

European Water Corporations and the Privatization of Asian Water Resources

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Contents

- [Adam Smith, "Edifice of \(...\)](#)
- [1. The Shape of the Water \(...\)](#)
- [Yet Another Commodification](#)
- [Adam Smith, Visible Hand \(...\)](#)
- [Water MNC's Foray into Asia -](#)
- [2. Seeking Solutions. Water as](#)

Introduction

Water Security will be the divisive issue of the 21st Century. Water corporations, together with multilateral agencies, are transforming scarce water resources into a profitable commodity. Given the acute state of the water crisis, there is a fear that if water corporations take control of this essential and scarce resource, more people will go without and there will be a loss of livelihood. It is an irony that water corporations are making huge profits in the context of water scarcity. Companies view scarcity of resources and environmental degradation as an investment and business opportunity. The Asian poor - indigenous communities, farmers, women and the urban poor - face the negative impact of water privatization.

Indigenous communities are displaced from their ancestral lands when dams are built; farmers' yields decrease and their livelihood threatened as a result of water corporations' indiscriminate mining of ground water; women have to walk kilometers to get water and return in time to get to work and some continue to depend on contaminated water leading to dysentery and other health problems; rural water wells are unfit for drinking, cooking and bathing as a result of contamination or have dried-up as a result of excessive extraction of water. The poor state of the Asian water supply system is being exploited by water corporations.

At the same time, water corporations take advantage of the resultant scarcity of water and have developed the industry in bottled water. Water corporations extract the water of certain communities and sell the same water to consumers who can afford to purchase it. Such is the story of Coke in India: profits amidst scarcity and misery.

Privatization of water services and turning water into a commodity conflicts with a variety of United Nations covenants and international agreements, which declare that access to water is a fundamental human right. These covenants detail the state's obligations to ensure that all citizens have access to water. Access to safe water, together with improvement in sanitation services, is a critical factor in any effective poverty eradication strategy. The water crisis is a manifestation of a crisis of development. This is because our socio- economic, political, and development priorities do not place people at the heart of the development process and organize resources to meet human needs effectively. Acknowledging that access to water is a human right and promoting the notion of 'water equity for all', could form the basis of a water secure world and an "effective response to

addressing one of the most fundamental failures of 20th century development". (2)

The paper is divided into two parts. The first part places the global/ Asian crisis in perspective. Here, we analyze the nature and character of the Asian water crisis. The second part will look at solutions, namely the human rights to water.

Adam Smith, "Edifice of Social Order" and the Water Crisis

In the *Wealth of Nations* (1776), the economist cum philosopher Adam Smith put forward an abstract but systematic model (involving nature, logic, structure and workings) of the capitalist order. He argued that the self regulating market is both able to discipline the self interests of individuals. Furthermore, he suggested that the invisible hand of the market organizes the pursuit of private gains and maximizes the economic welfare of society. In Smith's conception, the notion of an invisible hand "was not the intentional design of any individuals but was simply created by the systematic working out of natural laws" (Hunt, 1979). (3) Smith's genius lay in his ability to formulate an "edifice of social order" (Heilbroner, 1980) (4), one in which markets glued society together and was rooted in a philosophical and ideological basis.

The present day 'edifice of social order' is fundamentally different from Smith's. The present day market place is structured around a free - trade centered ideology in economic decision making in conjunction with corporate interests and agendas. Both these notions are integrated and re promoted through a rules based multilateral trading system, established and legally enforced by the World Trade Organization. These rules require countries to deregulate and liberalize their investment, trade and finance sectors and dictate a deeper integration into the global market place. As opposed to Smith, the market is governed by a set of rules and regulations established by a supra international institution.

Other institutions that act as custodians and actively encourage a free trade centered, rules based corporate led system include a colourful cast of global institutions including the Bretton Woods Institutions - International Monetary Fund and World Bank, Interregional Banks, and powerful industry lobby groups. (5) Thus, unlike Smith's invisible hand, present day free-trade capitalism is organized and designed by visible protagonists.

The World Trade Organization's agenda promotes corporate led globalization. The current WTO agreements and sets of negotiations, such as the General Agreement on Trade in Services (GATs) and the Agreement on Agriculture, coupled with the proposed 'new issues' (which include competition policy and transparency in government procurement and investment) are all designed to liberalize the various sectors of the developing world so as to create a level playing field benefiting big business, establishing more rights for foreign investors and setting the stage for corporate take overs of domestic firms by multinational companies.

