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## **Institutions that Cannot Manage Change: A Gandhian Perspective on the Cauvery Dispute in South India**

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**ABSTRACT:** There is a growing recognition that water conflicts extend well beyond issues of water scarcity. Perceptions of scarcity are themselves based on assumptions of what is sufficient. And what is considered sufficient is in turn influenced by a number of social, economic and even political considerations. There is thus a need for a more inclusive method of understanding water conflicts and the institutions needed to address them. Among such alternative methods is the one used by Mohandas Karamchand Gandhi. This paper adopts the Gandhian method to reinterpret the interstate dispute over the water of the south Indian river, Cauvery. It then uses this more inclusive method to identify the conflict-easing and conflict-enhancing aspects of the dispute. In the process, the limitations of the existing institutions in addressing the conflict become evident.

**KEYWORDS:** River basin, conflicts, institutions, Gandhi, Cauvery, India

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### **INTRODUCTION**

Much as scarcity remains a sensitive trigger for water conflicts, there is growing recognition of the limits of understanding these conflicts entirely in terms of an absolute notion of scarcity alone. As Jairath and Ballabh (2008) have pointed out, scarcity is a relative concept, with the extent of the shortfall being understood in terms of some implicit understanding of sufficiency. This is why water conflicts are not always the most intense in areas of least availability. The Berbers of the High Atlas mountains and the Bedouin of the Negev desert are two examples of communities that have worked out systems of water sharing in dry lands (Wolf, 2000). Aaron Wolf, Shira Yoffe and Mark Giordano have gone even further. After looking at 1831 events concerning conflict and cooperation in water over the second half of the 20th century, they found that most of the parameters commonly identified as indicators of water conflict, including water stress, are actually only weakly linked to dispute. This has led them to argue that the "likelihood and intensity of dispute rises as the rate of change within a basin exceeds the institutional capacity to absorb that change" (Wolf et al., 2003). And if our picture includes not just the causes of water conflicts but also their effects, we move further away from developments that can be explained entirely in terms of the extent of scarcity. In particular, the political processes involved in addressing the conflicts are too varied and complex to be understood in terms of water alone.

As we move beyond scarcity to take on board the other dimensions of water disputes we could benefit from an exposure to some of the methods that have been developed to understand social conflicts as a whole. The multiplicity of specialised methods available to analyse social conflict does generate a tendency to focus on just a part of the problem. If the legal fraternity focusses on the negotiations involved in alternative dispute resolution, social scientists often tend to be more concerned with understanding the origins of a conflict more than the process of resolving it. Since our purpose is to understand conflicts in their totality, we would need a more inclusive method, such as the one developed and used by Mohandas Karamchand Gandhi. In addition to its inclusiveness, there are several aspects of Gandhi's thought, ranging from his sensitivity to natural resources to his abiding interest in resolving social conflict, that make Gandhi's ideas useful to our task of placing water within

the larger context of social conflict. This throws up two questions. If we were to distil a method of analysing social reality from Gandhi's voluminous writing,<sup>1</sup> would it give us fresh insights into conflicts over water? And are the institutions that are usually called upon to resolve water disputes in a position to make use of these insights?

In order to attempt an answer to these questions this paper first summarises an earlier work on Gandhi's method. It then goes on to present the case of the Cauvery water dispute in South India. Based on this evidence it uses the Gandhian method to identify critical parameters in the dispute, pointing to the aspects of the situation that would need to be emphasised if the conflict-enhancing changes in the basin are to be overwhelmed by the changes that ease conflict. And finally, it lists some of the inherent weaknesses of the institutions that have addressed this dispute that prevent them from rising to the challenge.

## GANDHI AND INSTITUTIONS

Gandhi's ideas have received attention from so many different disciplines and perspectives that it is not possible to identify any single widely accepted view of his thought. It does not help that his ideas were stated in a form designed to reach out to a politically inclined mass audience rather than one seeking academic rigour. In fact, Akeel Bilgrami (2003) argues that it is

generally foolhardy to write about Gandhi, not only because you are never certain you've got him right, but because you are almost sure to have him wrong. There is a lack of plain argument in his writing and there is an insouciance about fundamental objections, which he himself raises, to his own intuitive ideas.

Functioning within this inexact realm there has often been a preference to focus on a specific insight from Gandhi's writing. When looking at the role of his ideas in addressing conflict the focus has tended to be on the specific tools he developed as a part of his efforts at protest and negotiation. This is perhaps inevitable given the innovativeness of tools like satyagraha (Bondurant, 1988). These tools have also been adapted in some water disputes, including the campaign of the Narmada Bachao Andolan (Iyer, 2004). The value of these tools however depends on the context in which they are used. Gandhi's success in political mobilisation then needs to be seen not only in terms of the tools he used, but also in his understanding of social reality that helped him choose the most appropriate tool for a particular situation. The method that led him to this understanding could be particularly relevant when placing water issues in the larger context of social conflict.

