Revisiting The Concept Of Market Environmentalism And Human Right To Water

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Abstract: The concept of 'market environmentalism' (ME) and the process of 'neo-liberalisation of nature' becomes a new discourse in the field of natural resources management. Commercialisation, privatisation, and market mechanisms are replacing public policies vis-à-vis resource governance. Simultaneously, the movements for establishing human right to water (HRtW) and decentralisation of environmental governance for ensuring the viability of the natural ecosystem are also on the rise. This article sheds light on the optimistic argumentations of ME and then examines them critically. It is concerned with the governance of environmental resources especially 'waters', the role of neoliberal forces have diminishing effects in many instances. Taking water as a right more significant than any other constitutional rights citizens exercise legally, the article speculates that moderate state intervention and encouragement for greater public participation are necessary steps to be taken for sustainable governance of water, which would eventually ensure citizens their 'Right to Water'

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1. INTRODUCTION: THE FURY ROAD

The 2015 movie Mad Max: Fury Road portrayed a world where the owner of the single water tank or the 'warlord' is the master of everybody else living on 'dry land' where some exasperated and exhausted people clambered to get a drop of water. In the real world too, the ever-growing demand for water poses a threat to us in recent decades. Water experts predict that billions of people will be living under the severe pressure on the freshwater in the coming centuries. Thus it becomes unquestionably true that a transition is required to explicitly declare the HRtW as more essential and vital than any other constitutional rights. But the conditions of accessibility of clean water is of an illusion in many regions. Hence, the question of how to ensure all humans equitable access to water and proper water management remain fundamental challenges to the world communities. At the international level, 'a formal review of international law, declarations, and State practice support the conclusion that access to a basic water requirement can be considered a fundamental human right.' Article 25 of the Universal Declaration of Human Rights (UDHR) confirms that "everyone has the right to a standard of living adequate for the health and well-being of himself and his family." The United Nations Conference on Human Settlement in 1976 set some global objectives to provide clean water and sanitation to all human beings in the world. In 1977, the UN Water Conference in Mar de Plata envisaged to achieve the same. The Convention on the Elimination of All Forms of Discrimination Against Women guaranteed that the state parties would ensure rights to women to enjoy adequate living conditions, particularly about housing, sanitation, electricity, and water supply. The Convention on the Rights of the Child also provided guidelines to States parties to combat disease and malnutrition by providing clean drinking water. The UN Committee on Economic, Social and Cultural Rights Comment No. 6 guaranteed the right to water as a human right in Article 11 (1). The following General Comment No. 15 confined the HRtW within the category of the guarantees essential for providing an adequate living standard to all. The Millennium Development Goals (MDGs) targeted to reduce the number of people who have no access to an adequate source of safe drinking water, sanitation facilities and to reduce the rural-urban gap, gender inequality, and exclusion to ensure a clean environment and individual dignity for all. The Sustainable Developmental Goals (SDGs) sought to improve the goals visualised by the MDGs including the supplementary vision of protecting the earth from desertification, soil degradation and preventing over-exploitation of water resources. The member countries have explicitly emphasised on the commitment to ensure human right to water and sanitation and urged the private participation to ensure human rights to water under the norms of transnational corporate responsibility. The member states have pushed forward the perspective for the adoption of right-based implementation policies for the realisation of the SDG 6 by 2030. In 2010, the UNGA adopted a Resolution that reaffirms the state's responsibility in promoting and ensuring the protection of all kind of 'universal, indivisible, interdependent and interrelated' human rights in a fair and equal manner. Water is indispensable for our life like air, and hence it must be considered as an essential predicate to realise other human rights. Water rights are inter-linked with several other rights: the right to food, health, housing, and a healthy environment. At the level of the individual, the debate surrounding the status of water as a fundamental human right brings to light the complications and challenges of implementation. Even while several international instruments make a mention of the central significance of water, its status as a fundamental right remains contested, mainly because of the perceived challenges in implementation. The conditions of accessibility of safe and clean water are so much of an illusion in many regions. Millions of people are living under the threat of severe water crisis across the world. The Economic Times (2017) reported on the International Water Day in 2017- "783 million people do not have access to clean and safe water worldwide. In developing countries, as much as 80% of illnesses are linked to poor water and sanitation conditions. Almost 900 children per day, or one child every two minutes. Six hundred sixty-three million people in the world one in ten- do not have clean water". It is predicted that "just one or two generations from now, most of the 9 billion people that will occupy this blue planet will be living under the handicap of severe pressure on fresh water" (Vorosmarty & Pahl-Wostle, 2013). The ever-growing demand for water as well as food grains poses a threat to the world in the coming centuries. A World Wildlife Fund (WWF) report in 2017 estimates that "half of the world's population will live in water-stressed areas by 2025". The UN World Water Development Report: Water for People, Water for Life, 2003 says-