In this new edifice of social order, governments will lose their right to regulate foreign companies and more importantly their crucial role in the development processes. The WTOs efforts aim to promote a global trade and business environment, one that secures global markets and profits for corporations in rich countries. Unlike Smith, in this new order, private gains (both in profits and increased market share) are secured through deliberate policy making, one that favors big business in developed nations.

This paper will investigate European multinational corporation's investments in Asia in the context of the new 'edifice of social order'. It is suggested that the new order creates an enabling environment for European multinational corporations in expanding their trade and investment

activities in Asia. The new social order is an organized effort with an elaborate structure, one with shared vision and long term interests. Rooted in economic free-trade ideology, coupled with legal, executive and judicial support from the WTO, armed with institutional support and legitimacy from the World Bank and the IMF and wedded to compliant and dependent governments, water corporations are the star protagonists of the new social order. They are undertaking a massive scheme to transform access to water from a human right to a commodity, a common good into private property and finally, scarcity of water into a profitable market.

1. The Shape of the Water Crisis on the Global and Asian Level

The relationship between access to water, environment and poverty is particularly critical for the Asian continent given that it is home to about one billion of the world's poorest people. The poor are the most vulnerable when there is an uneven distribution or lack of access to water, or when water is unclean or in short supply. A lack of access to water is intrinsically linked to poverty and unemployment, displacement of peasants and indigenous populations, insecurity in land tenure, and reverses gains in public health and literacy. Women bear the brunt of the water crisis, traveling further to get water and depending on polluted water sources for household activities. Poor families are forced to prioritize between water, food and health care. The acute nature of the water crisis threatens to further exacerbate existing socio-economic disparities in developing countries.

Water shortages and environmental degradation (salinization, water logging, the deterioration of surface and groundwater quality, destruction of soil structure and loss of natural fertility, increases in pest outbreaks and water pollution) coupled with landlessness and farming in low productive areas make farmers' incomes and livelihood uncertain and further entrenches rural poverty. Nepal, parts of China, India and Pakistan have insufficient water resources to meet domestic, industrial, agricultural and environmental demands. Sri Lanka and Thailand are high water stress countries. This situation poses serious challenges for food production and security in developing countries and poses balance of payment problems and further debt exposure.

Decreasing freshwater in Asia coupled with increases in the population rate and combined with rapid industrialization intensifies competition for access to water and has the potential to further worsen existing socio-economic wealth disparities in the region. The Asian Development Bank estimates that "between 1950 and 1995 the per capita availability of water resources dropped by almost 70 per cent in South and Central Asia, by about 60 per cent in North Asia and by about 55 percent in South East Asia. In 2025, water availability per capita in the region will be between 35 and 15 per cent less than the level in 1950. In fact South Asia, with one-sixth of the global population, has the lowest level of water resources per capita". (6) By 2025, half of Asia's projected population of 4.2 billion is expected to live in urban centers and together with industrialization (7) will exert enormous pressure on the availability of water. In Asia, the combination of domestic and industrial water demand is expected to grow at rates between 70 and 345 percent between 1995 and 2025. (8) In this scenario where demand outstrips supply and coupled with various competing needs the burden of a water crisis will be unfairly borne by the poor.

The Global crisis:

- 1.1 billion people do not have access to clean drinking water (UN Human Development Report 2002). Two thirds of the world's population will not have enough fresh drinking water by the year 2025 (World Bank 2002).
- By 2050, 4.2 billion people, estimated to be over 45 per cent of the global total population, will be living in countries that cannot meet the daily requirements of 50 litres of water per person to meet

basic needs (UN World Population Report for 2001).

- Preventable water-related diseases kill 10,000 to 20,000 children every day in the developing world (World Environment News, Reuters News Service 2002).
- 95 percent of sewage and 70 percent of industrial waste were being dumped untreated into water sources in developing countries (UN World Population Report for 2001).
- World population increased three fold in the last century, stretching the use of water resources by 6 fold, according to the United Nations.
3 million people die every year from disease caused by unsafe water (UN Environmental Programme).
- 2.4 billion people in the developing world lack access to basic sanitation (UN Human Development Report 2002).
- 4 billion people are without a safe wastewater disposal system (World Bank 2002).

