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Review: Payments for watershed services and water as a human right - is there a conflict?

Payments for water to also cover the cost of protecting watershed services are part of a general shift in policy, from an emphasis on developing new sources of supply, to the protection and reallocation of existing ones and recovery of costs. This raises a key policy question, of how to allocate water among competing uses. Allocation based only on willingness-to-pay is controversial because it can lead to the exclusion of those who have less ability to pay. Given the role of water in meeting the most basic of human needs, such an approach would in effect be a denial of all human rights, regardless of whether there is any formal recognition of a right to water. It is also clearly unethical and therefore, has been an easy target for controversy in developed and developing countries alike.

South Africa was the first country to give explicit recognition to both a human and an environmental right to water under the new constitution and water law. This is done by reserving a certain amount of water for human needs that is provided free to local water authorities, and for environmental needs, as determined through the development of catchment management strategies. In principle, it is to be financed by water users through fees charged for other uses, which include uses of land that reduce stream flow. While considered an important accomplishment, a recent study by Mehta and Ntshona (2004) shows that, in practice, the capacity of local water authorities to implement it is limited, and cutoffs to those who do not pay have often continued because fees are still charged to cover operating costs. These cutoffs have been linked to cholera and gastrointestinal diseases as those who could not pay began to obtain water from polluted streams. Rates have also increased because simultaneous policies of fiscal restraint have led to privatization as a source of finance to water authorities, and to a reduction of grants and subsidies, which had previously been the main source of financing for the reserved water.

Elsewhere, experiences with water privatization, have fueled a more general fear and distrust of markets for water and watershed services. Most notorious is Cochabamba Bolivia, where privatization was brought to a halt after it led to monthly water bills that were double or triple of what they had previously been. But of equal or greater concern in Andean countries, as in many other places, is a history of encroachment by the state and other more powerful actors, on existing traditional water management institutions that are critical for food security and rural livelihoods. Payments for watershed services are relatively new but concerns about what role markets would play in water allocation are not unfounded and are not merely a matter of semantics. However, it is important to keep in mind that a market is little more than a set of rules that govern the exchange of goods and services. Of these, privatization is only one, and not necessarily the most appropriate for all users and uses. These rules will vary depending on what rights are both recognized and enforced, as well as on the characteristics of what is being exchanged. Water - and watershed services, cannot be bought and sold in the same way as a loaf of bread, or a plot of land. The transaction itself will usually require the negotiation of much more specific rights and responsibilities of all involved.

The right to water is generally defined as "right to access water of adequate quality and in sufficient quantity to meet basic needs," which raises the question of what this includes. Formal

declarations are often deliberately vague, leaving such issues to be resolved in the implementation phase. However, according to Gleick (1999), a formal guarantee of access to clean water may provide justification for giving priority to selected water uses over others. Others advocate that this be supplemented by an ecosystem approach, which would bring recognition of the role of watershed services in insuring access to water (Scanlon et al, 2003).

Ultimately, access to water will depend on the strength of local institutions and on the capacity and relative power of stakeholders, to negotiate and to resolve conflict. Recognition of existing customary institutions and the development of extended networks as a source of political support can be good starting points. A focus on negotiating the details of site-specific watershed agreements and on how to actually improve service delivery, with all options on the table, can also be a good counterweight to abstract debates.

References and further reading:

[African Water Laws: Plural Legislative Frameworks for Rural Water Management in Africa](#) 26-28 January 2005, Johannesburg South Africa. Over 30 papers presented at an International Workshop that discuss the roles and effectiveness of informal customary water management institutions in the context of new formal water policies, primarily in Africa, but including comparisons to Asia and Latin America.

Bauer, C. J. (2004). [Siren Song: Chilean Water Law as a Model for International Reform](#). Washington, DC, Resources for the Future. [In addition to examining Chile as a case study of water privatization, this book presents a good overview of perspectives in this area of water policy.]

Ken Conca (in press) *Governing Water: Contentious Transnational Politics and Global Institution Building* (Cambridge: MIT Press) [Forthcoming - presents case studies on South Africa and Brazil]

Gleick, P. H. (1999). [The Human Right to Water](#). *Water Policy* 1(5): 487-503.

International Working Conference on Water Rights: [Institutional Options for Improved Water Allocation](#). CGIAR Challenge Program on Water and Food, Theme 5: Global and National Food and Water System. (includes several country case studies).

Mehta, L. and Z. Ntshona (2004). [Dancing to two tunes? Rights and market-based approaches in South Africa's water domain](#) (pdf) Brighton, Institute of Development Studies.

Molle, F. 2004 Defining water rights: by prescription or negotiation? *IN:Water policy* 6 (3, 2004): 207-227

Molle, F. 2002. [To price or not to price? Thailand and the stigma of free water](#). Presented at the Conference on Irrigation Water Policies: Micro and Macro Considerations. International Water Management Institute.

Newborne, P. 2004. [Right to water: Legal forms, political channels](#). ODI briefing paper.

Nicol, A. and S. Mtisi (2003). [The Politics of Water: A Southern African Example](#). Brighton, Institute of Development Studies.

Pauw, J. (2003). [Metered to Death: How a Water Experiment Caused Riots and a Cholera Epidemic](#). Washington, DC, The Center for Public Integrity.

[Rights to water: strengthening the claims of poor people to improved access](#). Final Meeting Report. Overseas Development Institute, 22 March 2005.

Rothfeder, J. (2003). "Water Rights, Conflict, and Culture." *Water Resources Impact* 5(2): 19-21. in special issue on [Forging New Rights to Water](#) (pdf)

Scanlon, J., A. Z. Cassar, et al. (2003). [Water as a Human Right?](#) 7th International Conference on Environmental Law, Sao Paulo, Brazil, Law for a Green Planet Institute; IUCN Environmental Law Programme.

Schreiner, B. and B. van Koppen (2000). [From Bucket to Basin: Poverty, Gender, and Integrated Water Management in South Africa](#). Integrated Water Management in Water-Stressed River Basins in Developing Countries: Strategies for Poverty Alleviation and Agricultural Growth, Loskop Dam, South Africa, International Water Management Institute.

South Africa [National Water Resources Strategy](#)

[Water, Human Rights and Governance](#), Proceedings of an international meeting, Kathmandu, February 26th to March 2nd, 2001. Nepal Water Conservation Foundation and The Institute for Social and Environmental Transition (ISET)

Wunder, S. and Vargas, M.T. 2005 [Beyond "Markets" – Why terminology matters](#). Ecosystem Marketplace. (March 22, 2005)

See also:

[The Dublin principles](#) – the 4th of these principles, which were adopted at the 1992 UN Conference on Sustainable Development, define water as an economic good, but also state that "within this principle, it is vital to first recognize the basic right of all human beings to have access to clean water and sanitation at an affordable price."

Other Resources

[Millennium Ecosystem Assessment](#) – This study provides a compendium of information on all ecosystem services. A synthesis report was just released. Payments for watershed services are addressed more specifically in the forthcoming report on Response Options.

About the Flows Bulletin

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