

**‘Swa’-jal-dhara or ‘Pay’-jal-dhara—Securing the Right to Water in
Rural India**

Preeti Sampat

Paper prepared for the workshop entitled ‘Water, Law and the Commons’ organised in Delhi from 8 to 10 December 2006 by the International Environmental Law Research Centre (IELRC) in the context of the Research partnership 2006-2009 on water law sponsored by the Swiss National Science Foundation (SNF)

Role of the State and Sector Reforms

Over the past two decades of neoliberal policy, the role of the state has been seriously challenged and reexamined across the world. Heralded by the Thatcher-Reagan era, the reconstitution of democratic structures and processes that finds global dominance today has repercussions right down to the smallest political constituencies. The discourse on rights that has emerged in these times is perhaps a reflection of the insecurity caused by the 'retreat' of the State. As evidence shows, not the least of public divestments include provisions for and security of basic rights. The policy framework in place in a majority of the world today stands on the assumption of the 'inefficiency' and 'failure' of the State in securing development goals. According to the inherent logic of these policies, having spread itself large in the goal of development which it has failed to secure, thus proving itself 'inefficient' in most productive and service delivery functions, the state is now to make way for other bodies to secure these objectives. While its productive functions are to be taken over by private corporations (aka privatization); service delivery functions are to be taken over by other forms of private bodies.

While the people propagating this framework have convenient amnesia for the role of the State in industrializing and developing the North as much as South East Asia in recent times, the serious ramifications of this amnesia are experienced by people who are already socially, economically and politically marginalized. As some have pointed out, the struggle for democratic governance had not reached any progressive culmination when now the sleeves have to be rolled for saving the government! The decades of the seventies and eighties saw a mushrooming of NGOs in India as a result of the serious problems and limitations of government structures in securing development objectives, and this reason has now been co-opted to throw the baby out with the bathwater, so to speak. The role of the State is furiously contested in the South, and the forces that keep it in the arena of basic service provision and security are wielded, still, by the scores of people who need the State to carry out its welfare functions and it can be argued, vote for it to do so. Unfortunately, this view is not reflected by a dominant majority of policy makers. New policies pruning the role of the State are constantly trumped in policymaking arenas.

As the contestation for the State plays out, it takes its battle from policy drafting boards and project proposals to bureaucratic process and to the localities where schemes premised on them are sculpted. Thus we find, ‘good governance’ which implies a trimmed state, ‘people’s participation’ implying user committees, and ‘community ownership’ implying cost sharing principles, are all catch phrases in the idiom of mainstream development literature today that are frequently called upon to justify this paradigmatic shift from the State as a provider of basic services to a ‘facilitator’ that enables access to these services. Resources and services like water, energy, health and education—rights that the state is bound to secure for its citizens on the path of development—are now called socio-economic goods that people must own and maintain on their own. Increasingly in almost all service sectors—energy, health, education or water—‘demand-driven’ projects formulated and executed by ‘user committees’ that are supposed to establish ‘community ownership’ through initial cost-sharing with all operations and maintenance costs borne by the users. Added to this, establishment of independent regulatory commissions like those witnessed in the power sector mean that citizens can no longer hold the Indian State accountable for securing basic services for all citizens. Ability to pay, in other words being a ‘User’ seems to be the new criteria for access to services in the economic logic of this paradigm shift. In effect, this implies privatization of resources and service provision through the divestment of state responsibility in its functions.

The redefinition of the role of the State takes two dimensions; the better known and hotly contested debate on privatization of public sector undertakings on the one hand and sectoral reform on the other. In this paper we are concerned with the latter specifically in the area of rural drinking water supply. It is worth noting that this significant aspect of the Paradigm Shift, compared to its other policy counterpart (privatization of PSUs) is being effected relatively quietly, though systematically, almost as if ‘there is no alternative.’ Consensus in effecting sector reforms, indeed, transparency in decision-making for sector reform policies is severely limited if non-existent. Flowing smoothly from a pre-existing (almost pre-historic!) dominant political culture of secrecy and silence, this is not the area of radical departure in the role of the State! (For detailed analyses on the role of the state in the neoliberal paradigm, see Bello, 2002; Edelman 1999; Sampat 2004; Sklair 2002; and Went 2000 to name a few).

