



India WASH Forum

WASH News and Policy Update Bi-monthly e-Newsletter of India WASH Forum Issue # 33 January 2014

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India WASH Forum News

India WASH Forum stands for an independent credible voice in the water, sanitation and hygiene sector. WASH News and Policy Update is a bi-monthly e newsletter of the India WASH Forum. It is an open platform for engagement on contemporary issues in WASH sector in India and elsewhere. We are pleased to share the 33rd Issue of our WASH Policy Newsletter that is produced once in two months consistently from 2009.

WASH Policy Newsletter promotes information and knowledge sharing, research and analysis for advocacy on critical issues.

Our newsletter provides an analytical perspective on contemporary WASH issues. We are conscious of the need to engage with and understand other larger debates in the social and economic development scenario, of which drinking water and sanitation is a part. Hence we include in our news analysis and policy updates, events and developments from other related development fields, besides the WASH sector. We invite readers to share their experiences and reports that can be disseminated from this WASH Policy Newsletter.

The first issue of the New Year is focused on Right to Water and Sanitation.

We share an analysis of recent developments that have a significant impact on the content and meaning of Right to Water and Sanitation for people of India and elsewhere. Simply securing the 2010 UN Resolution on Right to Water and Sanitation has not made any impact on the political and governance agenda of any south Asian country, as is evident from the recently concluded SACOSAN 5 meet in Kathmandu. The official Declaration of Kathmandu SACOSAN is silent on the commitment of the government in addressing Sanitation and Water as a Right. In light of this, the recent decision of Delhi government to make 20KL/month/family water and associated sewerage service free of cost and a Right, will push other states in India and hopefully other countries in Asia and Africa to meet their international commitment to Right to Water and Sanitation.

The recent decision of Delhi government in declaring 20Kilo Liters of water a month and associated



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sewerage, as a Right and a free entitlement for all habitants of the city has been received with stunned silence from civil society and resistance from many technocrats and even some NGOs.

Against this back drop it was funny to see how the ex Delhi Jal Board CEO in a recent “Women and WASH” Workshop in Delhi, immediately after the Delhi election results, claimed credit for womens' leadership(a woman Chief Minister and a woman CEO) - in raising DJB water tariffs by 400% in three years and an annual 10% increase every year as part of the pricing of water.

We present **a critique of this decision**, culled out from excerpts of an ongoing Community of Practice open discussion on the WSSCC website. **The manifesto of the new government** on water and sanitation is also enclosed. We also share the summary points of a meeting of activists and NGOs on the Delhi government decision on Right to Water and Sanitation, **listing out 13 priority areas for follow up**.

While on the one hand water and sanitation are being addressed as Rights of citizens and responsibility of the state, there is parallel work on “Market led evidence based research on rural sanitation” in the recently released white paper report by Deloitte. While making a case for private sector involvement, it is interesting to see the report seeking subsidy as a significant component of sanitation financing for atleast the poorest sections as well as for its role on developing the sanitation market - **The Government is a key player** and can **facilitate development of the sanitation market** by developing cost-effective standard designs, funding demand generation, ensuring efficient transfer of subsidy, and helping financing companies access lower-cost funds for on-lending.

A three day consultation on water conflicts was organized recently in honour of Prof. Ramaswamy Iyer for his contribution and work. The facilitation speech of Prof Iyer that is enclosed in this newsletter is a source of motivation for all activists and experts who have worked hard on making the water officialdom listen.

The pace at which economic policies are excluding the poor and marginalized people from realizing their Rights to water and sanitation is best exemplified in the way urban development is being pushed through in India, with no

regard for water conservation or the Rights of the people both upstream and in urban areas.

A neo liberal obsession with economic growth at all cost is also a recipe for privatization and profits at the expense of the people. In **a rare judgment, the Supreme Court recently upheld the ban on mining in Goa**. The Order of the Court read;

“In a sharp rejoinder to the Centre’s stand in Parliament that the court-mandated ban on iron ore mining in Goa was hitting the economy, the Supreme Court on Wednesday said judges were oath-bound not to uphold privatization policies which breached constitutional principles. Referring to news items and editorials on the effect of mining ban on the economy, a bench of Justices A K Patnaik, S S Nijjar and F M I Kalifulla said the media was concerned only with GDP and economic growth but not about constitutional principles. “What about right to life guaranteed under Article 21 of the Constitution and the jurisprudence developed on this issue over the years,” the bench asked.”

Delhi’s new law on public-private partnership for land development seems tailor-made to suit big builders and marginalise housing for economically weaker sections appears to be “the story of a Ministry that has simply sat back and outsourced to private companies complete charge of both social responsibilities and economic development in the urban sector. It began with a warning that the McKinsey Global Institute sounded in its “India’s Urban Awakening” report. India, it warned, could catch up with the rest of the developed world only if it increased the size and density of its metro cities by three times, for which it had to borrow nearly \$2.2 trillion (Rs. 125 lakh crore). The warning made sense to the Ministry of Urban Development. We are at a point where the ratio of urban population will grow to 50 per cent by 2030 while 60 per cent of urban people still live in slums.”

“In response to the urgency of the government, early bird land pooling projects have surfaced and we can understand more clearly what will happen to Delhi. The first wave has already hit the desks of the Delhi development Authority(DDA), for approval as slum rehabilitation schemes. Slum lands have been auctioned through tenders to the



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largest eight or nine builders in the city. The slum dwellers will be moved to distant transit camps while redevelopment takes place. The builder will build three components on the slum land. A block of flats for his private clientele, a shopping mall with commercial shops and, thirdly, some densely packed 20 floor blocks for the slum inhabitants. These too will become our urban sinkholes. In one such project, 13,000 slum dwellers have been accommodated in multi-storied blocks that cover 18 per cent of the ground of their erstwhile slum land while the balance of the land has been given to 700 clientele buyers, a commercial mall and shops, leaving the rest for roads, etc. Here lies the paradox. The very Ministry that promulgated the 12th Schedule of the 74th Amendment 21 years ago has ended up usurping the powers it gave the local bodies.”

What implications does this move have on environment and water resources of new urban areas?

“The scramble for notified land would monetise it. The first of these 19 planned corridors was launched in a tearing hurry. It links the two great slum cities of Delhi and Mumbai with a 1500-kilometre long and 300-kilometre wide “dream zone” of cities and factories. Documented by the Scott Wilson Group, it has been predicted that **one-third of the total population of India could move into this corridor by 2030 even though it is located in the most severely dry region of the country. Water would have to come from mining the fossil aquifers deep below** the earth’s surface. The Bayou Corne sinkhole in Louisiana caused by water mining into this fossil layer of the earth’s crust serves as a grim reminder. Regardless of such risks, the Cabinet has cleared a budget of \$90 billion, in its urgency to urbanise India.”

We share an article by **Radha D Souza on Right to Water** that underlines classical issues of the approach to Right to water, that is usually missing in the highly programmatic Rights Based Approach practiced in WASH and elsewhere. We had in an earlier issue of IWF Policy Newsletter highlighted how Rights Based work in WASH confuses the issue of people not seeing water and sanitation as a Right, to the lack of consciousness and

prioritization of water and sanitation as a Right and the need for NGOs to make this happen.

Radha D Souza has taken up some basic issues in Rights approach;

“In part, misunderstandings about “rights” persist within social justice movements because they have forgotten the history of “rights” and the critique of “rights” by revolutionary thinkers of the late nineteenth and early twentieth centuries, and the political programmes of the successful movements for socialism and national liberation struggles to alter the nature of “rights”. As a result, social movements, instead of learning from and developing those revolutionary experiences, have discarded the history of struggles against “rights” and feel frustrated that “rights” do not work, but have nothing to offer beyond “rights”. If we wish to move forward, it is important therefore to grasp the concept of “rights”, its history and the critique of “rights” by radical movements of working people in the past.

The philosophers of capitalism in the eighteenth and nineteenth centuries radically transformed the classical idea of “rights” into a subjective political idea attached to individuals who became “right bearers” vis-à-vis the state and society. The idea of “rights” was transformed into “freedom from state” and social constraints. As such, the corollary of “rights” is “freedom”, “choice” and absence of restraint. Today, the philosophical idea of “rights” exists at best as a moral ideal because the political philosophers of capitalism have put rights on a different institutional and juridical foundation. When social justice activists speak of “rights” they have in mind this classical ideal, but often it is forgotten that the institutional and legal basis for objective “rights” do not exist any more.