Among the reasons for ignoring, if not scoffing at, Gandhi's method of social analysis is the fact that he started from a point that was extremely unconventional in the 20th century. In a century dominated by conflict over ideological systems, particularly capitalism and socialism, most debates were based on the superiority of one system over another. For Gandhi, on the other hand, reality could not be reduced to a single system. He was very sceptical of all large and all-explaining models. While models were useful in understanding relationships in abstraction, they could not be expected to be always good approximations to reality. Even when making his case for trusteeship he insisted that "Absolute trusteeship is an abstraction like Euclid's definition of a point, and is equally unattainable" (Gandhi, 1974). His limited faith in models meant he had to make use of an alternative method to understand society.

Providing a comprehensive picture of a method that is so different from mainstream scientific thought is well beyond the scope of any single paper. It would involve going into a number of areas from the philosophical basis of his thought to his rather unique use of techniques of participant observation. We can do no better here than rely on an earlier effort to distil Gandhi's method from his writing (Pani, 2001). Even this effort did not claim to be the sole possible interpretation of Gandhi's

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<sup>1</sup> Since Gandhi did not write out his method for an academic audience, his ideas are spread out over the hundred volumes of his Collected Works. For an attempt to distil a method from his writing see Pani, 2001.

ideas. It only put together a consistent method derived primarily, if not entirely, from Gandhi's writing. But since our concern here is not so much with what Gandhi really meant as it is with borrowing concepts from his writing that would help us understand water conflicts, this is not a serious limitation. This minimal requirement should help us cope with the fact that all that can be presented here is a bare statement of the essential features of the Gandhian method that are relevant to explaining water conflicts.

In outlining these features we could begin with Gandhi's main point of departure from the 20th century ideology-dominated mainstream. Doubting the value of trying to reduce reality to an underlying model, he sought a more inclusive method that allowed for the consideration of all relevant factors in a given situation. The method he believed would allow him to do so saw reality as a series of interconnected actions. Each situation could then be understood in terms of the mass of interconnected actions that made up that reality.

In evaluating these actions Gandhi relied quite heavily on the consequences of each action, even arguing at one point that a person of high moral standard "will be considered guilty if he does not practise morality; but nobody will find fault with him if his immoral behaviour has no consequences for society" (Gandhi, 1974, Vol 6).<sup>2</sup> In identifying the relevant actions he treated the individual as the relevant unit of analysis. This did not lead him to the usual binary of the individual versus society as he saw an individual's actions as always being in the context of society. As he saw it, even personal emotions such as love or hate were in respect to others in society. A society at any point of time was then characterised by a series of actions carried out by individuals.

An individual's choice of a particular action would be based on the consequences he sought. When a group of individuals desired the same consequences and agreed upon the route to achieving those consequences there was scope for combined action by the group as a whole, whether it was a class, a caste or any other social category. There was however no guarantee that the desired consequences of each individual would be the same. Indeed, given the vast number of very different circumstances individuals find themselves in, they are quite likely to vary and even come into conflict with one another. Thus for Gandhi conflict was an inevitable part of society; what mattered was how these conflicts were addressed.

For a society to function, individuals and groups in it needed to find ways of negotiating their conflicting objectives and means of achieving them. These negotiations could take place at the level of the individual or between groups of individuals. These negotiations could also take a variety of forms from formal structures like trade unions dealing with the owners of a factory, to much more informal, even casual, ones such as those between a mother and child. The results of these negotiations need not always be ideal, but they could be accepted by all concerned. There could even be acceptance of grossly unequal actions such as untouchability. The acceptance could also be generated through violent means. Thus the fact that a society was stable in the sense that a set of actions was accepted did not mean there was no scope for conflict. This conflict would come to the fore if for any reason the bargained consensus, equal or unequal, forced or otherwise, broke down.

In identifying elements that could force such a breakdown, Gandhi tended to focus on three components of a bargained consensus: the relative power of the stakeholders, the options available to them and their ability to appeal to a sense of fairness. The stability created by the acceptance of a set of actions was sensitive to change in any of these three elements. First, there could be a change in the power wielded by individual stakeholders. The more powerful stakeholders would tend to have a greater influence on what was finally considered acceptable by all. This power could have a variety of

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<sup>2</sup> Gandhi did not however believe that a desirable consequence would justify any means. In his inclusive view what was a means to one end was itself the consequence of another means. Buying a brick may be a part of the means to build a house, but it was the consequence of a number of earlier actions including the making of the brick. In his view no distinction could be made between the means and the ends. As such the goodness of the consequences necessarily implied the goodness of the means.

sources. The economic basis of this power could be the role of the individual or group in the traditional economy or from new roles that emerged from economic transformation. The source of power could also be ritualistic. Those who determined ritualistic behaviour would wield power of their own. Power could also be influenced by social status. Equally important would be the power generated by political position. This position itself could be derived from a variety of sources ranging from access to state power to, as Gandhi demonstrated, having the ability to reach out to a mass of people.

