in Lockean context it was 'need' which became the basis of 'rights' but in the contemporary age, it has taken the shape of absolute rights where the 'claim aspect' of rights have become central.

## **1.2 Natural Resources: Legitimate Control of the State**

Some thinkers have argued that state as an institution is the custodian of its citizens, their rights, etc. Given that water is a finite natural resource with multiple uses, and with competition between different uses intensifying, the task of balancing different claims and ensuring its efficient, equitable and sustainable use is quite difficult. In this background, the state plays a major role in its distribution and management. This section of the chapter attempts to look into the role of state in management of natural resources. To do so, in coming few pages I will write about the writings of Harold Laski, Jawaharlal Nehru and John Rawls. All three of them have stressed upon the extensive role of state, apparently in different contexts talking about different things. They have directly or indirectly talked about the distributive justice. Their arguments, in some case are not directly about natural resources; however one can easily work out the implications.

Let me first take up Laski and Nehru who were the contemporary writers and thinkers and held more or less same opinions on state's role in the well being of the people and the management of natural resources. Both of them viewed socialism as the midway between

capitalism and communism and also as the best way for functioning of the state. Laski viewed the state as an agency for regulating class-relations in the society, while he preferred a classless society. At the same time, he is not fascinated by the Marxist vision of a 'stateless' society. Nehru's philosophy is a midway between Marxism and Gandhism. He never fully accepted any of the two and he was looked with doubt and suspicion in both the camps. Frank Moraes rightly remarks,

"In Gandhi's lifetime Nehru had been accused of scaring Gandhites by his socialism and shocking socialists by his Gandhism. Neither intellectually nor morally did he feel at home in either camp, for in his reckoning the right road lay between. India must adopt a distinctive way of life suited to her own conditions which accepted neither the doctrinaire theories of Marxism nor Gandhi's belief in wealth as a trusteeship."<sup>34</sup>

The threads of socialism can be picked up from Nehru's pre-independence speeches. We can see his socialistic approach as early as the year 1929. In the Lahore Session of Congress (1929), as the President he declared that India will adopt socialism after independence. In 1931, at the historic Karachi Session the Congress passed an important resolution on Swaraj indicating fundamental rights, its economic programme and socialistic approach in the following remarks, "The State shall own or control key industries and services, mineral resources, railway, water-ways, shipping and other means of transport." In 1936 Mr. Nehru, as the Congress President boldly pronounced that the only key to the solution of India's problems lay in socialism. He emphasized that socialism was more than an economic doctrine. It was a philosophy in life – it meant ultimately a change in instincts, habits and desires. In 1938, Nehru became the Chairman of Planning Committee of the Congress and he conceived of socialism as the best economic and political system for the country. Just after independence, 'democratic socialism' was adopted by the Congress on behalf of the Indian State so that a society based on social justice and equality could be established. Nehruvian vision of democratic socialism rejects violence and relies on persuasion and education; it recognizes freedom, liberty and dignity of human beings as socialism is combined with democracy; it aims at the provision for everybody of a national minimum in terms of housing, cloth, food,

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<sup>34</sup> Quoted in Nizami, Taufiq (ed.) (2006), p 45.

education and health. Nehru's concept of national minimum seems to be very close to Laski's 'civic minimum'.<sup>35</sup>

Nehru and Laski, both stressed at the maximization of the production in order to banish poverty and unemployment, at the social ownership and control of basic and heavy industries and a dominant role of public sector. Laski was not satisfied with the nature of liberal state at his time and in *A Grammar of Politics*<sup>36</sup>, he combined a radical critique of the economic structure of society with a pluralistic programme of political reform. He argued that inequalities of wealth prevented the free development of the majority of society; and proposed a programme of state intervention in the economic sector. Nehru was an advocate to state help to industries, yet he stressed the role of the private sector also. He did not agree with the theory of non-interventionism associated with the Smithian-Ricardian economics, nor did he believe in the economics of Physiocrats.<sup>37</sup> He laid the foundation of a mixed economy of public, private and co-operative sectors.

About his eclecticism and quest for truth, nothing can be more graphic than to quote Michael Brecher,

"In the realm of thought Nehru has always been a lonely traveler seeking answers that seem to elude his grasp. Almost all the ideological currents of the past half century appealed to his keen and receptive mind; first in time was classical liberalism with its emphasis on individual rights; then, at Cambridge, he was drawn to Fabian Socialism; thereafter, he was influenced by the Gandhian stress on the purity of means and the message of non-violence; and in the late twenties and thirties by Marxist theory and the gospel of a classless society. He was also attracted to the ethical norms of western humanism, and later, during his long war-time imprisonment, to the percepts of Vedanta....None of these dominated his outlook; all of them influenced his thought."<sup>38</sup>

The quote given above reflects the impact of various schools of thought in moulding Nehru's thinking. Nehru and Laski both were critical to capitalist system but also not whole heartedly support to Marxism and communism. In capitalism, natural resources

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<sup>35</sup> Laski (1951 B), He also laid down the principle of 'civic minimum' so that each individual could have some amount of property so as to enrich his personality. Above all, he warned that greater disparities of wealth were incompatible with the system of democracy and in case the wide gulf it may lead to revolution.

<sup>36</sup> Laski, H. (1951 B).

<sup>37</sup> In the 18<sup>th</sup> century France, the Physiocrats devised the maxim '*laissez faire est laissez passer*' (leave the individual alone, and let commodities flow circulate freely). Classical economists such as David Ricardo and Alfred Marshall took up the theme from Adam Smith.

<sup>38</sup> Brecher, (1959), p 231.

being controlled by individuals are treated as their private property legitimately owned by them. In communism, all natural resources are owned by the state and used on behalf of the people. Socialism as the third way in which both private and public work together is sought as the best alternative by Nehru as well as Laski. Here, the state control and private ownership are to co-exist but market has to play a very limited role.

To Laski, "The modern state is a territorial society divided into government and subjects claiming, within its allotted *physical* area, a supremacy over all the other institutions. It sets the perspective of all the other organisations."<sup>39</sup> But this does not mean that it is an unchanging organisation. It changes with the new forms of property, an alteration in the religious beliefs, etc. In his *The State in Theory and Practice* (1935),<sup>40</sup> Laski observed that government is the agent of state. It exists to carry out the purpose of the state. The sovereignty of the state also makes the government a sovereign power as a mechanism of administration. He imbibed both a critique of the capitalist system and an emphasis on linking the institution of state with the overall interest of the community. He integrated the system of property with the functions that a man performs and thus by and large disapproved of the system of full inheritance.

Though neither Laski nor Nehru have written much about the management of natural resources but both of them have stressed upon the role of state in controlling the obvious commodities like water, power, transport, etc. Laski has mentioned a few lines that how the capitalist system may lead to its ruin. To quote Laski in his own words,

"Man may begin to acquire property to safeguard their lives from want, but they continue to acquire it because of the distinction which comes from its possession. It satisfies their vanity and their lust for power; it enables them to attune the will of society to their own. The result is what might be logically expected from such an atmosphere. They produce goods and services, not for use but to acquire property from their production. They produce not to satisfy useful demands, but demands which can be made to pay. They will ruin natural resources. They will adulterate commodities."<sup>41</sup>

The quote given above reflects Laski's disillusionment with capitalism in general and Lockean argument for private property in particular. How capitalism leads individuals'

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<sup>39</sup> Ibid, p. 21.

<sup>40</sup> Laski, (1951 A).

<sup>41</sup> Ibid, p. 175.

needs to the unending wants which are likely to destruct the precious natural resources. In capitalist system, the resources are valueless unless they have a market-value. It favours market as the best institution for management of natural resources but it does not consider the class-division in society. Nehru and Laski were writing in two different contexts, yet both of them were exponents of positive liberalism and their writings stressed upon the 'rights' based on 'needs'. While Laski's writings presented an elaborate scheme for transforming the political and economic organization of society, with special reference to England, Nehru as a socialist whole-heartedly favoured the projects of modernization, heavy industries and multi-purpose dams owned by the state for India. In the next chapter we will see that how the Indian state heavily relied upon his ideas while taking up its various development projects in general and the policies related to water in particular.

The third thinker, one may discuss under this category is John Rawls. Though, he has not specifically discussed about natural resources and its management. His major work, *A Theory of Justice* (1971) is on distributive justice and is regarded as the most important work of political philosophy which has influenced the modern liberals and social democrats alike. Rawls proposed a theory of 'justice as fairness' that is based on the belief that social inequality can be justified only if it is of the benefit to the least advantaged. This means that justice requires that 'all social primary goods...liberties and opportunities, income and wealth, and the bases of self-respect are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least unfortunate'.<sup>42</sup>

Rawls' argument is a rehabilitation of the old explanatory device of social contract. Unlike the social contract theorists of the 17<sup>th</sup> century, he does not make the device part of a theory of obligation. The system of social justice that he envisages will, as a matter of principle, exclude no one from its benefits. Rawls underlying conviction is that a just or fair political order is one that provides similar opportunities to everyone to live a happy and fulfilled life. Rawls procedure is to invite everyone to engage in a thought-experiment. His 'original position'<sup>43</sup> is located behind a 'veil of ignorance'.<sup>44</sup>

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<sup>42</sup> Rawls (1971), p. 303.

<sup>43</sup> Ibid, p 18. Rawls considers it as the most philosophically favoured interpretation of this initial choice situation for the purposes of a theory of justice.

In such circumstances self-interested people are required to make decisions without knowing how those decisions will affect them – what principles of ‘justice’ will they devise for the society into which they are to move? They will, Rawls suggests, arrive at general principles that would leave the least advantaged member of the future society no worse off than any one of them would wish to be if they were to turn out actually to be the least-advantaged member. There will be two principles:

1. Each person is to have an equal right to the most extensive liberty compatible with a similar liberty for others.
2. Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be everyone’s advantage, and (b) attached to positions and offices open to all.<sup>45</sup>

For Rawls, basic liberties of citizens are, roughly speaking, political liberty (the right to vote and to be eligible for public offices) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens to a just society are to have the same basic rights. The second principle applies to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility. While the distribution of wealth and income need not be equal, it must be to everyone’s advantage, and at the same time, positions of authority and offices of command must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities in such a manner so that everyone benefits.<sup>46</sup> The way Rawls has defined his conception of distributive justice, it suggests that control of the natural resources has to be in such a manner that it benefits the lowest strata. It extends the role of state directly or indirectly, because it is state not market who may act as neutral arbiter and treating everyone as equal.

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<sup>44</sup> Ibid, p 12. It is characterized by lack of knowledge possessed by the people in it. Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like.

<sup>45</sup> Ibid, p.60.

<sup>46</sup> Ibid, p.61.

The second principle – Rawls calls it the ‘difference’ principle – is intended to overcome the drawback that arises when the negative freedom is interpreted in a strictly libertarian way: that is, the possibility that one might be destitute, homeless, starving and so on, yet still be technically free in the sense of unconstrained and uncompelled by anyone. Rawls does not object in principle to there being a difference between rich and poor. He assumes a competitive market economy in which economic inequalities will function as incentives to the wealth creation that makes redistributive or progressive taxation possible. The practical limit to redistributive justice is the point at which such taxation becomes a disincentive to the creation of wealth.

*A Theory of Justice* has been subjected a great deal of analysis and criticism. The major objection to it is the way people are asked for ‘veil of ignorance’ in their ‘original position’ which is actually very difficult when put into its application in the society. Yet, his ‘difference’ principle is a principle of distributive justice. Rawlsian system implies a welfare state in which the poor are provided with a minimum acceptable standard of living out of taxes paid by the rich. Even the worst-off members of society will have at least sufficient resources to enable their freedom in some way. There is wider scope for ‘rights’ in his writings, that too not only the civil and political rights but also the social and economic.

### **1.3 Natural Resources: Collective Claims of the Community**

Water as a natural resource is very often available in ‘common pools’ and it becomes a bone of contention when it comes to its uses. Mostly there is a kind of tussle between the social and economic use of the very same natural resource. A forest becomes a bone of contention because its trees represent timber, fodder or fuel, material values desired by different social groups. Same thing happens when it comes to different sources of water or oil. Community is one of the most important claimants when we talk about ownership of natural resources. Natural law tradition is one of the oldest schools which have written about the use of certain ‘exterior things’ (in terms of St. Aquinas) as a collective one rather than individualistic claims over it. Here I will mention St. Aquinas’ and Mahatma Gandhi’s writings from where the contemporary social activists like Vandana Shiva and Medha Patker draw their arguments while treating water as ‘commons’. They want the

ownership of natural resources in general and water in particular to remain with the communities as the indigenous people have the knowledge of its management.

The philosophical roots of community ownership lie in the “Natural law” which is an expression with several meanings in several areas of inquiry. Here, it has been used to refer to the tradition of moral, political and legal thinking which has developed, particularly within Catholicism since the time of Aquinas and which regards his ethical and political writings as the classical source. Although, there are significant strains in the tradition, the influence of Aquinas’ analysis has continued, and there has been development and refinement of a considerable, coherent doctrine on ownership.<sup>47</sup>

Natural law discussions of property since Aquinas have sought to elaborate a set of moral standards by which decisions of owners and established ownership arrangements could be morally evaluated and the development of better arrangements rationally guided.<sup>48</sup> St. Aquinas, the most influential thinker of the middle ages felt that the best life for human beings is a life devoted to spiritual activities. Like Aristotle, Aquinas too justified private possessions only to the extent that things are used as a means for leading a virtuous life. The natural law evaluation of property is not intended to articulate an ideal property which satisfies the moral principles in a uniquely adequate manner. It assumes that different property arrangements are appropriate in different cultural circumstances.

The natural law conception of ownership is complex. It is a function of the combination of several more primitive normative considerations. The considerations is the claim that dominions over or use of what Aquinas variously calls “exterior things”, “other creatures” or “inferior creatures” is natural to man <sup>49</sup>(Aquinas’ *Summa Theologiae*). Aquinas calls this use of exterior things as the property of any individual or groups. This kind of possession is compatible with holdings things in common. Thus, the natural dominion of humans over the world of nature is more elementary notion than that of ownership. Very often there is confusion between possession and ownership but actually they are strikingly different. Possession is a physical phenomenon, while ownership is a

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<sup>47</sup> Finnis, (1980), p.48.

<sup>48</sup> Ibid, p. 54. Here, Finnis quotes Boyle, (1989), p. 191-207.

<sup>49</sup> Ibid, p 193.



socially constructed circumstance.<sup>50</sup> Only a state can confer the legal situation called “ownership.” Otherwise, one has mere possession.<sup>51</sup>

Aquinas’ argument suggests that the basic component of the natural law conception of ownership is the claim that it is morally proper for humans to make use of exterior things. There are two components of the natural law conception of ownership: a) “minimal normative claim”; and, b) “requirement of common use.” It is derived by considering the natural dominion of humans over exterior things in the light of moral principles. Aquinas maintains that the use of exterior things should be common.

Some natural resources fall into the category of things which are plausibly to be maintained as common to all mankind (like seas). But other natural resources though best considered as common to those living in a given territory – such as rivers, wildlife and so on – reasonably considered as common to mankind, but appropriated to those in the territory that are in position both to benefit from and take care of these resources. There is an international economic order (World Bank – IMF) but there is no international political authority capable of articulating and enforcing a worldwide regime for the handling of natural resource in accordance with the requirement of common use.<sup>52</sup> Thus, there appears to be no single plan of action which could be undertaken to rectify the injustice which exists in the use of natural resources. Though the Natural law tradition has its own limitations and can not be applied fully in today’s context but as a system it certainly offers an alternative for the community management of natural resource like ‘water’ which is a basic need for everyone.

Mahatma Gandhi can be considered another prominent advocate of this perspective. Though, he did not produce a treatise or some such thing on economic system which he visualized for India. In some of his general works, lectures, letters written to, or editorials in, “Young India” and “Harijan”, he made references to the kind of economic system which was ideal for his country. What his followers, Gandhians have now been saying are not identical in all respects what Gandhi himself was writing and talking

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<sup>50</sup> Encyclopedia of Political Economy, p 691.

<sup>51</sup> Ibid, p. 691.