The Asian Reality

- An estimated 737 million people in rural areas and 93 million in urban areas still have no access to safe drinking water;
- An estimated 1.74 billion people in rural areas and 2.98 billion people in urban areas are denied access to sanitation;
- In 2025, urban cities in the Asia will not be sufficiently equipped to provide the estimated 56 percent of the population with access to safe water or sanitation;
- In India, water consumption among the poor is confined to less than 15 litres per capita per day compared with the better off who consume up to 300 liters per capita per day;
- In China, 400 of the country's 600 northern cities are facing severe water shortages, including half of the Chinese population. The Worldwatch Institute predicts that China will be the first country in the world that will have to restructure its economy in response to water scarcity (9);
- In Manila, the poor pay as much as 10 per cent of their meager household income for poor quality water. In fact the Asian Development Bank indicates the Asian urban poor spend a disproportionately large part of their scarce disposable income on water from private sources;
- In Nepal and the greater Mekong Region village women and children walk several kilometers over inhospitable terrain to fetch water; In rural Nepal fetching water for domestic household use occupies up to four hours a day;
- In Pakistan, India and Central Asia fertile farm land have been turned into waste land as a result of salinization and have plunged farmers into poverty;
- Bangladesh faces serious ground water arsenic and is said to be in the midst of what the World Health Organization calls the largest mass poisoning of a population in history. It is estimated that between one and five million are contaminated with arsenic poisoning (14th July 2002, the New York Times).

[Source: Water for All: The Water Policy of the Asian Development Bank, 2002]

There is no denying that the public sector needs to undertake major reforms in the management and operation, including monitoring and maintenance of pipes and related infrastructure, of the supply of water. In some countries the prevailing public water management systems provides poor quality, contaminated and unhealthy drinking water to consumers. Also, it is estimated that about 40 to 50 percent of clean drinking water is lost through leaks and theft. Debt repayment and a decrease in government public expenditure, as a result of IMF and World Bank programmes, have led to a drop in the quality of drinking water and cuts in water supply and sanitation services in many developing countries.

Furthermore, state water and sanitation infrastructure development strategies are skewed in favor of the urban rich and disadvantages the poor, especially the rural poor. The Water Supply and Sanitation Collaborative Council (WSSCC) estimates that in the 1980's, 80 percent of water investments were spent in providing services for a small number of affluent urban dwellers. (10) Studies in alternative investment strategies indicate that "80 percent of the unserved can be reached for only 30 percent of the costs of providing the highest level of service to all" (Gleick, 1999). (11) The WSSCC has suggested that the cost of supplying basic sanitation services to 35,000 rural people is the same as providing 1000 urban residents with a centralized sewage system. In addition, there is an urgent need to improve the scope, quality and extent of water use data in most countries in order to respond effectively to population increase. The failure to distribute the available water resources equitably is rooted in the misconceived development priorities and a lack of political will of governments and international community.

Governments, instead of ensuring equitable access to water, protecting existing water resources, promoting conservation and safeguarding the ecosystem or helping vulnerable groups, have decided to resolve the water crisis by handing over scarce water resources to the private sector supposedly on the grounds of greater efficiency and productivity. Underlying the privatization efforts of water services is the fact that water is no longer conceived as a human right or a public good but an economic good, a commodity that can be bought and sold to the highest bidder.

Yet Another Commodification: Water as an Economic Good and Uneven Access

The notion of water as an economic good is rooted in the Dublin Principle. The Dublin Principle was an outcome of the 1992 International Dublin Conference on Water and the Environment. The meeting resolved that "water has an economic value in all its competing uses and should be perceived as an economic good". This point is reiterated by the Asian Development Bank's policy paper on water. The policy suggests that "water is largely an economic value in all its competing uses and should be recognized as an economic good, must underlie (sic) all efforts for rational water resource management" (ADB, 2002). (12)

The management of water resources requires a) the formalization and clarification of property rights in water by the state; b) implementing the full cost pricing or recovery principle to improve the efficiency of services and provide additional resources for reinvestments, and c) reflecting the economic value of water in national policies and strategies by 2005 and implementing mechanisms by 2015 to facilitate full cost of pricing for water services. The World Bank suggests that the full cost recovery or economic pricing¹³ and privatization will expand access to clean water and sanitation.

It appears that the full cost recovery notion is a catch-all phrase required to 'get prices right' and the basis of a market demand driven approach to the distribution of water resources. The water sector has been 'unbundled', separating the profitable from the loss making parts; subsidies are explicitly defined and the practice of cross-subsidy in place, with the view of complete phasing out

subsidies in the future, offers a more profitable and lucrative privatization package for prospective water investors. (14) The World Bank perceives the removal of subsidies as a top priority and precondition for the privatization of water services. Furthermore it is suggested that the full cost pricing helps to promote conservation, reducing waste and mobilizing resources. (15) In short, the underlining message behind the full cost recovery principle is that water should be treated as a commodity and priced to reflect its value, otherwise much of it will be wasted.