Capitalism developed the idea of “rights” to new levels by introducing two components that radically altered the nature of “rights”. First, philosophers of capitalism introduced the novel idea that property was a natural and inalienable right attached to every person in the same way as life, and the conditions that sustain life: air, water and food. Second, “rights” were articulated as



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negative juridical concepts, in that “rights” only guarantee the possibility of something, not the actual thing. Thus the right to collective bargaining creates the possibility of a living wage but does not guarantee a living wage; the right to property makes it possible to own a home but does not promise everyone a house to live in.

It is therefore wrong to think that through default, somehow, “rights” have come to be equated with property rights. “Rights” in its modern form and as a political idea owes its very existence to property rights, and is inseparable from it; and the concomitant idea of freedom is about freedom to own and accumulate property without interference from the state. Circumscribing property rights for social purposes does not take away its primacy in the political and legal order. Capitalism will be impossible if property rights are taken out of the scope of “rights”.

Revolutionary social movements of the early twentieth century advanced three main philosophical criticisms against “rights”, which are still valid. First, the “empty shell” argument: liberal rights are negative endowments that promise the possibility of, but do not create the conditions for, their fulfillment. Second, that any talk of “rights” in politics must be backed by an economic system that facilitates it, and capitalist individualism, commodity production and market economy do not create the conditions for freedom from want and other freedoms; to the contrary they create bondage and oppression. Third, the “means to an end” argument: “rights” free labouring people from feudal obligations and old forms of oppression (caste, gender, and so on) and allow limited political space for organised dissent, which is useful not for its own sake but only if people actually organise themselves to create the conditions for real freedoms.

Turning to law, legal theorists, following in the footsteps of political theorists of capitalism, developed legal principles and innovated institutional mechanisms that sustain capitalism. The most significant legal development was the idea of statute law, by which we mean different Acts of legislature on different social issues

enforced by a court system backed by police powers. This form of law, which most people today think is “natural”, as if that is how law has always been, came into existence only with capitalism, and is far from being “the way law has always been”. Under statute law, each aspect of social life is cast into a distinct legislation or statute which makes it difficult to envisage the social whole. What one statute gives another can take away. For example, a statute may provide for a minimum wage, but if prices go up as a result and cancel out the wage gains, that is not an issue that can be addressed within the scope of the minimum-wage legislation. A statute may grant the “right” to education, but treasury and fiscal management rules may simultaneously require cuts in spending. “Choice” then is limited to whether we allow budget cuts to affect the “right” to education or some other “right”, like health for example.”

Delhi: The First City State to Declare Right to Water and Sanitation

The newly elected new government of Delhi, has announced free water to the tune of 666 liters/day/household and also free sewerage. It has never happened in the history of India that a popularly elected government has met its pre poll promises that have a direct fiscal implication within 2 days of taking power.

Delhi had witnessed a 400% increase in water and sanitation tariffs in 2010. This tariff hike included a provision for an annual automatic 10% increase every year. The water tariff hike and a massive electricity tariff hike had lead to protests in Delhi.

Against this back drop it was funny to see how the ex Delhi Jal Board CEO in a Women and WASH Workshop in Delhi in the first week of Dec 213, immediately after the Delhi election results, claim credit for womens' leadership - a woman Chief Minister and a woman CEO, in raising water tariffs. Delhi has shown the way for not only other states and cities in India but also other countries to ensure that their 2010 commitment to the UN Declaration on Right to Water and Sanitation, are converted into practical action.



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Delhi did provide 6KL/month at zero volumetric charge till 2009, based on the South African model. Then under a privatisation driven agenda, water tariff was revised steeply. With a clause for an annual 10% increase in tariff that was effected in 2010 and 2012. Leading to a 400% increase in tariff over the 3 year period, for a household bill for 25KL/month. Alongwith a massive increase in electricity tariffs, there was widespread criticism of the water tariff hike and many slums and poor settlements where DJB was providing free water through tankers and borewells, were against any move by the DJB to charge for this water under any PPP or DJB arrangement.

Alongwith the decision to provide 666liters water free per household, came criticism that this was way above the requirements of a low income household. Water consumption in a hot semi arid climate of Delhi is different from that of a temperate climate or a coastal area. The new government of Delhi has provided 20KL/month per family free that comes to approx. 666 lts/day/family. For an average family size of 6 to 7 members in Delhi, the water consumption per person is likely to be - atleast 40 liters for flushing if you have toilets, 40 liters for bathing that can also double in summer months, 20 liters for other uses including washing of clothes, cleaning of house, 5 liters for drinking and cooking. In addition to this there are other water requirements - water for the water coolers in the summer months that is huge, guests and visitors. So an assumption of 100lts/person/day is not an extravagant Right.

The water tariff announced by the new government makes consumption above 20KL/month very expensive. Hence this makes for effective measure to control wastage.

After the tariff change, there has been a crackdown on water mafia operating in some unauthorized colonies of Delhi and sting operations to catch corrupt staff in DJB. Controlling petty corruption is possible if corruption in high places is addressed first. This will be a major challenge and hence there will be many vested parties who will want this government to fail and also this Right to water and sanitation to fail. What is really heartening to see is that for the first time there is atleast an honest attempt to provide water and sanitation as a Right, not as a populist action to come to power and then forget about all the promises made. The government that voted to power, did not get voted because it offered water and electricity tariff reduction as a freebie promise. There was another party

also that offered reduction in electricity tariff. It is clear that a large percentage of the people of Delhi were convinced with the intentions of this party and hence voted for it to power. This has been the experience of several Latin American countries in the last decade that saw left democratic governments come to power through the ballot.

Most international aid agencies have had a pro privatisation shift in the last two decades. Not surprising with the Thatcher and Reagan era and collapse of Soviet Union. Till the 2010 UN resolution on Right to Water and Sanitation, UN Habitat and COHRE had come up with a guidebook on Right to Water saying that it does not mean free water!! Nobody anticipated the 2010 UN Resolution will get through, none of the international development agencies campaigned for it. After it was secured almost single handedly by Pablo Solon representing Bolivia, international NGOs and UN agencies turned silent and Pablo Solon has not been facilitated as a champion of Right to Water and Sanitation - in any international event including any Water Week, by any leading WASH international development agency till date. UK, Netherlands, Canada, France and US had offered resistance to the UN Resolution but could not muster courage to veto it. In one stroke what Pablo Solon did amounted to making the work of the UN Rapporteur on Right to Water and Sanitation superfluous and limited to producing manuals and handbooks. But the national governments did nothing to follow up on realisation of the Right to Water and Sanitation. Except for some Latin American countries who legislated the Right. The Delhi government action is therefore very significant and will impact at scale.

It is not surprising to see the reaction of most mainstream political parties who are waiting for this Delhi government to fall, but do not know how to convince people that the honesty of the new government is bad for them. What is not surprising is also the response of NGOs and Activists who had given up on a meaningful national commitment to Right to Water and Sanitation. One has heard NGOs in Mumbai say that "we have given up our fight on securing water and sanitation to slums of Mumbai as a government responsibility. The government just does not want to honour this right of citizens. We have started agreeing to commercial water provisioning, since something is better than nothing."



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In Delhi, we have seen campaigning against the tariff hike and privatisation - the 3 PPP projects, with little success. In SACOSAN 5 in Kathmandu, even a moral commitment to Right to Water and Sanitation did not find its way in the Official Declaration. The new government in Delhi changed all that within 2 days of coming to power. Hence most NGOs and Activists are left high and dry - what this government has achieved, they had never thought was possible. So one sided was the neo liberal economic discourse - lead by arguments of efficiency and privatisation.

Manifesto of the Delhi government relating to water and sanitation

<http://delhi.aamaadmi.org/Water-supply-inDelhi>

My fellow countrymen,

Why 40% Delhiites do not get water in their homes? Why do they have to buy water at exorbitant prices from water tanker companies?

Deoli, Ambedkar Nagar, Mehrauli, Chirag Delhi, Sangam Vihar and many other parts of Delhi do not get water in their homes. Many parts of Delhi get highly contaminated water.

This is despite the fact that Delhi is a water surplus state. Delhi, with a population of 1.5 crores, produces 840 MGD (Million Gallons per Day) of water. It means that 210 lpcd (litres per capita per day) of water is available for every person in Delhi every day. Contrast this with the water availability in London and Germany, where only 150 lpcd of water is available. Despite that, there is 24 hour pure water supply in each home in London and Germany. Then why are 40% of Delhi's homes without water? Where is Delhi's water going?