<sup>52</sup> Boyle (1989), p 203.

about at that time.<sup>53</sup> These varied interpretations led to varying models of development attributed to Gandhi. His ideal society was a stateless society, society of enlightened anarchy where social life has become so perfect as to be self-regulated. He was too inspired by Tolstoy's philosophical anarchism. Gandhi's moral and spiritual approach to the problem of Indian civilization and his quest for spiritual teleology in the world resulted in his bitter disillusionment of western civilization. In common with Rousseau and Tolstoy, Gandhi's attitude to Western civilization was moral rather than sociological and scientific.<sup>54</sup>

His whole programme is built on the solid foundations of economic equality and distributive justice. Gandhi asserted "The possession of inordinate wealth by individuals should be held as crime against Indian humanity."<sup>55</sup> He further observes "My ideal is equal distribution, but so far as I can see it is not to be realized. I therefore work for equitable distribution." In the Gandhian economy, labour is the coin which may be bartered for any material things. When his self-sufficient village needs something which it can not produce, it can easily exchange with the produce which has been grown in abundance in another place. Gandhi envisaged that trade will be the barter system. When objected that this is a revision of the primitive system of barter, Gandhi replied "Is not all international trade based on the barter system?"<sup>56</sup> He held the view that property was a concept that arose only within the confines of human society and it belonged to the society at large as much as to particular individuals and hence it must be used for the welfare of one and all. In such a consideration the mental and physical talent or wealth of individuals have to be looked upon as a trust and consequently have to be used for the benefit of the society. Gandhi's trusteeship did not recognize hereditary inheritance of property.

In effect, Gandhi was putting forth the viewpoint that every individual must do physical labour to satisfy his most essential needs<sup>57</sup> and at the same time none had the right to

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<sup>53</sup> Maharajan, (1998), p 18.

<sup>54</sup> Ibid, p.3.

<sup>55</sup> Ibid, p.7.

<sup>56</sup> *The Harijan*, 2 Nov., 1934.

<sup>57</sup> *The Harijan*, September 29, 1935.

accumulate property or wealth more than what he needed at any given point of time.<sup>58</sup> These two basic principles of Gandhian economy order could usher in complete equality between capitalists and the labourers, the rich and the poor. He was not prepared to recognize any inequality in human beings except physical inequalities. Unlike the Marxists, Gandhi believed that the labourers and the capitalists could work together in harmony like a great family, with each functioning for mutual good and mutual advancement.<sup>59</sup> Gandhi therefore held that the capitalists were to regard themselves as trustees “for those on whom he depends for the making the retention and increase”.<sup>60</sup> The objective of trusteeship theory was to destroy capitalism and not capitalists.<sup>61</sup>

In the contemporary context of the growing environmental challenge, leading to the mankind's first ever global crisis, Gandhi is becoming increasingly relevant in a rather unexpected area of ecology. In a way Gandhi was the world's early environmentalist – in vision and practice. Gandhi was socialised in the Indian cultural tradition and he had taken quite advanced education in England. He, therefore, could claim to have comparative views of the living life-style and progress of both India and the West. As early as in 1909, in his small but perceptive publication, *Hind Swaraj*, Gandhi stated, that the civilization of the West then being welcome in India in the name of modernity is a ‘Bhasmasur’ (Destructive monster). It is a civilization which equates consumerist lifestyle and abundance with development. While criticising the modern civilization, he had shown the limits of the Western World and the extent of technology use and evils of higher and higher standard of living. Gandhi said that, if imitating the West, India (with its vast population) tried to reach the living standard of England, the resources of the earth will not be enough. He also cautioned against what was later on to be known as the ‘consumerist culture’ and a ‘waste-centric society’.

Gandhi's celebrated and often quoted statement that, ‘the Earth has enough to satisfy the need of all the people, but not for satisfying the greed of some,’ has become

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<sup>58</sup> *The Harijan*, August 25, 1940.

<sup>59</sup> Malkani, Prof. N.R. (1972), p. 115.

<sup>60</sup> *Young India*, March 26, 1931, p. 49.

<sup>61</sup> *Ibid*, p.51.

astonishingly relevant in 1990's. Some scholars have found the reflection of Gandhi's ideas related to environment in the "Agenda 21" fashioned by the largest ever number of the nations of the world at the Earth Summit at Rio-de-Janeiro in 1992. He distinguished between 'need' and 'want' of the human being. Gandhi's ideas are still very relevant especially his 'need principle' is directly linked to sustainable development and bridging the gap of social inequalities leading to welfare of all. Since he discarded an institution like state, the notion of 'rights' in its legal sense is almost absent in his writings. The formation and evolution of Indian state reflects dichotomy in Nehruvian and Gandhian vision of independent India.

To sum up, we can say that this perspective suggests a locally based economy which enhances community spirit, community relationships, and community well-being. Such an economy encourages mutual aid. Members of the community take care of themselves, their families, their neighbours, their animals, lands, forestry, and all the natural resources for the benefit of present and future generations. Here, 'need' rather than the claim aspect of 'right' is the inherent principle behind the management of natural resources. The members of a community do have a sense of 'duty' to understand others' needs also which is completely absent in market.

In the first section we have seen that in all three discourses the key concepts are 'need' and 'right', however, their relationships have been complex and differently defined in different discourses. In the first discourse to start with the human need is used as foundation stone for creating right on natural resources. But once right over natural resources is established the impact of it on the fulfillment of need of human beings having no possession of property is not considered. It was suggested that the need of such people will be taken care of by the institution of market. In the second case it was suggested that market will recognize only those who have bargaining capacity in terms of either money or marketable goods. People at the margin will have no security and the number of these people ought to be quite large. In fact, if their needs are not taken care of, and they can not be taken care of by the market, there may be major crisis leading to the change of the system fundamentally. Therefore, the suggestion is that state should manage the natural resources so that some kind of equitable distribution could be done or at least the inequality could be rationally explained and the horizon of rights could be

expanded to take care of the needs of the marginalized people. In the third case, there is a fear that even state will remain subject to manipulation and there is hardly any guarantee that rights will be made accessible to the common people, the argument is that community should be the custodian of the natural resources. It is suggested that communities can assess the needs of the people and plan the production and distribution accordingly.

Looking at the debates in first section, it is not difficult to suggest that there are three key concepts around which the debate on natural resources is revolving. In this section, my aim is to clarify these concepts (rights, needs and wants) and their interrelationships.

#### **1.4 Rights, Needs and Wants: Complexity of the Liberal Discourse**

In the liberal framework, the notion of needs, wants and rights are very perplexed. In order to overcome this complexity, this section intends to seek for some conceptual clarifications. I have divided it in three parts – first part has two sub-parts i.e. a) needs and wants; b) needs and rights; and, c) water in the need-right discourse.

**(a) Needs and Wants:** Objective human needs can be defined as the necessary conditions for flourishing through the exercise of essential human capacities; in brief, physical and psychological health and freedom. Very often three questions are asked regarding needs: Are they objective? Are they distinguishable from wants? Are they universal or culturally relative? Since, it seems indisputable that human beings universally need air, water, food and shelter, whatever cultural want, desires, or preferences they happen to have, ‘water as a need’ leads to the worldwide recognized demand of ‘right to water’. Here, ‘need’ is the bare minimum necessity which is essential for survival. But in the age of capitalism, it has come under rescue when the WB-IMF is defining ‘need’ in terms of ‘want’. It reflects that needs are also the basis for an influential explication of distributive justice.

Liberal theorists as well as utilitarians object to the definitions of objective needs and question the moral acceptability of need as a principle of distribution.<sup>62</sup> They stress instead the function of government and the effectiveness of market for enabling

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<sup>62</sup> Ramsay (1997), p. 223.

individual to pursue their own goals and for satisfying felt needs, expressed wants or preferences. This is consistent with both the freedom of the individual and the pluralism of modern liberal society.

Liberal objection to the concept of 'needs' are that needs are metaphysical construct and presuppose a metaphysic. They are not objective or universal concepts. Need claims are not empirical but normative. All needs are instrumental and it may relate to different end and purposes. Talk about human needs to achieve certain goals or human excellences or a conception of the good ignores competing claims as to what these are. Liberals give political and moral superiority to wants over needs. Emphasis on needs as opposed to wants legitimizes the illiberal policies. Policies based on particular normative conceptions of need threaten the freedom of individuals to define needs for themselves. It is argued that allocative priority based on planning to meet need leads to tyranny over wants. In the free market existing need dictate to political and economic processes. Hence this form of political and economic organization is conducive to the maximum and equitable satisfaction of needs.

However, the critics of liberalism consider need as an empirical and neutral category by giving arguments like needs do not relate to any particular conception of the good, but to any ends a person might have. Survival and health needs, then, are objective and universal requirements for achieving any end. The concept of need does not suffer from the justification problems since needs relate to the objective goals of survival and health.

If needs are objective requirements of survival and health, they can be distinguished from subjectively felt wants and preferences. Though, the needs and wants may coincide but they do differ crucially in certain ways. To make it easier, we can have a look upon following arguments given by Maureen Ramsay<sup>63</sup>: a) wants are intentional and require objects wanted which are conditioned by social contexts and circumstances. In contrast to this, fundamental human needs are independent of feelings and beliefs. A person may want anything but can not really need 'just anything' as need is restricted by natural necessity. Someone can only need something if it is essential to survival and health; and,

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<sup>63</sup> Ibid, p.229.

b) wants involve choice and needs do not. Having a need is not an act of choice. We are not free to choose our needs because what our needs are is determined and limited by our biological and psychological constitutions.

Liberals objected to arguments for the objectivity and priority of needs over wants on the grounds that policies informed by needs impose one conception of good, and are incompatible with the pluralism of modern liberal society. The liberals very often reduce the needs to the category of wants or preferences, though they are two different things. They have adopted a particular definition of need which accepts felt needs and desires as the only real needs. Liberals claim that market is the mechanism by which freedom and want satisfaction are conjoined. Free market mechanisms distribute resources in accordance with people's needs, wants and preferences. However they neglect that the market is the mechanism by which needs, wants, and preferences are met in equal proportion to the money and resources an individual has. Individuals are not free to define their own wants and preferences. They are conditioned by the power relations and social forces which shape and constrain them.

**(b) Needs and Rights:** To elaborate the complex relationship between need and right in the liberal paradigm, let me discuss this point in little more detail. In the history of ideas, rights per se are relatively old, while the notion of human rights is relatively new. The continuing importance of rights in the liberal tradition received its first expression in Locke's writings towards the end of the seventeenth century. In the *Second Treatise*, Locke expounded a doctrine of natural rights grounded in natural law. Under natural law each individual has a natural right to life, liberty and property and a natural duty to respect the same rights of others. The political impact and consequences of Locke's doctrine of natural rights are re-stated in the American Declaration of Independence (1776), which asserts each man's inalienable right to life, liberty and the pursuit of happiness identifies the task of government as securing these rights and rests legitimate authority on consent of the governed and on protection of its rights.

In the modern liberal tradition, the notion of individual or specifically human rights has continuities with the natural rights tradition in so far as these are thought to be moral

claims which an individual possesses by virtue of some human characteristic and which is independent of laws, customs or convention. Their primary function is to define the claim that the inviolability of persons gives rise to rights which government must respect and protect. Twentieth-century declarations of human rights like the United Nations Declaration of Human Rights (1948) and subsequent UN Conventions of Economic, Social and Cultural Rights parallel the earlier assertions of natural rights.

There are two broader sets of rights i.e. first, civil and political rights like right to speech, right to vote, etc and second, social and economic rights directed towards providing minimum standards of living for each person which assert claims on the fulfillment of basic human needs. It has often been disputed as to whether social and economic rights can be properly regarded as human rights or whether they are simply desirable ideals. Defenders of civil and political rights seem to believe that only negative rights of non-interference are required to act to achieve one's own goals. Defenders of social and economic rights give an account of the requirement for purposive and successful action in terms of fundamental human needs.

The liberals view that it is difficult to enlist the basic human needs to sanction the social and economic rights or the positive rights and very often they insist upon the civil and political rights as essential for the people. However, assuming the minimal survival needs would generate at least positive rights to clean air and water, adequate food, clothing and shelter, basic health care and education and the provision of these where individuals or groups cannot provide for themselves. These are essential if human beings are to act to acquire any ends or values and they are universal in that they apply to all human agents at all time and places, even though the historically and culturally specific forms these needs take differ. Thus, it can be claimed that socio-economic rights are equally essential if they are attached with the notion of actual needs i.e. necessary for survival.

Rights are claims recognized by the society and the state. They are like moral declarations unless they are protected by the state. The notion of right is not only attached to claim but also attached with duty where each individual has to respect other's rights as well. However, one point relating to the development of the concept of rights in recent



times is that the 'claim aspect' has overshadowed the 'duty aspect' of this important term. Now the rights are not merely asserted defensively against state action, they are rather interpreted as legitimate claims on government to satisfy human needs. Thus, the distinction between rights as 'liberties' and rights as 'claims' has become a matter of own importance to social and political theory. Such an assertion has put a premium on the ideal relationship between rights and duties in view of the fact that 'claim rights' entitle their holder to limit the liberty of another person. In the case of certain rights, the arguments that rights and duties are logically linked seems to be water-tight, but there are uses of the word 'duty' which do not imply correlative rights.<sup>64</sup> Sometimes, this is put in form of distinction between 'special' and 'general' rights.

Jeremy Waldron<sup>65</sup> opines that we should distinguish three ways in which the special force of rights may be understood. On the most straightforward model, a right is nothing but a particularly important interest: it is assigned a greater weight than ordinary interests and therefore counts for more in utilitarian or other welfarist calculations. On the second model, the interests protected by rights are given lexical priority over other interests.<sup>66</sup> They are to be protected and promoted to the greatest extent possible before other interests are even taken into consideration. This makes rights absolute and against consideration of mere utility, but leaves open the possibility of what Robert Nozick has called 'a utilitarianism of rights'. The third mode is most controversial. On this account, rights are understood not as specially or lexically weighted interests, but as the basis of strict constraining requirements on action. This function of a right is to exclude certain forms of behaviour involving other people from intentional consideration.

**(c) Water in the need-right discourse:** Water as a resource being relevant for both development and environment has seen discussions of different kinds of rights such as human right to water, water rights, and right-based approach to water. In the international realm, the United Nations Committee for Economic, Social and Cultural Rights adopted the General Comment<sup>67</sup> (No. 15) on the right to water in 2002. However, the idea of

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<sup>64</sup> Barry, P. Norman (1981), pp. 186-7.

<sup>65</sup> Waldron, Jeremy (1984), p. 15.

<sup>66</sup> Rawls, John (1971), pp. 42-45.

<sup>67</sup> Ruchi Pant (2003), p. 21.

'water as a right' has been a contentious issue as the World Summit on Sustainable Development (Johannesburg, 2002) – together with the triennial World Water Forums (Hague, Bonn, Kyoto and Mexico) – failed to expressly recognize a fundamental right to water.

If we closely look at the ongoing debate on water, we find that 'right' and 'need' – these two terms have occupied the centre that whether water should be treated as right or need? It shows that they are being treated as pitted to each-other. But the history of evolution of rights itself is based on need. Since, we need something so we are given a right to avail it without any hindrance. The meaning of 'need' is being altered by defining it in terms of 'wants' rather than 'rights' by the international economic agencies like World Bank and IMF (even UN in last few years). For them, a human need can be fulfilled by leaving it to the market in meeting a particular need on the basis of supply and demand with no obligation on the part of the state. On the other hand the right to water as a fundamental human right, in a democratic polity, is the responsibility of the state.

In last few years, processes of globalization have contributed to the changing role of the state. International institutions, governments and multilateral corporations are designing and implementing policies that reduce the role of state in the provision of basic services and free access to natural resources. Water supply in this version is not an obligation of the state to the citizen but becomes a commodity available to those who pay for it, even if the price is termed 'user charges'.<sup>68</sup> WB-IMF along with the MNCs involved in water-businesses is already pressurizing the countries to privatize their system of water supply or to introduce at least the PPP. On the other hand, People's movements have used the language of 'right to water' to resist attempts at privatization of water services (for instance, in Latin America), and in struggles against a mode of industrial development that pays little attention to the water needs for drinking and agriculture.

It is very important to take into consideration that since the concept of 'rights' is very contested one, so attaching it to water and talking about 'right to water' can not be so easy. The different possible dimensions of the right to water include the precise nature of

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<sup>68</sup> Singh, K. Arun (2004), p. iii.

the rights/entitlements, the unit to which the right should be assigned, what kind of needs should be considered within this ambit of right, the responsibilities of the state and of right-holders, ownership of water resources, the impact of globalization on various aspects of right to water and many more.<sup>69</sup> So, we can say that even defining right to water is complex and context-specific.

### **Conclusion:**

The above discussion shows it clearly that the ownership of natural resources is a contested issue. This chapter has focused on the philosophical positions of the various claimants of natural resources in general and water in particular. Three positions i.e. of market, state and community's take on its ownership has been explained by using certain thinkers in each category and the concepts like need, right and want. While market defines needs in terms of wants; communities prioritize need over rights. State seems to be somewhere amid and trying to strike a balance between the other two claimants. The next chapter unfolds the policies of these claimants by introducing the actors like WB-IMF and UN for the market; Indian State to exemplify the stand of state; and people's movements in Indian context to show their proximity with community perspective.

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<sup>69</sup> Sangameswaran, Priya (2007), p. vii.