The Asian Development Bank's full cost recovery strategy indicates that "consumers will be expected to meet the full operating and maintenance costs of water facilities and service provision in urban and rural water supply and sanitation schemesLikewise requiring the poor to pay for the true costs of urban and rural water supplies is possible" (ADB, 2002). (16) In practical terms, full cost pricing in the agricultural sector would result in farmers absorbing the entire financial cost of water services. This would involve farmers absorbing the costs of operations, maintenance, rehabilitation, capital expenditure and cost of debt servicing as well as the opportunity costs of water.

A strategy where farmers absorb the entire cost of supply favors big farmers and export centered agri-business, business and investment operations preferred by the World Bank, but marginalizes small farmers. In the Asian context, 60 -70 percent of the Asian farming sector is made up of small and poor farmers with less than 1.5 hectares of land ownership. Any increase in the cost of farm production would worsen existing landlessness, debt exposure, poverty and loss in livelihood among small farmers in the region. Furthermore, poor farmers might not be able to pay exorbitant prices for water services at times of poor harvest or low market prices for their produce. A market driven approach to the allocation of water services will not lead to an adequate and equal access of water.

Presently there is an effort by water corporations to introduce pre paid cards for the consumption of water. Consumer get access to water by inserting the prepaid card into the meter and the balance is adjusted depending on consumption and the remaining credit displayed. Corporations prefer such a system because the pre paid card system, inter-alia guarantees full cost recovery, quick detection of water theft, substantial administrative cost savings and self disconnection since the service is terminated once credit is depleted. The pre paid card system is being practiced at least in 10 developing countries albeit it has been declared illegal under the U.K. Water Act of 1998 for health reasons. Cutting off water supply or self disconnection has led to major disease breakout such as dysentery, cholera and other water borne disease in the developing world. (17)

The distribution and access to water organized around rules of the market place and the profit motive (18) ensures that only communities and individuals who can afford to pay for water services will have access to safe drinking water (19), contrary to the promises of 'efficiency in allocation' proponents. Privatization has the potential of instituting a 'resources/ water divided' society, one group that can afford to pay for resources and another category of people who cannot get access to water resources, a reflection of the larger societal divide between the poor and rich. As an economic good, water is subject to dictates of the market place, governed by international trading regimes and business behavior. It allows for the take-over of domestic water resources through mergers and acquisition by transnational corporation. The market system undermines the role of government as a provider of a basic human need and guarantor of basic human rights. (20).

Adam Smith, Visible Hand and Water as Big Business

Water a global common good has come under the control of market forces. This is because water promises to be to the most precious commodity of the 21st century profiting corporations. The global trade in water is currently estimated to be US\$ 800 billion involving about 6 percent of the world

population receiving services from corporations. However, the global trade is expected to be a multi-trillion dollar industry in the near future when privatized water systems expand to serve about 17 percent of the world's population by 2015. The Big ten multinational corporations control the water market and related industries. Nine of the 10 largest water corporations in the world are located in Europe (21) and can be divided into three distinct tiers.

The first tier comprises of the two most powerful water multinational corporations in the world: Vivendi Environment and Suez Lyonnaise des Eaux, both based in France. Suez Lyonnaise operates in about 130 countries, supplying water to about 115 million people. Vivendi Environment operates in about 100 countries through 3,371 companies with a 110 million customer base. Both these corporations collectively control approximately 70 per cent of the existing world water market and enjoy combined annual revenue over UD\$ 70 billion, including over US\$ 10 billion in direct water services. In 2001, almost half of Vivendi Environment's US\$ 26 billion in revenue came from water and about one quarter of Suez's US\$ 38 billion in revenue was generated by its water division, Ondeo.

Suez Lyonnaise is presently expanding its water investments in Southeast Asia, the Pacific and China. Ondeo invests in various Asian cities namely Jakarta, Manila and Sanya (China), Malaysia amongst others. In Asia Ondeo provides 23.5 million people with drinking water and 4 million with sewage treatment. Vivendi Environment operates in 14 Asian countries including South Korea, Tianjin China, Japan, Philippines, India and Malaysia for over 20 years. Vivendi Environment net sales in the first six months of 2000 increased 41.3 percent to 12.1 billion euros compared with 8.5 billion euros of the first six months of 1999. (22).