According to Delhi government, 50% of Delhi's water is lost in leakages. This means that almost 420 MGD of water comes on the roads of Delhi everyday. That is a huge quantity of water. If that were actually true, then there should have been floods in Delhi after a few days. But we don't see any water on Delhi's roads. Delhi government says that it is the underground pipelines

which are leaking. But that is also not true. Because then the water table in Delhi should have risen. That is also not happening. Water table in Delhi is constantly going down.

Then where is Delhi's water going? That is a huge mystery. We did our investigations and found that Delhi's water is being stolen under political patronage on a large scale. Hundreds of water tanker companies are operating in Delhi. If you call up any of these companies, they will supply any number of tankers at around Rs 2000 per tanker. They do not face any water shortage. Where do these companies get their water from? Obviously, this water is stolen out of government's water distribution system.

Half of these water tankers companies belong to BJP leaders and many belong to Congressmen. Water sales through these illegal tankers is more than Rs 1000 crore business in Delhi. Till we have BJP or Congress governments, we cannot expect water to reach our homes.

What would Aam Aadmi Party do?

Come down heavily against water mafia in Delhi. With a strong hand, stop illegal water supply in Delhi and ensure that this water actually reaches your house. If at all water tankers are needed in any area, they would be supplied only by Delhi Jal Board.

Water is the biggest concern of the *aam aadmi* in Delhi, as more than 50 lakh people do not get piped water in their homes. The Aam Aadmi Party would take the following steps to resolve this concern:

1. AAP's first priority would be to ensure that every house in Delhi gets clean water
2. Clamping down on Delhi's powerful tanker mafia, and prosecuting the political leaders who protect and promote them.
3. Restructuring Delhi Jal Board (DJB) to clamp down on its rampant corruption.
4. Bringing transparency into Delhi Jal Board's water supply arrangements, and getting adequate data on incoming and outgoing water supply:
5. Installing bulk water meters to get data on how much water comes to Delhi, from which of its sources
6. Installing bulk meters on raw water entering Water Treatment Plants



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7. Installing bulk meters in each of Delhi's 21 water zones to know how much water was sent to which zone every day. This information would be available everyday on the DJB website.
8. Providing water from Sonia Vihar water treatment plant to areas like Sangam Vihar, Deoli, Ambedkar Nagar, Mehrauli, Vasant Vihar and Vasant Kunj
9. Begin the use of the Munak canal and use it to supply water to Dwarka, Bawana, Okhla and other water shortage areas in west Delhi.
10. Currently, the DJB does not supply water to the supposedly 'unlawful' habitation in Delhi (like slums, unauthorised colonies, etc) ensuring their dependence on the tanker mafia. DJB will take responsibility to supply water to each house in Delhi
11. Water laboratories to be opened in each district in Delhi to check contamination of water.
12. Mohalla Sabhas to play a role in the local distribution of water.
13. AAP opposes the privatisation of the DJB, and re-affirm its commitment to the state's responsibility to provide clean water in every home in Delhi
14. Domestic consumers who have got inflated bills (up to November 2013), will not be liable to pay these bills.
15. Families that use up to 700 litres of water per day would be provided free water. Any household using a greater amount of water would pay the entire bill amount. High rates would be charged for any household using more than 1000 litres of water per day.
16. Repeal the recently passed law that automatically increases water rates every year.

Given Delhi's increasing population and absence of its own source of water, there is a need to evolve long-term and sustainable water policies. These would include:

17. Incentives and subsidies for recycling of waste-water from kitchens and bathrooms.
18. Utilising Delhi's abundant rainwater by systematic city-wide rainwater harvesting policies.
19. Reviving Delhi's water bodies (like lakes, baolis, etc) by ensuring their recharging by rainwater; maintaining them in partnership with local communities

Water Sector in India: A Critical Engagement

Felicitation conference in honour of Prof. Ramaswamy Iyer.

Speech by Prof. Iyer at the Felicitation Function on 25 November 2013

Hon'ble Vice-President of India Dr. Hamid Ansari, Dr. Mihir Shah, Dr. Pratap Bhanu Mehta, Dr. A. Vaidyanathan, Mr. K. J. Joy, Dr. Janakarajan, distinguished guests, Ladies and Gentlemen, I am very grateful to K. J. Joy and S. Janakarajan for the trouble that they have taken to organize this function and the conference, to CPR and Arghyam for the support that they have extended to that initiative, and above all to the Hon'ble Vice-President of India Dr. Hamid Ansari for elevating this occasion by his gracious presence. On an occasion of this kind, it is not easy to strike the right note in response. One has to avoid the twin dangers of a smug acceptance of felicitations and an ostentatious exhibition of humility. I hope that I do not fall off the tight rope.

When my friends Joy and Janakarajan mentioned this initiative of theirs a few months ago, my initial reaction was one of a slight discomfort. For a moment I thought of requesting them to drop the idea. However, I decided not to do so for a reason that I should like to explain.

From time to time I have had the feeling that I am mostly preaching to the converted, and that the people who read my writings or come to my lectures are mainly those who are predisposed to agree with me. I have received assent and approbation from NGOs, academics, activists, and parts of the media, but there has generally been little or no response from the Water Establishment. It was only after Dr. Mihir Shah became a Member of the Planning Commission that there has been some slight receptivity in official circles to what I have to say.

Against that background, when Joy and Janakarajan proposed a felicitation conference and a festschrift, I overrode my modesty and agreed, prompted by a faint hope of enhanced receptivity. If a few more people read me as a result of this conference, and if the Water Establishment becomes slightly more willing to listen to me, I shall be very gratified.

When I was appointed as Secretary Water Resources in June 1985, I brought a fairly conventional frame of mind to the job, but started learning from the first day. Within two months I knew enough to feel that a major change was



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called for, and that as a first step a national water policy was necessary. I initiated the process that culminated in National Water Policy 1987, a very imperfect though pioneering document. By the time I retired from the Government my thinking had changed considerably, but the learning process was far from complete. It continued beyond my retirement, and is still continuing.

In that prolonged process of continuing education, I have benefited greatly from my association with many people and institutions, both within and outside the government. The names are too numerous to mention here, and to acknowledge only some might be invidious. Nevertheless, taking that risk, let me make special mention of a few: R. Rangachari, B. G. Verghese, Dr. Ajit Mozoomdar, Dr. A. Vaidyanathan, the late Prof. T. N. Narasimhan, and Himanshu Thakkar. For the rest, let me say a general "thank you" to all those with whom I have had occasion to work, or share platforms in seminars and conferences, or discuss the issues that I was grappling with. All those exchanges and discussions have been of immense help in my pursuit of understanding and clarity. I must also thank the newspapers and journals, in particular The Hindu and Economic and Political Weekly, for the ready publication of my writings.

I have been associated with the Centre for Policy Research for the last 23 years, and much of my work has been done at CPR. I must acknowledge with thanks the immense support that I have received from CPR. India International Centre has also played an important part in my life, and I am grateful to IIC for its support, particularly of the Programme 'Living Rivers, Dying Rivers', which is now taking the form of a book. The Planning Commission, and in particular Dr. Mihir Shah, provided several opportunities for good work through Steering Committees, Working Groups and Sub-groups, and by commissioning a paper. Arghyam and the Water Conflicts Forum of SOPPECOM are two other institutions with which I have had a long and useful association. I must mention my personal involvement in non-official initiatives to find a way out of the vexed and intractable Cauvery Dispute. I consider my informal membership of the 'Cauvery Family' initiated by Dr. S. Janakarajan to be among the most important experiences of my life. My informal association with certain civil society institutions, NGOs, popular movements and campaigns, has also broadened and deepened my understanding of issues and problems.

I have also learnt much from my association with the Foundation for Ecological Security, Anand, as a member of the Board of Governors for several years, and as Chairman of the Board for a short period. Finally, I must thank Winrock International India for supporting a research project which took me on field visits to Sukhomajri, Alwar, Ralegan Siddhi, Hivre Bazaar, Ahmadnagar, Bangalore, Madurai, Purulia and other places, in the year 2000-1.

In conclusion, without any hypocritical pretense of indifference to felicitation, let me say quite frankly how very happy and exhilarated I am at this function and the related Conference. It is indeed a shot in the arm and will lift my flagging spirits.

Thank you very much indeed.