"Of all the social and natural crises we humans face, the water crisis is the one that lies at the heart of our survival and that of planet Earth…No region will be spared from the impact of this crisis which touches every facet of life, from the health of children to the ability of nations to secure food for their citizens…Water supplies are falling while the demand is dramatically growing at an unsustainable rate. Over the next twenty years, the average supply of water worldwide per person is expected to drop by one-third" (UN, 2003: 4). Brown (2013) claimed that the real future threat is not "peak oil" but "peak water." The Deputy Secretary-General of WHO/UNICEF Joint Monitoring Programme Jan Eliasson said that "water and sanitation are fundamental to human development and well-being. They are not just goals in their own right but also critical to the achievement of other development objectives such as adequate nutrition, gender inequality, education and the eradication of poverty" (UNICEF & WHO 2015: Forward). In 2016, the UN member states committed to ensuring the SDG 6 by 2030. The member countries have explicitly emphasised on the commitment to ensure human right to water and sanitation (UNGA, 2015: 18). They have also urged private participation not to suspend human rights to water under the norms of transnational corporate responsibility. The Sustainable Development Goals Report 2018 estimated that in 2015, 29 percent of the global population lacked safely managed drinking water supplies whereas 484 million lived in conflict prone situations. The report highlights that "access to fresh water, in sufficient quantity and quality, is also a prerequisite to achieving many dimensions of sustainable development, including health, food security and poverty reduction." In such a situation, the question of how to ensure all humans equitable access to water and proper water management remain a fundamental challenge to the international community. The rise of population, industrialisation, urbanisation, and intensification of agriculture contribute to the increasing water demand in the recent decades. This places an obligation on the State to provide clean drinking water for human consumption, conserve water and provide basic services for sanitation and for the protection of the environment. The world is facing the grave problems of environmental degradation in general and water scarcity in particular which inevitably dilapidate states' capacity to govern (Homer-Dixon, 2013). In the 1990s, the rate of private sector participation in water regulation increased rapidly, which challenged the twentieth-century notion of 'natural monopoly' which argues in favour of state domination or extension of state regulation over freshwater management. The next section explores how the neoliberal system performs its responsibilities concerning water governance and securitise water as a fundamental human right.

2. MARKET ENVIRONMENTALISM AND SUSTAINABLE WATER GOVERNANCE

'ME' is defined as "a mode of resource regulation that promises both economic and environmental ends via market mechanism" (Anderson & Leal, 2001). Bakker (2014) defined it as "a doctrine premised on the synergies between environmental conservation and protection, economic growth, market economics, and neoliberal governance." Bakker (2014: 1.8) opined- "it entails a wide-ranging set of transformations in how we manage, allocate, and make decisions about resources and environmental management." It is an entailment of the process of ecological modernisation which postulates a successful fusion of 'economic growth, efficiency, and environmental sustainability.' It allows transforming environmental resources into economic goods through the establishment of private ownership rights, incorporation of market mechanisms, and environmental externalities such as pricing. Proponents of ME argue that if environmental resources are considered as economic goods, it would be easier to efficiently prevent profligate use of resources and thereby ensure environmental sustainability. Bakker (2014: 1.3) provided four elements to define ME- (I) privatisation of water resource ownership and management; (II) commercialisation of resource management organisations; (III) environmental valuation and pricing of resources; (IV) marketization of trading and exchange mechanisms; and (V) liberalisation of governance. The reason for which these elements sprang up was primarily the dubiousness of 'state hydraulic paradigm.' Many argue that state management system often overlooked the environmental impacts, and sometimes it entailed significant environmental degradation. Concerning water supply management, it resulted in deterioration of water supply infrastructure. The under-priced water supply system often fails to balance revenue-generation with high-cost water supply infrastructures (Rogers, Radhika de Silva and Bhatia, 2002). Gleick (2000) claimed that the state management system ignores the broader issues of water governance issues including water conservation, ecologically viable and bottom-up approaches. The presumption that self-purification capacity of hydrological systems miscalculated abundance, and mischaracterisation of water as a renewable resource weakened the 'state hydraulic paradigm' (Bakker, 2014). Similarly, the shift 'from government to governance' or the emergence of the concept of 'hydro-solidarity' (Harrignton, 2014) to resolve perceived governance problems associated with the state-led water management systems eroded state-dominated water management processes. In the 1990s, the World Water Assessment Programme (2012) reported that over one million people lacked access to safe drinking water which resulted in high rate of morbidity and mortality despite the governments' and aid agencies' extensive assistance programmes. Biswas (2007) claims that "inadequate or inappropriate water governance, malpractices, institutional arrangements, and socio-political conditions" disallow many developing states to recognise water as a human right issue. In the 1990s, the direction for privatisation and decentralisation were crystallised in the World Bank's water governance agenda. Similarly, in 1992 International Conference on Water and Environment set the 'Dublin Principles' in which the Principle 4 says water has some economic value and therefore it should be considered as an economic good. Washington Consensus in 1994 reiterated the same that "water governance and management should be based on participatory approach, involving users, planners, and policymakers at all levels." The Washington Consensus emphasised on "financial liberalisation, privatisation, deregulation, and creation of secure property rights, tax-reform, the introduction of competition, and public sector fiscal discipline" (Bakker, 2014: 1.6). Industrial liberalisation in Europe in this period

