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Exploiting Policy Obscurity for Legalising Water Grabbing in the Era of Economic Reform: The Case of Maharashtra, India

Subodh Wagle

School of Habitat Studies, Tata Institute of Social Science, Deonar, Mumbai, India; subodhwagle@gmail.com

Sachin Warghade

PRAYAS, Kothrud, Pune, India; and TISS, Deonar, Mumbai, India; sachinwarghade@gmail.com

Mandar Sathe

PRAYAS, Kothrud, Pune, India; mvs.prayas@gmail.com

ABSTRACT: Since the last two decades, economic reform in India is exerting pressure on limited land and water resources. This article argues that sectoral reforms underway in different areas such as water, electricity, and the export sector are giving rise to a new form of water grabbing in the state of Maharashtra, India. This water grabbing is legitimised by the use, application and redefinition of reform instruments such as the sectoral policy statements and laws. Maharashtra, like many other Indian states, has been a theatre for the play of power among different interest groups over control and access to water resources developed through state funding. Dams were built at the cost of depriving the upland riparian communities of their land, water and other resources. The water provided by the dams – which strengthened the political power of the leaders representing the irrigated plains – is now at the core of a shift in regional power equations. Based on case studies of three dams the paper presents these contemporary developments around water allocation and re-appropriation. These developments pertain to the shift from the erstwhile focus on securing water for irrigation to the new focus of securing water to facilitate international and domestic private investments. The paper concludes by arguing that the state is able to legitimise this form of water grabbing due the emergence of a new and grand political coalition and nexus that has emerged at the behest of the ongoing economic reforms.

KEYWORDS: Water grabbing, entitlements, reforms, independent regulatory authority, India

INTRODUCTION

In the post-independence era, as India embarked on the path of fast economic growth, creation of infrastructure – such as large dams – featured prominently in the plan for national development. However, the social and environmental costs caused by the large dams soon became evident and have been widely discussed (Roy, 1999; Dharmadhikary, 2006; D'Souza, 2008; Shah and Kumar, 2008; Thakkar et al., 2009; Joy et al., 2009; Nayak, 2010; Peterson, 2010). The social costs associated with displacement and rehabilitation became the focal point of mobilisation by different social movements in India. Depriving the project-affected people in the uplands from their land, river, forest and other livelihood resources was seen as a process of 'resource grabbing' that benefitted the political elite representing the low lands or plains. However, the contemporary developments around dams in India suggest the beginning of a new phase of 'resource grabbing' through the mechanisms of policy and legal reforms, especially related to water reallocation.

Analysts and researchers have discussed in depth various aspects of inequitable water transfers to urban and industrial sections, including, types of sectoral water transfers, factors affecting transfer,

justifications offered for water transfer, modus operandi of such transfers as well as the beneficiaries and victims of such processes from around the world (Dixit, 1996; Polaris Institute, 2003; Braun et al., 2005; Molle and Berkoff, 2006; Mollinga, 2008; Jumnianpol, 2010; Kay and Franco, 2012). There are many similarities in experiences of such water transfers across the world. For example, as observed by Kay and Franco (2012), land and water resources targeted in commercial deals are often described as being 'unused' in order to legitimise the transfer into the hands of the investors. Molle and Berkoff (2006) have observed that the agricultural sector in general loses out in such transfers, while the very livelihoods of small cultivators in particular are significantly affected. Such transfer prompts the use of the term 'water grabbing' because of the undue, unfair, and undemocratic manner of such transfers as well as their disastrous effects on livelihoods of small cultivators and other sections of rural population relying directly and indirectly on agriculture.¹

This paper discusses a newer phenomenon of water grabbing from dams. The dams which supposedly served the purpose of agricultural development in the past are now seen as important sources of water for the growing corporate sector in India. Hence, reallocation of the water in the reservoirs has become the hotbed of political actions, especially in the state of Maharashtra in India. The state of Maharashtra is at the forefront of reforms related to water reallocation. It is the first state in India to adopt legal reforms related to establishment of tradable water rights in the form of 'water entitlements'. We argue that the new policy instruments and institutional mechanisms created under sectoral reforms in the water sector are providing new routes and mechanisms to justify the processes of water grabbing with increased scope and intensity. The paper highlights the mechanism of this new and legal route being created to facilitate water grabbing. The growth in scale of overall economy as well as the capital in corporate sector is an outcome of the reforms that were part of the structural adjustment programme adopted in India in 1991. These reforms – broadly conceptualised as reforms for liberalisation, privatisation, and globalisation (LPG) – have opened the door for domestic and international private investors. The surge of private investments in different sectors of the economy has also given rise to increased demand for land and water resources. The most contentious issue that has jeopardised the prospects of the rural communities has been government-supported acquisition of land, water, minerals and other resources for the benefit of private-sector companies. Among the various resources, the water stored in dams is one of the new frontiers of resource grabbing by the corporate sector. In light of this, the paper attempts to unravel the mechanism of policy and legal reforms used to facilitate water grabbing from dams in the state of Maharashtra, in India.

CONCEPTUAL FRAMEWORK AND METHODOLOGY

The broad goal of the study is to investigate the process of water grabbing in the era of sectoral reforms. The study is guided by the political economy perspective. To be precise the study is guided by the 'Group Model' of public policy (Anderson, 1979; Dye, 2004), which sees politics as the outcome of actions of the interest groups (Bothamley, 1993). Policies are seen as the outcome of the power play among various groups in society or rather as the compromise arrived through the interplay of political power exercised by various groups and coalitions of groups.

The paper draws on the data and analysis that emerged from a wider and comprehensive study of 16 dam projects in the state of Maharashtra undertaken by the same authors on water diversion.² As

¹ Apart from the academic literature, the issue has also been discussed in the media and popular literature, especially in the cases of highly controversial dam projects like the Narmada River project, which was discussed in detail by the famous writer-activist Arundhati Roy (Roy, 1999).

² This is a larger study focusing on various forms of diversion of water away from the irrigation sector. The study was undertaken by a team of researchers based in the Resources and Livelihoods Group, Prayas, Pune with financial support from Tata Institute of Social Sciences, Mumbai, and Ford Foundation. Prayas is an independent research and policy advocacy group working on policy issues in different sectors. Its work in the water sector is focused on reforms and regulation in the water sector. This study began as a short-term project to investigate the complaints made by local activists in the state of

part of this study, field interviews were conducted to develop case studies of water diversion. A detailed analysis of the policy instruments and governing agencies in the state was undertaken. Crucial data on water diversion were also collected from the government invoking provisions of the Right to Information (RTI). The authors have also drawn from the experience of their participation in the pro-poor regulatory interventions associated with the cases of water diversion.³

The case studies of three dam projects, essentially, attempt to trace how the allocation of water was changed over a period from what was envisaged and committed in the initial detailed project reports (DPRs). The case studies also try to identify the policy instruments used and institutional mechanisms involved in changing the shares of water. At the higher or state level, the effort is made to understand the power-play by tracing and analysing different activities of the main actors at the state level in the political, administrative, and judicial arena. The analyses of policy instruments and of the functioning of institutional mechanisms are also used as the supportive method at this level.

SECTORAL REFORMS

The reforms related to LPG have been gradually extended to different sectors of the economy in the form of 'sectoral reforms'. Three such sectoral reforms are of primary importance when looking at water grabbing from dams in Maharashtra. These are reforms associated with the privatisation of the electricity sector, the promotion of Special Economic Zones, and water sector reforms.

The Government of India enacted the Electricity Act of 2003 and thereby opened up the power sector for entry of private companies. Since then there has been a gradual increase in the proposals from large national corporations for building private power plants. According to one of the latest studies, the capacity of new thermal power plants proposed in India is almost three times the estimated future demand (PRAYAS Energy Group, 2011). Of the total thermal power plants proposed in India, almost 73% are proposed by the private sector. This proposed capacity increase is based on the future capacity addition by the already sanctioned private power plants. Of the total proposed capacity addition by private companies, 33% is by ten large private corporations. Private corporations such as Reliance, Tata and Indiabulls, referred to further in the case studies, are also in the list of these large private players entering the energy sector. The study concludes that the only explanation for such excessive proposed capacity and sanctioning of private power plants is that these plants are a means for the private companies to grab resources, such as land and water, allocated to them for these projects at costs that are negligible when compared with the market price.