An instrument that emerges from the Washington Consensus edict of structural adjustment, sectoral reform is one off the bag of policies that have become crucial for the nod of approval from the transnational bureaucracy, read World Bank (see Sampat 2004). Tried extensively in South America, despite wide spread criticisms of disenfranchising already marginalized people and further worsening conditions for common people, structural adjustment led sector reform is a common feature from the developing South to the Transition economies (see SAPRIN 2002 for an in-depth critique of structural adjustment policies) and indeed the North.

Water Sector Reform in India—An Overview

The Dublin Principles established the notion of water as an economic good in the international debate in the early nineties—Water has an economic value in all its competing uses and should be recognized as an economic good (Hoering and Schneider 2004). A joint World Bank and GoI review of water resources management in 1999 concluded that India faces an increasingly urgent situation with its finite and fragile water resources stressed and depleting while different sectoral demands grow rapidly and that a major challenge for India’s water sector was to find solutions for competing inter-sectoral demands.

It further noted, “fundamental reforms are needed now in India in how water is captured allocated between sectors, delivered to users and managed” (WB 1999b in James 2004). “A comprehensive approach is needed, emphasizing four over-arching factors:

- **A shift from supply-driven to demand oriented approaches.**
- **Division of sectoral responsibilities between the government and non-government stakeholders**, recognizing that water is an economic good with both public and private good characteristics.
- **Decentralising decision-making** and explicitly including non-government stakeholders in service delivery, while re-orienting the role of government from being provider and financier of services to being facilitator and enabler.
- **Achieving financial viability of service delivery**, which will make the sector sustainable and make further development possible with private sector funding for investment activities” (James 2004; emphasis in original).

The pre-requisites for this approach are some crucial changes—of the policy, legislative and regulatory framework; in institutional arrangements; and a setting up of an economic and financial incentive framework. In keeping with this rationale in April 1999 GoI initiated the Sector Reform Pilot Projects (SRPP) and the implicit strategy of these reforms was premised on the understanding that people will be willing to maintain and operate water supply schemes only if they *owned* the assets; had been involved in the projects *throughout* from choosing structures to installations and repairs; *know* that the government will *not* maintain the asset; had *sufficient* funds for maintenance and had to pay for operation and maintenance of the system. Even as the pilot projects in 67 districts were carried out, there was inadequate guidance for this change to government officials and the responsible officials were not even involved in conceptual and operational discussions and clarifications; NGOs were not involved in discussions; and inadequate capacity building for key implementers. Further, all members of village communities were not involved and the formation of committees and their takeover of O&M and finances did not constitute ‘community management’ and as found in a survey in Chittoor district of Andhra Pradesh, the poorest of the poor continued to be left out of management (Joshi 2004 in James 2004). Before these insights could be gleaned from the SRPP implementation experience, the GoI scaled up the SRPP into a country-wide programme of community managed water supply and sanitation called *Swajaldhara* (see James 2004 for a detailed account and analysis of the SRPP experience).

Swajaldhara—Genesis, Current Status and Questions From the Field

Premised on a demand-responsive approach where the community initially mobilizes 10% of the cost of the project demanded by it and the rest of the funds contributed by GoI, the Swajaldhara was launched on 25th December 2002. The community further has 100% responsibility of operation and maintenance (O&M) through the user committees set up for the same. An integrated service delivery mechanism is also envisaged which includes taking up conservation measures through rainwater harvesting and ground water recharge systems for sustained drinking water supply. So far 3 phases of Swajaldhara have commenced on the official understanding that these would achieve a high degree of participation and community control that would meet the needs of water for all (see GoI a; b; and c). Govt. of India releases funds in 2 installments and the schemes are expected to be completed in a period of two years.