and pro-private sector policies, technical assistance, and privatisation-related reforms in the developing countries bolstered the process of ME (Conca, 2006). In the recent past, Bakker (2013: 253) estimated that over ten percent of urban populations across the world depend on private water supply systems. It involved small-scale informal private entities as well as large-scale private water supply networks. Proponents of ME assert that state-led water management systems are challenged by several interrelated problems- viz. "low rates of cost recovery, low tariffs, underinvestment, deteriorating infrastructure, overstaffing, inefficient management, and unresponsiveness to the poorer." They claim that incorporation of private entities would minimise these problems and efficiently provide water to the poor. Privatisation also helps accumulate finances through better pricing which eventually helpful in maintaining water supply infrastructures. During the global financial crisis, private companies shifted the mode of financing from 'equity to debt financing' and opting for low-risk contracts. It gave rise to new private water operators in many countries and challenged the oligopolistic paradigm of water governance. The commercialisation trend has been introduced with the arguments that market mechanisms and corporatisation for improving service delivery and improve other aspects in the water sector. It is also believed that commercialisation will reduce state involvement, political interference, and stabilise water pricing (Klien, 2014). The growing scarcity of freshwater resources due to climate change and unconditional human interference in the natural sources of water exacerbate the water security issues. In this climate, proponents of ME argue that commodification or 'economic valuation of water' would effectively correct behaviour of water users, reduce water pollution, and encourage conservation. In other words, it simultaneously helps in ensuring water security as well as water governance. Water markets are witnessed in many countries including the United States, Canada, Australia, Chile, South Africa, etc. Water market is an artificial mechanism for water demand management strategy by selling or transferring water to users, for example, upstream countries sell water to the downstream dwellers. Proponents argue that these markets can efficiently allocate waters in dry areas as well as raise awareness about the wise use of this scarce environmental resource. Similarly, it reduces the water supply costs and infrastructure maintenance burden as well as address water scarcity challenges (Wheele et al., 2017). For example, proponents claim that water markets in Australia increased efficiency in the use of water without constructing any new infrastructures. ME proponents also argue in favour of liberalisation of the governance structure. They proclaim that liberalisation would ensure good governance, accountability, equity, economic prosperity, and environmental viability. Liberalisation of governance positively refers to the involvement of non-state actors, devolution of power in the decision-making procedures. This system encourages greater social learning and promote integrated water resource management (IRWM) in the line of Brandt. Commission's concept of 'sustainable development' and Pahl-Wostle's (2006) 'adaptive governance' system. IRWM refers to a system of water resource management which substantially incorporates issues of land use, surface and groundwater management at multiple levels interacting with biophysical, technological and socio-economic systems. The concept of 'adaptive governance' is a form of social coordination of individuals, organisations, agencies and institutions at multiple levels aims to achieve collaborative, and learning-based flexible approaches of water management (Pahl-Wostle, 2006). These concepts are equated with the neoliberal understanding of water governance arguing that it fosters greater resilience through the necessary governance reforms.