A similar concern of resource grabbing is widely held with regard to the policy adopted in year 2000 by the Government of India for promotion of Special Economic Zones (SEZ). This policy is aimed at attracting foreign investment in export-oriented businesses by providing lucrative fiscal incentives and keeping regulations at their minimum (GoI, 2012). In 2005, the government enacted the SEZ Act. According to government documents, there are 143 SEZs in operation while 587 have been formally approved. Among the formally approved SEZs, 103 are located in state of Maharashtra, the second highest in the country (GoI, 2012). This has generated huge demand for land, water and other resources required for setting up the SEZs.

Maharashtra about diversion of water from agriculture sector to urban and industrial users. The study was subsequently expanded to cover larger number of cases and analysis of the state level data on water diversion. The broader research project subsequently engendered an advocacy campaign and a political controversy in the state of Maharashtra. This paper is based on the case studies prepared under the expanded project, which are focused on the specific form of diversion where the private corporations benefit through formal channels for water grabbing provided by the government. The report of the broader research project is currently under its final stages of preparation.

³ The authors have been party to the petition filed before MWRRRA about water diversion from the Hetavane dam project. The authors have also studied and witnessed a High Court hearing on a petition filed by another group against water diversion from the Upper Wardha dam project.

The third and most important reforms, in light of water grabbing, are the reforms in the water sector undertaken at the level of state government.⁴ These reforms at the state level are primarily undertaken with financial and knowledge support from international financial institutions like the World Bank (WB) and Asian Development Bank (ADB). Enhancing 'economic efficiency' is one of the major principles that drive the current reforms in the water sector (World Bank, 2005). The principle requires that water resources be reallocated from water uses with lower productivity (i.e. producing lower economic value) to uses that have higher productivity (i.e. producing higher economic value). This is supposed to be achieved through a market-based mechanism for trading of water rights (ibid).

Maharashtra is one of the leading states in India where water sector reforms are considered. The State Water Policy (SWP), announced in 2003 by the state government, incorporated various reform measures (GoM, 2003b). According to this policy, for the first time in any Indian state, higher priority in water allocation was accorded to industrial water uses, as compared to water use for irrigation.⁵ This was followed by promulgation of the Government Resolution (GR) that provided for the constitution of a ministerial-level committee called the High Power Committee (HPC). The HPC is headed by the Minister for Water Resources Department (WRD) and comprises five other ministers from various government departments, namely, finance, water supply-sanitation (both the cabinet and junior-level ministers), industry, and agriculture (GoM, 2003a). The HPC was constituted to make decisions on allocating and reserving water for non-irrigation users (including private industries) based on higher priority to industry (ibid).

The most important and pro-market policy instrument related to water reforms is the Maharashtra Water Resources Regulatory Authority (MWRRA) Act, enacted in 2005. This is the first-ever law in India for the establishment of a quasi-judicial independent regulatory authority (IRA) in the water sector. This law provides for the first-ever 'system for tradable water rights' in India in the form of 'water entitlements'.⁶ The law also enforces the implementation of a 'cost-recovery' principle while determining water tariff. Apart from such pro-market principles, the preamble of the law also mentions 'equity' as the key principle that should guide water resource management and distribution.

Such reforms at the state level have been supported, even in other states in India, largely through water sector improvement or restructuring projects funded by the WB or ADB (Warghade and Wagle, 2011). In order to encourage establishment of such IRAs in the water sector, the 13th Finance Commission of India earmarked a grant to states on the conditionality of implementing reforms similar to those in MWRRA law (PRAYAS, 2011).

The case studies that follow draw upon the interplay of these different reforms. All the cases reflect on the impact of water sector reforms. The first and the third cases also reflect on the impact of reforms related to privatisation of the electricity sector, while the second case reflects on the impact of reforms related to SEZ.

CASE STUDIES OF PROJECTS: POWER-PLAY AT THE LOCAL LEVEL

This section presents three case studies pertaining to water allocation from three dams from three different regions within the state of Maharashtra. These case studies elaborate the interplay of powers of different interest groups who are trying to gain control over, and access to, water from a particular dam.

It should be noted that the sugar cane farmers in Maharashtra have been political influential due to the development of cooperative sugar factories in the past. However, this development has been largely concentrated in the western region (Pune region) of Maharashtra. The case studies presented here are from dams located in Vidarbha (Nagpur and Amravati region), North Maharashtra (Nashik

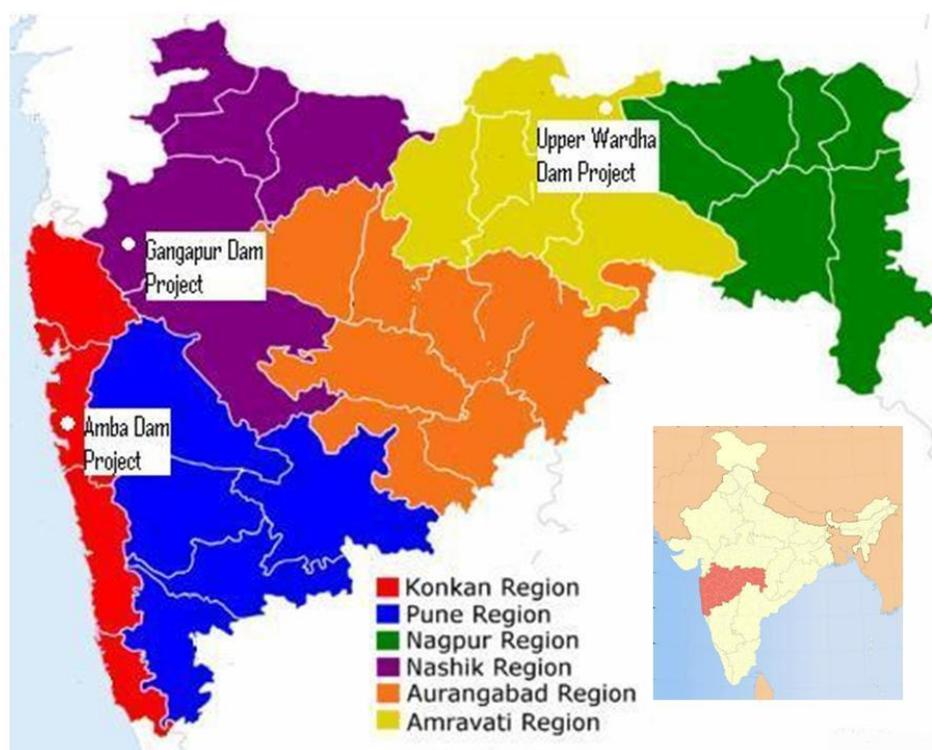
⁴ The Indian constitution empowers the states to have jurisdiction over water resources within the states.

⁵ Refer section 4 of the SWP 2003.

⁶ Refer Section 11(i) of MWRRA Act 2005.

region) and Konkan region of the state, where the farmers have been deprived of the necessary state support in comparison to those in Western Maharashtra (refer to figure 1 showing location of these regions and the selected case study projects). Apart from this form of inequity within the farming community, there are also concerns related to the higher utilisation of water by the farmers located at the head of the canal as compared to those at the tail of the canal. It is found that any reduction in the allocation of water to agriculture due to water grabbing or other reasons affects the tail-end farmers rather than the farmers at the head. The adverse impacts of water grabbing in the following cases are felt by these tail-end farmers. Another dimension of the inequity is that the people who were displaced due to dam building have been rehabilitated in the command area of these dams. However, due to water grabbing these displaced farmers are now becoming the victims of the new form of water grabbing. This is further explained in the subsequent description of the cases.