## *Chapter Two*

### **Debating Water: State, International Organizations and NGOs**

“The human right to water is indispensable for leading a life of human dignity. It is a prerequisite for the realization of other human rights.... Water should be treated as a social and cultural good, and not primarily as an economic good.... Water, and water facilities and services, must be affordable for all.”

-- Committee on Economic, Social and Cultural Rights, UN<sup>1</sup>

“Free water is wasted water.”

-- Mohammed El-Ashry<sup>2</sup>

In the new millennium, the importance of water as a scarce resource has emerged as never before. The rapid expansion in international initiatives around water, including the establishment of World Water Forum (WWF), World Water Council (WWC), Global Water Partnership (GWP), etc. reflects a growing recognition that managing water as much as land and biomass is going to be a critical challenge for future economic growth and ecological sustainability. The extensive policy literature on contemporary water issues has, however, not been matched by substantive social science research.<sup>3</sup> There is a missing link between the policy documents and their philosophical background. In the last chapter, I tried to look into the philosophical underpinnings of the ongoing debate on water. I have mentioned three main claimants over natural resources in general and water in particular. On the basis its ownership, ‘market’, ‘state’ and ‘community’ are the three perspectives discussed in the last chapter. Another task in the first chapter was to problematise the concepts like ‘rights’ and ‘need’— around which the contemporary debate on water is revolving.

This chapter intends to explore the theoretical and philosophical foundations of the arguments and positions taken by three major players. There are two broad groupings (each consisting of multiple groups) at international conferences on water, such as the World Water Forum (held at three-year intervals), the annual Stockholm Water Week,

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<sup>1</sup> United Nations Economic and Social Council, General Comment 15 in United Nations Document.

<sup>2</sup> Chairman and CEO of the Global Environmental Facility in Environment News Service, March 22, 2000.

<sup>3</sup> Mollinga, Peter (2000) as quoted in Baviskar (ed.) (2007), p. 3.

etc. One consists of govts. (of 'developed' countries and others of the same persuasion); institutions such as WB, ADB and UN family in general; international water institutions such as WWC, GWP, etc.; and the Corporates. This group argues for water being treated as a tradable commodity, water markets, globalization, privatization, corporatisation, public-private partnership, and so on. The other is a loose group of NGOs, social activists, civil rights people, and so on. Their concerns vary widely, but they tend to come together on certain beliefs and predilections like treating water as a basic or human right, a Common Pool Resource (CPR) and not a tradable commodity, and so on. They are suspicious about the corporates, have strong sympathy for the communities and their rights over natural resources in general, and water in particular.

Ramaswamy Iyer says that superficially, there is some common ground among these groups.<sup>4</sup> Everyone agrees that water is getting scarcer<sup>5</sup>, that water is a basic need and therefore a basic right, that the natural environment must be protected, that people likely to be affected by a project should be consulted from the start, and so on. However, beyond that point there is a clear division between those who argue for big projects, for private investment, for water markets, etc., and those who argue for local, community-level action and civil society initiatives, and are worried about the loss of control over natural resources first to the domestic corporate sector and then to the foreign or multi-national companies. That broad division is found both internationally and in India.

The present chapter is divided into three parts dealing with the views of these parties on water, which also forms a kind of debate, as the different parties involved seem to be responding to each other. The description given above makes it ample clear to us that

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<sup>4</sup> Iyer (2007), p. 20.

<sup>5</sup> Ibid, p. 42-43. There are multiple perceptions of the crisis or crises. To the neo-liberal economist, the crisis is one of the failure to recognize water as an economic good and the absence of a clear delineation of property rights in water. To Vandana Shiva, the central crisis is one of the loss of control over natural resources by both civil society and the state to corporate interests, the conversion of a common pool resource and a basic need and right into a commodity governed by market forces, and the intrusion of profit motive into an area where it has no legitimacy. To Sunita Narain, it is a crisis of the criminal waste of a precious resource, and an indefensible subsidization of the rich. There is also a crisis of 'dying wisdom', i.e. decline of traditional ways of managing natural resources. To Medha Patkar, in her anguish at the human tragedy that is being enacted in the Narmada Valley, the crisis is essentially one of injustice and inhumanity: a sacrifice of the poor and marginalized at the altar of what goes by the name of 'development'.

who are the key players in the water privatization and what are the terms they are using for debate. The first part (i.e. market perspective) deals with the policies of WB-IMF and UN and the structural adjustment and 'Washington Consensus'. This part will show how the UN has been pressurized by the WB-IMF to change its language of 'water as a right' to 'water as a need'. For doing the second part on state, I have taken up Indian state to show its overall development project, the policies related to water and also how the shifts have been taking place in its role i.e. from a service provider to a regulator of market mechanism. The last part on community perspective gives a broad picture of the people's movements against water policies of the state in general and water privatization in particular. Vandana Shiva's 'Navdanya'; Rajendra Singh led Tarun Bharat Sangh's mass mobilization in Alwar district of Rajasthan; Anna Hazare's Ralegaon Siddhi; and activism of 'Parivartan', 'Pani Morcha' (Delhi-based NGOs), have been mentioned in this part to reflect their take on water.

## **2.1 Marketing the Natural Resources: UN, WB/IMF**

Looking carefully at the ongoing debate on the worldwide privatization of water, we find that the debate is not all about in terms of 'anti' or 'pro' privatization but actually much more complicated than the way it appears. To take one of the best examples is the stand taken by UN and WB-IMF. Very often, the language they use may lead to misunderstanding i.e. UN calls for "water as a human right" and WB-IMF takes "water as a need". Both the slogans seem to be so pro-people. 'Need' is such a benign term, to our general perception, it means 'something necessary for survival' but for WB water is a need not only because it is a necessity but also because for our other needs we go to market, similarly water should also be managed by market. One may or may not be aware of the term 'need' being interpreted by the WB as 'want' and thus water should be treated as other needs as commodities available in market. Nevertheless, the implications of these terms being used are far-reaching. The way UN and WB-IMF favour the 'Washington Consensus'<sup>6</sup> where the privatization and commodification of water has been

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<sup>6</sup> Barlow Maude (2002), p.xii. Its principles are based on a model of economics rooted in the belief that liberal market economics constitute the one and only economic choice for the whole world. Key to this "consensus" is the commodification of "the commons". Everything is for sale, even those areas of life,

sought as the best possible alternative to overcome the water crisis, it is clear that they intend to provide us market as the best institution for the management of natural resources in general and water in particular.

To quote Maude Barlow, “Water, according to the World Bank and the United Nations, is a *human need*, and not a *human right*. These are not semantics; the difference in interpretation is crucial. A human need can be supplied in many ways, especially for those with money. But no one can sell a human right.”<sup>7</sup> During the Second World Water Forum (WWF) in The Hague in March 2000, water was defined as a commodity. The agenda was water to be treated as any other tradable good, its use and distribution determined by the principles of profit. Here, the World Bank’s Ismail Serageldin identified two controversies standing in the way of global progress toward a sustainable water future: the polemical debate surrounding large dams and a linked set of increasingly contentious issues related to property rights, privatization, water exports, water pricing, and foreign investment and ownership in the water sector. At the heart of this debate are controversies surrounding whether, when and how water should be treated as a market good. The way WB-IMF and UN are depicting the water crisis, it is very clear that water is bound to change from natural resource to marketable commodity.

Ken Conca<sup>8</sup> in his book *Governing Water (2006)* has used the term *water marketization* to refer to the process of creating the economic and policy infrastructure for treating water as a marketed commodity. He says that ‘*water marketization*’ is not synonymous with ‘*water privatization*’, rather, refers to a broader set of linked transformations related to prices, property rights and the boundary between the public and private spheres. He has also enlisted certain elements towards the trend toward water marketization; some of them are: a) the establishment of private property rights to own or use water; b) a shift towards so-called full cost pricing of water, in the sense of pricing water to recover the operating, infrastructural, and (more controversially) full capital costs associated with its

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such as social services and natural resources that were once considered as the common heritage of humanity.

<sup>7</sup> Ibid, p. xii.

<sup>8</sup> Conca, Ken (2006), p. 215.

production, treatment, and delivery; c) the creation and utilization of market mechanisms for exchange of water-related goods and services; d) the growing involvement of private sector actors in the production, delivery, and marketing of water supplies and services and enhancement of private sector investment in water supply maintenance, upgrading, or expansion; e) policies that liberalize or facilitate bulk water transfers from one basin to another, including the international trade in water; and f) declining role of state in some or all of its traditional functions as service provider, regulator, and system maintainer.

However, Conca also says that not all of these elements are found in every place-specific or organization-specific episode along the road to water marketization. The country-level case studies of Brazil and South Africa show how this process involves a complex bundle of norms and practices. These norms and practices of water marketization – like those of integrated water resources management (IWRM) will have potentially profound ramifications for the world’s rivers, watersheds, and freshwater ecosystems. Treating *‘water as a scarce economic resource’* has emerged as a central tenet of the IWRM paradigm. The world’s growing demand for water is a principle source of stress on these systems. According to the UN, 31 countries in the world are currently facing water stress and scarcity. Over one billion people have no access to clean drinking water and almost three billion have no access to sanitation services. By the year 2025, demand for water will exceed availability by 56 percent.<sup>9</sup>

Some argue that the water marketization will have some positive impacts i.e. treating water as a scarce economic resource will lead to its more effective conservation and careful use. Others argue that the ramifications of marketization are primarily negative, as treating water as a market commodity will inevitably undermine the in-stream, place-specific and culturally based functions of water – the functions that cannot be fitted adequately into market logic. IWRM has emerged as the language of choice in international water circles and certainly, it has given impetus and greater credibility to market-based approaches. On the “push” side, actors promoting structural adjustment and trade liberalization have turned water into a prime battleground over the marketization

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<sup>9</sup> Barlow (2002), p. 24.



and privatization of the state-provided social services and public goods. On the “pull” side, actors concerned with funding the development of water infrastructure have viewed marketization as a way to attract capital for funding large-scale water infrastructure projects.<sup>10</sup> MNCs play the balancing role between these ‘push’ and ‘pull’ actors.

### **2.1.1 Structural Adjustment and Washington Consensus:**

The most potent source of support for water privatization norms has been the broader phenomenon of neoliberal economic adjustment, grounded in a set of processes that have been working their way through the world economy since the late 1970s. A common point of demarcation is the set of dramatic policy shifts that accompanied that the rise to power of Margaret Thatcher in the UK and Ronald Reagan in the USA. In water sphere, however, these forces have been most tangible among less-developed or developing countries. The neoliberal paradigm referred as ‘Washington Consensus’ stresses upon the need for “structural adjustment”. It has generated concrete pressure on the governments of less-developed countries to implement two linked changes: a) to move the state out of its traditional role as the sole provider of water as a public good; and, b) to implement pricing reforms that seek so-called full cost recovery. The two changes are interlinked, as the increase in price has been necessary to attract international private investors to the sector and make privatization a reality.

The IMF has been an aggressive proponent of privatizing water service. A review of IMF loan agreements with forty countries in the year 2000 uncovered twelve agreements that contained conditions for water privatization or “cost recovery” measures.<sup>11</sup> These included full privatization measures or other conditions to enhance private-sector participation in Benin, Guinea-Bissau, Honduras, Rwanda, Senegal, and Tanzania as well as cost-recovery pricing measures in Angola, Nicaragua, and Yemen. The World Bank is equally ambitious regarding water privatization and its full-cost pricing scheme. Water sector lending has long been a staple of the Bank’s portfolio, including loans for water-supply infrastructure, sanitation and improvement in water services capacity. According

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<sup>10</sup> Conca (2006), p.220-1.

<sup>11</sup> Ibid, p. 221.

to the advocacy group, Public Citizen, a review of the Bank's 2001 water and sanitation loans revealed that seven of eleven loans included full-cost recovery conditions and eight of eleven contained privatization conditions.<sup>12</sup> The Bank's new water sector strategy emphasizes that facilitating private sector financing and management is among its key "strategic opinions."<sup>13</sup> The Bank's website contains a set of toolkits to aid municipalities in designing and implementing privatization of systems via service contracts, management contracts, leases, concessions, and other mechanisms.<sup>14</sup>

### **2.1.2 Water Sector Policies of the World Bank and IMF:**

The unified nature and indivisibility of the waters of the earth form the basis for coordinating water-related actions by different countries of the world in a single international agenda for water.<sup>15</sup> This agenda is the main driving force of the World Bank (WB), under which it assists the various nations in evolving appropriate water policies on their own in such a way that it fits the international water agenda. However, this agenda is being carried by WB along with IMF, also having consensus with very auspicious world body like UN. The agenda is still evolving and so far the main milestones of the process like *the Delft Declaration (1991)* identified the weaknesses of the institutional capacity as the main cause for unsustainable water services; *the Dublin Principles (1992)* endorsed political commitments regarding the involvement of government and community towards institutional changes, the use of market economy, capacity building, etc. *The UN Conference on Environment and Development (Earth Summit) (1992)* was a turning point. Its 'Agenda 21' gave priority to adjustment of decision-making systems and institutional arrangements at the country level to deal with the emerging environmental and other issues of the twenty first century.

In 1993, the WB Policy Paper captured the "Dublin Principles"<sup>16</sup> and laid down the policy for the WB to promote and support national water sector policies. In 1996, the WB, UNDP and Swedish International Water Agency created *The Global Water*

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<sup>12</sup> Public Citizen (2002), p.7.

<sup>13</sup> World Bank Report (2003).

<sup>14</sup> Conca (2006), p.222.

<sup>15</sup> Conca (2006), p.15.

<sup>16</sup> I have mentioned about it in detail in later sections.

*Partnership (GWP)*. Its Technical Advisory Committee (GWP-TAC) 'Background Paper No. 4: Technical guidelines for Integrated Water Resource Management (IWRM)' defined the process of Indian Water Resources Association (IWRA) and laid down the types of integration envisaged and the limitations of such integration. From 1997 onwards four WWFs have taken place – *World Water Forum-I at Morocco (1997)*, *World Water Forum-II at The Hague (2000)*, *World Water Forum-III at Kyoto* and *World Water Forum-IV at Mexico (2006)*. In 2000, the integrated *World Water Vision* was prepared and it was followed by the formation of *World Water Council* in the same year. The consolidated vision presumed that there is no need for any significant addition towards agricultural water use. *The International Conference on Fresh Water* took place in *Bonn (2001)*. Subsequently, *the Rio plus ten Conference at Johannesburg (2002)* reviewed the 'Agenda 21' and laid down action plans for implementation of the agenda by the nations of the world.

### **2.1.3 UN Policies: Constructing Water as a Global Problem**

There is a vast literature available on UN's works on different sectors of water – the various conferences held in different parts of the world, the papers presented there, the reports of various commissions, etc. But here I would like to mention only a few of those instances which are directly or indirectly related to the issue of privatization and the use of terms like 'right' and 'need' by them. Their selective use of the terms often leads us to have a very good opinion about the UN but in the longer run it seems to serving the WB-IMF. Here, I intend to mention some of the important UN Conferences related to water. The purpose of doing so is to show their agenda of helping the WB's water policies to take shape. 1973 onwards, every third year *World Water Congress* is held. In 1977, the *UN Water Conference, Mar Del Plata, Argentina* took place. Its final declaration stressed that "all peoples, whatever their stage of development and their social and economic conditions, have the right to have safe access to drinking water in quantities of a quality equal to their basic needs."<sup>17</sup>

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<sup>17</sup> Conca (2006), p.129.

UN declares 1980-1990 as the *International Drinking Water Supply and Sanitation Decade*. In 1987, Brundtland Commission released its report "*Our Common Future*". However, it has very little to say on water. In 1990, a Conference was held at New Delhi, which reiterated the goal of the UN water decade and recognized that there is a need for the international donors and national governments to have partnership with NGOs and strengthen the community management and ownership of water supply systems. The IWRM backed by WB-IMF emerged as the dominant framework. The four "*Dublin Principles*" declared at the *International Conference on Water and the Environment (in Dublin) in 1992* reflects the larger paradigm shift:

1. Fresh Water is finite and vulnerable resource, essential to sustaining life, development and the environment.
2. Water development and management should be based on a participatory approach, involving users, planners and policy makers at all levels.
3. Women play a central role in the provision, management, and safeguarding of water.
4. Water has an economic value in all its competing uses and should be recognized as an economic good.<sup>18</sup>

The second Dublin Principle, affirming the rights of local people, implicitly challenged the idea of the nation-state as an inherent instrument of the public good. The third principle emphasizing on gender pointed to the socially differentiated character of water supply and use at scales ranging from household to the industrial uses worldwide. The fourth principle, on recognizing '*water as an economic good*' was a major departure from the declaration at Mar del Plata – '*right to have safe access to drinking water*' only fifteen years ago. It is very clear that no more the UN perceives '*water as a human right*' rather it echoes the same slogan of the WB i.e. water to be recognized as an economic good and like any other tradable commodity.

