

WATER POLICY 2012

Pushing to privatise

The Government of India released its new Draft Water Policy on 31st January 2012, opening it up for comments. The Draft Policy seeks to replace the current one that was adopted in 2002. The objective of the Draft Policy "is to take cognizance of the existing situation and to propose a framework for creation of an overarching system of laws and institutions and for a plan of action with a unified national perspective." Unfortunately, not all parts of the proposed framework are a change for the better.

One such crucial element of the framework that represents a change for the worse is the push in the policy for privatisation and commodification of the water sector.

Pushing to Privatised

The Draft Policy declares, in Section 13.4 that, "13.4 The "Service Provider" role of the state has to be gradually shifted to that of a regulator of services and facilitator for strengthening the institutions responsible for planning, implementation and management of water resources. The water related services should be transferred to community and/or private sector with appropriate "Public Private Partnership" model."

It is significant to note the clause relating to the same theme in the current water policy (2002 Policy). Clause 13 of the 2002 Policy states: "Private sector participation should be encouraged in planning, development and management of water resources projects for diverse uses, wherever feasible." The shift from a tentative statement in 2002 to the emphatic decision in 2012 is of great interest. This shift is hardly warranted by the experience on the ground of privatisation in the water sector. Rather, it goes against all the accumulated evidence of the last ten years.

Before we take a look at this evidence, it would be important to clarify what we mean by privatisation.

By Public Private Partnership, we understand any venture in which the private sector is involved in a manner that it exercises control on some (or all) part(s) of the water supply system, from production, transmission, treatment to delivery. Typical EPC (Engineering, Procurement and Construction) contracts would therefore not be considered a PPP, but an O&M management contract would. We also refer to any such PPP arrangement as privatisation.

The reason for this definition is that we really don't need to transfer ownership of water or the water resource itself to any private hands for all the problems seen in PPP projects to emerge. The many problems of PPP / privatised projects emerge from the essential contradiction between the motives of a private company and the societal obligations to provide water which is a life sustaining resource, and this does not require it to really own the resource.

Often, an argument is advanced by the Government and other votaries of privatisation that we are not privatising water, but only involving private parties in managing it and

providing related services. In effect, this argument has little relevance as the projects with private sector participation lead to many major problems even without privatising the water or water resource. Of course, if the water resource itself was privatised, this would lead to even greater problems.

At the same time, most private water projects will result in some sort of de facto ownership of water by the private operator, mostly through earmarking of the water for them or by creating a first right on the water resource. This is essentially because no private operator would undertake a project unless it is assured of its raw material. . in this case water. The most well known case is the case of Sheonath project in Chattisgadh where the private operator has been allowed to construct an anicut on the Shoenath river to supply water to the Borai Industrial Estate. The operator promptly stopped the people from using any part of a 23 km stretch of the river, including for purposes like bathing, fishing and for small crops. Similar earmarking of resources is a part of most private projects.

At the same time, private projects also create restrictions on the access of people to other water resources. In several cases, there have been attempts to shut down public standposts. In the Khandwa (M.P.) BOT project where the city's water supply has been handed over to a private company for 25 years, the agreement with the private company includes a restriction that no competing facility will be allowed. What constitutes a competing facility is not defined, so this can well be stretched to mean private wells and other common water sources. This has been seen in other parts of the world, for example in Cochabamba in Bolivia.

Let's return to the evidence of the last decade, During this time, Governments at both, central and at state levels have tried to push privatisation in the water sector in a big way. However, it has failed to deliver in any meaningful manner. Many projects failed to take off. High profile attempts to introduce privatisation in cities like Delhi and Mumbai had to be given up. Projects that did take off ran into huge problems. For example, the flagship project of Tiruppur water supply - touted as a model in the early 2000s - today languishes due to lack of off-take and falling revenue, and has been asking for Government bail out. Only a handful of projects are trudging along, and the jury is still out on their efficacy.

Attempts to push privatisation of irrigation have met a similar fate. The Nira Deogarh project near Pune, slated to be the first privatised irrigation project could not move beyond the call for Expressions of Interest. A condition of the World Bank loan to the state of Madhya Pradesh requiring it to privatise 25 minor irrigation projects and a medium-size one has remained a non-starter since 2004. This failure of privatisation is essentially due to its inherent limitations and the fundamental contradiction between water as a crucial element for survival and sustenance and water as a means of profit.

The attempts to push privatisation led not only to many strong protests and large scale resistance, but also led to the emergence of several alternatives to privatisation. At the heart of these alternatives are suggestions not only to make the public sector more accountable and efficient, but also to unambiguously enshrine water as a fundamental right, thus asserting the social obligation of the State for its provision.