Figure 1. Location of the case study projects in state of Maharashtra, India.



Source: Map adapted from www.thefullwiki.org/Districts_of_Maharashtra

The case of Upper Wardha dam project

The Upper Wardha dam is constructed on the river Wardha and is located in the Amravati district of Maharashtra. This district is part of the Vidarbha region in Maharashtra, officially designated as one of the 'economically backward' regions in the state. This backwardness led to the creation of a separate 'development authority' for this region under the special provision in the Constitution of India.⁷ The Governor of the state, who represents the President of India in the conduct of the state-level matters, is accorded special powers for development of this backward region superseding the legislature.

This backwardness is due to relatively low allocation of the development budget to this region. This resulted in what is called as a 'financial backlog'. This financial backlog has, in turn, resulted in a

⁷ Refer article 371(2) of the Constitution of India.

'developmental backlog' in the region. To overcome the financial backlog, the Governor of the state is empowered to determine the distribution of the available government funds for the development of the backward regions. Among various developmental activities, developing irrigation facilities through construction of dams and canal systems is considered as crucial for the Vidarbha region. However, the irrigation sector has also been adversely affected due to the financial backlog, which is termed as the 'irrigation backlog'. Amravati district – where the Upper Wardha dam is located – has the highest irrigation backlog in the state. Incidentally, Vidarbha is also the region that has been experiencing a large number of suicides by farmers (PC GoI, 2006). Various authors have attributed this phenomenon of the increasing number of farmer suicides to economic reforms in the agricultural sector (Mitra and Shroff, 2007; Sainath, 2010). Reforms related to privatisation and commercialisation of the agriculture-input industry, such as seeds, have increased the cost of cultivation and reduced farm incomes. Opening of the sector to reforms has also rendered the small-scale farmers non-competitive in comparison to global agricultural producers. These factors culminate in increasing indebtedness among farmers and their tendency towards suicides.

The Upper Wardha project was approved in 1965 and the construction work began in 1975. The utilisable storage capacity of the dam is 548.1 million cubic meter (Mm^3). Out of this available water, 302.8 Mm^3 was allocated to agriculture, 89.7 Mm^3 to non-irrigation use while the rest is accounted for by evaporation and other losses (WRD GoM, 2008a). According to the project plan, the irrigation potential of the project is 80,250 ha. Non-irrigation allocation is 15% of the utilisable storage capacity. After completion of the project, farmers have been able to grow cash crops and enhance their farm incomes.

In 2008, Indiabulls Group of Companies proposed a 2400 MW coal-based thermal power plant close to the command area of the Upper Wardha dam in the Vidarbha region of Maharashtra. Many such private companies entered the power sector after the sectoral policy reforms were undertaken by the Government of India. There are 47 new power plants proposed in the Vidarbha region with a targeted generation of 33,000 MW (VSDB, 2008). The power plants require freshwater for their operations and many local residents have raised concerns regarding adverse impacts of this on the existing water allocation to agriculture and allied sectors. The power plant proposed by Indiabulls Group of Companies is one of many such plants proposed in the region.

Indiabulls is a large private corporation with businesses in areas like real-estate, finance, power and infrastructure. The company approached the government officials responsible for management of the Upper Wardha dam with a request for an annual allocation of 87.6 Mm^3 of water. The demand for water made by Indiabulls was large and there was no surplus water available in the dam for allocation. According to the government documents, the reservation of water for non-irrigation purposes from the dam had already reached 108.7 Mm^3 as against the originally planned allocation of 81.7 Mm^3 (WRD GoM, 2008a). The additional demand by Indiabulls of 87.6 Mm^3 could be met only by reducing water allocation to farmers.

Hence, the Indiabulls' request was forwarded by the local project authorities to the state-level Water Resources Department (WRD), which assessed the water demand and forwarded the proposal to the High Power Committee (HPC) stating that the allocation of water to the company from the dam will have adverse effects on irrigation, depriving 23,219 ha of land of irrigation water (WRD GoM, 2008a). The HPC held its meeting on 21 February 2008. Among the members of the HPC, only the Minister, WRD (Cabinet Minister) and the junior minister for water supply-sanitation (Minister of State) were present for the meeting. The decision to approve the demand for water allocation by Indiabulls was made in this meeting, when other members of the HPC, including the Minister of Agriculture, were absent (WRD GoM, 2008b). This effectively was reallocation of water which was earlier allocated to farmers as per the original project report. Though at the time the State Water Policy in force gave priority to industrial water users, it needs to be noted that this water was already allocated to farmers. After the approval of this water reallocation, the company also obtained environmental clearance for

its power plant in 2009-2010 (MOEF Gol, 2010). Based on these approvals, the company began construction of the plant.

As discussed, residents in the Vidarbha region have been opposing the government policy to build thermal power plants in the region, including the plant by Indiabulls. After the decision by the HPC to allocate water to the company by reducing the irrigation supply, protestors intensified their opposition. One group of the protestors followed the strategy of street demonstrations and physically stopping the construction work on the plant (The Hindu, 2010). Another group followed the path of legal action against water allocation to Indiabulls. A petition was filed by this group against the government authorities as well as the company, before the Nagpur bench of the High Court.⁸ The petitioners urged the court to stop the construction of the plant and disallow allocation of water to Indiabulls. The petitioners primarily relied on arguments on the grounds of the irrigation backlog in the region and the special powers of the Governor towards removal of the backlog. Water allocation to Indiabulls from Upper Wardha dam would contradict the purpose of removal of the irrigation backlog. The petitioners also argued the case on the basis of the provisions of the MWRRA law, which gave the authority to allocate the water to MWRRA, the quasi-judicial organisation.

Despite the street protests and the legal action, the company continued its construction work. The protestors found out that the company had started work of laying a pipeline from the dam reservoir to the plant without entering into an official agreement with the government for allocation of water. Procedurally, it is necessary to sign a detailed agreement with the government, even after HPC approves the allocation. The laying of a pipeline without an agreement was not objected to by the local government officials. It was only after the protestors filed a police complaint against the contractors of Indiabulls that the work on the pipeline was temporarily stopped by Indiabulls (Tol, 2011). But since the government had approved its demand for water allocation, the company continued the construction work on the plant. At the same time, the proceedings of the court case continued. The court refused to take any action on the request from the petitioners for an interim order for stoppage of work by Indiabulls. This is due to the amendment in MWRRA law made effective by the government on an immediate basis by issuing an ordinance, which is discussed further in the section on policy processes at the state level.

The case of Gangapur dam project

Gangapur dam is one of the oldest dams built on the Godavari River in the Nashik district of Maharashtra. The project was planned in 1935, while the full potential of the project with enhanced storage capacity was achieved in 1964. It was built to provide irrigation facilities to the farmers in the hydrologically drier areas of the north and western regions of the state. According to the original project plan, the total available water from the project was 203.8 Mm³ from which 174.4 Mm³ was allocated for irrigation, 2.8 Mm³ for domestic needs, and the rest accounted for by evaporation and other losses. A total of 23,960 ha of agriculture land would benefit from the irrigation facilities. Due to irrigation facilities, the region has come to be known as an important agricultural hub for the state. Proximity to the city of Nashik provided the logistic and other support for marketing of the agriculture produce.

The Government of India passed the Special Economic Zone (SEZ) Act in 2005 in order to promote private investments in export-oriented businesses. The Act provides various benefits to private investors in the form of subsidies and tax exemptions. Indiabulls Group of Companies developed a proposal for a multi-modal SEZ near the city of Nashik. The SEZ was sanctioned on 2500 ha of prime land in the region. The multi-modal SEZ will house businesses in sectors like textiles, electronics, automobiles, pharmaceuticals, bio-tech and food processing (Indiabulls, 2011). The project claims to be suitably located for business due to proximity to the proposed 'US\$90 billion Delhi-Mumbai Industrial

⁸ Writ Petition No. 1038 of 2010, Society for Backlog Removal & Development & Oth. vs. State Of Maharashtra & Others Case filed before the High Court Of Judicature At Bombay Nagpur Bench.