3. CRITICAL ANALYSIS OF MARKET ENVIRONMENTALISM

The idea of ME is widely criticised on many grounds. World Bank (2005) envisaged that the vast majority of water supply systems would remain in the hands of the state. Most of the water supply connections to poor come from the state finances. The private sector has not been successful to surpass the public sector with pro-poor idealism (Marin, 2009). Bakker (2013) noted that cherry-picking private companies are more prone to invest in the middle and high-income countries and the problem of 'spatial variegation' affects the developing countries. Sometimes, wealthier get quality water while the marginalised sections continue to receive a lower quality supply of water. Water activists campaign against the 'profit accumulation by dispossession' by the private sector without respecting the cultural and emotional aspects associated with water. They demand that water is a 'common's property' and hence indigenous water right is to be necessarily established. Similarly frequent water supply contract cancellations initiated by the 'frustrated investors' hamper the progress of societies (Hall, Lobina & Motte, 2005). In such a situation, in the Global South, water activists make suggestions for adopting alternatives like public-private partnerships, re-municipalisation, and legally recognising water as a fundamental human right (McDonald & Ruiters, 2012). Opponents of privatisation argue that government-led water supply systems with adequate resources and techniques are equally effective in ensuring water security with comparatively cheaper forms of tariffs than the private sector. Private sector sometimes engages in land grabbing without providing adequate compensation for preventing disruption in the supply of water which has a spill over impact on other security areas such as food security, employment, and environmental security, etc. The manifestation in the anti-privatization manoeuvres led by red-green alliance (labour and environmentalists) in Cochabamba, Toronto, Jakarta, Vancouver, Argentina, Bolivia, South Africa, etc.) (Bakker, 2014; Baer, 2017). In Cochabamba and 'water war' protestors demanded the government to recognize HRtW and to create public, democratic water utilities with citizen participation and community engagement (Baer, 2017; Beck, 2018). Regarding commercialisation, opponents of ME pointed to market failure which indicates that water management practices would remain under the state stewardship. As the economic term 'natural monopoly' suggests that supply by one seller only reduce the price of a commodity. In the case of water supply, it is not easier to monopolise the sector, and the argument of lower price through commercialisation automatically gets annulled. Water pricing and other externalities might become disastrous since it pertains to

the maintenance of quantity and quality of water that is being supplied to. Moreover, markets and profit-oriented mechanisms can hardly provide a public good, and therefore it raises serious ethical concerns regarding water management practices which is indispensable for human survival and development. Similarly, commercialisation of water sector would entail negligence in the conservation of water sources vis-à-vis the aquatic ecosystem. Again, the growing concerns over water-food-energy nexus are prone to be missed in the commercialisation paradigm propelled under the umbrella concept of ME. Over the idea of valuation of water, the European Parliament (2000) noted that "water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such." The full-cost pricing is not possible which substantially incorporates issues such as infrastructure development and maintained costs for which the consumers pay what they use. In this context, Bakker (2014) noted that "implementation of pricing based on full market valuation are rare and sometimes, in turn, leads to ambiguity in policy and legal approaches to valuation because of the technical difficulty of pricing, political consequences, subversion of subsidised pricing and social equity principles that tend to be associated with public utility systems". Many argue that valuation encourages privatisation, and make self-desired advantages 'unethically' out of 'water pricing.' It is not desirable because water is not substitutable and utterly indispensable. On the other hand, water is difficult to commodify, because it is not exchangeable and too expensive to transport massive quantities of water for long distances. It is ethically unenviable as it plays a more significant role in maintaining the viability of the ecological cycle. Opponents of ME claim that water markets always widen the rural and urban gap. Government exploits the rural communities by stealing the water from them without sufficient compensation to uninterruptedly supply water to the urban elites keeping the agriculture and environmental concerns aside. It also ignores the broader environmental concerns. One excellent example could be 'greenwashing' which refers to the commercial advertisements which are made only to attract customers by showcasing their products as environmentally friendly, but in practice, are not favourable for the environment. Liberalisation of water governance also faces severe criticism. Liberalisation encourages 'polycentrism', which implies the "involvement of multiple actors at multiple scales" (Bakker, 2014). At this juncture, Marx's notions- 'formal subsumption' and 'real subsumption' are likely to occur. According to the former notion capital exploits natural resources to fulfil their demands and the latter occurs when industries alter the properties of nature to intensify productivity and enhancing capital accumulation (Pellizzoni, 2011: 799). Therefore, ME can be equated with Polany's concept of 'double movement' which is interpreted as "a way to protect capital and expand opportunities for profit, while offering a discursive an material response to public concern and pressure for regulation" (ibid). Finally, liberalisation of water governance has limitations to ensure sustainable water governance as it merely concentrates on watershed governance, and it potentially undermines complex water security challenges. It is also insufficient to balance human needs and ecosystem and biodiversity-related concerns.