The policy framework of the WB-IMF along with UN makes it evident that they are whole-heartedly promoting the market-forces in water sector. Their ideas are very close to the idea of '*free trade*' as proposed by Adam Smith that the boundaries between

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<sup>18</sup> Ibid, p.141.

nations should not become an obstacle for trade. Similarly, the kind of 'water rights' they are arguing for the industrial purposes<sup>19</sup>, it is quite close to Locke's theory of private property. It reflects the policies of these international organizations have the philosophical roots in the classical and neo-classical liberalism. As I have mentioned earlier, the policy statements are using concepts and categories like 'right' and 'need', which used by radical discourses but their meanings have been changed.

## **2.2 Indian State: Legitimizing the Water Privatization**

This section intends to reflect upon the position taken by the Indian state on the ownership and management of natural resources in general and water in particular. To do so, I have divided into four sub-sections; first part looks at the trajectory of development undertaken by the Indian state in the post-independence period; second part is traces the historical evolution of water policies; third part is on role of WB in India's water sector development; and, last part is on national water policies.

### **2.2.1 Position of Indian State on Development:**

In the last six decades after independence, India has moved from the command economy phase to one more geared towards competition, free enterprise, and integration with the international political economy. Upon taking power after independence, one of the most important task before the Congress government led by Nehru was to choose the path of development to be adopted by the state. All sectors of social opinion at independence visualized a leading role for the state in the development process. The real difference among different strands of social opinion related to what the precise form of that role was to be, and hence what the nature of that development was to be (and by implication, what the class orientation of that state was to be).<sup>20</sup> In order to show the shift in the nature and role of Indian state in the post-independence era, I have divided this section into three sub-sections – a) Nehruvian Indian State; b) Indian State in transition; c) Post-globalisation Indian State.

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<sup>19</sup> The market forces argue that the conception of private property is good not only for its industrial uses but also the personal use as people will value it more if they realize its market price, they will tend to save it in order to sell it if it more than their use, and so on.

<sup>20</sup> Patnaik, Prabhat (2000) p.143. I will write about it in detail in coming paragraphs.

(a) *Nehruvian Indian State*: As mentioned earlier, at the time of independence various plans (as alternatives for the model of development) were published – the *Bombay Plan* by the industrialists, *People's plan* by the left, a *Gandhian Plan* and so on. All except Gandhians agreed on industrialization and that too with the state taking the lead in any such planning. The authors of the Bombay Plan, representing domestic big business visualized planning as an aid to capitalist development. The hegemony of foreign capital was to be replaced by the domestic big bourgeoisie, but no radical distribution of property within the country in favour of small producers or the landless. The role of state was seen as that of midwife-cum-nurse for Indian monopoly capitalism.<sup>21</sup> In contrast to this was the position of Communist and near Communist Left. It also did not see the public sector and planning as ushering in socialism (for which initial prerequisite was a seizure of power by the workers and peasants);<sup>22</sup> but it did see them (or, more generally, the phenomenon of state capitalism) as an essential element in the struggle against imperialism. The Left pressed for radical land reforms, including land redistribution and a host of steps for curbing the power of the monopoly capitalists as a part of the strategy of planned development.

The modernizing leadership of Nehru intended to raise the general standard of living and protect the country's newly won freedom through a model of development that aimed at the creation of a 'mixed economy'. This model, based on import substitution, planned economic growth, and a policy of self-reliance, did not leave much scope for integration with the international market economy. In part of this reflected a certain Gandhian nostalgia for *swadeshi* – the consumption of only homemade goods – but also reflected a basic distrust of the West. The Congress government put its agenda into concrete shape in the form of mixed economy in which the state, through the public sector, engaged in building the infrastructure and key industries. The private sector was to engage in manufacturing and distribution. National planning, conceived by technocrats but under the guidance of key members of the central cabinet and the State Chief Ministers who constituted the National Development Council, was charged with the task of balancing

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<sup>21</sup> Ibid, p. 144.

<sup>22</sup> This theoretical position is descended from Lenin (by Patnaik in the same article).

the needs of growth with imperative of social justice and redistribution. The areas like health, education, transport etc were primarily to be taken care of by the public sector regulated by the central and the state governments. However, in our times Nehru has come under attack from various quarters –proponents of the free market claim that his economic policies kept India in a state of economic stagnation for decades, and leftists claim that he did not have the political will to institute wide-ranging land-reform and other measures to ensure the uplift of the poor.

*(b) Indian State in Transition:* The Indian state under the Congress regime adopted a socialist rhetoric (though the actual objective was stated to be the achievement of a ‘socialistic pattern of society’), visualized the public sector as a permanent phenomenon. It drew attention periodically to the need for land reform measures (through the instrumentality of the state governments) but never took the task of land redistribution seriously. Its land reform measures succeeded at most in eliminating very large zamindars, giving ownership rights to the rich tenants, and thus creating a relatively more homogenous class of landowners, but it did not give ‘land to the tiller’.

During the prime ministership of Indira Gandhi, the Green Revolution of 1960s revolutionized agrarian production through a series of technical innovation like seeds of the high-yielding variety, new pesticides, chemical fertilizer, etc. It transformed India from a net importer of food to a country that became self-sufficient in terms of production. In the 1970s the government of India developed a complex system of storage and market interventions called food procurement at guaranteed prices so as to maintain a steady flow of food production and supply to consumers, referred to as the public distribution system.

However, the oil crisis of 1970s quadrupled India’s oil bills, which was a severe drain to its foreign currency services. Although India could make up for some, this shortfall through remittances from Indians working abroad but the slowing down of India’s economy was quite visible and there was a need for radical change. Rajiv Gandhi

introduced the changes in the mid-1980s but within ten years, it led to a full-fledged liberalization in 1991.

*(c) Post-Globalisation Indian State:* In the late 80s, the government led by Rajiv Gandhi eased restrictions on capacity expansion for incumbents, removed price controls and reduced corporate taxes. While this increased the rate of growth, it also led to high fiscal deficits and a worsening current account. The collapse of the Soviet Union and the first Gulf War, which caused a spike in oil prices, caused a major balance-of-payments crisis for India, which found it facing the prospect of defaulting on its loans. In response, Prime Minister Narasimha Rao along with his finance minister Manmohan Singh initiated the economic liberalisation of 1991. The reforms did away with the Licence Raj (investment, industrial and import licensing) and ended many public monopolies, allowing automatic approval of foreign direct investment in many sectors.<sup>23</sup>

Since then, the overall direction of liberalisation has remained the same, irrespective of the ruling party. Areas of production that the government had brought under its control during the heyday of nationalization in the 1970s under the concept of “essential commodities” were gradually released back to the market. Important areas of production such as electricity generation, parts of the oil industry, roads, and some telecommunications were opened up for private initiatives. Attempts were made to make India attractive for foreign investors by lowering tariffs. It also gave more space to institutions like World Bank and IMF, which emphasize upon privatization and public-private partnership as the better alternatives of development.

### **2.2.2 Historical Evolution of Water Policies in India:**

India has a long history of water development. The uneven temporal distribution of rainfall has perhaps been the driving force for water development. Small storage reservoirs were reconstructed even before the Mauryan era. However, more systematic and large-scale water developments were undertaken in the British period. In this period, irrigation works were classified as commercial and non-commercial. In the early period, administrative policy documents indicate that the social aspects of water development

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<sup>23</sup> Panagariya, Arvind (2004).



were considered as important. The commercial aspect became more important in the early British period. In the 1850, an attempt was made to promote irrigation development through private companies.<sup>24</sup> However, they did not succeed.

The Govt. of India Act, 1935 transferred the subject of irrigation from the control of centre to that of the states. The Govt. of India was no longer concerned with irrigation development except where disputes arose between neighbouring provinces. After independence, in the era of planned development, particular emphasis was laid on water development for irrigation for increasing the food security. There was no well-documented water policy before 1987. However, some policy guidelines were available through documents like report of the Second Irrigation Commission, the statements made in the Parliament with regard to the policies about flood control, and the various other official documents. In 1998, the GoI and World Bank did a Water sector review. In 2000, India Water Partnership prepared Water Vision. In 2002, the second National Water Policy came up.

### **2.2.3 Role of World Bank in India's Water Sector Development:**

The development and efficient use of water resources has been one of the most critical and challenging issues facing India. The country spends huge amounts of public and private money of the water sector and receives substantial funds for the sector from bilateral and multilateral development agencies. The World Bank has been one of the important external partners in this endeavor, though compared to total overall water sector investment in India, the share of the World Bank's is relatively small. Most of the developing countries are World Bank borrowers for development and management of water resources and even India is not an exception. In the next paragraph, I am giving a detailed picture of the WB's involvement in India's water sector.

India's association with World Bank water sector lending dates back to 1954 when India received its first World Bank lending for the Damodar Valley Project. The World Bank also played a key role in India's signing of the Indus water treaty with Pakistan.

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<sup>24</sup> Mohile, Anil (2007), p. 10-47 in John Briscoe and R.P.S. Malik (eds.) (2007).

Subsequently, the Bank lending provided for some of the other irrigation projects including the Sone Irrigation Project (FY 1963), the Kadana Irrigation Project (FY 1971), the Periyar Vaigai Irrigation Project (FY 1978), etc. Concurrently the Bank also provided lending for water supply and sewerage projects including the Bombay Water Supply and Sewerage Project (FY 1974), the Water Supply and Sewerage Project for Uttar Pradesh (FY 1976), and similar projects for several states.<sup>25</sup>

In India, of the total US \$2.5 billion lending for water components, 71 percent was for water services and remaining 29 percent for water resources. Thus in India major focus of funding has been on providing for water services delivery system rather than for water resources per se. However, with the declining trend of Bank lending for the water sector in India is likely to pave the way for the private sector to play an important complementary role along with the government. The National Water Policy (NWP), 2002 very much reflects that how government itself is defining the much increased role of the private sector in coming years. In the next section we will have a look upon the brief summary of those sections of the policy which are linked to privatization.

#### **2.2.4 National Water Policies in India:**

It is a matter of utter surprise that India had no water policy until 1987 and the water sector was managed exclusively on ad-hoc basis.<sup>26</sup> Perhaps water still was not being taken as scarce natural resource and definitely not as commodity to be priced. By the time the first ever NWP came into existence, the situation on the front of water had already deteriorated to a large extent throughout the country. Two National Water Policies (NWPs) have been formulated so far.

**(a) National Water Policy (1987):** This national policy was nothing more than the official functioning of government regarding water resources, put in words. Neither was it formulated with the participation of the people through consultation nor did it allocate any role to the communities involved in practicing traditional water conservation. The

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<sup>25</sup> Nandy and Ahmed (1997) in Peter Mollinga (ed.) (2000), p. 342.

<sup>26</sup> Singh, Kumar Arun (2004), p. 57.

only role sought for non-governmental organizations was 'in educating farmers in efficient water use and water management'. Such a policy failed to leave any distinct imprint in terms of changing the ground realities.

**(b) National Water Policy, 2002 and the issue of 'Privatization':** This part of the chapter will give a brief idea of National Water Policy, 2002<sup>27</sup> to show that how it is a step forward to facilitate privatization of a natural resource like water. At the end of this part, some of the drawbacks of the policy will be mentioned. Section 1 of the policy – 'Need for the National Water Policy' – is a sort of preamble of the policy, which focuses upon the need for an integrated water resources development. Thus, commitment to the IWRM principles with the larger stress on environment issues is one of the basic principles of the policy. It also mentions the increasing demands for water for food, power generations and so on. It recognizes that the increasing demand is both due to the growth of population and economic changes. The resultant scarcity of water and consequent need for utmost efficiency in water utilization is specially mentioned.

Section 3, on water resources planning, is based on the principle that the maximum amount of the available water resources should be converted into utilizable resources. Section 4 deals with the institutional mechanism. The wording of this section indicates that this has been drafted in the background of a strong centrally planned economy where all water related responsibilities are to be discharged by the governmental system. However, the need for a better institutional arrangement for operation and maintenance (O&M) is clearly brought out. Section 11 deals with the financial sustainability. It mentions the principle that the water charges for various uses should be fixed in such a way that they cover at least the O&M charges, and a part of the capital costs (capital cost recovery). Thus, water prices are considered totally as administered prices, negating the principle for using the market mechanisms to decide the price of water.

Section 13 has a paragraph dealing with private sector participation. It states that private sector participation may help in introducing innovative ideas, generating financial

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<sup>27</sup> National Water Policy, 2002, Govt. of India document.

resources, and introducing corporate management as well as accountability to the users. It concludes that depending on the specific situation, private participation in building, owning, operating, leasing and transferring (BOOT) of water facilities may be considered.

Major drawbacks and lacunae of the NWP (2002) are – lack of well-defined aims and objectives of this national water policy; its emphasis on the consumption of water, keeping ‘man’ in at the centre rather than viewing man as a part of nature and act accordingly, for the whole ecosystem. It ignores the vital issue of people’s participation in the management of water resources. There is undue thrust on augmenting water supplies for increased water requirements but offers no innovation in rationalizing it. Water is not recognized as a livelihood resource of communities like dhobis (washer-people), kumhars (potters), fisher-folk, etc. who solely depend upon it. In irrigation, no distinction is made between sustenance agriculture of small and marginal farmers and cash crop growing large farmers. The issue of social justice in water distribution has been overlooked, despite the fact that more than 60 percent of the population lives in rural areas where it often becomes a question of survival. The lowest unit of governance, Gram Panchayat, has not been given any right over water. Under the participatory approach to water resource management, private sector participation has been encouraged.

In short, Indian state’s water policies reflect that the role of state as the custodian of natural resources has undergone tremendous changes over a period. Till 1987, there was no water policy in India, it reflects two things: either the socialist pattern of state considered water (in terms of its uses for agriculture, hydrology, drinking water) to be taken care of by the public sector or the situation was not so grave i.e. water posed as a scarce natural resource. There is no mention of anything like ‘right to water’ in Indian Constitution. Therefore, these water policies seem more of a facilitator for the implementation of the policies of WB-IMF.

However, the water policies of the Indian state witnessed different kinds of people's movements. These protest movements have now become a part of the worldwide protests. I will explore this in detail in the next section.

### **2.3 People's Movements and NGOs: Water as Commons**

Half a century of South Asia's construction-led water development has failed to address the basic sources of the suffering of the people. It has not provided wholesome drinking water to the rural, urban and sub-urban areas. On the contrary, misplaced development priorities have ignored the diverse social contexts of water to damage the foundations of social and community life. Decisions in the water sector are usually state-centric rather than community centric.<sup>28</sup> Ashis Nandy and Imtiaz Ahmed<sup>29</sup> opine that while centralisation of water management and water development is successful in implementing large-scale, capital-sensitive irrigation and hydro-electric projects, at the same time it has also led to bureaucratic neglect of local needs. Not only the poor have no easy access to safe water systems, they also lose their traditional water management skills and local institutions oriented to such management.

#### **2.3.1 Vandana Shiva's Navdanya:**

Vandana Shiva, a feminist, physicist, and ecological activist who is the director of a Dehradun-based NGO named as Research Foundation for Science Technology and Ecology (RFSTE). She also leads another renowned NGO named as "Navdanya" (nine seeds), which is also a movement for promoting diversity and use of native seeds. In a report by RFSTE, water in India is understood to be "life itself, on which our land, our food, our livelihood, our tradition and our culture depends."<sup>30</sup> Shiva is a great exponent of community perspective in our time. She has explored the cultural and spiritual aspects of water and goes on to say that as the lifeline of society and sacred common heritage it is to be worshipped, preserved and shared collectively, sustainably used and equitably distributed in our culture. Based on traditional, spiritual and cultural significance of water, says the RFSTE, local communities in India have developed creative mechanisms

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<sup>28</sup> Mollinga, Peter (2000), p. 340-8.

<sup>29</sup> Ibid, p. 342.

<sup>30</sup> Barlow, Maude (2002), p. 87.

of water management and ownership through collective and consensual decision making processes, which are designed to ensure sustainable resource use and equitable distribution.

The foundation further says that in the age of economic globalization, water is being commodified and commercialized in India with alarming results. Under pressure from the IMF and the World Bank to secure revenues to pay down their debt load, the Government of India has been selling water rights to global water corporations, including Suez and Vivendi, and to major industries requiring heavy water use for their production operations. As a result, indigenous local traditions of water management and harvesting are bypassed, giving way to increased commercialization and over-exploitation of scarce water resources. The RFSTE's report also says that we are witnessing the enclosure of a hitherto 'common property resources' (CPRs) into a private commodities. These trends are being experienced not only in India but throughout most of the Third World.