Corridor', the ambitious project of the Government of India to link the cities of Mumbai and Delhi for industrial development (Indiabulls, 2011).

The SEZ also includes the proposed 1350 MW coal-based thermal power plant spread on 900 acres.⁹ This will act as a captive power plant for the SEZ and selling the remaining power. The company approached the government with the demand for 43.8 Mm³ of water annually from the Gangapur dam. The company was awarded with the water reservation. This reservation was given on the treated water from Nasik Municipal Corporation, on the basis that the company may help in reducing the deteriorating power situation of the state.

The farmers in the command area of the dam have been adversely impacted due to diversion of water for the requirements of the city of Nashik and other towns in the area. The High Power Committee (HPC), while sanctioning water to Nashik city, had taken the decision to restore the lost irrigation potential by making it mandatory on the city to recycle the water and return it to the same irrigation area which was adversely affected in the past due to reallocation of water for the city (WRD GoM, 2007). But when Indiabulls made the application for water, the HPC decided to allocate this same recycled water to Indiabulls. The decision was made in the meeting of the HPC held on 25 June 2008. Due to this decision, the restoration of the loss of irrigation potential hangs in doubt. The official documents state that the allocation of this water to Indiabulls will lead to a reduction of irrigation to 5120 ha of agricultural land (WRD GoM, 2008c).

The affected farmers have strongly opposed the move to divert their share of water to Indiabulls' SEZ. The farmers have also opposed the acquisition of their land for the SEZ purposes. In 2007, the farmers, mobilised under Anti-SEZ Action Committee held a protest march (Land Movements in India, 2011). The government has been using police force to quell the protest. During a recent protest held in April 2011, about 105 farmers were arrested (DNA, 2011). The government continued the process of land acquisition as well as allocation of water to the SEZ at the cost of the livelihoods of farmers.

The case of Amba dam project

Amba dam is located on river Amba, a west-flowing river in the Konkan region of Maharashtra state. The project is in Roha block of the Raigad district. The dam receives water from the tail-race discharge of the hydropower project located upstream of the Amba project. The command area of Amba project falls far south of the metro city of Mumbai.

The project was approved in 1969. The project was planned for providing irrigation facility for the small farmers in the region. It was designed to provide irrigation to 11,210 ha of farmland. The region is close to the city of Mumbai and the other commercial ports. Hence, there were already some initiatives for industrial development in the region. A petro-chemical complex was proposed in the region outside the command area of the project. At this time, the Amba project was still in its initial stages of development. However, it is at this stage that the water required for this petro-chemical complex was allocated from the Amba project. This led to curtailment of one of the two main irrigation canals, leaving almost half of the planned irrigation area devoid of irrigation water.

The managers of the petro-chemical complex later decided to relocate the plant in the command area of the Amba project, in order to save on the cost of drawing water from the Amba project. Although the local government officials raised concern over the adverse impacts of the relocation on irrigation potential of the project, the same was approved by the Ministers at the top. Thus, the process of industrialisation began in the very command area of the project which was originally planned for irrigation development. Eventually in 1984, the status of the entire Amba project was converted from a project meant for supply of irrigation water to a project meant for industrial water supply. The planned work on the irrigation canals was stopped and the canal was restricted to just 7 km in length instead of

⁹ The company recently received approval for expanding the design capacity from 1350 MW to 2700 MW through a letter dated 5/10/2011 from Ministry of Environment, Government of India.

its original length of 43 km. One of the planned canals of 34 km in length had already been completely abandoned. Thus, the originally planned irrigation potential of 11,210 ha was reduced to a mere 425 ha.

The process of land acquisition and development of the region as an industrial zone continued for a long time. All these developments remained concentrated and restricted to the area close to the Amba dam project, while the farmers at the tail end of the proposed irrigation canals continued with their practice of rain-fed cultivation. There was no consideration given by the government to the possibility of providing irrigation facilities to these farmers at the tail end. Over the years, the farmers in this region gradually realised that the process of industrialisation has not helped to improve their livelihood security. This gave rise to strong discontent among the rural population affected by the process of industrialisation.

In 2005, the Tata Power Company and Reliance Power Company proposed coal and gas-based power plant in the area at the tail end of the proposed irrigation canal. Tata and Reliance companies signed an MoU with the government in 2005, for 1600 MW and 4000 MW capacity, respectively. Discontented with the process of industrialisation, the farmers in the region decided to protest against the land acquisition process for these plants.

In 2004, the farmers began their agitation against land acquisition for the power plants and also demanded water allocation for their farmlands from the Amba project. The Chief Minister had to take cognisance of the strong protest and promised to resolve the problem amicably through discussions with the Water Resources Department (WRD). This was followed by a number of meetings of the protestors with the WRD officials. However, these meetings provided no solution to the water demands raised by the farmers. The officials and the ministers failed to address the grievances of the farmers.

The government officials conveyed their inability to provide water to the farmers due to the change in the nature of the project from irrigation to industrial. The irrigation canal had been curtailed to just 7 km of the originally planned 43 km of the canal. According to this revised plan, only 13.4 Mm³ of water was available for irrigation. Out of the remaining 303.4 Mm³ of water reserved for non-irrigation purpose, 173.6 Mm³ of water had already been allocated, while the new demands for 102.4 Mm³ are under consideration by the government for industrial use. Hence, only 27 Mm³ of water was available and this would be given to non-irrigation purpose in future.

The local government officials further claimed that most of the land falling in the command area of the project has been acquired for industrial purposes. Hence, there is hardly any irrigable land. The officials were reluctant to take any action even after the protestors were successful in submitting water demands from farmers of 14 villages, representing 768 ha of irrigable land in the command area. The local-level government officials also claimed that the canal cannot be built beyond the point of 7 km of the current canal because a company in the industrial zone had acquired land between 7 and 15 km of the canal. This implies that the company was allowed to acquire land that was earlier marked for canal construction.

In response to this, the protestors demanded for an alternative alignment of the canal. However, the irrigation officials stated that the habitations of different villages have expanded along the original canal alignment requiring the alignment to be drawn along the hills. This will be very expensive and hence unviable. Due to the continued protests, the WRD Minister finally accepted the demand for a canal survey to ascertain the possibilities of an alternative canal alignment for irrigation. After almost a year, only part of the survey was completed. The remaining survey is still pending due to lack of documents with the officials related to the land records. While the farmers were busy in the meetings with these officials, the then Minister for WRD unilaterally approved the demand for reserving 73 Mm³ of water for Reliance Energy Ltd.; without any discussion with the protestors. The decision was taken in the meeting of the HPC headed by the Minister held on 21 August 2007 (WRD GoM, 2007).

Considering the overall situation regarding loss of water and land, the farmers have decided to intensify the agitation. They are demanding restoration of the complete irrigation command area in the Amba project by stopping the water allocation to companies.

POWER-PLAY AT THE STATE LEVEL: LEGALISING WATER GRABBING

The trigger for the state-level activities on the issue of water grabbing mainly came from the public interest petitions filed by the protestors opposing diversion of water from dams. One such petition was filed in High Court by protestors representing the farmers from the Upper Wardha dam. Another petition was filed before MWRRA by protestors representing the farmers affected by diversion from another dam named as Hetavane.¹⁰

Due to the legal action by the protestors, the government was obliged to explain why it bypassed the MWRRA law. In response to the High Court proceedings of the case against water allocation to Indiabulls from the Wardha dam, the WRD drafted an ordinance and the government promulgated the same on 17 September 2010.¹¹ This ordinance provided for, with retrospective effect, amendments in certain provisions of the MWRRA law. These amendments to MWRRA law effectively provided legal sanctity to all the past decisions of water diversion made by HPC. The timing of the ordinance and its content, both, adversely affected the judicial proceedings of the court case.

