

Water is a right

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“The dictionary describes water as colourless, tasteless and odourless - it’s most important property being its ability to dissolve other substances. We in South Africa do not see water that way. For us water is a basic human right, water is the origin of all things - the giver of life”. (Poet Mazisi Kunene -Water is Born all Peoples of the Earth.)

The argument of Dr. Bindu Lohani, Director General of the Regional and Sustainable Development Department of the Asian Development Bank in his article “Is water a human right?” appeared on ABS-CBN news is basically the same argument that put forward by the water corporations who says water is a need and not a right. I agree with Dr. Lohani that there in no time to debate on this issue. However, that is not an excuse to convert water from a right to a need. When water converts to a need, any body who deliver water at any price can be justified. This will benefit the private vendors not the public who do not have access to affordable and quality water.

Water is rather beyond a human right and it is a right to all living things. It is a common property and no ownership. The South African water policy states that, *“All water, wherever it occurs in the water cycle, is a resource common to all, the use of which shall be subject to national control. All water shall have a consistent status in law, irrespective of where it occurs”*. This policy also states that *“There shall be no ownership of water but only a right (for environmental and basic human needs) or an authorization for its use. Any authorization to use water in terms of the water law shall not be in perpetuity”*.

Water certainly performs as object of human rights. However, weather such idea practicable for human life is still debated by United Nation (UN), World Bank, ADB, IMF and many countries. In addition, UN convention such as Universal Declaration of Human Rights and the UN Convention on social and economic right do not explicitly state water as of human rights. This right on water is absolutely essential although such UN Conventions that were prepared from 1940s to 1980s do not consider water as of human right.

However, UNITED NATIONS General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic Social and Cultural Rights) State *Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights. The Committee has been committee*

confronted continuously with the widespread denial of the right to water in developing as well as developed countries. Over one billion persons lack access to a Basic water supply, while several billion do not have access to adequate sanitation, which is the primary cause of water contamination and diseases linked in water. It also state “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking personal and domestic' hygienic requirements.”

Dr Vandana Shiva argues that water as a Natural right. She says water rights are usufructuary rights; water can be used but not owns. People have a right to life and the resources that sustain it, such as water. The necessity of water to life is why, under customary laws, the right to water has been accepted as a natural, social fact: The fact that right over water has existed in all ancient laws, including our own *dharmasatras* and the Islamic laws, and also the fact that they still continue to exist as customary laws in the modern period, clearly eliminates water rights as being purely legal rights, that is rights granted by the state or Law.(Chattarpati Sing, “Water and Law”(n.d) Water wars, 2000, Dr Vandana Shiva

Water is available everywhere. But clean water is scarce material. Clean water has become scarce in Sri Lanka not due to natural causes but because of human mismanagement. Cleaning of watersheds, setting of industries along river basins and digging tube wells in a haphazard manner etc. However the main reason for this scarcity is the non enforcement of environmental laws. This is true for many countries.

The very word “scarcity” has such an ominous sound to it that we may forget that it is “the peculiar condition of a business society, the calculable condition of all who participate in it” shortage makes the economy go round by conferring advantages on some people. If pure market conditions prevailed, the eventual distribution of scarce resources might reflect the true cost of extraction them from the natural world.

Pure drinking water has already become a commodity in urban areas. Sometimes it is more expensive even than milk. However, people still offer water to any guest or even to animals without considering the price. But commodification of water is becoming a major problem. This is a dangerous arrival from the water corporation who looks for profits. However putting a price on pure water will certainly destroy the ability of the people to afford suitable water. Access will certainly depend on the purchasing power of the people and so the poor will lose their ability to get water.

There is no question about whether water is a right? The issue today is who deliver the water. The delivery of water by the government or the rulers is an age old tradition. But many government use the excuse of lack of financial resources as the main reason get away from this responsibility and to bring the private sector capital. ADB water policy promotes water delivery through private sector, promotes private sector participation.

However the definition is no different to the privatizations. The para 38 of the ADB policy state *“Private sector initiatives and market-oriented behavior are expected to improve performance and efficiency, particularly in service delivery. ADB will seek to provide innovative financial packages to enable commercial lenders and promoters to manage the risks involved with investing in water-related projects. In financing build operate- transfer and build-own-operate projects from its private sector window, ADB will promote selection through competitive bidding. It also state ADB will promote the contracting out of specific operations to the private sector”*. The case in Manilad water in Philippine is a good example for the failure of this Market approach. It did not deliver any of the expectation of the ADB policy.

If the Government need to deliver water there are many other ways. Penang water utility is a public-public partnership. The Knom Peng water is the same. Colombo water utility is a fully government operation. So while water is treating as a human right, countries can manage water their own.

It is true that poor in certain cities pay more than the rich. It is also true that poor are not connected to the water utilities as they cannot afford the connections fee. The connection fee to the recent Katmandu water utility is about 270 USD which is ten months income of a poor family. The monthly fee is also cannot afford. This is a result of the full cost recovery approach of the ADB and other lending agencies. This led the poor people to drink poor quality water or by it from the vendors on day today basis. The poor are willing to pay for there water if there is no other way. But that money comes from there health, education of the children’s or probably from the diet.

However the pollution, water scarcity has the linkage to the destruction of the resources and poor management of water, industrialization which benefits rich nations which is the result of the same market oriented approach over the past few decades. The poor is the victim of this bad development.

The aggressive market oriented approach is disastrous for the poor. An example from Sri Lanka is that a city in Sri Lanka destroyed more than 50 standpipes in order to make the business environment for privatization. Several hundred families lost the safe water in this moment. However to date the privatization was not happened due to public opposition. The above experience shows that the trend today is not solving the water crisis but cooking the water crisis to make water a commodity.

The water problem is the world has no single solution. Private sector is not the only solution. If the bank and the local governments have the will, many other solutions are ahead of us.