SACOSAN KATHMANDU DECLARATION

Sanitation for All: All for Sanitation

We, the Heads of Delegation from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, participated in the 5th South Asian Conference on Sanitation (SACOSAN) in Kathmandu, Nepal, which was attended by Ministers, parliamentarians, senior policymakers and implementing agencies; grass-roots activists, children and adolescents; professionals, academia, civil society, non-governmental and community based organizations, development partners, the private sector and the media;

1. *Reconfirm* the principles of policy and good practice set out in the SACOSAN declarations of the last decade in Dhaka, Islamabad, New Delhi, and Colombo;
2. *Renew* our joint commitment to the Human Right to Sanitation adopted by the United Nations and endorsed by SAARC nations to work progressively to achieve an open defecation free and hygienic South Asia, through accessible, affordable, appropriate, acceptable and environmentally safe sanitation and hygiene services that all people can use and maintain with dignity, safety and comfort ;
3. *Commit* to further accelerate sanitation and hygiene behavior change in South Asia to meet the Millennium Development targets and move towards implementing the United Nations Secretary General's Call to Action on Sanitation;



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4. *Recognize* sanitation as a matter of justice and equity, with a powerful multiplier effect that unlocks measurable benefits in health, nutrition, education, poverty eradication, economic growth and tourism while also reducing discrimination and empowering communities, especially infants, children, adolescent girls, women, the elderly and people with disabilities, in rural and urban areas;

5. *We recognize that the time for sanitation is now* and that we must capitalize on the strong political will and local leadership and community ownership demonstrated throughout South Asia to boost sanitation coverage and improve hygiene practices substantially by 2015.

SACOSAN V unanimously **agrees and commits** to an open defecation free South Asia by 2023 and to progressively move towards sustainable environmental sanitation. In order to achieve this, we commit to:

I. *Formulate, develop and implement* adequately resourced national/sub national sanitation and hygiene plans with SMART (specific, measurable, achievable, realistic, time-bound) indicators that measure and report on processes and outcomes at every level including households, educational, health, public institutions and workplaces, with disaggregated reporting on gender, age, disability, marginalized and vulnerable groups.

II. *Create* a framework and enabling environment including policies, strategies and protocols and the conditions for the fulfillment of the need for universal sanitation and hygiene: women and men, children, adolescent girls, people with disabilities and the elderly;

III. Given that sanitation is about changing social norms, demand creation, *We commit* to addressing diversity in service provision for infants, children, youth, adolescent girls, women and men, people with disabilities, chronically ill and elderly in rural areas and people affected by poverty and disasters further exacerbated by climate change.

Recognize the importance of sustainable environmental sanitation and hygiene in urban areas including solid and liquid waste and faecal sludge management for all urban dwellers, regardless of tenure.

V. *Prioritize and promote* child and disabled friendly services and menstrual hygiene management in all public buildings and especially schools, health clinics and reflect and monitor this in standards, design, delivery and monitoring.

VI. *Develop and implement* guidelines and standards suitable for child, adolescent and gender and disabled

friendly WASH facilities, with compliance indicators on hand washing and menstrual hygiene education and practice;

VII. *Raise* awareness at all levels to foster demand and build capacity for sanitation and hygiene including but not limited to youth led movements, pro-poor public private partnerships and the media.

VIII. *Engage* the Health sector at all levels in sanitation and hygiene promotion as critical agents of preventive healthcare.

IX. *Emphasize* research and development on low-cost, appropriate sanitation products, linked with sanitation marketing and innovative solutions for environmentally sound sanitation systems.

X. *Commit* to significant direct participation of children, adolescents, women, the elderly and people with disabilities, as well as decision makers from Health, Education, Environment and Finance to bring their voices clearly into SACOSAN VI and systematically thereafter.

The SACOSAN Decade has improved sanitation and hygiene for hundreds of millions of people in the region. We recognize that the open defecation free state is an intermediate stage in achieving total sanitation, as the region aspires to achieve wider environmental sanitation that includes safe and sustainable waste management and improved personal and food hygiene practices by all;

We further call on

Development banks, external support agencies, civil society and the private sector to increase their support to our efforts, to provide financial and technical assistance for sanitation and hygiene behavior change, coordinating their efforts for maximum synergy and impact in South Asia.

The South Asia Association for Regional Cooperation (SAARC) to support the SACOSAN process by adopting the SAARC Regional Action Framework for Sanitation to address the challenge of sanitation and hygiene in the region.

The United Nations to strongly emphasize the importance of sanitation and hygiene as key to reducing inequalities and achieving human development and to clearly articulate sanitation and hygiene within the post-2015 Sustainable Development Goals.

We welcome the offer of Sri Lanka to host the SACOSAN



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Secretariat and act as a resource, knowledge and learning centre on sanitation and hygiene facilitating coordination, regional and cross regional exchange and sharing, with other regional sanitation meetings while also contributing to research and capacity development in South Asia.

We express our profound appreciation to the Government and People of Nepal for their excellent hosting of the SACOSAN-V conference and for their generosity and hospitality.

We commend the Government of the People's Republic of Bangladesh for its offer to host the next SACOSAN conference in November 2015.

Kathmandu, Nepal, October 24, 201

Meeting of activists and NGOs: Delhi Government Decision on Right to Water and Sanitation

A meeting was organised by volunteers, activists and NGOs to discuss the situation emerging from the government decision to make 666 liters/family/month free for Delhi. Following points emerged from the discussion;

1. Most of us had begun working on water and sanitation issues of Delhi on two critical issues facing us – the 400% increase in DJB water tariffs and the denial of water and sanitation to the slums and unauthorised colonies. PPPs were identified as a problem as they did not contribute to solve the problem of increased water tariffs and made water a commercial commodity in the name of providing 24x7 water. Now that water has been made free up to 666lts/day/family, we need to welcome this decision as our first demand is now met. Then make the next set of demands.
2. We now need to focus on the second demand of denial of water and sanitation to slums and unauthorised colonies. Piped water supply is already promised, we need to demand time bound connectivity. Along with this, sewer connectivity.
3. Functional and well maintained public toilets in slums, unauthorised and resettlement colonies and public places – free public toilets as a government responsibility. With local participation of people in the governance of the cleaning and management.

4. Eliminating the water mafia in slums and unauthorised colonies. Make selling of water in these colonies a punishable offence.
5. Revive public hand pumps and pias in all areas, to provide free water to public. Announce a policy decision allowing people to dig hand pumps and bore wells for public water consumption.
6. Introduce regular public hearings at mohalla level on water issues – once in 3 months. Hearings organised on fixed dates made public.
7. Immediately stop all wasteful construction work of DJB including;
 - Creating infrastructure for District Metering Areas – underground water tanks for water distribution and related water regulating infrastructure. There is no need to invest in wasteful infrastructure that was meant to aid privatisation of water.
8. Revoke the 3 PPP contracts. Why pay private operators in 3 areas of Delhi to provide 24x7 water, till the rest of Delhi gets 666lts/day/household. Priority should be new infrastructure of pipelines in rest of Delhi and not additional capital investment and higher fees to private sector for 24x7 in some areas.
9. Metering should be introduced in those areas where family consumption is more than 700lts/day. The government/DJB should do a water consumption audit in all slums and poor settlements of Delhi to check how much water is consumed by a household in a month in each location. Where water consumption is found to be less than 700lts/day, there is no need to invest in meters and meter reading expenses. Water consumption audit can be done twice a year – once in winter and once in summer to check household consumption – and decision to install water meters taken after that.
10. Where sanitation and sewerage is not being provided, provide a subsidy for septic tank construction for JJ settlements and unauthorised colonies.
11. Strengthen the DJB. Conduct an assessment for additional staff requirement of DJB to serve as a public utility and not as a commercial contract management agency as it has now become. Increase technical and non technical staff, particularly line staff who can service faults and



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complaints. Creating a social accountability division within DJB to address grievances and complaints. Have separate units for monitoring and fraud prevention. Increase transparency and public scrutiny.

12. Come out with a Water Policy for Delhi. As a model policy for large urban metros. With commitment to water conservation, protecting river beds and promoting local water use and recycling, provision of water and sanitation as a Right of the residents of the city, and a responsibility of the state.
13. Benchmarking of Water Utilities/Boards/Municipalities, should be for equity in supply and use, affordability and satisfaction levels of public, not simply on managerial efficiency parameters alone as is being done currently.