The only resort left for the petitioners was to challenge the ordinance itself. This revision in the petition would make the process of legal recourse more difficult and lengthy for getting any relief for the affected farmers. In the meantime, Indiabulls got the opportunity to carry on its construction work of the plant.

There was strong reaction to promulgation of the ordinance from the farmers' groups as well as from civil society organisations (CSOs) from across the state. Different civil society organisations and activists, along with many of the farmers' groups, formed a coalition and launched a campaign against the ordinance. The objective was to stop ratification of the ordinance in the legislative houses. (This was mandatory and needed to be done within the period of 6 months from promulgation of the ordinance). This was a difficult task considering that the ruling coalition had a clear majority in the legislative houses.

The ordinance was converted into a bill to be tabled in the next session of the legislative assembly. The coalition held a protest march during the assembly session. The Chief Minister and the Minister WRD held a meeting to listen to the protestors. The political party in opposition also gave its support for the campaign. The activists were successful in stopping the ordinance getting converted into a law in the assembly session.

It was expected that, after automatic lapsing of the ordinance, the court case against Indiabulls would proceed and a decision would be made in favour of the farmers. But the government decided to issue a new ordinance with some minor changes but retaining the same substantial content of the earlier ordinance. This new ordinance was issued on the day before the old ordinance was to get lapsed.¹² The court case against Indiabulls could not proceed due to the new ordinance. It is worth noting that, during this entire period, the government never initiated a process of dialogue and

¹⁰ This was a petition filed before MWRRA against diversion of irrigation water to private companies from the Hetavane dam in the Raigad district. The decision to divert water had to be reversed after the petitioners' brought to the notice of MWRRA the condition laid down by HPC that the allocation of water to the private corporations would automatically stand cancelled if the private corporations did not make any arrangement for actual utilisation of water within 2 years of water allocation. The respondents in the case agreed in their response (to the petition before MWRRA) that the private corporations in the case had not used the water even 2 years after the approval of water allocation. Hence, the respondents agreed to issue notice for cancellation of the water allocated to the private companies. This shows that the private companies are allowed to capture water resources even in the absence of actual production facilities. For further details, refer the order of the MWRRA dated 15 November 2011 for Case 3 of 2010.

¹¹ Ordinance is titled as Maharashtra Ordinance No. XI of 2010. An Ordinance to Amend The Maharashtra Water Resources Regulatory Authority Act 2005.

¹² Refer the Ordinance issued on 11 January 2011 and titled as Maharashtra Ordinance No. II of 2011. An Ordinance to Amend the Maharashtra Water Resources Regulatory Authority Act 2005.

negotiations with the protestors. The tactic of renewing the ordinance raised suspicion in the minds of protestors about the nexus between top-level politicians and private corporations.¹³

The protestors organised themselves again in light of the possibility of tabling of the bill (based on the new ordinance) for ratification in the next assembly session in 2011. The protestors organised demonstrations and a 'sit-in' during the assembly session. However, in this session, the government used the tactic of introducing and passing the bill (based on the ordinance) surreptitiously and unexpectedly. Without any prior intimation to legislators, the bill was tabled in the legislative assembly at late hours after the midnight, when a large section of opposition members had retired for the day. It was passed despite vociferous opposition by a few members of the opposition parties present in the house. Thus, the government was finally successful in legalising water grabbing by the private corporations.¹⁴

ROLE OF POLICY INSTRUMENTS AND INSTITUTIONAL MECHANISMS

The previous two sections present the power play between various interest groups at the local as well as at the state level. This section elaborates on how different policy instruments and institutional mechanisms – especially those created under the sectoral reform – were used by different interest groups in their efforts to protect and promote their own interests.

Water grabbing on illegal grounds

The cases show that the HPC made the decisions on water diversion – in favour of the private corporations – after the MWRRA Act was notified and made effective in the entire state in 2005. As mentioned earlier, the MWRRA Act provided for awarding of water entitlements. Awarding of entitlements to farmers would have not allowed the HPC to unilaterally make decisions to divert the water in favour of private corporations. The law vested the authority of allocating water with MWRRA. The analysis of the provisions of MWRRA law also shows that the Act provided for protection of farmers' rights over use of water (PRAYAS, 2011).¹⁵ The HPC's decisions on water diversion, thus, were contrary to these provisions in the MWRRA law because the law supersedes the GR of 2003 through which HPC was constituted. It is difficult to assume that the HPC was unaware of the provisions of MWRRA law because HPC is headed by the minister of the department responsible for creation of the MWRRA law. This clearly demonstrates that the HPC had prior and full knowledge that it is committing an illegal action.

As mentioned before, the government passed an ordinance on 17th September 2010 in order to avoid the obligation to explain the reasons and legality of bypassing of the MWRRA law. An amendment to an existing law is generally proposed in the form of a bill to be tabled in the legislative assembly and debated in the legislative houses before enactment. An ordinance is the tool that allows the government to bypass this legislative process. It becomes enforceable as soon as it is promulgated. The ordinance has the legal validity for a period of 6 months, in the sense that, once passed, it has to be ratified by the legislative assembly within the period of 6 months for its continued enforceability beyond its validity period. Thus, it is an instrument to be used in the case of emergency situations such as threats to public interests. It is clear from the cases of water diversion that there was no such urgency for promulgating the ordinance. The only compelling circumstance that prompted the use of such an extraordinary tool was the threat – to the political leaders in the HPC – created by the litigations filed by the protestors.

¹³ Refer the press notes issued by the *Lokabhimukh Pani Dhoran Sangharsh Manch* (LPDSM) dated 22 November 2010 and 10 February 2011.

¹⁴ The title of the amendment law is the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011.

¹⁵ Refer Section 12(6)(a) of MWRAA Act 2005.

An analysis of the content of the ordinance provides further evidence in this respect. The important provisions of the ordinance in this regard are:¹⁶

6. After section 31 of the principal Act, the following sections shall be inserted, namely: ... 31B. Notwithstanding anything contained in this Act or in any other law... any person or Water User Entity to whom a permission, allocation... of water has been granted by the High Power Committee... prior to the 17th September 2010... shall be deemed to have been granted, in accordance with the provisions of this Act and accordingly the same shall continue and no such person or Water User Entity shall be required to obtain fresh permission, allocation... or Entitlement to draw water.

31C. Notwithstanding anything contained in this Act or in any other law... a permission, allocation... granted by the High Power Committee... prior to the 17th September 2010... deemed always to have been valid and accordingly no suit, prosecution or any other legal proceedings shall lie, challenging such permission, allocation, sanction... to draw water, before any court, tribunal or other authority and no such suit, prosecution or other legal proceedings shall lie or continue.

The above provisions show that the ordinance legalised all the past decisions of water diversion by HPC, which were illegal when they were made. The ordinance not only legalised the illegal decisions but it also ensured that the affected farmers will not be able to challenge the water grabbing in any court of law or even before a quasi-judicial authority like MWRRRA. The above provisions also bar continuation of any such existing legal proceedings. Thus, the government ensured that the then ongoing court cases against water grabbing by Indiabulls would not proceed.

Further, the ordinance was crafted in such a manner that it would give protection to water grabbing from every possible manner in which it can be challenged in the courts or before MWRRRA. This was achieved through the provisions in the ordinance that weakened the protective measures existing in the MWRRRA law related to farmers' rights over water. For example, the ordinance effectively curtailed the powers of the MWRRRA to determine water allocation and entitlement on an 'equitable' basis.¹⁷ This not only curtailed the chance of an independent scrutiny by a quasi-judicial agency but it also removed from the law the important operational provision related to 'equitable' water allocation.