Second, the willingness to accept a set of actions would also depend on the options available. An individual or group may have been forced to accept an unfair circumstance only because they did not have an option. The emergence of fresh options could have transformed what they were willing to accept. This contention further distanced Gandhi from the mainstream of trade union practice in his time. The effort of mainstream trade unions was focussed on the workplace, particularly on the use of strikes to establish the strength of the workers. Gandhi, on the other hand, saw the need to create options outside the workplace as a means of strengthening the cause of workers. He believed that getting workers to make their own homespun cloth made them that much less dependent on what their employers had to offer. The weaving of *khadi* (homespun cloth) gave the workers an alternative earning opportunity that made them less willing to accept an unfair set of actions within the workplace.

The third element that influences what is acceptable is the perception of fairness. Gandhi saw a positive role for this element by directly appealing to an individual's sense of fairness. Such positive utilisation of appeals to fairness has proved to be less effective when used by lesser individuals. But in its negative form, that is as a rejection of unfairness, this element remains quite important in determining the acceptance of situation. A set of actions considered blatantly unfair is unlikely to be acceptable. Even if other factors, such as economic pressure or the use of violence, force the acceptance of this set of actions, it will be a very fragile consensus. In addition, the perception of what is considered to be fair can also change over time. Untouchability was accepted in Indian society for centuries, but once it was recognised as blatantly unfair it went into fairly rapid decline.

The Gandhian method thus recognises the latent potential for conflict based on differing interests, and perceptions of those interests, between individuals and groups. This potential will not result in social conflict as long as the set of actions being carried out is accepted by all those who have a stake in that situation. This acceptance is based on the relative power of the different stakeholders, the options they have and the perceived sense of fairness. Any changes in these elements will threaten the stability of what is accepted. In the absence of an effective mechanism to come up with a new consensus, this could result in the potential for conflict being fully realised. This is not to suggest that arriving at a new consensus is necessarily a difficult task. There could be changes in any of the three elements that ease a conflict. For instance, the emergence of an urban industrial option for a former agricultural labourer could make the earlier rural conflicts less relevant. But for this option to be tapped there is a need for institutions that can identify the elements that have forced the earlier consensus to break down and then explore means whereby the conflict-easing changes overwhelm the conflict-accentuating ones.

In trying to identify the institutions that can rise to this task we must necessarily go back to the rich body of academic and policymaking work that has searched for the ideal water institution. There have been a number of efforts, from a variety of perspectives and seeking solutions to very different problems, to define such ideal institutions. This has not necessarily been a boon as it has led to institutions having "diverse definitions and interpretations, reflecting different disciplinary perspectives and theoretical traditions" (Saleth and Dinar, 2004). As a result, there are a variety of institutions being suggested as the ideal for water allocation and use, ranging from state-controlled ones to those controlled by water users to others that rely entirely on the market. Each of these approaches has had its successes but typically what works well in one situation does not work well in another. This has contributed to a wider recognition that they have "failed to live up to expectations, largely because the variability of local situations and the difficulty of transplanting institutions from one context to another were not taken into account" (Meinzen-Dick, 2007).

In order to see institutions in their context it is necessary to use a concept that can capture the wide range of roles institutions can play in different situations. This task has been addressed by adopting a broad enough definition of water institutions. We could go along with Livingstone (2005) and understand these institutions to refer "to all the formal laws, policies and administrative rules governing water allocation and use in a particular context". No context-specific dimension of institutions would then, by definition, be left out. Adopting a broader definition, however, addresses just one part of the problem. While it allows us to recognise the many forms that water institutions can take it still does not tell us the specific role of each form, whether it is dominated by the state, the user or the market. In dealing with this second requirement much of the literature on water institutions seeks to define an ideal. An institution is then expected to come up with an ideal set of rules, policies and laws, and implement them. In the Gandhian perspective, on the other hand, the rules, policies and laws are being continuously negotiated across different individuals and groups. While each individual may have his or her own ideal of what the rules, policies and laws should be, what will finally emerge is only what is acceptable to all stakeholders. Institutions, including water institutions, can then be effective only in terms of ensuring these negotiations take place in the best manner possible in a particular set of circumstances. The concept of an institution must then not be confined to some ideal notion of what the rules, policies and laws should be, but must also relate to what emerges in practice.

These requirements would be met if we went along with the philosopher John Rawls, who sees institutions as "a public system of rules which defines offices and positions with their rights and duties, powers and immunities, and the like. As examples of institutions, or more generally social practices, we may think of games and rituals, trials and parliaments, markets and systems of property" (Rawls, 1999). Such a definition is broad enough to include all official and unofficial mechanisms that normally deal with river water. It would cover the entire range of official mechanisms from river water treaties to river basin authorities. At the same time the focus on all rules that exist in a society allows for unofficial mechanisms as well. It would, for instance, cover the rules involved in traditional systems of water sharing.