Key Highlights : Monitor Deloitte's white paper; "A Market Led, Evidence Based Approach to Rural Sanitation"

· Sanitation is a major global issue with **over 1Bn people defecating in the open**, and **2.7Mn dying annually** due to lack of access to hygienic sanitation, including many children

· The issue is **acute in India** – of all the people in the world who defecate in the open, a majority (**600Mn**) live in India; and of all the people who live in India, more than half defecate in the open - **67% of rural Indian households** (116Mn households) do not have toilets.

The Government of India recognizes this issue and has approved funding of over INR 20,000 crores (USD 4 Bn), but less than 60% of these funds have been used and data from the census indicates that many of these Government supported toilets may be non-existent or not-in-use.

· Contrary to popular belief, **demand for toilets exists** in rural India – 84% of households surveyed in Bihar indicated their desire for a toilet and 38% of these households had actually researched available product options. Safety of women, convenience and privacy as opposed to health are key drivers – in fact less than 1% cited health as a key driver for wanting a toilet.

· Current products in areas like Bihar are septic tank options or modified versions and cost at least INR 20,000 (USD 400), which is beyond the reach of most rural customers.

· Our research and the experience of various organizations indicate that it would be **possible to construct and deliver quality, long-lasting leach pit toilet options at a price of INR 7,000-10,000** (USD 140 to 200) by making judicious design choices.

· However, availability of a more reasonably priced product by itself may not be sufficient to drive significant toilet penetration, due to low incomes and irregular income patterns in rural areas.

· **Financing** of 70% of the cost, through 18 to 24 month loans at 24% interest rates and monthly payments of Rs.250 to 500, would enable 16 to 20% of households without a toilet to afford one. A further 40-45% would be able to afford a toilet if provided part subsidy (e.g., the current government NBA subsidy of INR 4,600 or USD 92). The remaining 35 to 40% would require a full subsidy (e.g., as provided by Government schemes such as NREGS).

This could lead to a **INR 500-700Bn (USD 10 -14 Bn) opportunity** to deliver toilets, and an **INR 300-450Bn (USD 6 – 9 Bn) opportunity for financing**

· The **multiple business models** to deliver such toilets can be broadly classified into a **Do It Yourself (DIY)** model and a **Turnkey Solution Provider (TSP)** model, each with its advantages. In both models, a **central player or 'market maker'** could help by conducting market-building activities to get the models started, and create an enabling environment for growth; organizations such as NGOs, MFIs and cement companies can play this role. **MFIs, in particular, can play a key role.** Apart from customer financing, MFIs can act as enablers, helping raise awareness and drive demand for specific products (through pamphlets, etc.), and maybe even perform quality control and mason training, incubate new value chain players, etc.

· The **Government is a key player** and can **facilitate development of the sanitation market** by developing cost-effective standard designs, funding demand generation, ensuring efficient transfer of subsidy, and helping financing companies access lower-cost funds for on-lending.

· Scale pilots are currently **underway** through PSI in Bihar, MFIs like Grameen Koota and Guardian in the south and players like Water.org enabling other organizations to give credit.

Perspective on Right to Water

<http://www.grain.org/fr/article/entries/637-radha-d-souza>

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India, where she worked in labour movements and democratic rights movements, first as organiser and later as activist lawyer. Radha is a writer, critic and commentator, and has worked with solidarity movements in the Asia-Pacific region.

Before we look at the problems associated with “rights” it is important to understand what the word means, not least because it means different things to different people at different times. “Rights” are commonly understood to mean entitlements to do or not do something, and for others to respect that entitlement. Social justice activists often believe that the corollary of “rights” is obligations and responsibilities, and that social injustices exist not because of problems with the concept of “rights” as such but because the concomitant of “rights” – “obligations” and “responsibilities” – have been erased from our thinking and from debates about “rights”. These beliefs are based on misunderstandings of the real nature of “rights”. The misunderstandings arise partly because “rights” are a philosophical, political and juridical idea, and the concept and its meanings in philosophy, political theory and law are not the same. Confusions arise because the three overlapping fields are used interchangeably in different contexts.

In part, misunderstandings about “rights” persist within social justice movements because they have forgotten the history of “rights” and the critique of “rights” by revolutionary thinkers of the late nineteenth and early twentieth centuries, and the political programmes of the successful movements for socialism and national liberation struggles to alter the nature of “rights”. As a result, social movements, instead of learning from and developing those revolutionary experiences, have discarded the history of struggles against “rights” and feel frustrated that “rights” do not work, but have nothing to offer beyond “rights”. If we wish to move forward, it is important therefore to grasp the concept of “rights”, its history and the critique of “rights” by radical movements of working people in the past.

It may be noted that the concept of “rights” is peculiar to Greco-Roman civilisations, but its history need not concern us here except to note that the philosophical concept was an objective concept associated with ethical and moral ideas of what is right or wrong. As all human beings are required to do “right” and abstain from doing

“wrong”, the philosophical concept was supposed to guide people in “right” actions.

Philosophers of capitalism

The philosophers of capitalism in the eighteenth and nineteenth centuries radically transformed the classical idea of “rights” into a subjective political idea attached to individuals who became “right bearers” vis-à-vis the state and society. The idea of “rights” was transformed into “freedom from state” and social constraints. As such, the corollary of “rights” is “freedom”, “choice” and absence of restraint. Today, the philosophical idea of “rights” exists at best as a moral ideal because the political philosophers of capitalism have put rights on a different institutional and juridical foundation. When social justice activists speak of “rights” they have in mind this classical ideal, but often it is forgotten that the institutional and legal basis for objective “rights” do not exist any more.

Capitalism developed the idea of “rights” to new levels by introducing two components that radically altered the nature of “rights”. First, philosophers of capitalism introduced the novel idea that property was a natural and inalienable right attached to every person in the same way as life, and the conditions that sustain life: air, water and food. Second, “rights” were articulated as negative juridical concepts, in that “rights” only guarantee the possibility of something, not the actual thing. Thus the right to collective bargaining creates the possibility of a living wage but does not guarantee a living wage; the right to property makes it possible to own a home but does not promise everyone a house to live in.

It is therefore wrong to think that through default, somehow, “rights” have come to be equated with property rights. “Rights” in its modern form and as a political idea owes its very existence to property rights, and is inseparable from it; and the concomitant idea of freedom is about freedom to own and accumulate property without interference from the state. Circumscribing property rights for social purposes does not take away its primacy in the political and legal order. Capitalism will be impossible if property rights are taken out of the scope of “rights”.

The revolutionary critique

Revolutionary social movements of the early twentieth century advanced three main philosophical criticisms



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against “rights”, which are still valid. First, the “empty shell” argument: liberal rights are negative endowments that promise the possibility of, but do not create the conditions for, their fulfillment. Second, that any talk of “rights” in politics must be backed by an economic system that facilitates it, and capitalist individualism, commodity production and market economy do not create the conditions for freedom from want and other freedoms; to the contrary they create bondage and oppression. Third, the “means to an end” argument: “rights” free labouring people from feudal obligations and old forms of oppression (caste, gender, and so on) and allow limited political space for organised dissent, which is useful not for its own sake but only if people actually organise themselves to create the conditions for real freedoms.

Socialist revolutions of the early twentieth century extended the philosophical critique to the political arena and removed property from the idea of “rights” and tried to infuse the idea of “rights” with positive substance, so that the right to a job meant that everyone should have a job, not just the possibility of finding a job; the right to education meant that schools should be free so that every child could go to one, and not just the possibility of education for those who could afford it, or those supported by charities.

Given this backdrop, is fighting for “rights” the road to follow? To say yes is effectively to go backwards in history or to argue, as some modern-day philosophers of capitalism such as Francis Fukuyama argue, that there is no alternative to liberalism in philosophy, politics and law, the foundations of which stand on the idea of “rights”. For emancipatory social movements, a more useful way of understanding the question of “rights” would be to interrogate critically the return of the “rights” discourse in the contemporary context of neo-liberalism. The socialist and national liberation struggles articulated and attempted to achieve “human emancipation” and “liberation” from oppression, not “rights”. Neo-liberalism claims legitimacy on the grounds that this aspiration can no longer be fulfilled because socialism has been defeated. The real question then is: are we willing to concede the hope of human emancipation to “empty shell” possibilities of “rights” based on the primacy of property, which very few possess? Are we ready to concede that liberation from oppression is not possible because the economic system cannot be changed?