The urgency underlying promulgation of the ordinance was rooted in the impending threat to the decision of HPC allowing water grabbing. The impact that the ordinance had on the proceedings of the legal case filed against Indiabulls indicates this clearly. The court, which was about to pass a judgement on the case, could not proceed further due to passage of the ordinance. The ordinance was passed on 17 September 2010. The ordinance was tabled before the court on 21 September 2010 by the government to justify its decision to allocate water to Indiabulls.¹⁸ The court asked the litigants to revise the arguments by taking adequate cognisance of the new ordinance. Due to the amendments in the law, the petitioners had nearly lost the very legal basis for arguments against grabbing of water by Indiabulls.

The ordinance issued by the government also ensured that those benefitting from water grabbing would also get legally recognised entitlements. The MWRRRA Act has a provision for trading of entitlements. Thus, the legalisation of water grabbing, not only provided legal access to water for the corporate houses, but also provided additional benefits in the form of the profit that they would be able command by trading their water entitlements in future.

Creating and exploiting obscurity in policy

The bill for amendment of the MWRRRA Act included a preface where the rationale for the amendment was presented. This rationale did not explain the urgency that prompted the government to take the unprecedented and extraordinary step of issuing two successive ordinances and to push the

¹⁶ Refer Section 6 of the said Ordinance.

¹⁷ Refer Section 3(a) of the said Ordinance as well as the Section 11(a) of the MWRRRA Act 2005.

¹⁸ Refer to Court's or Judge's Order dated 17-09-10 on Writ Petition 1038 of 2010.
<http://bombayhighcourt.nic.in/data/nagcivil/2010/WP412610210910.pdf> (accessed 29 May 2012)

amendment in the assembly at midnight. The earlier discussion clearly demonstrated that the urgency rooted in the need to avoid judicial scrutiny that could have gone against the decisions allowing water grabbing. However, in the preface to the bill, the government justified the amendment on the basis of the need to "clarify the roles of the state government and the Maharashtra Water Resources Regulatory Authority, in relation to the allocation of water".¹⁹

As discussed in the section on sectoral reforms, since the year 2005, the policy instruments – viz. the State Water Policy (SWP), the government resolution for creating the High Power Committee (HPC), and the MWRRA Law – governed the issue of water allocation from the dams in the state of Maharashtra. The simultaneous existence and implementation of these three policy instruments resulted in confusion and obscurity (Warghade et al., 2010). This is primarily due to inconsistencies among the provisions in these policy documents. For example, in the SWP, the principle of 'economic efficiency' is accepted in the form of higher priority in water allocation to industrial water use. At the same time, 'equity' has been included in the preamble of the MWRRA law as an overarching principle that should govern the MWRRA law. Based on this principle, the Act clearly provides for water allocation to every farmer in the command area of a dam. These inconsistent provisions created confusion about the relative weightage of the two principles, viz. economic efficiency and equity.

Similarly, the HPC was constituted to make decisions on 'reservation' (i.e. allocation) of water for non-irrigation water users, based on the higher priority given to industrial users. But, at the same time, the MWRRA has been vested with the authority to determine water entitlements to various categories of users equitably.

This policy obscurity played a key role in facilitating water grabbing. The question then arises is whether the original obscurity was the result of lack of awareness among the policy makers or was it deliberately created. The detailed review and comparative analyses of the various policy and legal instruments show that the obscurity was deliberately maintained and created.

The obscurity in the past did pertain to the issue of 'who shall get how much water' (i.e. about the criteria for allocating water); however, the obscurity was not over the 'role of government authorities' as argued by the government in the preface to the justification for the amendment. In fact, the following section of the MWRRA law mentions clearly that the MWRRA was the empowered authority on all aspects of water allocation: "11. The Authority shall exercise the following powers... (a) to determine the distribution of Entitlements for various Categories of Use and the equitable distribution of Entitlements of water within each Category of Use".²⁰

Further, the preamble of the law states that, "[a]n act to provide for the establishment of the [MWRRA]... to regulate water resources within the State of Maharashtra... ensure judicious, equitable and sustainable... allocation and utilisation of water resources".

Thus, the provisions in the law in this regard had been very specific and clear and there was no question of any obscurity on the role of MWRRA in water allocation. Hence, the justification given by the government for the amendment in the law is incorrect on the factual count. This also becomes evident from the fact that the government ensured elimination of the above-mentioned powers of the MWRRA, by eliminating the particular provision altogether in its amended law.²¹ This shows that there was no obscurity over the role of various organisations in allocation of water. The government feigned such obscurity to conceal the true motive of providing legal protection to the water grabbing by private corporations.

Other interesting matters in this regard are the criteria for allocation of water to various different types of uses (or users). Further analyses of the policy instruments pertaining to this matter show that the government avoided to fulfil – deliberately and consistently – the responsibility of clearly articulating the policy over water allocation, even though there were opportunities and options

¹⁹ Refer the preamble to the Maharashtra Water Resources Regulatory Authority (Amendment and Continuance) Act, 2011.

²⁰ Refer Section 11(a) of the principal MWRRA Act 2005.

²¹ Refer Section 3.1 of the MWRRA (Amendment and Continuance) Act, 2011.

available at various stages of policy development over decades. The evidence in this regard is presented in the subsequent paragraphs.

The government persistently ignored recommendations by independent as well as government-appointed experts and committees to include a section on the criteria for water allocation in Maharashtra Irrigation (MI) Act 1976 – a parent act that governs the construction and management of dam projects in the state – to clarify the allocation policy.

The government has not made adequate progress in the process of entering agreement with the water user associations (WUAs) of farmers with the assurance on provision of a certain share of water for agriculture on a continuous basis. This demonstrates reluctance on the part of the government to give any legal assurance of water to WUAs, and thereby maintain the obscurity around the policy for water allocation.

The policy provision for giving higher priority to industries compared to agriculture was adopted in SWP in 2003. Contrary to this, the MWRRA Act provided for water entitlements and quota to every farmer in the command area of the irrigation project.²² But, the Act also included a provision that the entitlements will be given as per the priority mentioned in the State Water Policy.²³ Thus, the Act seemed to have brought two contradictory guidelines on the issue of allocation. This further aggravated policy obscurity in this regard.

Formulating rules for determination of entitlements under the MWRRA law would have provided another opportunity to the government to reconcile these contradictions and end the obscurity. Preparing a set of rules to facilitate operationalisation of the law is a normal procedure and duty of the government. A provision in the MWRRA law provided a legal option, first, to award water entitlements to each farmer in the command area, and then undertake (or allow) the process of reallocation – if there is a need to provide water to industry – through the mechanism of public hearing and compensation to farmers.²⁴ A committee was constituted by the government to prepare such detailed rules. Several meetings of the committee were held. However, the committee was abruptly disbanded. Thus, the government deliberately delayed the articulation of rules and implementation of the entitlement related provisions in the law, which would have given protection to the water rights of farmers.

The failure to prepare rules under the MWRRA law for determining and awarding entitlements to farmers hindered effective implementation of the law. Existence of such clear rules, in favour of entitlements for farmers as expected as per the law, would have proved a major deterrence to water grabbing. In fact, as it is clear now, absence of such rules was exploited by the top-level government functionaries to facilitate water grabbing and also to change the very provisions in the law for equitable water distribution.

Thus, the policy obscurity related to criteria for water allocation was maintained and created by the government until it was possible to do so. But when it was forced to clarify, the government came out openly and sided with big private corporations. The government preferred to maintain legal obscurity over the issue of water allocation for a long time, when it was necessary to protect the interests of top-level politicians and the corporate houses, the issue was decisively clarified in a swift manner through extraordinary measures such as passing a law.

²² Refer Section 12(6)(a) of MWRAA Act 2005.

²³ Refer Section 11(g)(i) and 12(1) of MWRAA Act 2005.

²⁴ Refer Section 11(h) of MWRAA Act 2005.