One of the prime driving forces behind transnational corporations and the expansion of global economy has been the "growth imperative," and in recent years, people have begun to recognize that this principle is on a collision course with Nature itself. The carrying capacity of the planet's ecosystem has its limits, especially given the rapid pace at which the natural world is being destroyed by industrial agriculture, deforestation, desertification and urbanization. Shiva argues that the growth imperative amounts to "a form of theft" from Nature and people. Shiva's ideas are very close to Gandhian thinking of proximity between human beings and nature. In Gandhi's time, western civilization had just started spreading elsewhere but his *Hind Swaraj* intended to caution the humankind against the calamity of modern civilization, which is an unending pursuit of material pleasure and prosperity.

Shiva goes on to show how the growth imperative, applied to industrial agriculture, also fails to provide more food, reduce hunger, or save natural resources. Industrial agriculture also operates as a form of theft from Nature and the poor. Same is the case with the construction of huge, high-tech power dams and the diversion of the river systems. For

her, water is a commons<sup>31</sup> because it is the ecological basis of all life and because its sustainability and equitable allocation depends on cooperation among community members. Although water has been managed as a commons through out human history and across diverse cultures and even today most of the communities manage water resources as common property or have common access to it as a public good, however privatization of water resources is gaining momentum.

In her book, *Violence of the Green Revolution*,<sup>32</sup> Shiva attempts to show how conflicts over natural resources and the way of development mutate into communal conflicts, culminating in extremism and terrorism. Green Revolution is the word used for industrial agriculture in India. Industrial agriculture is a very big water destroyer in which five times water is used for growing the same amount of wheat and rice than indigenous agriculture. It is easy to understand that who are the beneficiaries of this kind of agriculture and whose needs are being undermined. This kind of non-democratic economic system that centralizes control over decision-making and resource displace people from productive employment and livelihood. Destruction of resource rights and erosion of democratic control of the natural resources, the economy, and the means of production undermine cultural identity. Centralized economic systems also erode the democratic base of politics. In a democracy, economic agenda is the political agenda as well. When the former is hijacked by WB-IMF and WTO, democracy is decimated.

In her another very famous book, *Water Wars: Privatisation, Pollution and Profit*, Shiva has extensively written about the ongoing worldwide drive of privatization of water in general and its long-term and short-term consequences. For her, destruction of water resources and of forest catchments and aquifers is a form of terrorism. Denying poor people access to water by privatizing water distribution or polluting wells and rivers is also terrorism.<sup>33</sup> In Seattle, the WTO was dubbed as “World Terrorist Organization” by protesters because its rules are denying millions the right to a sustainable livelihood. Greed and appropriation of other people’s share of the planet’s precious resources are at

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<sup>31</sup> Shiva, Vandana (2002), p.24.

<sup>32</sup> Shiva, Vandana (1992), p. 45.

<sup>33</sup> Shiva (2002), p. xiv.

the root of conflicts, and the root of terrorism. Water belongs to the people and the earth. It is a community resource, common property. Common property cannot become state property. But private-public partnerships assume water to be a state property, to then be privatized to a private corporation.

When President Bush and Prime Minister Tony Blair announced that goal of the global war on terrorism is the defense of American and European “way of life”, they also declared a war against the planet – its oil, its water, its biodiversity. A way of life for the 20 percent of the earth’s people who use 80 percent of the planet’s resources will dispossess 80 percent of its people of their just share of resources and eventually destroy the planet. She seems quite radical while saying that “we can’t survive as species if greed is privileged and protected and the economics of the greedy set the rules for how we live and die.”<sup>34</sup> Shiva seems to be very close to Gandhi who is often quoted for saying that earth has enough for the needs of all, but not for the greed of a few.

Shiva is equally critical of the international donor agencies like WB-IMF and WTO as well as the Indian state’s water policies. Both of these undermine the ‘needs’ of the common people and none of them guarantee the community ownership of natural resources in general and water in particular. She says that the emergence of modern water extraction technologies has increased the role of the state in water management.<sup>35</sup> New technologies displace the self-management systems, people’s democratic management structures deteriorate and their role in water conservation shrinks. With globalization and privatization of water resources, new efforts to completely erode people’s rights and replace collective ownership with corporate control are underway. The communities of real people with real needs exist beyond the state and market is often forgotten in the rush to privatization.<sup>36</sup>

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<sup>34</sup> Ibid, p. 19.

<sup>35</sup> Ibid, p. 19.

<sup>36</sup> Ibid, p. 20.



In contemporary times, water privatization is based on Garrett Hardin's *Tragedy of the Commons*<sup>37</sup>, first published in 1968. Shiva says that Hardin assumes that commons were socially unmanaged, open access systems with no ownership. Moreover, Hardin sees the absence of private property as a recipe for lawlessness. Although, Hardin's theory about the commons has gained tremendous popularity, it has several holes. His assumption about commons as managed, open-access systems stems from the belief that management takes effect only in the hands of private individuals. However, the commons are regulated rather well by communities. Shiva further argues that commons are not open-access resources as Hardin proposes; they in fact apply the ownership, not on an individual basis, but at the level of the group.

Hardin's prediction about the doom of commons has at its centre the idea that competition is the driving force in human societies. If individuals do not compete to own property, law and order will be lost. This argument has failed to hold ground when tested in large sections of rural societies in the third world, where principle of cooperation, rather than competition, among individuals still dominates. In a social organization based on co-operation among members and need-based production, the logic of gain is entirely different from those in competitive societies.

Shiva is also very critical to John Locke's treatise on property<sup>38</sup>. According to her, it effectively legitimized the theft of the commons in Europe during the enclosure movements of 17<sup>th</sup> century. She says that he sought to defend capitalism (in the first chapter, Locke's theory has been mentioned in detail). It also facilitated the erosion of commons and destruction of earth in the name of individual freedom. Self-managed communities have not just been a historical reality; they are also a contemporary fact. State interference and privatization have not wiped them out entirely. In a nationwide survey covering districts in dry tropical regions in seven states, N.S.Jodha<sup>39</sup> finds that the most basic fuel and fodder needs of the poor through out India continues to be satisfied from Common Property Resources (CPRs). Village councils also appoint their own

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<sup>37</sup> Hardin, Garrett (1968), p. 1245.

<sup>38</sup> Shiva, Vandana (2002), p. 25.

<sup>39</sup> Jodha, N S (1986) (in *EPW*).

guards to ensure that no community member or an outsider breaks the rule. Similar rules exist for maintenance of wells and tanks as well.

To sum up, we can say that Shiva as the proponent of community perspective has a larger project where she is attacking the policies of WB-IMF and WTO and also the Indian state for catering the needs of these international organizations. Her advocacy for communities as the best institutions for the management of a natural resource like water is because communities have always recognized two things: a) that which we need for survival should never belong to an individual. It should be the commonwealth; b) it should be managed as the common wealth. In communities, rights are derived from collective responsibility. The rights are secondary; primary is the collective responsibility to manage the natural resources. Very often, the proponents of market perspective argue that pricing water is the only way to make people realize its value. But Shiva says that 'value' and 'price' are to be used in two different contexts. In ecological paradigm, we stress upon holistic approach to water and thus value water while in market paradigm, profit is the only motive and thus it is priced.

### **2.3.2 Rajendra Singh's Tarun Bharat Sangh (TBS):**

Tarun Bharat Sangh (TBS), an NGO under the leadership of Rajendra Singh, together with community mobilization revived the traditional water harvesting system in Rajasthan and succeeded in revitalization of six rivers which had gone dry<sup>40</sup>. 1985-86 saw the worst drought in Rajasthan and the district of Alwar was badly hit, it was also one of the poorest districts of the state. This district lies in a semi-arid region receiving a meager average of 620 mm annual rainfall. The district has two distinct features: the Aravali mountain and the Sariska Tiger Reserve. Alwar district has suffered severe water scarcity – groundwater table had receded below the critical level. An old tribal leader suggested to TBS, that it could help them by reviving traditional water harvesting systems to solve the water problems of the villages. He explained the rich tradition of building *johads* in the region, which were created by simple and inexpensive traditional technology. *Johads* are earthen check dams that catch and conserve rainwater, leading to

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<sup>40</sup> Pant, Ruchi (2003), p. 14.

improved percolation and groundwater recharge. Beginning with Gopalpura village in 1985, TBS played a leadership, catalyzing role, and acted as a facilitator in building 6000 *johads* and rejuvenating 2500 old structures with the help of village communities in 1056 villages.<sup>41</sup>

Water brought back life to the Tiger reserve and started attracting birds that are far more migratory. Rivers became perennial. Arvari, a small river in Alwar district had been reduced to a monsoon drain for decades. The process of rejuvenation of this river was started in 1987 by constructing small *johads*. 350 *johads* have been built in the catchments of the river. From 1996 onwards, the river began to flow in its full flow and became perennial. With the revival of the river, aquatic life prospered. There was natural growth of fish population. However, seeing this, the government gave the contract for catching fish to a private party. The people were concerned – today the privatisation of fish, tomorrow it could be the river itself.<sup>42</sup> Therefore, although the people in this region do not eat fish, they resisted the move of the government.

They developed water through their hard efforts and labour and they did not want to lose their inalienable rights over the river waters. They succeeded in reinforcing their right over the river and the government interference stopped. This long-felt need of the rural communities to sustain the prosperity resulting from the perennial river waters and the perceived threat of losing their rights there upon provoked them to think of a long term solution. This led to the formation of Arvari Parliament on 26<sup>th</sup> January 1999. The Parliament represents 72 villages, each of which sends two representatives. The Arvari Parliament meets on a regular basis and has been successful in keeping wrong-doers at bay. Though this 'river parliament' has no legal status and its decisions are not legally binding, the moral force of people makes its survival possible.

The Parliament has framed 11 rules with regard to the use of the river waters. A co-ordination committee comprising members selected by the Parliament handles the

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<sup>41</sup> Ibid, p. 16.

<sup>42</sup> As it happened later in case of Sheonath River (I will discuss it in detail in the next chapter).

operations and ensures compliance with the rules. The rules formulated by the *Arvari Parliament*<sup>43</sup> were: (a) Direct water irrigation from Arvari River; (b) Irrigation from wells; (c) Crop pattern and production free from the market and middlemen (cropping pattern should be based on the needs of local people); (d) Sale of water and the protection of fish in the river; (e) Sale of land in the villages (rules to prohibit the giving of land to outsiders and to take decisions regarding these issues); (f) Programmes to make the whole river area green and to protect the surrounding area from damage that has been done by severe mining; (g) The hunting of animals and illegal cutting of trees in the Arvari River area; (h) Traditional methods of water conservation and the revival of these practices; (i) Documentation of the reasons for over-exploitation of water and promote water conservation; (j) An active system for the management of the river; (k) The role of the Water Parliament and the village Gram Sabha (village forum) towards management of water sources.

The rules of Arvari parliament make it evident that still there is a possibility of community management of natural resources. The underlying principle behind this arrangement is the fulfillment of basic needs of the local people. Everyone has to understand the needs of others as their own need. It has kept the market and intermediaries away from the system as they are likely to bring competition among the users. In 2001, the TBS received the Magsaysay Award for its work in water conservation. This success has been a result of the efforts of every member of the community who attaches a feeling of ownership to the river and its waters. In turn, this feeling of ownership, thus ensuring the safety and maintenance of the resources, is a product of contributions, participation and sharing. This time, the community succeeded in driving away the outside forces. Nevertheless, in future, if the social fabric of the community weakens, some from within the community and stronger outside forces could question the legal status of the Parliament and the norms laid down by it.

Most sites and locations where communities have undertaken resource/conservation work face this problem. For this purpose, the National Law School of Bangalore University has

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<sup>43</sup> Pant, Ruchi (2003), pp 21-22.

drafted a strategic legal environment for community management of tank system in Karnataka. On similar lines, TBS is in the process of developing one for *Johad* management to give teeth to the rules promulgated by the Arvari Parliament. This effort will require the formal support of the legislature and will make its decisions meaningful. The initiator of the *Jal Biradari*<sup>44</sup>, Rajendra Singh's NGO TBS is on the verge of launching a Water University. The objective of this University is, "to bring together new energies under the guidance and training of experts to build a team of water engineers to fuel or launch a Water Literacy Movement to sensitise a larger public to respect this sacred common resource – water."<sup>45</sup> Like Vandana Shiva, Rajendra Singh is also against the state control as well as private control. While advocating the community's claim over natural resources, both of them stress upon the 'need' of the local people vis-à-vis the claim aspect of their legal rights in terms of ownership.

From the 1980s onwards, there have been several instances of social mobilization towards the local augmentation of the availability of water through rainwater-harvesting or micro-watershed development. To mention a few — Anna Hazare's experiment in Ralegaon Siddhi,<sup>46</sup> Pani Panchayat Movement in Maharashtra,<sup>47</sup> Swadhyaya

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<sup>44</sup> *Jal Biradari* as an organization is trying to connect the works of different groups (NGOs, research institutions, academic institutions, media, etc.) in the water sector. Jal Biradari has resolved to assist in the drafting of state water policies that prioritise the water needs of the people. For this purpose, Jal Biradari is organising *Jan Sunwai* (public hearings) and *Jal Adhikar Yatras* (Water Right Marches) all over the country. This process began in December, 2002. The National Jal Biradari's aim is to fight for a policy that ensures everyone's access to water and making the community the custodian of its water resources. The National Jal Biradari also aims to sensitise the policy makers to the successes of peoplecentred, decentralised water structures.

<sup>45</sup> Pant, Ruchi (2003), p.26-7.

<sup>46</sup> Anna Hazare, a retired army officer went back to his village Ralegaon Siddhi in Ahmednagar district, Maharashtra. He found the village reeling under drought, poverty and employment. He decided to mobilize the people and with the collective support of all the villagers, he began to introduce changes. Today Ralegaon Siddhi is being taken as a role model for other villages by the Maharashtra government and by other states too. Massive tree plantation has undertaken, and hills have been traced to check erosion. Large canal ridges on either side have been dug to retain rainwater. As a result, the water table in the region is now considerably higher and the wells and tube wells are never dry, making it possible to three crops a year where only one was possible before.

<sup>47</sup> Pani Panchayat Movement was launched by the Gram Gaurav Pratisthan (GGP), an NGO leading people's movement with an aim to create an equitable and ecologically sustainable water system in the drought-prone area. The movement began in 1972, when maharashtra was hit by a severe drought. The lucrative and water-hungry cash crop sugar-cane was diverting water away from people and nature. While the government focused on famine relief and continued to rapidly exploit water resources, GGP founder Vikas Salunke recognized the importance of strict water control and soil conservation as the most effective tools to survive the drought.

Movement,<sup>48</sup> Delhi-based NGOs 'Parivartan'<sup>49</sup> and 'Pani Morcha'.<sup>50</sup> Underlying such initiatives is the view that water is a common pool resource (CPR) and to be managed by the community. The view of water as CPR is virtually universal<sup>51</sup> among NGOs, social activists, and campaigners for the empowerment of disadvantaged communities and groups, not only in India but also across the world. However, unlike the WB-IMF the community perspective takes up 'needs' and 'rights' of people as complementary to each other. They start with Gandhian assumption of '*water as a natural resource is a human need*' and communities are its best custodian. The communities not only survive with a natural resource like water but also protect and enhance the resource. It fulfills the Lockean criterion of enhancement of production as well as Gandhian principle of just

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The Pani panchayat believed in the rights of all residents to water. Water was considered as a community resource, and the number of family members, not the size of one's land, determined how much water the residents could receive. A suitable *patkari* (water distributor) was appointed to ensure fair day-to-day allocation. And while members of the Panchayat were free to decide that how to use their water, sugarcane cultivation was regarded as irresponsible use of resource and was banned.

<sup>48</sup> Swadhyaya Movement of Gujarat was a movement aimed at self-development at all levels of organization, including individuals, communities, and the countries, had led to the construction of 957 percolation tanks known as *nirmal neers*. As a result, close to 100,000 wells have been recharged. The Swadhyaya villagers endorse *bhakti*, the principle of volunteerism, and believe in 100 percent contribution. During the drought of 2000, Swadhyaya villages did not run out of water. Through their free labour and commitment to *bhakti*, the villagers have created an alternative to capital-intensive, non- local solutions to water scarcity.

<sup>49</sup> In the name of Project 24x7, water supply in Delhi was to be transferred by the Delhi government from Delhi Jal Board (DJB) to foreign private water companies like Price Waterhouse Coopers (PWCs), GKW, Trilegal, etc. Parivartan along with a group of NGOs and individuals under the banner of 'Right to Water Campaign' demanded that the Delhi government to withdraw its loan application to the World Bank. Along with its effort to stop privatization, Parivartan also played a key role in suggesting a number of steps to improve the performance of the public sector Delhi Jal Board (DJB) to make it more participatory and accountable. Most of these suggestions had come up during various public meetings held in different areas of Delhi. Some important ideas include making available similar incentives to the public sector as were to be made available to the private sector.