Limits of statute law

Turning to law, legal theorists, following in the footsteps of political theorists of capitalism, developed legal principles and innovated institutional mechanisms that sustain capitalism. The most significant legal development was the idea of statute law, by which we mean different Acts of legislature on different social issues enforced by a court system backed by police powers. This form of law, which most people today think is “natural”, as if that is how law has always been, came into existence only with capitalism, and is far from being “the way law has always been”. Under statute law, each aspect of social life is cast into a distinct legislation or statute which makes it difficult to envisage the social whole. What one statute gives another can take away. For example, a statute may provide for a minimum wage, but if prices go up as a result and cancel out the wage gains, that is not an issue that can be addressed within the scope of the minimum-wage legislation. A statute may grant the “right” to education, but treasury and fiscal management rules may simultaneously require cuts in spending. “Choice” then is limited to whether we allow budget cuts to affect the “right” to education or some other “right”, like health for example.

Socialist movements, while strong on philosophical critique and political action, were weakest in legal development and institutional innovation. If we wish to advance, and not go backwards, we need to rethink how we can recover the gains made by liberation struggles, what the weaknesses of those struggles were, why working people everywhere lost, and how we can regain the ground and consolidate the gains when they are recovered. Those who say there is no alternative to “rights” do so by forgetting the history of struggles against “rights”, and implicitly deny the possibility of emancipation and liberation.

Five themes

Social justice movements need to reflect on five broad themes in relation to “rights”. The first and most important is what may be called the “colonial question”. Neither liberal theory, nor politics, nor law extended “rights” to colonial subjects in the colonial era. Although based on liberal ideas and “rights” talk, the power structures of the post World Wars world privileged the victors, primarily the Allies, whether it be through the United Nations Security Council veto, or the weighted voting rights in the World



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Bank and the International Monetary Fund, or the dispute resolution mechanisms in organisations like the World Trade Organisation. The UN Charter by institutionalising and privileging the “rights” of the Allies and the victors in the Second World War, has perpetuated neo-colonialism, poverty and wars. Without challenging the constitution of the UN, any “rights” talk at nation-state level today is a non-starter. The “colonial question” in the neo-liberal era is a philosophical and political question, and it is not possible to find a juridical solution to a more fundamental problem of our times, as many social justice movements try to do when they advocate “rights” as the solution. Besides, the legal systems in “Third World” countries by and large were created by colonial powers and remain neo-colonial institutions. To speak of juridical ideas of “public goods” and “commons” and “community” without evaluating how their social substance has been warped by imperialism past and present is to insist on confusing appearance with reality.

Second, the impulse for “rights” talk today is largely driven by environmental questions, and is primarily about extending private property regimes to aspects of nature and natural resources, something that was impossible before but made possible today by technology. For example, water was attached to land rights until technology made it possible to separate water from land and deliver it across continents, a development that required legal and institutional innovation.

Third, while the political idea of “rights” promotes the idea of equal opportunities for all, the juridical idea rests on the foundational myth that the “corporate person” stands on the same footing as the “natural person”. The size and reach of corporations today are vastly different from what they were in the eighteenth or nineteenth centuries, and make the legal myth of the corporate person an absurdity. The real issue is whether “rights” claimed for the natural person can be extended to corporations. Cracking the juridical myth on which modern society is founded is a task that needs to be taken more seriously and fleshed out programmatically in politics.

Fourth, capitalism has transformed the structure of communities. Communities too are formed on market principles based on common “interests” in the marketplace, and not allegiance to “people in places”. For example, a person joins a trade union because of common interest with others in the labour market, and

joins a consumer organisation because of common interest in commodity prices, and joins a “water rights” movement because of interest in water, and so on. Interest-based communities alter the character of “rights” in fundamental ways. As each interest is governed by a different statute law enforced by a different set of institutions, it is no longer possible to find institutional and legal recognition of “people-in-places”, whose well-being requires the convergence of several interests.

It is sometimes argued that, notwithstanding all of the above, it is possible to create parallel enclaves where indigenous communities and knowledge flourish. This may be possible in the short term, but not in the long term, because imperialism is capitalism plus militarism, and both are by their very nature expansionist. Customs and traditions grow from economic and production relations. Colonialism arrogated to itself power over economic relationships and allowed “freedom” for cultural practices whether in the economy or society, as if tradition could exist without economic foundations. By doing that, imperialism appropriated the productivity and social stability following from the space provided for customary knowledge and practices. To insist on “customary rights” without considering the imperialist context and colonial history within which it survives is only to insist on being blind.

Fifth, there are three interrelated battlegrounds on which movements desirous of human emancipation must fight: the philosophical, the political and the economic. Each of these involves very different types of struggle, and yet emancipation is impossible without fighting on all three fronts. Of the three, economic struggles were prominent in the Cold War era; the end of the Cold War has seen the return of political struggles, and on both fronts emancipatory movements have gained considerable experiences and successes everywhere. On the philosophical front, emancipatory movements have more or less abandoned the field; and the conundrum of “rights” exemplifies this failure. Dismissed by social justice movements as “too academic” or irrelevant or simply talkshops, and sometimes, sadly, with contempt for people’s intellectual capabilities – evidenced by arguments like “ordinary people will not understand philosophical issues” – abandoning this field of struggle is an important reason why emancipatory movements have become stuck in conceptual grooves. This is a problem in its own right for



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those who wish to get to the bottom of the “rights” conundrum.

<http://www.thehindu.com/todays-paper/tp-opinion/rich-harvest-in-the-name-of-charity/article5232479.ece?css=print>

Rich harvest in the name of charity

Romi Khosla

Delhi’s new law on public-private partnership for land development seems tailor-made to suit big builders and marginalise housing for economically weaker sections

This is the story of a Ministry that has simply sat back and outsourced to private companies complete charge of both social responsibilities and economic development in the urban sector. It began with a warning that the McKinsey Global Institute sounded in its “India’s Urban Awakening” report. India, it warned, could catch up with the rest of the developed world only if it increased the size and density of its metro cities by three times, for which it had to borrow nearly \$2.2 trillion (Rs. 125 lakh crore). The warning made sense to the Ministry of Urban Development. We are at a point where the ratio of urban population will grow to 50 per cent by 2030 while 60 per cent of urban people still live in slums.

Planned corridors

If India was to become the world’s second largest urban market for jobs, it was time to hurry and notify that recommended nationwide web of urban-industrial corridors to link our metros. The scramble for notified land would monetise it. The first of these 19 planned corridors was launched in a tearing hurry. It links the two great slum cities of Delhi and Mumbai with a 1500-kilometre long and 300-kilometre wide “dream zone” of cities and factories. Documented by the Scott Wilson Group, it has been predicted that one-third of the total population of India could move into this corridor by 2030 even though it is

located in the most severely dry region of the country. Water would have to come from mining the fossil aquifers deep below the earth’s surface. The Bayou Corne sinkhole in Louisiana caused by water mining into this fossil layer of the earth’s crust serves as a grim reminder. Regardless of such risks, the Cabinet has cleared a budget of \$90 billion, in its urgency to urbanise India.

Pursuing its ticking clock initiatives to urbanise, the Ministry directed the Delhi Development Authority, which in turn sponsored the National Centre for Applied Economic Research to tell them how Delhi could begin to increase its size and density. The NCAER responded with its findings in “Land Pooling and Development Models for Delhi.” Its version of land pooling is tweaked in favour of private land consolidators. The report is not in the public domain and needs the RTI to make it accessible.

It inverts the purpose of land pooling which should normally be done by public authorities in partnership with small land owners in four transparent steps:

1. Public authorities assemble small farmer land lots into much larger urbanisable land parcels.
2. They then provide services, master plan and road infrastructure to all corners of these assembled land parcels.
3. As compensation, the public authorities keep between 15-30 per cent of the assembled land parcel for themselves — just enough to sell and fund the cost of providing the infrastructure, and housing some of the poor.
4. The rest of the assembled land parcel gets fully planned with infrastructure and is returned with new title lots to the farmer owners for sharing amongst them.

The two key words in land pooling should be social unification and partnership that enable cohesion of communities while solving problems of uncertain land titles, access to urban services and provision of new urban identities for small landowners living on the fringes of a city. It is a social measure to be initiated by the public authorities, mutual owner associations or public corporations, and is monitored by a council of owners. Other countries have done it as a responsible activity. It can also run into problems as in Nepal where — although done with the best of intentions and with the help of the Asian Development Bank — protests have stopped a scheme in the Sundarbapur Basti Project.