Water markets

After the amendments in the law, MWRRRA has now proposed in its recent approach paper²⁵ that the industries benefitting from diversion will be awarded water entitlements. These entitlements are tradable in the water market that will emerge in future. Thus, awarding entitlements on the water (which was diverted from the agriculture sector) would provide an additional benefit to the industries – in the form of an opportunity to gain profits from the entitlements by trading them in the market. At the same time, MWRRRA clarifies that, as per the new amendments, entitlements to farmers cannot be given until various formalities, such as transfer of irrigation systems to WUAs, are completed according to the MMISF Act.²⁶ Thus, the delay in completion of all formalities related to formation of WUAs may be again exploited for continuation of the water grabbing in future.

FINDINGS AND CONCLUSIONS

Nature and mechanism of water grabbing

The case studies in the beginning of the paper have clearly demonstrated that water was diverted from agricultural use to industrial use without due process of following the existing legal provisions and without compensating or consulting the affected farmers. These cases are fitting examples of the phenomenon of water grabbing that benefitted powerful corporate houses. At the same time, this water grabbing deprived the farmers who were beneficiaries of these projects as per the original plans. This shows that a new dimension has been added to the previous phenomena of resource grabbing due to large projects like dams. The initial victims of resource grabbing were the rural communities whose land and other resources were acquired for dam building. Now the very beneficiaries of dam – the farmers in the command area of the dam – are falling victim to the phenomenon of water grabbing due to the power and reach of large private corporations, further strengthened by the national and international processes such as export-oriented growth and privatisation of utilities.

The discussion in the subsequent section on state-level policy developments clearly establishes that sectoral reforms are being used as a mechanism to legalise and legitimise the process of water grabbing. This is achieved by taking advantage of the obscurity in the policy regime which is purposefully created and exploited to facilitate the process of water grabbing. When challenged on legal grounds, the reform instruments like the water regulatory law (MWRRRA) are amended and adopted to legalise the process of water grabbing. In this reform process, farmers are being deprived of their rights through processes and decisions that are justified on the basis of arguments for economy and efficiency. The water markets – that will emerge in future will work on the basis of allocations made effective after water grabbing – will further erode the chances of bringing equitable water distribution.

Political economy of water grabbing: The new ruling coalition

The question here is what made the politicians at the top level to engage in such misuse of political power and why it was tolerated. This question is critical in view of the fact that the farming community – which mainly bore the brunt of the process of water grabbing – is one of the strong, organised voting communities from the rural areas of the state and has been the backbone of the electoral support of the ruling combine.

²⁵ Draft criteria for distribution of entitlements by river basin agencies for domestic & industrial uses. This is an approach paper promulgated by the MWRRRA to initiate a process for determining criteria for distribution of entitlements to domestic and industrial water users.

²⁶ Refer section 1.6 of the draft criteria circulated by MWRRRA on Draft Criteria for Distribution of Entitlements for Domestic and Industrial Uses.

[http://mwrra.org/1\)%20Criteria%20for%20Entitlement%20Distribution%20English.pdf](http://mwrra.org/1)%20Criteria%20for%20Entitlement%20Distribution%20English.pdf) (accessed 29 May 2012)

One explanation to this apparent paradox lies in the proposition that the ruling coalition of political-economic forces in many industrialised Indian states like Maharashtra has undergone a sea change. The earlier coalition of politicians, bureaucrats, contractors, and big- and middle-level farmers has been replaced by a new grand coalition of interests. This new coalition is mainly led by top-level political and bureaucratic functionaries and the big corporate houses. This shift in coalition is evident from the fact that the government has not withdrawn its proposal to legalise water grabbing through amendments in MWRRRA law even when various farmer organisations across the state were opposing the proposal.

This proposition about the change in the ruling nexus (or coalition of dominant sections) in the state can be explained using the lens of reform. This new grand nexus can be seen as a product of the economic reform. The economic reform opened the industrial and other sectors for unrestrained activity of private investors, through new sectoral reform laws (such as the Electricity Act, 2003) and other laws (such as the SEZ law). This resulted in a spurt in urbanisation and increased concentration of economic and financial power in a few big cities. This, in turn, led to a significant rise in demands for natural resources like water, land, and minerals. In the country, which already was experiencing serious scarcity of resources, this spurt in demand is leading to intense contestation over natural resources.

The success of this reform formula could be seen in terms of the high economic growth rate as well as in the high rate of investment in infrastructural sectors and urban development. This was accompanied with unprecedented growth in sectors like Information Technology, Information Technology Enabled Services (Business Process Outsourcing), banking, financial services, hospitality, and media (especially electronic media). All these factors created a new and big class of winners, including the big corporate houses, middle class professionals (including large sections of academia and intelligentsia), and media persons, who personally benefitted from these changes. They were joined by state-level politicians and bureaucrats who secured huge benefits for themselves, while distributing largesse in the form of contracts for infrastructural projects as well as precious natural resources like land, minerals, and water.

These changes and winners – generated by the reform – have played a key role in reorganising the political economy in the states like Maharashtra. This reorganisation can be traced to many factors, such as (a) changes in electoral power (flowing from the interests and attitudes of the large and well-organised urban population and rural middle class who have benefitted by the reforms) as well as the (b) huge polarisation of economic and financial power tilted in favour of corporate interests, financial institutions, land developers, and metropolitan cities. Moreover, these groups who have also directly benefitted from the sectoral reforms have also become vocal votaries of reform.

Thus, the principles of reform (such as maximising efficiency and economic value) have been internalised by dominant players in society and the policy prescriptions emerging from these principles are now accepted without much questioning.

The reform, in fact, also proposed due emphasis on elements like good governance, equity, decentralisation, and public participation (GoM, 2003b). However, these elements have remained neglected (PRAYAS, 2009, 2011; Wagle and Warghade, 2010). Many critics see emphasis on these elements by protagonists of reform as cosmetic and their neglect as conscious and deliberate. This is evident from the fact that the reform proposal for 'tradable water entitlements' is being implemented even when water grabbing has tilted the initial advantage of secured water rights towards the corporate houses. Trading, in such situation, will begin on an inequitable baseline. This lopsided understanding – deliberate or not – of the reform is cleverly manipulated by the politicians and corporations to grab water.

As we have seen, the political power that is needed to ignore and, if necessary, crush the farmers' resistance to water grabbing is coming from the power of the new nexus (of top-level political and administrative functionaries and big corporate houses) that has replaced the old coalition (politicians at all levels, farming community, and bureaucracy) ruling the state politics like state of Maharashtra. At the same time, the legitimacy supporting these actions comes from this widespread, lopsided

understanding and blind acceptance of the policy prescriptions of reform by a wide range of dominant and vocal sections of society.

In summary, the current conflicts around water resources have emerged due to the following three phenomena which are rooted in the economic and sectoral reform: a) the uncritical acceptance of a pro-industry, pro-market as well as anti-agricultural and anti-farmer bias and policy prescriptions by a large section of society; b) the increasing demands for water (and other resources such as land and minerals) by metropolitan centres, big industries and power plants; c) the new nexus of powerful interests driving the political economy of the water sector in industrialised Indian states such as Maharashtra. Thus, contemporary forms of water grabbing are the direct result of internal contradictions of the reform process.