In addition to its inclusiveness, Rawls' concept of institutions also has the advantage of stressing the working of institutions rather than going entirely by the way they are conceived. This is evident in his characterising institutions as a part of social practices. And he goes on to make this set of priorities more explicit:

An institution may be thought of in two ways: first as an abstract object, that is, as a possible form of conduct expressed by a system of rules; and second, as the realization in the thought and conduct of certain persons at a certain time and place of the actions specified by these rules. There is an ambiguity, then, as to which is just or unjust, the institution as realized or the institution as an abstract object. It seems best to say that it is the institution as realized and effectively and impartially administered which is just or unjust. The institution as an abstract object is just or unjust in the sense that any realization of it would be just or unjust (Rawls, 1999).

In terms of this broader, practice-encompassing, idea of institutions the Cauvery and conflict over its water provides an interesting example of change and the response, in practice, of institutions to this change.

## **THE CAUVERY BASIN**

The Cauvery is the largest river in southern India. Beginning at Talakaveri in the Brahmagiri hills in Kodagu district of Karnataka towards the south-west of India, at an elevation of around 1,340 metres above mean sea level, the river moves eastwards in its course towards the Bay of Bengal. It is joined by its first important tributary, Harangi, at the border of Kodagu district and while still within the state of Karnataka, it gains smaller tributaries, such as Kakkabe, Kadamur and Kummanhole, and then the larger ones, Hemavathy and Laxmanthirtha. The river then passes through the Krishnarajasagara dam, after

which it is joined by another major tributary, Kabini, and further down by two more tributaries, Suvarnavathy and Shimsha. It then becomes narrower as it passes through hilly terrain and further east it turns into the boundary between the South Indian states of Karnataka and Tamil Nadu for about 64 kilometres. At the Hogenekal falls it enters Tamil Nadu and reaches the Mettur reservoir. Further down, it is joined by the Bhavani river and then enters the plains of Tamil Nadu, where it gains two more tributaries, Noyil and Amaravathi. It then splits into two and rejoins, forming the island of Srirangam. At the point where it rejoins is the Grand anicut, which created an irrigation system in Thanjavur district of Tamil Nadu in the 1st century AD. The Cauvery then splits again with one branch being the Vennar while the other retains the original name. The branches then divide and subdivide to create a large number of smaller branches, before flowing into the Bay of Bengal.

The hilly terrain through which the Cauvery passes at various points makes it extremely unsuitable for navigation. The terrain has also traditionally influenced the pattern of utilisation of this water. The traditional technology, which is centuries old, was essentially built for diverting water. This, together with other factors like soil conditions, determined the areas around the river that would be irrigated. The irrigated areas were then naturally concentrated in the plains towards, and including, the delta region of the Cauvery. And as long as substantial amounts of water flowed into the Bay of Bengal the upper riparian areas could use surplus water that would otherwise have flowed into the sea. This relatively benign scenario changed dramatically with the coming of storage reservoirs. The Krishnarajasagara reservoir and irrigation system began functioning in 1928. As this opened there was the possibility of more storage reservoirs at various points in the river, and the upper riparian areas now had the potential to use a much greater share of the Cauvery water. This generated a tendency in the upper riparian areas to focus on the water each region contributed to the river rather than on the traditional patterns of usage. And this change brought with it the makings of conflict.

The dividing line between the upper and lower riparian areas in this conflict was determined primarily by the political divisions of the period. The dominant political division at the time when the Cauvery dispute first arose was between the princely state of old Mysore and the British-ruled Madras Presidency. In 1799, the British defeated Tipu Sultan and handed Mysore back to the Wadiyar dynasty to put in place a system of indirect rule. Dissatisfied with the functioning of the local rulers, the British imposed direct rule on Mysore in 1831. A variety of factors, including the costs of direct rule, led the British to return to a system of indirect rule in 1881.<sup>3</sup> This time round the government in the princely state of Mysore was more sensitive to the need to develop the region. In 1890, the Dewan of Mysore pointed out that "All rivers flowing from Mysore into Madras pour an unused surplus into the sea. Mysore may intercept and take measures to utilise such surplus" (cited in CWDT, 2007, Vol II). Mysore thus recognised the prescriptive rights of Madras to continue using the water it had been using for centuries and laid claim only to the surplus. The problem was in deciding what exactly was the surplus, and when the interests of Madras would be hurt. Given the dominant political relationship enjoyed by the British-controlled Madras Presidency, the agreement reached in 1892 made it the prerogative of the Madras Presidency to decide when its interests were hurt (Richards and Singh, 1996). The agreement took the form of "Rules defining the limits within which no new irrigation works are to be constructed by the Mysore State without previous reference to the Madras government" (cited in CWDT, 2007, Vol II).