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Most lucrative model

Land pooling is at best a strategy to help small farmers and the poor and homeless who can be given housing by the public authority from their share. Land is at the heart of it. In Delhi, however, the strategy may reveal its worst aspects — behind the veneer of social charity is an attempt to harvest rich profits. The Ministry of Urban Development commissioned the DDA, which in turn commissioned the NCAER to write a recipe to maximise profits from land pooling. Three models were considered for profitability and the model that gave the most profit for the owners was chosen.

Once builders have bought out the farmers, they get termed as “owners of the land” and the significant benefits of such a PPP scheme automatically accrue to them. This strategy for intense densification of Delhi is rather unfortunate and will eventually wither Delhi since it does not even have sufficient water to cope with its present demands. Delhi, in the future, needs to be sustainable, not just profitable. The prospect of builder entities channeling water from Himachal Pradesh for their newly gated communities seems remote.

Nevertheless, the new law for enabling land pooling was announced in the Gazette by the DDA in April this year. Builders as landowners-in-waiting had become impatient. The entire 1500 square kilometers of the Delhi State is scheduled to be urbanised by 2021. The new law has released over 600 sq km for land pooling. Much of this has already been consolidated through complex “agreements to sell” between builders and farmers based on small *bayana* deposits while they wait to become the “Developer Entities” whom the DDA will regard as owners. Under the new law, Developer Entities can keep 60 per cent of the land they consolidate (40 per cent in smaller 3-19 hectare parcels) for building multi-storied gated communities, commercial shops, malls, etc., for sale after putting in the roads and amenities. Fifteen per cent of the land is set aside for economically weaker sections that currently constitute 60 per cent of Delhi’s population. The new law supersedes the 2021 Master Plan and doubles the permissible built floor area to an FAR of 400. Builder entities can now build and sell twice the number of floors that the 2021 Master Plan had allowed. The DDA is to provide the roads, external trunk services and master plan infrastructure.

As the Khemka-Vadra controversy has shown, land bought from farmers and then pooled by developers can become a tradable instrument that passes from owner to owner. Agency profits are earned at each stage for consolidating, changing the land use and building the project.

Slum rehabilitation

In response to the urgency of the government, early bird land pooling projects have surfaced and we can understand more clearly what will happen to Delhi. The first wave has already hit the desks of the DDA for approval as slum rehabilitation schemes. Slum lands have been auctioned through tenders to the largest eight or nine builders in the city. The slum dwellers will be moved to distant transit camps while redevelopment takes place. The builder will build three components on the slum land. A block of flats for his private clientele, a shopping mall with commercial shops and, thirdly, some densely packed 20 floor blocks for the slum inhabitants. These too will become our urban sinkholes. In one such project, 13,000 slum dwellers have been accommodated in multi-storied blocks that cover 18 per cent of the ground of their erstwhile slum land while the balance of the land has been given to 700 clientele buyers, a commercial mall and shops, leaving the rest for roads, etc. Here lies the paradox. The very Ministry that promulgated the 12th Schedule of the 74th Amendment 21 years ago has ended up usurping the powers it gave the local bodies.

(Romi Khosla is the chair for the CII Sub-group on Delhi 2021 and Advisor to the Delhi Urban Arts Commission)

<http://www.thehindu.com/todays-paper/tp-opinion/rich-harvest-in-the-name-of-charity/article5232479.ece>

Privatization not at the cost of the Constitution

New Delhi: The Supreme Court on Wednesday said considerations of faster economic growth could not be the sole criterion for determining the legality of the ban it had imposed on mining activities in Goa, in remarks which immediately hiked the suspense on what it might do with the desperate pleas to allow resumption of mining which has been the mainstay of the state’s economy. In a sharp rejoinder to the Centre’s stand in Parliament that the court-mandated ban on iron ore mining in Goa was hitting



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the economy, the Supreme Court on Wednesday said judges were oath-bound not to uphold privatization policies which breached constitutional principles. Referring to news items and editorials on the effect of mining ban on the economy, a bench of Justices A K Patnaik, S S Nijjar and F M I Kalifulla said the media was concerned only with GDP and economic growth but not about constitutional principles. "What about right to life guaranteed under Article 21 of the Constitution and the jurisprudence developed on this issue over the years," the bench asked.

*SC: Pro-mining reports motivated *

NewDelhi:Hearing a PIL against illegal extraction of iron ore in Goa, the

Supreme Court on Wednesday came down heavily on the media, saying most pro mining reports appearing in the media were inspired by lobbies working intensely for economic policies and development and did not pay heed to rule of law and constitutionality of policies.

"We have taken oath to uphold Constitution and not western policy," the bench said. Appearing for PIL petitioner Goa Foundation, advocate Prashant Bhushan agreed with the bench and said the country had witnessed similar developments when the Radia tapes came into public domain. "Lobbyists are giving what is to be written in editorials. We saw it in Niira Radia tapes," he said.

The bench of Justices A K Patnaik, S S Nijjar and F M I Kalifulla said, "One editorial, we are not naming it, talks of the (fiscal) environment and the ban on mining. It has absolutely no idea about constitutional principles." Bhushan added, "GDP has become basic structure of Constitution. All other principles are considered subservient to it." The court referred to Directive Principles chapter in Part IV of the Constitution and focused on Article 38, which asks the government to remove inequalities among citizens, and Article 39 which provides for a slew of

welfare principles, including "operation of the economic system does not result in the concentration of wealth and means of production to the common detriment", as guiding principles for governance.

Abhorring the mindless imitation of policies adopted by western countries, the bench said, "America does not

have Part IV of our Constitution. It talks of Directive Principles. Principles laid down in Part IV are fundamental in law making. In America, these principles are not

there. Western policies have to be looked (at) from that angle. "These principles are not enforceable. Nevertheless, they are fundamental to the governance of the country. It binds the state to apply these principles in law making."

Bhushan said their argument was that stay on mining had brought down the economy. The bench said, "Many senior lawyers are appearing on this side, Mr (K K) Venugopal, Mr (Arvind) Datar, and additional solicitor general Mr (Rakesh) Khanna. Please tell us how are we to read Constitution Part IV. Do we discard it? There is privatization in the country but privatization has to go along with constitutional provisions ... Or else amend it (the Constitution) or scrap Part IV and then we may go forward.

But with Part IV still there, we have to interpret Article 21 in the light of Part IV."

For the full report, log on to

www.timesofindia.com

Delhi Water Privatization

Excerpts from the Water Privatisation Commercialisation Resistance Committee Booklet, 2012

Conception of Right to Water

The conception of rights over water has undergone major changes over the centuries in pre-colonial, colonial and post-Independence India. Starting from the period of colonial rule, and continuing till today, practically all the rights over water for different uses that were once with the people and communities have been vested in the hands of the State. *People's rights over water, as they stand today, are extremely diluted and the State has become the sole custodian of these rights, in the name of the people. At the same time, the relation between the State and private capital has undergone a major change post-liberalization.*



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This has given rise to two conceptions of rights over water. On the one hand, water has been considered a tradeable good under GATT and WTO, and water supply has been brought under the General Agreement on Trade in Services (GATS). This has paved the way for the entry of private companies as water service providers in place of urban local governments. On the other hand, the United Nations, since its inception, has been very clear that water is a 'human right', and has been raising its voice against the policies of international financial institutions that violate this right. In 2010, the General Assembly adopted a resolution moved by Bolivia and strongly backed by developing nations, declaring the Right to Water and Sanitation a human right.