Under the Right to Information (RTI) Act, Parivartan obtained the records that the World Bank arbitrarily intervened in the award of a consultancy contract (to draw up the blueprint of reforms) of Rs 7 crores to favour Price Waterhouse Coopers House (PWC) in November 2001. PWC lost thrice in the normal bidding but still bagged the contract due to the Bank's interference despite strong protests from DJB officials. According to Arvind Kejariwal of Parivartan, the Bank's interference is not limited to ensuring that its favorite firms get the contracts. "They are setting the entire agenda of reforms in its minutest details. In effect, the DJB seems to be relegated to the status of secretariat of the World Bank. The nature and extent of this interference is clearly unconstitutional and against all norms of democratic functioning" says Kejariwal.

<sup>50</sup> Delhi's 'Pani Morcha' submitted a detailed plan to the Supreme Court suggesting steps to be taken to improve the water situation in Delhi. These plans, and several others, are essentially detailed proposals for local rainwater harvesting and augmentation. These include creation of flood plain reservoirs in Delhi, rainwater harvesting to recharge groundwater, protection and enhancement of local tree cover, revival of old streams, rejuvenation of local water harvesting structures like pond and tanks, etc. These plans also talk about equitable distribution of water resources in the city, recycling it and so on.

<sup>51</sup> Iyer, Ramaswamy (2007), p. 154

distribution. Therefore, community perspective offers an alternative is much different from the other two perspectives discussed earlier i.e. the market and the state perspective.

### **Conclusion:**

To conclude, we can say that each of the claimants seems to be directly or indirectly (and also at times willingly or unwillingly) dependent upon another. Sometimes, the state plays the role of mediator for the international agencies and it is the agency that sanctions certain role to the NGOs as well. In terms of the 'need-right' debate, while WB-IMF along with UN have posed water in terms of 'need versus right'. The Indian State's Constitution does not mention anything like 'right to water'. In future, market forces seem to decide exact unfolding of the development and management scenarios including vital decisions about financial sustainability and water pricing. This chapter makes it very clear that while water privatization is the preferred policy by the government and global financial institutions, masses of people across the world are mobilizing to conserve water and regain community control over water. The next chapter on river privatization in India (privatization of a 23 km long stretch of Sheonath River in Chhattisgarh) reflects its consequences. It would be worth exploring the way different parties in debate are taking positions in the concrete situation of Sheonath River.

### Chapter Three

## River Privatization in India: Case of Sheonath River

“A river is more than an amenity, it is a treasure.”

-- Justice Oliver Wendell Holmes<sup>1</sup>

Ecologically, rivers are central constituents of freshwater ecosystems. Rivers are a critical means of cycling water and nutrients. Rivers are also important anchors of culture and communities. Historically, they have been critical arteries of transportation, fostering widespread networks of trade and cultural interaction. However, in the contemporary era of globalisation, like the other natural resources, even the river's (as a potent resource of water) economic aspect has worldwide become most important. As we have seen in the last two chapters, the process of institution building for the ownership of natural resources in general and water in particular is very complex. However, we can't deny the structural-adjustment conditionality and neo-liberal policy reform in the water sector. The result is a set of strong pronouncements as to how water should be managed, emphasizing its character as a natural resource good with economic value. The effort to treat 'water as a marketable commodity' has often met with opposition and contestation with claims like -- 'water is god's gift', 'water is a common pool resource (CPR)', 'right to water', and many others. To repeat my arguments of the earlier chapters, these two lines of thought over '*water as a natural resource*' are in the centre of ongoing debate on water privatization. Both of them start with the same assumption that '*water has become a scarce natural resource*' but they sharply differ over the reasons behind this scarcity<sup>2</sup> and also the future course of action for its management.

It is in this background, this chapter intends to look at a case of river privatization in India – its terms and conditions; and consequences thereafter. Sheonath River project in Chhattisgarh was one of the earliest privatization project in the water sector in India, and

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<sup>1</sup> Conca (2006), p 73. This was said by the Justice in the decision given in 1931 in *New Jersey v. New York*.

<sup>2</sup> As I have mentioned in the introductory part of the Second Chapter of this work – the lines of argument of Vandana Shiva, Sunita Narain, Neo-liberal market Forces, etc.



quickly became a symbol of all the problems that privatization can pose. Sheonath River is a semi-perennial tributary to the Mahanadi. The river flows through Borai in Durg district, Chhattisgarh. This case is about the handing over of a stretch of the river near Borai to a private firm for supplying water to the region lying between two district headquarters, Durg and Rajnandgaon. Borai is a newly developed industrial hub, promoted by the Chhattisgarh State Industrial Development Corporation (CSIDC). It is 45 km away from the Raipur airport: on the National Highway six (NH 6) and the main Mumbai-Howrah railway line. The region is rich in natural minerals and at a short distance of merely 10 km from Bhilai and surplus power is available at a reasonable cost. Surrounding the Borai region is a cluster of villages like Ramsara, Mohali, Chikhali, Nagpura and others that have traditionally used the river for irrigation and fishing. For generations, the rural people have relied upon its water for their livelihood, be it for drinking water or for getting money from selling the fishes of this river. Before their denial to the access the river water, they would have never imagined of a situation like river privatization.

The aim of doing this chapter is to look into the consequences of privatization. The first two chapters depicted the complexity regarding the ownership of natural resources and the position of different stakeholders, this chapter will focus upon the practical aspect of water privatization. How all the three parties are at the stake and each of them is trying to play the central role. How the life of local people was endangered and with the help of NGOs through the language of protest they were successful in scrapping the deal.

### **3.1 State's Ownership over Natural Resources: Rivers for sale in Chhattisgarh**

As I have already mentioned in the very first chapter that the ownership of things like forests, rivers, lakes etc. is very difficult due to the various dimensions of its usage. These systems share a triple meaning<sup>3</sup>: a) they are critical ecosystems with both local and global significance; b) they are important sources of community livelihoods and cultural meaning for millions of people; and, c) in an increasingly global world economy, they are

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<sup>3</sup> Ibid, p. 6.

marketable international commodities, either as natural resource goods or eco-tourist service. While the local communities depend upon these for their livelihood, at the same time state claims itself as owner on behalf of the citizens. For communities the socio-cultural and religious aspects are as central as its economic use. But the state emphasizes more upon its political economy and the issue of privatization is directly linked to it. In case of Sheonath River, which has been a source of livelihood to farmers and fishermen for centuries, a 23.6 km stretch was privatized by the state for 22 years. The local people were denied their access to it.

In India, the state continues to play a dominant role, both in its control over water resources, as well as in defining the nature and distribution of rights over water. This has been done most explicitly in case of surface irrigation. In the case of surface water, ownership is vested in the state. In fact, even the recent changes calling for participatory management of canal system by NGOs and for the establishment of entitlements specifically emphasize this.<sup>4</sup> For instance, the Maharashtra State Water Policy (MSWP, 2002) refers to use of water entitlements as “entitlements to use the water resources of the state” (GoM, 2002: Section 4.1), thereby reinforcing the idea of the state as the owner of the resource. Similarly, the Maharashtra Management of Irrigation Systems by Farmers Act (MMISFA) emphasizes that unless otherwise decided by the government, the ownership and control of reservoirs and head works of any irrigation project, and of main rivers and their tributaries, shall be vested in the government (GoM, 2005: VIII(66)). The MSWP mentions entitlements to water for the first time, and grants water user organizations stable and predictable entitlements to water, so that they can decide on the best use of water without bureaucratic interference (GoM, 2002: Section 1.3).

In terms of defining the nature and distribution of rights over surface water also, the state has always played an important role, although the strong tradition of farmer-managed irrigation systems (even prior to the official move towards such systems) has meant there has been an inter-play between the working of rights on the ground and the conception by the state. The question of ownership also includes defining who the beneficiaries of water

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<sup>4</sup> Sangameswaran, Priya (2007), p. 60.

are. For both drinking water and irrigation water, the household is the unit usually used for assigning water rights (even if water requirements are conceptualized per capita); further, one individual (the head of the family, usually male) is taken to be the representative of the family.<sup>5</sup>

In the context of rights over irrigation water, the link between access to land and access to water continues in most of the states, so that the landless have no right to irrigation water. It is the state which determines that how its water resources are to be harnessed. Three cases from Chhattisgarh – the privatization of Sheonath River, the insatiable use water from the Kelu River by an industry, and the construction of a private dam on the Kurkut River – clearly illustrate how the political economy is promoting the commodification of water, cornering water for the economic interests of the few at the cost of local communities. This chapter will concentrate on the first case study i.e. how the semi-perennial Sheonath River was handed over to local entrepreneur Radius Water Limited (RWL) under a BOOT (Build-Operate-Own-Transfer) agreement to supply water to the Borai Industrial Growth Centre in the Durg district. The project was signed in 1998, when Chhattisgarh was not a part of Madhya Pradesh.

The Indian federal map was re-drawn along linguistic lines on the recommendations of the State Reorganisation Commission (SRC-1956) to address the diversity of linguistic identities in the country. ‘Linguistic homogeneity’ remained the guiding organizing principle for Indian federal boundaries until the ’90s, when people’s struggles for a separate Jharkhand, Uttarakhand and Chhattisgarh challenged this argument on grounds of relative deprivation of underdeveloped regions within the large states. In essence, these separate statehood movements were based on challenging and changing the unjust political-economic order, which had led to the marginalization of these regions in spite of their rich natural resources. The Prithak (separate) Chhattisgarh movement was based on the marginalization and exploitation of the Chhattisgarh area, particularly its natural

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<sup>5</sup> Ibid, p. 60.

resources (forests, minerals, land and water), by the dominant regions of Madhya Pradesh.<sup>6</sup>

The movement argued that Chhattisgarh, in spite of providing a significant chunk of the state's revenue and resources, was not adequately represented in the political matrix of Madhya Pradesh and remained economically exploited and underdeveloped. Chhattisgarh, India's 26<sup>th</sup> state was carved out of the erstwhile state of Madhya Pradesh on November 1, 2000, in the hope of creating a just and equitable political-economic order. Unfortunately, the creation of a new state only shifted the locus of political-economic control from Bhopal to Raipur and from the caste-class elite of Madhya Pradesh to the elite of the newly-created Chhattisgarh. The poor remain alienated and outside the economic-political order which, in the last few years, has become even more oppressive and exploitative. It is paradoxical that the very same natural resources, for which the separate statehood movement fought for decades on behalf of the ordinary people of the region, are still being controlled by the elite. Not only this, but Chhattisgarh has also become the first state to privatize a river in India. To make it easier to understand, further two sub-sections are on the role of state in facilitating this and the terms of agreement which were too lucrative for a private company.

**(a) Role of the State in Privatization:** We can easily see how in this case, as in other cases too, state is gradually moving away from its Nehruvian commitment and being influenced by WB-IMF regime. State is not only allowing the market to take over but also protecting their interests. The new state i.e. Chhattisgarh, with its neo-liberal agenda, is gradually withdrawing and transferring the rights of the local people and communities over access, control, management and ownership of the natural resources upon which they are totally dependent for their livelihood and survival. In Chhattisgarh, the interdependence between local livelihoods and natural resources does not receive the attention it deserves.

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<sup>6</sup> Mumtaz, Ashar and Behar (2006).

The Chhattisgarh 2010 Vision Document, prepared by the global consultancy firm Price Waterhouse Coopers (PWC), an internationally known financial-consultancy company in its SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis of the region, considers the extensive dependence of the local population on natural resources as a 'threat' to the state's development.<sup>7</sup> This and every other policy that has been formulated since the state's inception, in the context of natural resources in general and water resources in particular, reflects the same trend. The Water Resource Development Policy 2000, the Industrial Policy 2004-09 and Environment Policy of the state point clearly in the direction of water privatization as the viable and only alternative for water use and management. Earlier the Chhattisgarh Vision 2000<sup>8</sup> identified some of the root causes of underperformance in water sector – a) low utilization of the developed water resources; b) inequitable development of resources; c) limited capacity of the govt. to fund development; d) poor revenue recovery and low tariffs, etc. The best possible a set of solutions to overcome all these problems were: inviting private investments in water sector, formation of water user associations, rationalization of tariffs, etc. The way this document diagnosed the problem, the only parameter is private control.

The political economy of water in Chhattisgarh leading to river privatization is not something which happened all of a sudden. The above paragraph shows its context and how the background was prepared for it. However, one can't deny the fact that the state prioritized the industrial use of natural resource over its use for sustaining the lives of the poor. In coming pages, we will see in detail as to how a basic need and right like water was denied to people due to the exploitative and unjust economic-political order. It is the incidence which has been highlighted by many scholars and activists that the government's formal discourse on water harvesting and '*safe drinking water for all*' is mere rhetoric; the real underlying discourse is the political economy of water. Since the Madhya Pradesh Industrial Development Corporation initiated the project in 1998, after the birth of Chhattisgarh, the BOOT project was commissioned again in 2001 by the Chhattisgarh government.

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<sup>7</sup> Ibid.

<sup>8</sup> Singh, Kumar Arun (2004), p. 75.

Under the scheme, water from the river was supplied to the industries in bulk as a part of an agreement with the Chhattisgarh State Industrial Development Corporation (CSIDC). Most of the industries located here are water intensive by nature – distilleries, sponge iron units and thermal power plants – and CSIDC is trying to make it hub for all water-based industries. Radius Water Limited (RWL) is not only responsible for supplying water but also for operating a common effluent treatment plant (CETP).<sup>9</sup>

Radius Water built a 4 m high dam through a technique called the Flood Regulating Barrier System along a 3.5 km stretch of Sheonath River at a cost of Rs 4 crore. The total cost for the project is Rs 9 crore for 30 million litres per day (mld). At present, it has a supplying capacity of 6 mld, but the CSIDC is buying only 4 mld now due to lack of demand though new industries are coming up in the area and the scenario is likely to change. The cost of water is Rs 6.60 for 1,000 litres of water. For CETP, the price has been fixed at Rs 3.60 per cubic meter. The project is feasible for 180 mld capacity through an investment of Rs 156.70 crore, excluding the cost of CETP; the CSIDC is the regulating authority of the project.

For last five years, the corporation (CSIDC) has been trying to ensure profitability of RWL irrespective of its own losses.<sup>10</sup> A major problem is the lack of insufficient demand. Borai has only two large and medium-scale industries, and their combined water requirement is between 1 and 1.5 mld – while the CSIDC pays for 4 mld as per the contract. The government claims to be pushing hard to attract more industry, but that paradoxically, might force the CSIDC deeper into debt. “We purchase the water at Rs. 15.02 a kilolitre (1000 litres). However, we sell it to industry at only Rs. 12 a kilolitre,” explains a senior official in the Accounts Department of the CSIDC.<sup>11</sup> Thus, the CSIDC makes a loss of 20 percent on every unit of water sold, and an increase in demand will certainly lead to increased losses.

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<sup>9</sup> Das and Pangare, (2006), (*EPW*, Feb 18).

<sup>10</sup> Frontline, (April, 2006), p. 10.

<sup>11</sup> Ibid, p. 11.

To make the matters worse, Hindustan Electro Graphite (HEG), which buys 90 percent of the CSIDC's total water sales, has refused to pay its dues. "HEG is a special case," remarks the official. HEG was required to buy a minimum of 3.6 mld and pay for 90 percent of the agreed amount in case it did not require the entire amount. But HEG reneged on its contract; moreover it filed a case against the government in the Chhattisgarh High Court. The court, which has issued a stay order, directed HEG to pay at half the agreed amount – that is, at Rs. 6/kilolitre.

The project was initially hailed as a success by the government. But later this illusion was wiped out when the CSIDC faced a heavy monetary loss. "It is true that the Sheonath River Project is a loss-making enterprise for the Chhattisgarh government," admits CSIDC chairman Rajinderpal Singh Bhatia. Another official said that the government has lost not less than Rs. 6 crores in the last five years. Furthermore, Radius Water's monopolistic deal with CSIDC and the water resources department covered ground water as well in an 18 km radius covering the Borai industrial area. The company promptly prohibited fishing in the stretch of the river and also charged local farmers for access to water from tube well. So, once it got the control over the river stretch, the clause on 'social obligation' as mentioned in the agreement was no more considered by the RWL. It took no time to deny the local people's access to river water.

So, we can see that the state has shifted its foundational policy of owning the resources for public good and is now working on behalf of private interest. Not only this, but the state also tried to help the private sector at its own loss.