This agreement was however soon to come under pressure. Under the leadership of Mysore's visionary Maharaja, Krishnaraja Wadiyar IV, an effective move towards introducing large-scale modern technology was being put in place by Sir M Visvesvarayya.<sup>4</sup> In 1910 when he was the Chief Engineer of the Public Works Department of Mysore Sir M Visvesvarayya submitted a note on the Cauvery reservoir project to be constructed at Kannambady, which was to become the first storage reservoir in the basin.

<sup>3</sup> For an early official British account of the resort to direct rule in 1831 and the rendition in 1881, see Rice, 1897.

<sup>4</sup> For Visvesvaraya's own account of his initiatives including the work towards the Krishnarajasagara dam see Visvesvaraya, 1951.

Keeping in mind the unequal relationship between Mysore and the British-ruled Madras Presidency, Sir M Visvesvarayya argued that the reservoir in Mysore (to be later called Krishnarajasagara) would be in the interests of the British. In his note he spoke of the need for storage to meet the power requirements of the Kolar Gold Fields (KGF). As these gold fields were being run by British companies it was argued that it would be in British interests to support the Kannambady project. But it was soon quite clear that the real issue was the conflict between the equitable sharing of the Cauvery water and protecting the prescriptive rights of Madras. In addition, in 1909 the Madras government submitted a proposal to build a balancing reservoir at Mettur (Benjamin, 1971). The agreement that was finally reached in 1924 was an attempt at a compromise between these two conflicting interests. It retained the 1892 agreement's commitment to the protection of the prescriptive rights of Madras, but also recognised the need to address the issue of equitable sharing of water. The 1924 agreement allowed Mysore to set up the Krishnarajasagara dam and Madras to set up a dam at Mettur. And it placed limits for both states on the area that could be irrigated.<sup>5</sup>

The drawing of the dividing line between the upper riparian and lower riparian areas in terms of political entities meant that as these entities changed so would the players in the conflict. The dominance of the British-controlled Madras Presidency in pre-Independence India not only meant that it had an upper hand in the conflict with Mysore but that it could also completely ignore the rights of the minor players in the basin. Though parts of the catchments of tributaries of the Cauvery are in what was then the princely state of Travancore, it was not considered a party to the dispute over the sharing of the Cauvery water. The French administration in Pondicherry is believed to have passed on its claims to the supply of the Cauvery water to the Karaikal region even when the 1892 and 1924 agreements were being worked out. The political equations underlying the response to these claims changed with the coming of Indian independence in 1947. When the boundaries changed with the reorganisation of Indian states in 1956, the state of Kerala, which included what was once Travancore, had reason to lay legitimate claim to a share of the Cauvery water. And Pondicherry insisted, especially after 1972, that there were years when there was an actual shortfall of water that flowed into the Union Territory. While the conflict was now a four-cornered one with Kerala and Pondicherry also staking their claims, the main players in the dispute remained Karnataka and Tamil Nadu.

The altered political circumstances after independence and the reorganisation of states were also reflected in the decisions of the various states. Karnataka, which included the princely state of old Mysore, constructed reservoirs on the Kabini, Hemavathy, Harangi and Suvarnavathy tributaries of the Cauvery without the consent of the government in Madras, now the state of Tamil Nadu. In 1974, another factor came into play. A clause in the 1924 agreement stated: "The Mysore Government and the Madras Government further agree that the limitations and arrangements.. at the expiry of fifty years from the date of execution of these presents, be open to reconsideration in the light of the experience gained and of an examination of the possibilities of the further extension of irrigation within the territories of the respective Governments and to such modifications and additions as may be mutually agreed upon as the result of such reconsideration" (cited in CWDT, 2007, Vol I). This clause was interpreted by Karnataka to mean the agreement was dead after 50 years, while Tamil Nadu insisted that it only sanctioned a review and the agreement was in perpetuity. On June 2nd 1990, the Government of India set up the Cauvery Water Disputes Tribunal.

The Tribunal came up with an interim order on 25th June 1991. The interim order asked Karnataka to release 205 tmcft<sup>6</sup> of water to Tamil Nadu every year as per a prescribed schedule. As the interim order made no allowance for a poor rainfall year, there was no mechanism for sharing the distress. Some of the most violent agitations in Karnataka during the course of the Cauvery dispute followed the interim order (Sebastian, 1992). But the violent response in Karnataka to the interim order cannot be understood in terms of water sharing alone. At various points along its course beginning in the hills of

<sup>5</sup> For further details of the history of this case, see Guhan, 1993.

<sup>6</sup> Tmcft = Thousand million cubic feet. 1 tmcft is equivalent to 28.3 million cubic metres (Mm<sup>3</sup>).