4. HRTW IN THE NEOLIBERAL ERA

There are many controversies around ME. Coordinated campaigns are taking place in many parts of the world against privatisation, commodification, and commercialisation of water. Water right activists vehemently demand that water should be considered as a fundamental human right and therefore it must be equally distributed so that everyone can get access to adequate quantity of quality water. The water-right supporters prefer greater state intervention to legalise water right through national legislation and practically provide water to the citizens. United Kingdom, Netherlands, South Africa, Uruguay, Bolivia appeared to showcase their commitment to enacting water right laws at the national level. It's not necessary to reiterate that HRtW still faces significant difficulties to get manifested at the grassroots level. In the age of climate insecurity and environmental degradation, the lack of HRtW or in broader sense 'water insecurity' is a harsh reality. The scarcity of water creates hardship in all facets of life and progress of societies. It also spawns numerous implications of security of individuals. Physical scarcity, contamination, increasing consumption, unhealthy human-intervention, and unsustainable governance of water resources lead to human insecurity, and therefore the HRtW must be analysed by equating it with the concept of 'human security' in general and 'water security' in particular. HRtW is to be realised by all individuals rather than theoretically recognise it on white papers. At this juncture, this article sheds light on water security as a broader review of HRtW through the deployment of an emancipatory paradigm. It is necessary to focus on emancipation as individual experiences of security and insecurity is undoubtedly connected to availability and accessibility of freshwater. Booth (2007: 112) defined 'emancipation' as "a philosophy, theory, and politics, of inventing humanity." It seeks to provide security to individuals by removing all the structural and arbitrary systems of oppression, impositions, and exclusion which preventing them from enjoying their life as they wish. Given HRtW or water security in broader terms, emancipation is a unique concept since water insecurity becomes a global problem and the marginalised and vulnerable communities are suffering the most in this neoliberal era. Emancipation believes in cosmopolitanism, inclusion and "predicated on the rights and needs of the most vulnerable, and preserving or achieving security without depriving others of it" (McDonald, 2011: 7-8). Neoliberalism portrays "a project of social change where human well-being can be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterised by strong private property rights, free markets, and free trade" (Harvey, 2005: 2). Hay (2007) opined that this system lessens the role of the state and the rational, self-interested individuals and market become the central regulators. Neoliberalism is considered as an "intentional matter of reshaping the state as an agent of economic growth, and a defensive agent of a corporate economic order bent on monetising every aspect of life" (Robinson, 2018: 487). This practices might destroy the pathways to realise HRtW, water security or emancipation. Water resources are "bloodstream of the biosphere, breath of the earth" (Folke, 2003: 2027) and indispensable for human survival. The cherry-picked agents of neoliberalism and their governance

mechanism are not sufficient for ensuring HRtW to all. HRtW smoothens the pathways for empowerment, and democratisation, accountability that provides an alternative way to think about water security and emancipation. Baer (2017) analysed the Bolivian government's strong political will to provide HRtW by increasing its financial budget, investment, creating new institutions, and planning effective national development programmes. And it moderately achieved the desired goals regarding accessibility, affordability, and quality of water. But Baer warned that too strong state domination over water management could undermine the broader dimensions of water right, and hamper the self-managed community water systems, and implementation of developmental programmes. Achieving HRtW is a complex undertaking, essentially context-dependent and affected by a range of factors, including political will, state capacity, and citizen's participation. Baer (2017) opined that in narrow terms, the right to water includes the access to the safe and affordable water that is sufficient for personal and domestic uses.

5. CONCLUSION

The broader definition of HRtW provides for democratising water governance, greater transparency, accountability and public participation. Here, ME normatively disguises the concept of HRtW and obfuscates the notion of water security. ME, in this regard, is not a solution to sustainably govern the water resources and to ensure HRtW. Simultaneously, a strongly centralised mechanism for water governance is also not a very sanguine idea. May be, neo-statist proposal for "regulated competition and public-private partnership under state guidance, protection of core economy; and neo-communitarian argumentation in favour of fair trade, social cohesion, third sector expansion and local governance" (Pellizoni, 2011) can be a viable alternative for sustainable water governance. Eventually, ME as well as too much state intervention might not be viable alternatives for ensuring HRtW. Moderate state intervention with strong political will, and high level of community participation can be a solution to the contemporary problem of water insecurity and environmental governance.

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