**(b) The Sheonath River Privatization – Terms of Agreement:** Let us see how in the specific case of Sheonath River, state's shifting policy is reflected. This becomes clear by examining the terms of the agreement. The importance of Sheonath River in Chhattisgarh can be understood from the fact that it collects 40 percent of total water of catchments of the Mahanadi. Sheonath has a number of tributaries, namely, Amner, Haanp, Maniyari, Arpa, Kharkhara, Tandula, Kharman, Jamnia, and Khorsi. It is a semi-perennial river

which flows near Durg district of Chhattisgarh where Borai industrial area has been established.

On October 5, 1998, the agreement was concluded between Madhya Pradesh Audyogik Kendra Vikas Nigam (MPAKVN) and Radius Water Limited (RWL) to supply water to Borai Industrial Area (then in M.P. now in Chhattisgarh) on Build, Own, Operate, Transfer (BOOT) basis. Incidentally, Kailash Soni, the CEO of RWL, also submitted a proposal to the Chhattisgarh govt., to which if the govt. agrees, this company RWL will have exclusive control over all the rivers, streams and flowing water bodies of the state. The company told the govt. that it has specialized in constructing intake wells at a cost of Rs. 15 crore, which have a storage capacity equal to a dam constructed at a cost of Rs. 500 crore. On the basis of this lucrative claim, the company demanded from the state to govt. to contract to construct intake wells in the entire state of Chhattisgarh on BOOT basis.<sup>12</sup> Though, the state never showed any interest in the verification of such claim.

However, there is another interesting turn in the episode. Some officials of the Chhattisgarh govt. said that the intake wells constructed by the RWL were faulty. After some years, they start facing acute water shortages and hence it becomes essential to construct a barrage on the periphery of the intake wells and the company has to be given this additional task. So, a contract for making the barrage was intentionally given to the RWL by the CSIDC. By the facts given in the above paragraphs, it is clear that the process of river privatization was quite complex. In order to understand this complexity, it is very important to stepwise go into the details of the terms and conditions of the agreement. Here is a critical analysis of this agreement<sup>13</sup> which reveals a number of irregularities and extremely favourable treatment in awarding this contract.

First of all, at the time of entering to this agreement, no drawing-design, survey report and other technical details of the project were submitted by the RWL. Rules were relaxed and RWL was asked to prepare all these necessary documents after the award of the

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<sup>12</sup> Singh, Arun Kumar (2004), p. 75.

<sup>13</sup> Ibid, p. 77-79.



contract. The crucial question is – how could RWL arrive at the cost of Rs. 9 crore, without having done any technical work? And more importantly, how did the government officials approve this figure as cost, lacking any support from technical document? Yet, on the basis of cost, the entire agreement was concluded and gates were opened for this company to earn profits.

Then the tender invited for supplying water to Borai Industrial Growth Centre (BIGC), asked for proposals under the BOOT basis, in which terms and conditions specified that the company would undertake construction and maintenance work with its own resources within a specified period. However, the work would not have even started within this period because the company RWL did not have the required financial resources. So, a clause was added in the agreement that out of the total cost of the project (Rs. 9 crore), Rs. 6.5 crore will be given to RWL as a loan and Rs. 2.5 crore as equity. Audyogik Kendra Vikas Nigam (AKVN) was given a relaxation to invest upto rs. 50 lakh within six months under this equity. The overall situation was that the RWL did not put a single paisa of its own in the project and started earning a profit of Rs. 1.81 crore per year. The resources belonged to the public, money comes from tax payers and RWL coolly earns the profit. That is how the privatization is being done in this country. Now we will see that how the profit of RWL has reached Rs 1.81 crore per annum.

According to the agreement, guarantee has been given to RWL for purchasing minimum 4 mld. If the demand is less than this on any given day, AKVN will have to pay RWL for 4 mld. As mutually accepted in the agreement, rate for the sale of water is fixed at Rs 12.60 per cubic meter upto 6 mld. According to information gathered from Borai, so far there has never been a demand of 4 mld water, as the growth of the industry did not catch up, the way it was expected. So every day at this rate, a payment of Rs. 50,400 ( $12.60 \times 4000 = 50,400$ ) is being made to RWL. For a month this figure becomes Rs. 1,512,000 and for a year Rs. 1.81 crore. At this rate, as per the AKVN guarantee, at least an amount of Rs. 8 crore must have been paid to RWL. Though, the government officials have refused to reveal the exact figure of payment made to RWL.

The list of facilities granted to RWL does not stop here. In the name of privatization, AKVN has given a guarantee to RWL that it will ensure from Water Resources Department that RWL receives an assured supply of 30 mld water, at the maximum. As per clause number 2 of the agreement<sup>14</sup>, the capacity of the project is 30 mld. Actually, the cost of the project is based on the assumption that the capacity of project is 30 mld.

On the other hand, clause number 6 of this agreement<sup>15</sup> mentions that if the demand of water increases from minimum purchase guarantee of 4 mld upto 9 mld, then the RWL will have to start this increased water supply within three days. But this stricture is relaxed, in case the demand of water increases beyond 9 mld. In that case, RWL has to be informed in writing 6 months in advance as per the clause. It simply implies that the capacity of the project, in reality, is not 30 mld but at the most it is 9 mld only.

In a project under BOOT, government or any of its agencies do not have any responsibility. However, in this case of water privatization in Borai, AKVN is at the every step as an agent of RWL. It is explicitly stated in the agreement that RWL will recover the amount of money from the AKVN which in its own turn will collect the amount of bills from the independent industrial units, to whom water is being supplied from the project. It is specifically mentioned that RWL has nothing to do with these industrial units.

It implies that in case of any potential disagreement and litigation with an industrial unit over the quantum of water supplied and charges made in the bill, it will be the headache of AKVN to recover the bill and spend money over the litigation. The RWL is free from all these liabilities. The question is – if the recovery of the bills is AKVN's responsibility then what is the justification of BOOT? Is it really a BOOT project?

Under the agreement, before the start of the project, RWL will get all the pre-existing assets like intake well pump house, overhead tank, pipelines, old motor pumps in use,

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<sup>14</sup> MPAKVN (1998): Copy of Borai Industrial Growth Centre Water Supply Project on BOOT Basis Between MPAKVN, Bhopal and RWL, Raipur, Chhattisgarh.

<sup>15</sup> Ibid.

treatment plant, etc. Not only this, RWL will have a right to mortgage these assets. At the time RWL took over the Borai project, the total cost of available assets at the site was more than Rs. 5 crore. All this has been handed over to RWL on lease on a token payment of just Rs. 1.

Additionally, AKVN will ensure that pollution from industrial units located at Borai does not reach to the anicut supplying water to Borai. In case of water being polluted, RWL has a right to recover the additional cost incurred on treatment of this polluted water from the polluting industrial unit. Since this aspect has a huge potential to move courts, AKVN will have to bear the cost of any such litigation, as it has the responsibility of collecting bills from the industrial units.

Under the terms and conditions of this agreement, it is agreed that after the completion of the project duration of 20 years or concession period, RWL will hand over the project to the government on “ as it is, where it is” basis. Normally, in such agreements, all the assets are returned in brand new conditions, as the company has already earned a huge profit from the project. But here RWL has been relieved of this responsibility in order to maximize its profits.

Another clause in the agreement specifies that if the tenure is to be increased, then a fresh agreement will have to be signed between RWL and AKVN (now with Chhattisgarh state’s CSIDC) one year in advance. Thus it will be known to RWL at least one year before the completion of the project that whether the company will get the project or not. In that case, there is an apprehension that the government may not get back its assets, worth more than Rs. 5 crore, in working condition from RWL.

RWL has also been given a right to increase tariff to selling water, in case there is an increase in electricity rates or inflation. Not only this but what takes the cake is the arrangement under which the government has instructed industrial financial branch of the State Bank of India, Bhilai, that it should reserve the monthly minimum guaranteed

amount to RWL and ensure that regular payment to RWL is made. This has been ensured by opening a joint account of RWL and AKVN.

RWL will have exclusive control over scrap and any other byproduct produced from the project during its tenure of 20 years. Provision has been made in the agreement that AKVN will have the sole responsibility to provide compensation for any government or private land falling in the project area, in the survey done for the barrage. Furthermore, it is the responsibility of the AKVN to identify any such land. It is not publicly known whether any such land has been identified or any payment made in this regard.

In Murethi, nearby Raipur district, charges being paid to irrigation department for taking water from river for irrigation are just Rs. one per cubic meter. How come charges in neighbouring Durg district has been fixed at Rs. 12.60 per cubic meter of water? Because of this highly exaggerated tariff, industrial houses are not enthusiastic in setting up new units/plants at Borai.

### **3.2 Role of International Agencies in Water Privatization:**

Water privatization involves transferring of water control or water management services to private companies. The water management services include collection, purification, distribution of water, and waste water treatment in a community. Traditional service has been provided by the local governmental infrastructure such as the municipal local city council. The pro privatization lobby including water corporations, the World Bank (WB) and IMF has aggressively campaigned for water privatization on the grounds that, while subsidies promote wasteful practices, commodification of water should allow market (for supply and demand) to set the water tariff, which in turn will reduce water consumption and promote water conservation. Furthermore, it is argued that opening this sector to private providers will bring in badly needed capital for upgrading and development for infrastructure.

Privatization in water services can involve either one or all the components like water storage, water treatment, water distribution, tariff collection, disposal of waste water and

sewage, etc. There are several models of water privatization that are currently in vogue in different parts of the world. Depending on the degree of privatization, these models can be categorized into:

- **Service Contracts** – In this model, public authority retains overall responsibility, the operation and maintenance of the system, and contracts out specific components – for example, meter reading and bill preparation. Normally there is no investment from the private company, no financial risks to it, and also no direct legal relationship with the user. (e.g. Leakage Reduction in Bangalore is contracted to Thames Water Plc.)<sup>16</sup>
- **Lease/Management Contract** – As the name suggests, either the private company leases out the facility to from the civic authority, or the latter appoints the company for managing the facility. In either case, the ownership remains public; the private company is normally not responsible for new investments or expansion. Some commercial risks are there so far day-to-day operations are concerned. (e.g. Proposed management contract of two zones, South II and III, in Delhi, now on hold)
- **BOOT Contracts:** In Build, Own, Operate, Transfer (BOOT) contracts, the private company builds some part of the infrastructure – say the treatment plant, or filtration plant – and it runs it for e regular charge on the system. Normally, these would be long term contracts, with a purchase agreement that would guarantee a minimum demand. It is also called take-or-pay contract. (e.g. Industrial water supply project on BOOT basis in Tirupur, Tamilnadu and also in case of Sheonath river of Chhattisgarh).
- **Concessions:** Long term contracts in which the private company takes full charge of the system, takes responsibility for the provision of the services and is also

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<sup>16</sup> Dvivedi, Rehmat, Dharmadhikary (2006), p. 13.

responsible for expansion, new investments, recovery of bills, etc. (Buenos Aires, Argentina, La Paz, Bolivia).

- **Divestures:** Where the government divests its equity in a utility that is then bought off by a private company. This may be full or partial divestures. (e.g. as in England).

In most cases, the establishment of an independent regulator, whose functions normally include setting the tariffs, is a part and parcel of privatization process. Thus, the more general term Private Sector Participation (PSP) is used which can include any of the above elements. These policies, pushed by the World Bank and ADB in the name of Water Sector Reforms (WSR) all over the world, have underlying thrust of converting the whole sector into a market and even the case of India is not an exception. In India, it has been already done to the power sector and now it's the turn of water.

Kailash Soni, Proprietor of Radius Water Limited (RWL) firmly believed that the river, or at least 23.6 km stretch was now under his ownership and it was his company's right to allow or deny access of villagers to river. He stated very clearly that – "He has joined this business of water with a holy feeling and patriotism from which he intends to earn arabs of Rupees not lakh or crore"<sup>17</sup>. According to him, very soon Cadilla, Khodeywala, Kingfisher, Food-park, NTPC, tanneries from Gujarat, etc. are establishing their units at Borai and he will be minting money. To some extent, Soni's ideas seem closer to Lockean argument of maximizing the production through private property. However, the two contexts are too different to each other. Locke's time was of the abundance of natural resources then too his theory ensured that one leaves enough for others. But, in our time when profit is the only motive behind market forces, private ownership over a river will certainly overlook the needs of local people (as it very much happened in case of Sheonath River).

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<sup>17</sup> Jansatta, November 24, 2000. Further excerpts of quotes of Kailash Soni (CEO of the Radius Water Limited) is from the same article.

He also claimed that his decision to enter into this business was taken after the detailed survey and cost-benefit analysis of companies engaged in the business of water throughout the world. He was extremely happy about the way he shaped the privatization of water in Durg district. For converting wasteful flow of river water into a neat monetary profit, he considered himself to be worthy of Nobel Prize, for his innovation. "The concept is novel, so is the technology; both of these were developed in-house at my company, Radius Water," said Soni. He further said that "the technology doesn't require expensive electrically operated gate systems. We use a Flood Regulating Barrier System, which opens and closes automatically, depending on the level of the Sheonath. The barrage height is low, so there's no question of submergence or displacement." He seems to be too happy with his low cost technology which will mint money for him. To him, nothing is wrong in making money from a river which is otherwise of no use. He gives every possible argument to make people realize the worthiness of his ideas but he never bothered to tell the rural people that once the deal is finalized, he will deny their access to river water.

Mr. Soni also says that water resources worth Rs. 15,000 crore are lying useless owing to official inefficiency, and leakage alone is causing a loss of Rs. 36,000 crore. According to him and his company since industrial water price at Borai is the lowest in the country, it will boost the state's company with upcoming industries in this area.<sup>18</sup> Kailash Soni justifies his principle of development through construction on the ground that after his project, water table in neighbouring areas has gone upto 9 meters.

The question is, if this claim is correct then why the villagers are being stopped by RWL to install tubewells? Though in the Section IV – Point 4 of the Tender Document, the Corporation has been sanctioned certain SOCIAL OBLIGATIONS under which it has to ensure that river water users remain un-effected. In the next section we will see the impact of agreement on rural population.

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<sup>18</sup> Das and Pangare (2006), *EPW*, Feb 18.

### **3.3 Plight of the Local Rural People, the People's Movements and NGOs against the River Privatization:**

After the implementation of this agreement, more than one dozen villages, both upstream and downstream, were affected adversely as their access to river water and its use was restricted or completely denied. The upstream villages i.e. Ramsara, Mohali, Siloda, Mahmara, Khapri and the downstream villages i.e. Pipalchheda, Malood, Belodi, Chikhali, Nagpura, Jherni, Jewra Sirsa, Patharia and Samoda were directly affected by the privatization and it led to many hardships of villagers dependent on the water of Sheonath River. The consequences of this privatization have been enlisted by Arun Kumar Singh in his book, *Privatization of Rivers in India*.<sup>19</sup> Here, I would like to analyse few of them in order to show the plight of the local rural poor.

RWL employees forcibly took away the pumps of farmers, used for withdrawing water from Sheonath River. In upstream area, villagers were completely stopped from taking water from river, on the grounds, that it would reduce the quantum of water for supply to industrial units at Borai, Durg. Farmers engaged in growing vegetables on the banks of the river in Ramsara and Mohali villages were forced to abandon their livelihood resource as they could not use river water any longer. Farmers were not allowed to install tube wells by RWL, on the ground, that it will reduce inflow to river. Fisher folk constituting a large number of families in these villages became jobless as fishing had been stopped by RWL in this river. Access to livestock had been limited to only a few minutes, affecting their productivity, especially of buffalos. Washing of clothes at the banks of river was totally banned by the RWL on the ground that it will increase the pollution in river. Right to collect sand from river bank was now exclusively vested in the hands of RWL. As a result, Ramsara Gram Panchayats incurred a loss of revenue (Rs. 90,000/annum), received by awarding contract for collecting sand. Sudden discharge of water became a potential threat to human life and properties downstream and villagers lived in a perpetual threat of being drowned anytime.

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<sup>19</sup> Singh, Arun Kumar (2004), p. 82.



The above paragraph depicts the consequences of river privatization. How the industrial use of water is prioritized over the needs of the local people or community's claim over the flowing river water. It is interesting to note that initially, the locals were not aware that a private firm managed the new barrage that has sprung up across the river. No prior information was provided about this contract. After a few months, however, Radius Water informed the local fishermen that they were no longer permitted to fish in the 200 m zone from the barrage (on both sides) for safety reasons.<sup>20</sup> There were a few skirmishes and employees of Radius Water allegedly destroyed some of the fishermen's nets. Even the farmers who owned land near the river were also barred from lifting water from the river with motor pumps. This ban had the endorsement of the district administration, which also banned the installation of tubewells. CSIDC enforced this rule within the Borai Industrial area also. People from downstream villages started complaining that the groundwater table had plummeted. Many villagers from Pipalchheda, one of the surrounding hamlets, insisted that the water level in their wells had plunged since the construction of barrage.