Availability of drinking water has been in a critical state in Rajasthan for many years now. The past few years being consecutive drought years (4 in the last 5) have worsened the situation manifold. The stress is acute in the summer months with water becoming a source of frequent conflicts in villages and privileges of access to water including the tankers supplied by the state being drawn along caste, class and community lines. The burden on women and young girls is doubled, as they are the ones who traditionally fetch water for the household from the nearest source. Cattle also face this stress, which further deepens the crisis and adds to the larger livelihood crisis as cattle also weaken because of lack of fodder and rates for fodder are high in the summer months.

At the same time, adequate drinking water provision for people and livestock is the topmost stated priority of the State (see GoI d and GoR a). Water supply to about 91% (65 lacs) households is based on ground water sources and the remaining households depend on surface waters of Indira Gandhi Canal or Bisalpur Dam or other surface water sources. Barring a few, most districts in Rajasthan are categorized as critical in the exploitation of their ground water resources or over exploited.

In 2004-2005 a total of Rs. 2544.25 lakhs was allocated to districts in Rajasthan under the Swajaldhara scheme of which Rs. 267.12 lakhs were allocated to Rajsamand district and Rs. 91.99 lakhs to Bhilwara district. As a result a number of Swajaldhara schemes are underway in the state as a whole and in the aforesaid districts. It is in this overall context that this study was undertaken to assess the impact of the Swajaldhara scheme in two districts of Central Rajasthan through a sample survey of 25 villages in Rajsamand and Bhilwara districtsⁱ. Both these districts are critical in the number of ground water resources they have and are also both allocated funds under the Swajaldhara scheme (See GoR b).

While it is true that many of the new schemes are working on the ground and for the time being the people whose access to water has improved as a result of Swajaldhara, this survey has unearthed a set of fundamental questions that need to be dealt with on a priority basis if the right to drinking water for all is to be realized and this access is to be sustainable for those with access today, into the future.

Community Ownership and Participation—A principal premise of the Swajaldhara scheme is that community ownership and participation will emerge from the formation of village water and sanitation committees and further through raising community resources for the 10% mandatory community contribution. The official expectation is that a high degree of participation and community control might be achieved through this feature that would meet the needs of water for all.

We found that constitution of committees is arbitrary in most cases, depending on the favours of the local elite and apart from the few people who are the cohorts of the local elite, there is little knowledge of the existence of such committees with the general population. While such committees are to be formed in the gram sabhas, there is enough evidence that points to the reality of these gram sabhas being meetings in which the locally powerful manouver the decision-making process. Understandably, being in favour of the elite seemed to uniformly determine the access to water for all members of a community within the vicinity of a project. For instance, in several villages, people who had a Swajaldhara connection did not even know the names or number of committee members and could only point to either the Sarpanch or a more politically savvy person in the village to help us identify the committee members. Little could be expected in terms of the accountability of the committee to the people. Even as people paid monthly charges for water supply, they had no idea where the money went and what was being done with it, leave alone the balance with the committee. Participation in its affairs was almost non-existent even in villages where at least a 25 percent household sample was interviewed.

The underlying assumption in the user committee approach seems to be that village communities are homogenous and do not have a local socio-political dynamic that actively informs how the resources that come into a village are used and that the mere formation of a committee does not guarantee participation in any way. This assumption would be naïve at best and irresponsible and convenient on the part of policy makers and project formulators. The benefits of this and in general any scheme in the village are generally defined by this socio-political dynamic and often a nexus of local political elites and local officials guarantee that they are the beneficiaries of schemes and projects more than the people at large and specifically the already marginalized.

Access to water—Another basic underlying assumption is that cost sharing will enable participation and ownership. However a chief concern emerging from the study is that through the introduction of shared cost and water tariffs only those with adequate resources are able to access water while others may not. Thus, those that cannot afford to pay the initial cost and contribute to the cost-sharing are left to fetch water from older sources. In village after village we interviewed people who could not afford pay the initial costs or the recurring costs and they were also generally not allowed access to anyone else's connections since they had not contributed the initial cost.