It is not only the civil society that is questioning the appropriateness of privatisation of water sector. For example, the Chawla Committee (Committee on Allocation of Natural Resources constituted by Government of India on 31 January 2011, under the chairpersonship of Shri Ashok Chawla, former Finance Secretary) presented detailed recommendations for eight sectors, namely coal, minerals, petroleum, natural gas, spectrum, forests, land and water. The general thrust of the Chawla committee's recommendations is a shift towards more market based processes for the allocation of these resources. However, for the water sector, it has not even mentioned the Public Private Partnerships or any of the other market mechanisms. On the contrary, it has emphasised that there are multiple dimensions of water use and allocation "with the primary use being that of life-support".

In November 2011, the Planning Commission's Working Group on Urban and Industrial Water Supply and Sanitation for the Twelfth Five-Year- Plan (2012-2017) submitted its report. The Report recommends that "Current PPP contracts in this sector must be carefully evaluated for lessons learnt before more schemes are sanctioned." (I was a member of the Working Group)

This recommendation needs some elaboration. In recent years, several 'pilot projects' have been undertaken to privatise water supply in some wards / parts of some cities. These include Nagpur, Hubli-Dharwad and others. These are being projected as great successes, and models to emulate on a large scale. In a way, these constitute the second wave of the 'model' projects. Our experience with the first wave should certainly make us more cautious in assessing the 'success' of such projects.

In the success of these projects, there are often factors like selection of a easy area for implementation of the pilot (Nagpur, where the area selected already had 16-18 hours of supply, good infrastructure) or significant external financing (Hubli-Dharwad) etc. Thus, it is essential to examine whether the success of these pilots is based on some of these factors which may not exist in other zones, and whether this success is only an initial success that will falter later. The recommendation of the Working Group is based on looking at all such facts.

In fact, the real question is whether to make water systems work do we need privatisation or more accountability? Such accountability would need to be in the form of a fundamental right of every citizen to water, legislative support to mandate quantity and quality of water and agreements / MoUs that require utilities to ensure quality of service.

It is surprising that all this evidence, all the doubts and reservations have been ignored by the Government to bring in an unequivocal push for privatisation. Therefore, it raises the questions of whether there are any other forces at work.

It appears that one major force is the push by agencies like the World Bank and Asian Development Bank, whose declared agenda is not only to introduce privatisation but also convert the entire sector to market based operations. This is also supported by other provisions of the Draft Water Policy. Unlike in the current policy, there is no explicit list of prioritisation amongst various water uses in the Draft Policy 2012. Section 3, on *Uses of Water* indicates that water for human survival and for ecological needs would have the highest priority.

Section 3.3 adds: "After meeting the minimum quantity of water required for survival of human beings and ecosystem, water must be used as an economic good with higher priority towards basic livelihood support to the poor and ensuring national food security."

In other words, water needed for basic livelihood support for poor and for food security has been treated as an economic good. The implications of this are hidden in Section 7 that deals with pricing of water. Section 7.1 says: "Over and above the pre-emptive uses for sustaining life and eco-system, water needs to be treated as an economic good and therefore, may be priced to promote efficient use and maximizing value from water."

The words "maximising value from water" essentially mean monetary value, and indicate a shift to commercialisation of water. Such an objective of maximisation of value jeopardises livelihoods and food security related activities, as these often do not create as much monetary value as other activities.

The ADB, in its water policy calls for tradable water entitlements, which will lead allocation of water (through market buy-sell transactions) to "high-value" uses of water. The World Bank too calls for such a regime, arguing that once this is place, "... those requiring additional resources (such as cities) will be ...able to meet their needs by acquiring the rights of those who are using water for low-value purposes."

The World Bank itself elaborates on this elsewhere to say that "the value of water for irrigated foodcrops is a fraction of the value for urban and domestic purposes" and suggests, as an example, that the city of Chennai could buy water from farmers near by to meet its need. This example of "maximising value" indicates how such a policy would lead to water being cornered by industry, big commercial users and big cities at the costs of farmers, poor people whose livelihoods depend on water and rural areas.

While the Draft Policy does not explicitly talk about such trading in water entitlements, it should be noted that the first Water Regulatory Authority in the country, set up in Maharashtra, under World Bank pressure, has the explicit mandate to facilitate such trading in water entitlements. The provision in the Draft Water Policy (Sec 13.1) that calls for setting up Water Regulatory Authorities in each state, read with the provision of treating water as an economic good to maximize value should leave us in no doubt that what is being envisaged is a transition to a full-fledged market system for the operation of the water sector.

This is likely to pose a grave risk to both livelihoods of the poor as well as food security of the country. In this sense, the Draft Policy is not only clearly anti-poor and anti-farmer, but also more generally a threat to the interests of the larger population.

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