Kodagu and passing eastwards towards the Bay of Bengal the Cauvery gains a cultural and sometimes religious dimension for each of the diverse local populations it relates to. Some of the man-made constructions on the Cauvery are also ancient enough to have legends built around them. This mix of religion and local legend with as critical a resource as water makes it clear at the outset that disputes over Cauvery have to be seen not only in terms of the sharing of water – important as it is – but also in terms of the larger cultural context within which these disputes operate. And this cultural context is itself quite varied as the river's course takes it through a variety of cultures beginning with the martial traditions of the Kodavas, with a tributary joining it from the Malayalam-speaking state of Kerala, moving into the Kannada-speaking areas of Karnataka before moving on to the Tamil-speaking areas. This identification with local cultures and linguistic passions, contributed in no small way to the violence in 1991 (Fleischli, 2006).

In the midst of this violent response Karnataka rejected the interim order. The state government then went on to issue *The Karnataka Cauvery Basin Irrigation Protection Ordinance 1991*, which sought to override the interim order of the Cauvery Water Disputes Tribunal. This ordinance was however struck down by the Supreme Court of India. As the pressures mounted on the Government of India from Tamil Nadu to ensure the implementation of the interim order, it issued a draft notification in 1997 that proposed to set up a Cauvery River Authority (CRA). In the draft notification, the CRA was to consist of bureaucrats and professionals and have wide-ranging powers including the takeover of reservoirs. Quite predictably, this met with resistance from Karnataka. When the CRA finally came into being in 1998 it was primarily a high-level political committee headed by the Prime Minister and having the chief ministers of Tamil Nadu, Karnataka, Kerala and Pondicherry as its members (Public Works Department, 2003). The committee itself had no bureaucratic or professional members. There was an official-level Monitoring Committee headed by the Union Water Resources Secretary which would determine the facts in respect of complaints of non-implementation of the Interim Order. But this monitoring committee was only to service the political body. While stopping short of actually saying so, the structure of the Cauvery River Authority acknowledged that the political process would be supreme, even if it meant the political concerns would have to, at least in the short term, override judicial pronouncements.<sup>7</sup> There were also some civil-society initiatives including multi-stakeholder dialogues that brought farmers from both Tamil Nadu and Karnataka on the same platform (Iyer, 2003). But while these initiatives did make some innovative moves, they never dominated the negotiation process.

It was in this overall political milieu that the Cauvery Water Disputes Tribunal announced its final award in February 2007, nearly 17 years after it was set up (CWDT, 2007). It allocated 30 tmcft to Kerala, 270 tmcft to Karnataka, 419 tmcft to Tamil Nadu and 7 tmcft to Pondicherry. This allocation meant that Karnataka had to release 192 tmcft every year to Tamil Nadu. The immediate reaction to the tribunal's award was a series of protests in Karnataka leading the state government to decide to file a review petition. Tamil Nadu too decided to file a review petition (Menon, 2007). And the other two states too made it clear that they would have liked a larger share of the Cauvery water.

## NEGOTIATIONS AND CONSENSUS

To speak of a consensus on the Cauvery water does seem unusual given the long history of the dispute. But if we remember that we are only referring to a set of accepted actions, there were clearly long periods of such acceptance. This is not just the periods when the agreements between Karnataka and Tamil Nadu were in force, but also the decade after 1974 when there was no unchallenged legal agreement in force and yet there was no great social conflict. The conflict that has since come out into the open reflects the largely unaddressed changes in power of the stakeholders, in the options available to them and in the changing perceptions of fairness.

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<sup>7</sup> When the Tamil Nadu government boycotted the CRA and filed a fresh suit, the Supreme Court asked it to go back to the CRA (Upadhyay, 2002).



## Power equations

The sensitivity of the Cauvery dispute to changing power equations was evident even in the pre-independence era. The changes in the balance of power between Mysore and Madras during the colonial era may have been relatively minor, but they were reflected in demands the two states made on the Cauvery water. The 1892 agreement was itself the result of the rendition of Mysore to the Maharaja leading to a clear recognition of the interests of the princely state as distinct from that of British-ruled Madras Presidency. The series of economic, political and technological advances made in Mysore in the first two decades of the 20th century altered the power equations again. While the princely state still worked well within the requirements of the British colonial system it had now developed the potential to demand the right to set up a dam that would also help the British gold mining companies. Independence changed the power equations even more dramatically. At the completion of the 50 years mentioned in the 1924 agreement Karnataka and Tamil Nadu were two equal states in the Indian union and the two much smaller members of the Cauvery basin, Kerala and Pondicherry, could also claim the same status.

The power equations were also transformed by the larger issue of water sharing between regions being converted into a purely interstate dispute. The relationship between upper riparian areas and lower riparian areas in the Cauvery basin tended to throw up conflicts at a variety of levels, including some between local regions. Indeed, some of these more localised conflicts could be quite intense. Within Karnataka, the building of the Varuna canal in Mysore district generated a conflict of its own (Folke, 1998). Though the canal was originally conceived at the time of building the Krishnarajasagara dam in the early decades of the 20th century, state governments found it difficult to implement it because of resistance from the lower riparian district of Mandya. This conflict was also not always far from violence, particularly in the early 1980s. Once the focus shifted to state governments and negotiations between states, the disputes within the states have tended to recede into the background.