As a result of caste equations still highly prevalent in the villages, the access to water is determined by caste hierarchies. Thus we found that in a Rajput dominated village dalits were forced to pay for the access to water under Swajaldhara despite a weak economic condition and inability to pay through threats. Other ramifications of the caste equations range from absence of Swajaldhara structures in dalit *bastis* to a general state of disrepair or are too few compared to the need of the population. Further, if a person or family does not find favour with the committee president/ Sarpanch or another powerful member of the committee, then their access to water is also curtailed since they are not allowed to become members. This was volubly brought home in one village where one family was being denied a piped water connection even though the main supply pipe passed very close to their house, because they did not enjoy the favour of the Sarpanch.

Transparency, Information and Corruption—As mentioned above, little was known to people about the committee in most villages, leave alone the specifics of the project and the accounts of the committee. What was alarming was the near-complete lack of knowledge among the users regarding future costs that were to be borne for replacements at the end of the life of materials used for the project initially.

Information about any schemes are generally among the elite and powerful and the whole process of development is highly skewed in their favour as a result, doing little to secure access and participation of the entire village community. People have little or no idea of the part of maintenance and operations costs and when this is revealed they often come up with the response that if the costs are high, they will ask the government and if no support comes from the government, the structure will collapse

since they will not be able to meet long term costs of maintenance. This forces one to consider the question of the sustainability of the Swajaldhara projects.

The general lack of knowledge of committee accounts also provides a breeding ground for corruption where costs are inflated on paper and less materials or poor quality materials are used on the ground. Very few committee presidents actually revealed the accounts to the survey teams and most claimed that their accounts were either with the Secretary or had gone for audits. The experience of social audits conducted in villages across the country are testimony to this travesty of development and without a deliberate provision and action in this regard in the project formulation, this promises to be another scheme that serves as a source of income for locally powerful.

Willingness to pay and Ability to pay—People are willing to pay for these basic necessities if they feel that is the only way of availing them and that it would improve access, but that does not necessarily reflect their ability to pay. It was found in the villages surveyed that the poorest were often not part of the user groups of Swajaldhara schemes and were fetching water from pre-existing sources precisely because of their inability to pay. Since they had not contributed to the cost of the project they were not allowed access to Swajaldhara sources by those who had. They also mentioned that their access to water would improve if the facility was provided to them free of cost. It was mostly the well off who could afford to pay the initial contribution. Additionally, depending on the amount to be paid upfront, some villagers also had to take loans for their contribution, increasing their burden of indebtedness.

Project cost over-runs—In a couple of villages the actual project costs had been over-run as a result of faulty initial designs. There is no provision in the Swajaldhara scheme for cost revisions and reassessments. As a result, the costs have fallen on the community and payments for these are pending to contractors, causing much distress all around.

Imposition of monthly fees—Every User has to pay a (generally) bi-monthly fee of approximately Rs. 60 or Rs. 90 in the villages surveyed. Where this figure has come from is unclear. Discussions with committee members reveal that any remaining

balance from the collections is kept by the committee as maintenance costs but there is no clear social audit mechanism available to check what is being done with this money.

Water harvesting and integrated service delivery—Water harvesting structures and other service delivery mechanisms are not in place in any of the surveyed villages and people do not even know of any such provisions in the Swajaldhara scheme.

Considering that there is a crying need for such structures in Rajasthan this lack in initiative, information and formulation is sorely missed.

General Conclusions and points for discussion

The application of user fees and shared cost of infrastructure may only ensure that one who has more money has more access to resources and this will worsen socio-economic inequities without the State acting even notionally as an unbiased protector of rights. While people's ownership and participation in decision-making processes are a must in ensuring access to resources, perhaps this form of participation was not the wisdom people's organizations were bringing to the discourse on development. In a country with as many poor, unemployed and underemployed people with little access to resources and information, it is important to acknowledge that demand-driven and cost-sharing features will do little to secure the right to water for all. In fact it can be argued that with so many people dependent on wage labour daily and almost never making even the minimum wage per day, imposition of costs for drinking water provision will lead to a violation of the right to water.