REFERENCES

- Anderson, J.E. 1979. *Public policy making*. New York: Nelson.
- Bothamley, J. 1993. *Dictionary of theories*. Detroit: Visible Ink.
- Braun, J.V.; Gulati, A.; Hazell, P.; Rosegrant, M.W. and Ruel, M. 2005. *Indian agriculture and rural development strategic issues and reform options*. Washington, DC: International Food Policy Research Institute. www.ifpri.org/pubs/ib/ib35.pdf (accessed 25 March 2012)
- D'Souza, R. 2008. Framing India's hydraulic crises: Politics of the modern large dam. *Monthly Review Press* 60(3): 8, <http://monthlyreview.org/2008/07/01/framing-indias-hydraulic-crisis-the-politicsof-the-modern-large-dam> (accessed 22 March 2012)
- Dharmadhikary, S. 2006. The fall and rise of big dams. On the brink: Desperate energy pursuits in South Asia. www.panossouthasia.org/pdf/OntheBrink05.pdf (accessed 29 May 2012)
- Dixit, A. 1996. Inter-sectoral water allocation: A case study in upper Bagmati basin. In *Proceedings of a workshop on water rights, conflict and policy*, pp. 195-219. Kathmandu, Nepal. 22-24 January 1996.
- DNA (Data News & Analysis). 2011. 105 farmers arrested in Nashik following protest against thermal plant. 17 April 2011, www.dnaindia.com/mumbai/report_105-farmers-arrested-in-nashik-following-protest-againstthermal-plant_1532990-all (accessed 29 May 2012)
- Dye, T. 2004. *Understanding public policy*. New York: Pearson Education.
- Gol (Government of India). 2012. About SEZs. www.sezindia.nic.in/about-introduction.asp (accessed 10 May 2012)
- GoM (Government of Maharashtra). 2003a. *Shashan Nirnay: Bigar Sinchanasathi Pani Puravtha (Pinyasathi, Udyogik, Aushnik Vidyut Kendra ani Any Sinchanetar Sansthanna Waprasathi Pani Puravtha) Karnebabat* (Government Resolution No.1001/154/01/sin.wya, dated 21 January 2003 on Water supply for non-irrigation (drinking, industrial, thermal power plant and other non-irrigation water use). Mumbai: Government of Maharashtra.
- GoM (Government of Maharashtra). 2003b. *Maharashtra State Water Policy 2003*. Mumbai, India: Government of Maharashtra.
- Indiabulls. 2011. *Nasik thermal power project*. www.indiabulls.com/power/nasik.htm (accessed 26 November 2011).
- Joy, K.J.; Gujja, B.; Paranjpye, S.; Goud, V. and Vispute, S. (Eds). 2009. *Water conflicts in India: Million revolts in the making*. New Delhi: Routledge India.
- Jumnianpol, S. 2010. Politics of deliberative democracy and water crisis in eastern seaboard of Thailand. In *Proceedings of 4th International Conference of ARSA (Asian Rural Sociology Association), Volume II*, pp. 60-66. Legazpi City, Philippines, 7-10 September 2010: ARSA (Asian Rural Sociology Association).
- Kay, S. and Franco, J. 2012. The global water grab: A primer. Amsterdam, Netherlands: TNI (Transnational Institute). www.tni.org/primer/global-water-grab-primer (accessed 29 March 2012)
- Land Movements in India. 2011. People's struggle against SEZ and MIDC in Sinnar, Nashik District. <http://landmovements.wordpress.com/2011/10/27/peoples-struggle-against-sez-and-midc-in-sinnar-nashik-district/> (accessed 26 November 2011)
- Mitra, S. and Shroff, S. 2007. Farmers' suicides in Maharashtra. *Economic and Political Weekly* 42(49): 73-77.

- MOEF GoI (Ministry of Environment and Forest, Government of India). 2010. Environmental clearance letter No. J-13011/49/2008-IA.II(T) dated 15 July 2010.
- Molle, F. and Berkoff, J. 2006. *Cities versus agriculture: Revisiting intersect oral water transfers, potential gains and conflicts*. Comprehensive Assessment Research Report No. 10. Colombo, Sri Lanka: International Water Management Institute.
- Mollinga, P.P. 2008. Water, politics and development: Framing a political sociology of water resources management. *Water Alternatives* 1(1): 7-23.
- Nayak A.K. 2010. Big dams and protests in India: A study of Hirakud dam. *Economic and Political Weekly* 45(2): 69-73, www.indiawaterportal.org/node/22591 (accessed 27 March 2012)
- PC GoI (Planning Commission, Government of India). 2006. Report of the Fact Finding Team on Vidarbha: Regional Disparities and Rural Distress in Maharashtra with particular reference to Vidarbha. Government of India, Planning Commission. New Delhi. http://planningcommission.nic.in/reports/genrep/rep_vidarbha.pdf (accessed 29 May 2012)
- Peterson, M.J. 2010. Narmada dams controversy. International dimensions of ethics education in science and engineering. www.umass.edu/sts/ethics (accessed 28 March 2012)
- Polaris Institute. 2003. Global water grab: How corporations are planning to take control of local water services. GATS Attack Pamphlet Series, www.ratical.org/co-globalize/GlbH2Ograb.pdf (accessed 28 March 2012)
- PRAYAS. 2009. *Water sector IRAs and institutional reforms in India: Proceedings of the national workshop on independent regulatory authorities (IRA) and related institutional reforms in the water sector in India*. Pune, India: PRAYAS.
- PRAYAS. 2011. Background notes for national consultation on water regulatory authorities in India: Rethinking the current models. Presented in workshop held at IIT-Bombay, 30 April 2011.
- PRAYAS Energy Group. 2011. *Thermal power plants on the Anvil: Implications and need for rationalisation*. Pune, India: PRAYAS.
- Roy, A. 1999. The greater common good. *Outlook India*, 24 May 1999. www.outlookindia.com/printarticle.aspx?207509 (accessed 22 March 2012)
- Sainath, P. 2010. Farm suicides: a 12-year saga. *The Hindu*, 25 January 2010. www.hindu.com/2010/01/25/stories/2010012555530800.htm (accessed 29 May 2012)
- Shah, Z. and Kumar, M.D. 2008. In the midst of the large dam controversy: Objectives and criteria for assessing large water storages in the developing world. *Water Resource Management* 22(12): 1799-1824.
- Thakkar, H.; Bhattacharya, S. and Gaud, G. 2009. *Dams, Rivers and People* 7(11-12): 32.
- The Hindu. 2010. Protestors stall work on thermal project in Amravati. 27 January 2010, www.hindu.com/2010/01/27/stories/2010012755931100.htm (accessed 29 May 2012)
- ToI (Times of India). 2011. Farmers complain of trespass, intimidation by power project officials. 30 April 2011. http://articles.timesofindia.indiatimes.com/2011-04-30/nagpur/29490519_1_farm-land-water-pipeline-farmers (accessed 29 May 2012)
- VSDB (Vidarbha Statutory Development Board). 2008. *Ahwal: Vij Puravtha ani Bharniyaman Yanche Vibhagnihay Samanyayi Vatap* (Report on Equitable Distribution of Electric Supply and Load-shedding on Regional Basis). Nagpur, India: VSDB. www.vfdb.in/vijvapar.pdf (accessed 29 May 2012)
- Wagle, S. and Warghade S. 2010. New laws establishing independent regulatory agencies in the Indian water sector: Long term implications for governance. *SAWAS* 2(1): 49-78.
- Warghade, S; Wagle, S; Sathe, M; and Khebudkar, A. 2010. Exploiting the obscurity around water law and policy: Case of water distribution reforms in Maharashtra. Presentation in Second Conference of the Law and Social Sciences Research Network (LASSnet), LASSnet 2010: Siting Law, 27-30 December 2010. <http://lassnet.org/panel8-4.html> (accessed 22 March 2012)
- Warghade, S. and Wagle, S. 2011. Water sector reforms: Implications on empowerment and equity. In IDFC (Ed), *India Infrastructure Report 2011. Water: Policy and Performance for Sustainable Development*, pp. 325-336. India: Oxford and IDFC.
- World Bank. 2005. *India's water economy: Bracing for a turbulent future*. Washington, DC: World Bank.
- WRD GoM (Water Resources Department, Government of Maharashtra). 2007. Minutes of the meeting of the HPC held on 21 August 2007.
- WRD GoM (Water Resources Department, Government of Maharashtra). 2008a. Proposal for water reservation for non-irrigation use for discussion in HPC meeting scheduled on 21 Feb 2008.
- WRD GoM (Water Resources Department, Government of Maharashtra). 2008b. Minutes of the meeting of the HPC held on 21 February 2008.

WRD GoM (Water Resources Department, Government of Maharashtra). 2008c. Minutes of the meeting of the HPC held on 25 March 2008.

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