The power of players in the interstate dispute was also influenced by political transformations outside the water sector. The 1980s also saw the rise of a strong regional movement in Karnataka, with a focus on the state's language, Kannada. In southern Karnataka, for a variety of historical reasons, the movement sometimes took on an anti-Tamil colour. The political passions raised by this movement were then tapped by those highlighting the dispute between Tamil Nadu and Karnataka on the Cauvery water. Many Kannada organisations have played a pivotal role in agitations in Karnataka over the Cauvery dispute. The riots following the 1991 Interim Order of the Cauvery Water Disputes Tribunal demonstrated just how potent this mix of linguistic and water politics could be (Folke, 1998). And the linking of ethnicity with water disputes must not be treated as an accident in the Cauvery. Speaking of the Krishna basin Radha D'Souza speaks of tensions "that arose because of the ways in which projects impacted upon different ethnic, communal and regional tensions that manifested as ethnic and communal tensions rather than tensions arising out of water projects" (D'Souza, 2006).

## Options

The course of the Cauvery dispute has also been substantially influenced by the availability of options. Technological change fundamentally altered the range of options available at various points in the history of the dispute. The most dramatic technological impact was the creation of storage reservoirs in the early decades of the 20th century. This fundamentally altered the demand for irrigation in the basin and shifted the focus from not merely using water flowing into the sea to actually dividing water resources. The significance of this option was heightened by the growing demand for water. In the rural economy the Green Revolution strategy initiated in the 1960s was based on irrigated agriculture, thereby increasing the demand for water.

The availability of irrigation as an option threw up a more complex set of reactions locally. Even as villages that had the benefit of irrigation pursued this option, dry land villages saw their inhabitants seeking options outside agriculture. This process has, arguably, been best captured by Scarlett Epstein

who has repeatedly studied the same two villages in Mandya district of Karnataka over a period of more than 50 years beginning in 1954 (Epstein, 1962, 1973, 2007). One of the villages had benefited from the irrigation that was provided by the Krishnarajasagar dam on the Cauvery, while the other, though not too far away, was at an elevation that was too high for it to benefit from the same irrigation source. The dry village, Dalena, came under pressure early. With hereditary land being divided equally among all the sons, the size of the farm often became too small to be viable. This forced members of this village to migrate in significant numbers leading to what Epstein calls 'village extroversion'. In the wet village, Wangala, on the other hand, irrigation reinforced the traditional differentiation between the various sub-castes. "Those peasants who owned the largest area of irrigated lands benefited the most. Yet even their Scheduled Caste<sup>8</sup> clients also benefited because they earned additional daily wages for the additional work cash-cropping required" (Epstein, 2007). The increased irrigated area, the resultant higher productivity and a booming *jaggery* market meant the village land could, in 1970, sustain larger numbers. Very few then migrated, leading to what Epstein calls 'village introversion'. The trends continued even in 1996, though Wangala was now showing signs of the beginnings of more substantial migration. Decades of agricultural success had led to both education and some hesitation over working on land belonging to others. With immigrant workers willing to work at much lower wages than those who were brought up in Wangala, the prospect of migrating to urban centres was very real. Meantime, the demands being made on the Cauvery water had grown not only from other agriculturists but also from urban areas, particularly the city of Bangalore. The scarcity of rainfall between 2000 and 2003 saw the irrigation canals that fed Wangala dry up in those years. And the social and economic structure of that successful wet village also came under pressure.

Irrigation thus first increased the options available to the residents of villages with irrigation. But as the benefits of irrigation grew more slowly and even began to decline in drought years, the increased economic and political power of the newly irrigated regions in Karnataka made them much more aggressive in their demand for a greater share of the Cauvery water. Mandya district which was the major beneficiary of the Krishnarajasagara dam became the centre for mass mobilisation over the Cauvery dispute.

### **Fairness**

Underlying the Cauvery dispute has been a changing notion of what is considered fair. At the level of states, as the emergence of large reservoirs added new potential irrigated areas to the traditional ones, it brought into conflict two basic norms of fairness. For the lower riparian state it was only fair that there was no restriction on the access to the Cauvery water that these areas had had for the many centuries. For the upper riparian state that had only recently developed the technology to build the large dams required to tap this water, it was only fair that the water be equally distributed. The fairness of prescription thus came into direct conflict with that of equity.

At the local level, the notions of what was fair had changed even more fundamentally. The transformation in the villages accompanied by political changes at the national level altered the level of unfairness that was accepted. In 1954, the peasant caste could impose a fine on the Scheduled Castes for daring to stage a play in which one member of the Scheduled Castes played the role of a king. By 1970 a conflict over a Scheduled Caste boy drinking coffee inside the village coffee shop resulted in a much less severe punishment of the family he was attached to breaking off the hereditary relationship (Epstein, 2007). In a local atmosphere where equality was being asserted as a right, it would have been difficult to accept norms other than equity as the basis for the distribution of waters across states. The changes in what are considered fair and the willingness to be assertive about the resultant rights are also not a peculiarity of the Cauvery. The attitude of American Indians to their demands in water

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<sup>8</sup> In order to remove untouchability the Constitution of India offers special privileges and safeguards to these castes listed in the schedule to the Constitution (Scheduled Castes) Order, 1950.

disputes too have been known to change as they have become more aware of their rights (McCool, 1993).