There seems to be a fundamental contradiction in the macro-policy formulation of the government. Majority government records point to a ready willingness and desire on the part of people and communities to pay for basic services and take charge of their operations and maintenance. Given that the number of BPL people in the country remain at 33%, that indicators show a worsening of employment trends and depletion of natural resources, it seems doubtful that people are willing to take the burden of cost sharing and maintenance of infrastructure for basic services like drinking water. On the one hand the Indian State has recognized the need for employment guarantee in rural areas to secure livelihoods and on the other it seeks to impose a greater burden

on rural folk to meet basic necessities like drinking water, thus weakening the already meager benefit of 100 days employment for one member of a household in a year.

Given that there is a serious lack of information, transparency and participation in implementation, leave alone formulation, community ownership and participation are but a rare occurrence. While people's ownership and participation in decision-making processes are a must in ensuring access to resources, perhaps this form of cost-sharing participation was not the wisdom people's movements and organizations were bringing to the discourse on democratic development. Given that the number of BPL people in the country remain at 33%, that indicators show a worsening of employment trends and depletion of natural resources, it seems doubtful that people are willing or able to take the burden of cost sharing and maintenance of infrastructure for basic services like drinking water. The application of user fees and shared cost of infrastructure may only ensure that one who has more money gains more access to resources, doing little for the vision of development and worsening socio-economic iniquities in the bargain. Even accountability of these committees to the larger village communities seems tenuous.

The local socio-political dynamic significantly affects any intended benefits that macro-policy initiatives envisage and if not made a crucial factor for consideration at the stage of policy and project formulation, it will only add to the distress of people who are already marginalized. In the path to development, perhaps it is not so much the role of the State that needs to be pruned as much as accountability and transparency measures that need to be built in every step of bureaucratic and legislative practice. A comprehensive dialogue with people living in villages reveals that distress from poverty is acute and measures need to be taken keeping in view the local socio-political dynamic and the inability of people to bear further financial burden. A large-scale appraisal of evidence from the ground on these features must be undertaken and any new schemes premised on these principles should be held until such an exercise is undertaken.

ⁱ The initial survey was undertaken in 15 villages—11 in Rajsamand district and 4 in Bhilwara—with the support of School for Democracy, and 5 MKSS activists and 10 Udaipur School of Social Work students

participated in it. The second round was conducted in 10 villages of Bhilwara district and Philippe Cullet of IELRC also participated in it.

References

- Edelman, M. 1999. *Peasants Against Globalisation*. Stanford: Stanford.
- GoI a. Undated. <http://ddvs.nic.in/swajaldhara/html/index.html> last accessed 6/12/05 5:00 pm
- GoI b. Undated. Swajaldhara Guidelines http://ddvs.nic.in/popups/swajal_pop.htm last accessed 6/12/05 5:00 pm
- GoI c. Undated. State wise Allocation 2004-2005
http://ddvs.nic.in/swajaldhara/html/0405_swajaldhara_report.xls last accessed 6/12/05 5:00 pm
- GoI d. Undated. National Water Policy 2002 <http://wrrmin.nic.in/policy/nwp2002.pdf> last accessed 6/12/05 5:00 pm
- GoR a. Undated. State Water Policy http://www.rajasthan.gov.in/water_files/swp.pdf last accessed 6/12/05 5:00 pm
- GoR b. 2005. Sector Policy for Rural Drinking Water and Sanitation (Draft) August 2005
<http://rajwater.gov.in/sprdwts.pdf> last accessed 6/12/05 5:00 pm
- James, A. J. 2004. India's Sector Reform Projects and Swajaldhara Programme. International Water and Sanitation Centre.
- Sampat, P. 2004. *Economic Globalisation Today*. Books For Change: Bangalore.
- Singh, R. 2004. Water for All: Is Privatisation the Only Solution? *Combat Law*. Vol. 3: 2.
- Sklair, L. 2002. *Globalisation: Capitalism and Its Alternatives*. OUP: Oxford.
- Went, R. 2000. *Globalisation: Neoliberal Challenge, Radical Responses*. Pluto: London.