Thousands of local people, who have survived for generations on the river waters, are now going hungry due to loss of livelihood. People campaigned to the Chhatisgarh government for the termination of the contract with Radius Water Company. People were supported by activists, social workers and left-wing parties wanting their rights over water restored. These activists from the National Alliance of People's Movements, the All India Youth Federation, the Nadi Ghati Sangharsh Samiti and Chhatisgarh Mukti Morcha united and mobilized people living along the river from other villages such as Kekro Koli, Bedwa Pathra, Vagrum Nalla, Basik Hai, and Chattari to join the struggle.<sup>21</sup>

With the protest intensifying, Chief Minister Ajit Jogi decided, in April 2003, after a ministerial meeting to cancel the contract. According to the state government, the agreement would be terminated "within the legal framework" and compensation paid to the company for the lease period after the Law Department and the Advocate General

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<sup>20</sup> Das and Pangare (2006).

<sup>21</sup> Pant, Ruchi (2004), p. 26.

give their opinion.<sup>22</sup> Though the agreement was signed by the Madhya Pradesh government, the Supreme Court will allow the Chhattisgarh government to review the agreements made by the Madhya Pradesh government. This, according to Ajit Jogi, is particularly so as the contract goes against the interest of the people. According to him, the government is ready to pay any price to end the contract, but at no cost will allow the privatization of natural resources. Jogi's statement seems to be defending the role of state and its unwillingness to go against people's will (at the same time, it also indicates his willingness to remain in power which needs the support of people).

According to the State Legal Committee, to which the issue was referred, if the government ends the contract with Radius Water Company, it has to pay a compensation of Rs. 400 crores. But the government now points out that as the company had not taken the State Water Utilisation Committee's approval, as mandated, it may not be eligible for the compensation.

After six months since the government's decision to end the lease the contract, nothing seems to have happened. Kailash Soni himself seems unperturbed. According to him, after all he is only "providing service to the people". He claims that it is only for the safety reasons that people are not allowed to use water from the reservoir. But the fact is that having spent a huge amount to construct an integrated water supply system by building a dam with pumping stations, distribution lines and effluent treatment plants, Soni is now looking for other sources of revenue from water such as from fisheries. According to the local people, trees are planted around the reservoir by the company as an additional source of income from timber.

Ultimately, bowing to pressure from several NGOs and adverse media reports, the government had to scrap the deal. Apart from the ethical issues involved, the high installation cost of water infrastructure and relatively low price of water per unit make it unviable for private capital. Companies like RWL can only succeed in markets heavily distorted in their favour, where a compliant state offers them the luxuries of perfect

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<sup>22</sup> *Frontline*, Nov. 7 (2003), p. 86.

monopoly, minimum purchase guarantees, generous exit clauses and complete protection from people's protests.

### **3.4 Constructing a Debate among the Claimants:**

To start with, I would like to introduce the claimants of 'water as a natural resource' once again especially in context of this chapter. Like the other two chapters, three main claimants i.e. market, state and community and the concepts like 'right' and 'need' are at the centre of this chapter also. The episode of Sheonath River's privatization is an empirical evidence for testing the first two chapters of my work. To great an extent, it has unfolded itself almost in the similar way as mentioned earlier – the declining role of Indian state, the state facilitating the market forces, the communities being marginalized, so on and so forth. Here, I would like to clarify that the case study of Sheonath River of Chhattisgarh should be taken on behalf of the Indian state taken for doing the second chapter of this work. As I have mentioned earlier in detail that the role of Indian State has undergone tremendous changes in the post-globalisation phase. It has become more of a regulator rather than a service provider. The neo-liberal policies and structural adjustment programmes have helped it more than ever before in curtailing its role.

For more than a decade, the state government had drawn water from the Sheonath River to supply the factories in the Borai industrial zone. But in 1998, the state faced a severe financial crunch and was unable to either build new tanks or repair old rusty pipelines to ensure an uninterrupted supply of water. Desperate for water, the factories began digging wells at an alarming rate. Under India's "build-own-operate-transfer" (BOOT) program designed for privatizing infrastructure projects, the government invited Soni's company to supply water for the next 22 years. He invested more than \$7 million and draws 30 million liters a day. At least half a dozen state governments around the country have invited private companies to supply river water to industries along the lines of the Sheonath river project. The southern state of Tamil Nadu has granted rights to a portion of the Bhavani River to a private company to supply a prosperous industrial township, Tirupur.

"People's rights over common natural resources are slowly slipping to the market," said Gautam Bandopadhyaya<sup>23</sup> of River Valley Agitation, a group that mobilizes people living along riverbanks to resist privatization efforts. He further said, "Industry's needs for water are becoming a priority over people's needs." When the water level in the Sheonath River dropped during the summer, some government officials and employees of Soni went to Mohlai village on the banks and cut off farm irrigation pipes that drew water from the river. This fueled public outrage and protests, and the pipes were restored. "What if the rains fail us next year and the river shrinks?" said Chabilal Yadav, 50, a rice farmer from the village." Soni is a businessman and will naturally give priority to the needs of his clients in the industry. Do we have to agitate each time to gain our natural rights over the river?" Shatrughan Dheemar, 35, a fisherman living on the banks of the river, said that before Soni built the dam he could fish even in the summer months. "It was never totally dry; there would always be knee-deep water in our river. But this summer, the river became a playground, as the scarce water was accumulated by the barrage for the factories," he said as he watched cows wade into the river one recent afternoon. "I had to give up fishing and go to work as a low daily wage laborer in a stone quarry." Defending his project, Soni argued that the threat to the groundwater table has declined since his company was supplying the river water to the factories.

The story of river privatization depicts that it is the state which goes on to facilitate the a private company (RWL) by giving it even its own equipments for constructing the dam (as we have seen in the section on 'conditions of agreement') by the payment of a token amount of merely one rupee. Unfortunately, the Sheonath project is not the only such project in Chhattisgarh. An environmental activist Gautam Bandopadhyay<sup>24</sup> lists four other projects – on the Kelu and Kurkut rivers in Raigarh, on the Mand in Jagjir, on the Kharun in Raipur and the Savri in Dantewara – where water rights to rivers have been handed over to private companies on the pretext of attracting industry to the State. The Kharun River has been given to the Nico Jaisawal Group, the Sangari River to S. R. Group, Indravati River to Tata Group and Kelu River to Jindal group. The state's

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<sup>23</sup> Rama Laxmi (2003). I had taken this article from net which was published in Washington Post. The instances of villagers' talk has also been taken from this.

<sup>24</sup> Mumtaz, Asher and Behar (2006)

industrial policies do not seem to recognize the rights of common people over a natural resource like water. Prior to the industrial uses of the river water, it is also a lifeline of the local people. Such moves further in future would adversely affect the availability of water for agriculture, drinking, livestock and ecological purposes and would also alienate people from their basic need and their human right to water.

### **Conclusion:**

In this chapter, I have tried to capture how the Sheonath River's privatization has opened the debate about the rights of communities versus the rising demand from industry. Governments have to ensure a balancing act that leaves both sides satisfied but actually they mostly fail to make any of them happy. Whether the state is merely a trustee or an absolute owner of the natural resources? The way state went on to privatize a stretch of river to a private company, it is clear that the state had assumed its ownership and transferred it to some other party. The need of the local people was seriously undermined and it was the NGOs who came in forefront to fight for the people. So, we can see that the Nehruvian state (with its socialist vision) which was once seen as a custodian of the people has now become a facilitator to the market forces in the post-LPG phase where welfare has taken a backseat.

## Conclusion

The contemporary debate on water privatization unfolds a very significant fact that the water is being seen not merely as natural resource but more as scarce commodity. Its economic significance has overcome its other aspects like social, cultural and ritual importance. Water which is the emblematic of the triple of critical ecosystem, local livelihood and culture, and market commodity, is also a prototypical example of the resulting social controversies and political contentiousness.<sup>1</sup> For the purposes of this work, 'Privatization' refers to the processes that increases the participation of formal private enterprises in the water sector but may not necessarily involve the transfer of assets to private sector.

This work primarily aimed at mapping the 'terms of debate' in the privatization of water sector. Why water issues have become so important these days? Is privatization the only solution to overcome the water scarcity? What is the significance of UN declaration of 'human right to water'? Many other similar questions are being widely raised today. I have tried to capture the debate, keeping in mind three major claimants i.e. the market, state and community which are involved in ownership of natural resources in general and water in particular. The three chapters are in three dimensions but they do have a common link and that link is their centrality to this worldwide phenomenon of water privatization. While the first chapter looked into the philosophical underpinnings of the contemporary debate; second chapter penetrated into the analysis of policies drafted by the claimants and also people's movements over 'water' in India; and, the last or third chapter has gone into the details of Sheonath River's privatization in Chhattisgarh to give us the empirical insights of water privatization.

There is a clear-cut division of ideology over water among the claimants. Though, all of them start with the same assumption that water has become a scarce resource but they sharply differ in their views on its ownership, management and future prospects. While the market forces (for my work, I have taken WB-IMF and UN in this category) opine

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<sup>1</sup> Conca, Ken (2006), p.15.

that 'water has to be considered as any other tradable commodity' or 'a human need' (like other needs) to be fulfilled by the market; the community perspective views 'water as commons' and 'god's gift' and should not be left to the market forces. The Indian state, being a democratic entity has to be responsive to the welfare of the people at large and the poor in particular. It may lose its legitimacy if it favours the market forces beyond a point where the lives of many come to stake. We have the examples of mass upsurges in Cochabamba when the water tariffs went up immensely and also in Chhattisgarh, where after river privatization the market forces ignored the dependency of rural people upon this river as the only source of water. In the next few paragraphs, we will see how the shift in the role of state has taken place worldwide and India as a part of it could not remain an exception.

The move towards private provision in water sector can be explained as a result of the shift away from Statist and towards neoliberal (free market) policies in the North from the late 1970s. While Statist ideology holds that society's needs and problems are best addressed by the state through political processes as it reflected in the writings of Laski and Nehru, the neoliberal doctrine believes that social functions and economic development should be undertaken by business within free markets, with the state playing a facilitating and regulatory role without direct engagement. The philosophy of neoliberal policies has its most explicit reflection in the writings of Robert Nozick and the roots of his writings lying in classical liberalism and writings of Locke and Adam Smith bring all of them in the same category (with certain differences due to their context which needs minute observation).

The neoliberal agenda was simultaneously adopted by the North-dominated international institutions (primarily WB-IMF) which, using their capacity as creditors, aggressively promoted neoliberal reforms to governments of indebted low and middle income countries, often through Structural Adjustment Programme (SAP) that advocated the reduction of state spending and avoidance of substantial state investment in providing services (electricity, health, education, and now also water) to the people. Neoliberal ideas had profound influence on international development and policy debate in the water

sector in the 1990s. The 1992 “Dublin Principles”<sup>2</sup> illustrated the new perspective to water by making its economic value most important and an added emphasis to recognize as an economic good. So, from its status as natural resource, water had now been declared as ‘economic good’.

During the 1990s, private sector participation (PSP) was vigorously promoted on the water and sanitation policy agenda for the South as a means of achieving greater efficiency and expansion in the water and sanitation sector. It can be broadly situated within the set of “neoliberal” reforms which, in water sector has been driven by multinational financial institutions. Under right circumstances, it may well be possible for PSP to improve efficiency and increase the financial resources. However, it can also direct finance to urban centres and neighbourhoods that are already comparatively well served, further polarize the politics of water and sanitation especially when prices increase and create new regulatory problems.

Much depends on the way privatization is developed and the local context. Despite its prominence in the water sector, the scale and benefits of PSP remain very limited. Only around 5 percent of the world population is currently served by the formal private sector. The term PSP usually refers to a contractual agreement involving a public agency and a formal private company (often the MNCs). The next stage i.e. Public Private Partnership (PPP) is a very common term but rarely explicitly defined. In the water and sanitation sector, it tends to be used to refer to contractual arrangements in which the private companies assume greater responsibility, especially through concession in contracts.<sup>3</sup> The use of term ‘partnership’ implies that the parties involved have mutually shared objectives and working arrangements. Last stage i.e. Water Sector Reforms (WSR) is introduced to make legally enforceable measures like cost recovery, disconnections, etc.<sup>4</sup>

The above description makes it clear that over a period of around twenty years how the participation in private sector has increased stepwise – from PSP to PPP to WSR. This

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<sup>2</sup> Ibid. p. 129.

<sup>3</sup> Crosslin, Robert (1991), pp. 15-31.

<sup>4</sup> Dvivedi, Rehmat and Dharmadhikary (2006), p. 40.



also reflects the shrinking role of the state as a service provider. The WB-IMF along with ADB, WTO and other international donors are the major drivers of water privatization and commercialization in Asia, Africa and Latin America. In the name of more investment, cheaper tariffs, better service, improved reliability, latest technology, increased efficiency and many other such reasons, these institutions have been successful in growing their water market.

However, there are anti-privatization forces also which are struggling worldwide to counter-attack the policies made by the WB-IMF and institutions like Global Water Forum (GWF) and World Water Forum (WWF). The nexus among anti-water privatization campaigners, human right-to-water and environmental activists, community-based models of participation, social justice and illegitimate debt campaigners, quality public services campaigns, etc, has become a part of vibrant social movement that ensures water remain in public hands, and that the poorest of the poor shall not be deprived access to safe, affordable and sustainable water. Here I would like to quote Vandana Shiva who seems to be correct in saying that “the moment you let the market determine the situation, all that will happen is that the swimming pool of the rich will get a higher priority over the drinking water of the poor.”<sup>5</sup>

Commodification of water in India began when WB aided the construction of large dams and the intensification of tubewell irrigation within the past few decades. This has been pushed forward by the Bank’s Structural Adjustment Policies. Similarly, ADB’s loans for privatisation of water seem to have two clear motives –first, to force the entry of private industry in the water sector and second, to create user groups in the form of *Pani Panchayats* who would provide ready customers to the companies. The term '*Pani Panchayats*'<sup>6</sup> makes them sound like local bodies of self-governance which will be empowered to manage the water resources – but use of this term is deceptive. *Pani Panchayats* will in fact be comprised of users of water who will pay for the services provided by the private sector. This is going to have serious implications for small and

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<sup>5</sup> In an interview which I got from internet.

<sup>6</sup> Pant, Ruchi (2003), p. 18.

marginal farmers. They will be forced to grow commercial crops instead of their food crops; this could result in threatening the food security of the country and pushing these farmers to the verge of extinction. Neither does growing commercial crops guarantee that farmers will be able to bear the high tariffs. Small farmers will not be able to bear the costs of compliance with high food quality standards.

The NWP (2002) very well reflects that it caters the need of WB policies on water. The policy has explicitly mentioned the future prospects of water market in India. In the name of 'full cost pricing' and 'water sector reforms', the role of private sector is likely to increase like never before. Though privatization has not been seen as the only alternative and market forces to be the deciding factor but it certainly provided a wider scope for them. Models emerging from the 'Washington Consensus' on decentralization and privatization bring their own social science of community, grounded not in the ideas of village tradition but in the institutional-economic rationality of rule making and monitoring.<sup>7</sup> It also reflects that in the future situations, the role of government in the water sector may be reduced to that of monitoring and analyzing the situation and of regulating the development and management of water.

In the pre-globalisation phase, Indian state played the role of more of a service provider, be it health, education or water. A large section of its population (especially middle and lower income groups) depended upon state for all these things. But, once these sectors are left to the 'market' whose only objective is 'profit', it will be very difficult situation for many to cope up with. The tussle between Nehruvian and Gandhian conception of Indian state gets reflected in the contemporary debate over water in India. While the Nehruvian ideology of 'large dams as the new temples of India' led India to a situation where it is heavily indebted by the institutions like WB-IMF, Gandhi's idea of self-sufficient village economy with 'small dams' has almost become a dream now. However, Nehru's Statist view with its socialist vision is itself no more the guiding force behind the Indian state and the neoliberal forces are shaping and deciding the new role for it.

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<sup>7</sup> Mosse, David, (2003), p. 15.

The way 'needs' and 'rights' have been posed against each-other by the WB-IMF and the UN declaration of 'water as a human right' with many terms and conditions unfolding its complexity due its 'new recognition as an economic good' makes it very difficult to put them in different categories. Even the Indian State has not provided its citizens with something like 'right to water'. But in the name of development, the construction of large dams displaces thousands and millions of people. This kind of acts by the state often leaves many of us with perplexing questions like – what should be the role of state? How it has to cope up with the pressures from international organizations in order to save the interests of its people who look upon it as their custodian. I would like to end this work with a short note that the root of most of the problems related to development lies in 'greed' in Gandhian sense which often leads to destruction which can only be overcome by making it based on 'need'.

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