The National Water Policy of 2002 included a section encouraging private-sector participation in water supply through public-private partnerships. This opened the floodgates of privatization of water supply, especially in the smaller towns of India like Bhopal, Gwalior, Jabalpur, Indore, Dewas, Maksi (all in Madhya Pradesh); Hyderabad, Vishakhapatnam, Kakinada (Andhra Pradesh); Borai (Chhattisgarh); Bangalore (Karnataka); Chennai, Tirupur (Tamil Nadu); Rajkot, Ahmedabad (Gujarat); Pune, Sangli-Miraj (Maharashtra); Haldia (West Bengal); Jamshedpur (Jharkhand); and Noida (Uttar Pradesh). Many states have entered into loan agreements either with the World Bank or Asian Development Bank for water-sector reforms/restructuring. The loan conditionalities are far-reaching, ranging from property-tax increase to new taxes like sewer-drainage tax, sanitation tax and investment-return tax, the last one in reality a payment for loan installments. All these loan agreements have identical proposals: creation of a water regulatory authority, transfer of city water supply to private entities, principle of full cost-recovery, elimination of subsidies aimed at the poor and marginalized sections of society, massive increases in the water tariff, and massive retrenchment of workers. *One important condition is that the Government will continue providing financial resources for necessary expenses.* The Draft Water Policy 2012 was released in January. The 15-page draft National Water Policy suggests that the Government should withdraw from its role as a service provider in the water sector. Instead, it says, communities and the private sector should be encouraged to play this role. The proposals could mean sharp rises in the cost of water for both rural and urban users—an outcome the policy suggests will help curtail misuse of a precious but scarce resource. The

draft policy calls for the abolition of all forms of water subsidies to the agricultural and domestic sectors, but says 'subsidies and incentives' should be provided to private industry for recycling and reusing treated effluents. It also proposes that subsidy to agricultural-electricity users be curtailed, saying it leads to a 'wasteful use of both electricity and water'.

Re-municipalization of water services

Given the dismal experience with private players, there is now a worldwide trend of re-municipalization of water services, the most celebrated example being Paris, which was one of the showpieces of French global players in the water sector. There are many other prominent cases like Stuttgart and Berlin in Germany, Hamilton in Canada, Buenos Aires in Argentina, Dar es Salaam in Tanzania, or the move by the federal government of Malaysia, which is in the process of buying the entire water and waste water infrastructure in the country to develop it with public money. It is ironic that the Delhi Government is initiating its privatization effort without drawing lessons from this international experience.

Instead of the so-called public-private partnership there is a new model emerging of Public-Public Partnership (PuP), where successful and experienced public utilities team up with others to exchange information and experiences on how to improve public service delivery. There are several preconditions for success here too. One of these is the participation of workers, employees and unions in the process, extended to the participation of users and the public. Another is the shifting of resources towards the public sector and the provision of public goods in spite of the precarious financial situation of many municipalities. Both preconditions point to the need for some fundamental shifts in policy and financial resource management in India.

What is needed to improve the water and sanitation services of Delhi?

The Working Group on Urban and Industrial Water Supply and Sanitation for the 12th Plan succinctly captures the predicament of cities like Delhi when it says in its Report:

- Cities are expanding their water footprint because they find it easier to look for new water rather than improve their infrastructure of supply.



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The first problem with distance is that it adds to the burden of costs because there are huge losses in transportation. Cities are struggling to contain water leakage.

- Secondly, water utilities spend most of their budgets in building and then repairing the pipe system. Some Rs 1 crore per km is the cost that is estimated. In addition to this, it costs Rs 20,000-30,000 to connect each household to the pipeline network. Most cities today spend the bulk of their water-supply budgets in paying electricity bills: they first pump to bring water, a considerable amount of which is lost, and then pump to supply it to households. The Government should seriously consider the following recommendations of the Working Group on Urban and Industrial Water Supply and Sanitation for the 12th Plan as principles of reform of Delhi's water sector.

- Cities have sources of water close to where people need supply — water bodies, which capture rain or floodwater from rivers, and underground aquifers. These sources will not suffice to meet the city's water needs. But they are certainly the start of the water supply pipeline. Much more can be done in taking back the waste water, treating it and then recharging the same water-body and aquifer. But all local water sources like lakes and ponds are being destroyed. Ironically, an outcome of the increased water tariff from reforms is also the increased dependence on groundwater. Any move to regulate extraction rarely works as licensing only raises the transaction costs and breeds corruption.

- *The agenda for change requires each city to consider its local water bodies as the first source of supply.* Unless these structures are built into the water supply infrastructure, there will be only lip service for protection and at best, efforts to 'beautify' the waterfronts for recreational purposes, not for their essential life-giving service. *Therefore, cities must get funds for water projects only when they have accounted for the water supply from local water bodies.* This condition is vital. It will force protection and will build the infrastructure, which will supply locally and then take back sewage also locally.

Equally important is the following point in one of the dissenting notes in the 12th Plan Working Group Report. This too needs serious consideration from the Delhi Government:

"Without addressing the fundamental governance problems in this sector, any amount of financial resources, any technological changes, any amount of new infrastructure or any amount of water will have limited usefulness. Broadly, we would like to define the governance problems plaguing this sector as lack of participation of the urban water users at various levels from bottom to top and from needs assessment to operation and maintenance. Secondly, there is lack of transparency in the way this sector is governed at various levels and various stages. Thirdly, and related to these two, is the issue of institutionalizing accountability norms and mechanisms to ensure that serious problems are identified and those responsible held accountable in a timely manner."

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About India WASH Forum

India WASH Forum is a registered Indian Trust since 2008 with Trustees from all over India. It is a coalition of Indian organizations and individuals working on water, sanitation and hygiene. The coalition evolved out of WSSCC support to national WASH sector advocacy.

In order to undertake credible independent WASH advocacy work in India, the national coalition got registered as an Indian charity in 2008 and has



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undertaken a number of significant research and advocacy work that includes:

Knowledge Networking and Advocacy initiatives undertaken by India WASH Forum;

- Gender and Sanitation South Asia Workshop with National Foundation of India in Delhi; 2005
- Review of Swajaldhara and TSC Programme Guidelines; 2007
- Input to the Technical Expert Group set up to review the National Drinking Water Mission(RGNDWM); 2007
- Civil Society Input, Urban Sanitation Policy 2009
- Review of TSC in 4 states of India 2009
- Organisation of SACOSAN 3 in Delhi. CSO session and a CSO Statement of Action, 2009
- National Right to Water and Sanitation Workshop 2009 with participation from the Ministry and CSOs
- Start up of the GSF programme in India
 - Launch workshop 2009 with stakeholders in Delhi, 2009
 - Developing and finalising the Country Programme Proposal, 2010
 - Leading the PCM of GSF, as an institutional host and Chair and Convener.
 - Providing oversight for programme review.
- Member Govt of India 12th Five Year Plan Working Group on Drinking Water and Sanitation 2010. Recommendations on behaviour change priorities and staffing for national sanitation programme.
- Recommendations for Urban and Rural Water and Sanitation inputs: national consultations on drinking water and sanitation by Planning Commission Govt of India and Arghyam 2010
- National Pro poor Urban Water and Sanitation Consultation, 2010
- National report and a South Asia Report for SACOSAN 3 : Peoples Voices – a National Study project, Reports for India and South Asia, 2011
- Formal Input to the National Water Policy 2012, with a focus on drinking water and sanitation
- Report to the Ministry of Drinking Water and Sanitation: UNDP international consultation – Greening of Rural Water Supply Programme and Guidelines, 2012

- FANSA-IWF Review of national commitments and progress since Sacosan 4, and preparation for World Water Forum 2012
- School Sanitation Baseline Research by GIZ for Tirupati and Mysore, 2012

A unique feature of IWF is its non-hierarchical set up. Most of the Trustees of India WASH Forum are represented in their individual capacity and do not represent the organisations they are associated with. The agenda and activities that India WASH Forum are determined at the initiative of the Trustees and support from organisations and individuals.

Since 2010, India WASH Forum is actively engaged in the Global Sanitation Fund(GSF) and currently hosts Programme Coordination Mechanism(PCM), of the **GSF in India**. The role of the PCM is to provide a governance oversight to the GSF Programme in India. The Programme is being implemented by an Executing Agency called Natural Resources Management Consultancy(NRMC) that makes NGO sub grants in the two states of Jharkhand and Assam. The Programme is managed directly from WSSCC Geneva and with the support of the PCM and an Auditor(called the Country Programme Monitor) that is KPMG for India.

The mandate/charter of India WASH Forum is Hygiene and Health outcomes from sanitation and water sector;

- **Promoting knowledge generation** through research and documentation which is linked to and supported grassroots action in the water-sanitation-hygiene sectors. Special emphasis is given to **sector-specific and cross-cutting thematic learnings**.
- **Supporting field-based NGOs and networks in their technical and programmatic work**. The IWF would also consistently highlight gender and pro-poor considerations, and provide a national platform for interest groups working in the sector to come together.
- **Undertaking policy advocacy and influence work** through
 - Monitoring and evaluations
 - Media advocacy and campaigns, and
 - Fact finding missions
- **Undertaking lobbying and networking to promote common objectives** in the sector.

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