### **GANDHIAN METHOD AND CONFLICT**

The role of institutions in addressing the Cauvery conflict becomes quite evident when we compare the interventions that were possible with the actions taken. The Gandhian method helps identify the necessary interventions by providing fresh insights into water disputes at two levels. It offers a fresh perspective on the various components of these disputes, that helps see water issues in the larger social context; and it makes it easier to distinguish between conflict-enhancing changes and conflict-easing ones.

The fresh perspective that this method provides enables us to bring to the fore dimensions of a dispute that otherwise tend to be brushed under the carpet. In the specific case of the Cauvery, these relatively less emphasised elements can be seen in all three influences on negotiations that Gandhi focused on: power, options and fairness. The power dimensions were influenced by the fundamental political changes that took the upper riparian region from a servile princely state to a more assertive one, to an equal partner in independent India, and finally to one influenced by the assertiveness of identity politics. The changes in the lower riparian state were not always less dramatic, especially on the issue of identity politics. To try to understand the Cauvery issues without adequately acknowledging this political fact is to leave out a critical component of a complex reality.

The focus on options also provides a more inclusive view of water disputes. It recognises that water issues cannot be seen in isolation. This approach is particularly useful when we recognise that water scarcity is itself based on a notion of sufficiency. And what is considered sufficient could change with economic transformation. In the villages of the Cauvery basin that have benefited from canal irrigation the absence of non-agrarian options increases the dependence on agrarian occupations for income. This could lead to an increased demand for irrigation water for water-intensive non-food crops. In such a situation the availability of non-agrarian employment or entrepreneurial options could reduce the dependence on agrarian income. This, in turn, would make it easier to introduce measures, including differential water pricing, aimed at discouraging the extensive cultivation of water-intensive non-food crops. A lower level of water availability can then be considered sufficient, thereby easing the perception of scarcity.

The Gandhian method also brings upfront the debate on fairness. While perceptions of unfairness are a part of disputes, the underlying norms of fairness are not always explicitly debated. While claims of unfairness are an essential part of mobilisation of public support behind a state's cause, there is often little popular discussion on the norms involved. In the Cauvery dispute each side stressed the fairness norm that suited its case, with Tamil Nadu having stressed prescriptive rights and Karnataka, equity. But the trade-off between these two norms was not a major part of the popular debate. A perfect solution to this trade would certainly not be easy and may not even be possible, but the recognition that the other side is following some norm of fairness can help defuse claims of gross injustice.

The second advantage of the Gandhian method – that it helps distinguish between conflict-enhancing and conflict-easing changes – can be of great practical significance. Changes in power equations tend to be conflict-enhancing as they generate fresh claims. They have played a significant role in raising the intensity of the dispute over the Cauvery water, whether it was in the years preceding the 1924 agreement or in the even more contentious period after 1991. New options can include both those that are conflict-enhancing and those that are conflict-easing. The option of building large reservoirs leads to claims for a larger share of river water, thereby enhancing the potential for conflict. The availability of options that draw people away from water-intensive crops, on the other hand, reduces the amount of water that will be considered sufficient. The exercise of these options is conflict-

easing. An explicit discussion of norms of fairness can also be conflict-easing, to the extent that it has the potential to get one side to consider the fairness norms that suit the other.

### INSTITUTIONAL REQUIREMENTS

The appropriate institutions to address water conflicts would need to meet at least two requirements: First, they would have to offer the scope for effective negotiations among stakeholders. They would have to ensure the mechanisms exist to ensure that the various stakeholders can be heard without recourse to violence on the streets. And second, they would have to emphasise the conflict-easing dimensions of the issues, including developing less water-intensive options and bringing the debate on fairness upfront.

The institutions that took on the task of addressing the Cauvery dispute failed on both counts. The negotiations were primarily between state governments. Even when a Cauvery River Authority was created its members were only the chief ministers of the states and the prime minister of the country. Many important stakeholders in the dispute, including farmers, had no direct role in the negotiations. There were efforts from outside the government to correct this weakness. The multi-stakeholder discussions brought together farmers from Tamil Nadu and Karnataka to address the issue. But their role in influencing the negotiations was, at best, indirect. And in this indirect role too they were often less influential than the elements that were not averse to street violence. There is also little evidence of these institutions developing the conflict-easing, less water-intensive, non-agrarian options consistently across the basin. Addressing the Cauvery conflict is not just a matter of state governments deciding how much water each state should get, but one of institutions that can address, in addition to water issues, the much wider process of social change articulated through a water dispute.

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