The second tier grouping involves four global corporations: Bouygues-SAUR, RWE-Thames Water, Bechtel-United Utilities, Enron-Azurix. Bouygues operates in 80 countries through its water subsidiary SAUR. Bouygues is said to be considering "massive expansion" in China. In 1999, Thames Water was acquired by the German electrical company RWE for US\$ 9.8 billion. Presently, the French domination of the global water trade is challenged by a third global player, RWE - Thames Water.

The third tier category involves four smaller water corporations: Severn Trent, Anglian Water and the Kelda Group. These three British corporations together with RWE-Thames Water control the British water market. The fourth corporation in this tier is the American Water Works Company which acquired the now financially beleaguered Azurix, a subsidiary of bankrupted Enron.

The privatization of water services in developing countries offers a huge market potential for the Big Ten. The UK based water resources consultant Water Policy International Ltd indicates privatization of water and sanitation service in Asia will increase from 1 percent in 1997 to 20 percent in 2010. For the same time period about 24 per cent of the water and sanitation services in Europe - excluding France and the UK - was privatized, compared with 5 percent in North America, 4 percent in Latin America, 3 percent in Africa. By 2010, privatization activities will expand across the board in all continents but a significant upsurge in the developing world - in Europe to 55 percent, 15 percent in North America, 60 percent in Latin America, 33 percent in Africa. (23) The water resources of the developing world including Asia's is are lucrative markets, ripe for take over by water corporations.

The Big ten use various corporate strategies to organize and expand their control of the global water industry. (24) These corporations' global control and outreach is made possible through joint ventures, strategic alliances, partnerships, one-contract partnerships and acquiring of smaller companies. (25) Underlying the strategy is to acquire market share, access to new technology and geographical outreach, local knowledge, marketing and local connections. Furthermore, water corporations push for the privatization and ownership of the water infrastructure but more

importantly attempt to control the rights to water access through licenses giving rights to water sources in countries. The Big Ten target countries that are undergoing privatization and deregulation of their water sectors.

There is an intertwined relationship with a common motive between the Big Ten and their respective home financial institutions. Water corporations receive funds from banks whose representatives sit on their Board of Directors and who have dominant shareholding positions in water corporations. Suez Lyonnaise director Lucien Douroux is the Chief Executive of the Caisse National de Credit Agricole, a leading financial French financial institution which is one of the largest shareholders in two of the major French multinational corporations, Suez and Bouygues. (26) With a financial infrastructure in place it is no wonder that Big 10 has been able to push for privatization of water resources.

The World Trade Organization's multilateral General Agreement on Trade in Services (GATS) forces countries to open-up their water sector to global water corporations, thereby accelerating commodification of water and privatization of public water services all over the world. The WTO 2001 Ministerial in Doha launched trade negotiations on nine topics including the GATS agreement. It was decided that initial requests of member nations will have to be made by 30th June 2002 and offers for specific commitments be decided by 31st March 2003. A final decision will have to be made by the next Ministerial in 2004.

The European Commission's detailed requests to WTO members were leaked to the Netherlands based NGO Corporate Europe Observatory (CEO) which was made public through its GATSwatch website [1]. The leaked document outlines detailed requests to 29 countries including various OECD states and developing nations such as Malaysia, China, Venezuela and Brazil. The leaked documents stipulates the European Commission requests for substantial commitments in sectors such as municipal water and waste services, energy, tourism, postal services, banking, insurance, health and telecommunications from WTO partner countries.

The European Commission leaked document to the Malaysian government entitled: 'GATS 2000 Request from the EC and its Member States to Malaysia' requests the Malaysian government to substantially commit the environmental services (27) to foreign competition and requests Malaysia to undertake full commitments for market access and national treatment. The principle of national treatment suggests that an imported product must be accorded treatment no less favorable than that accorded to the domestic product and is designed to offer rights and protection for foreign multinational corporations. The European Union is using the WTO and the multilateral GATS agreement to open-up water services to foreign competition (28) in developing countries. More importantly, it is obvious that the European based multinational service corporations interests are being served in the EU trade policy. Also, there is a real worry that the GATS agreement would be used to challenge the right of governments to require foreign Multinational Corporation's subsidies water access to the poor. (29) In the case of water services the EU is pushing the global agenda of water corporations such as Vivendi and Suez to conquer the global water trade. (30)

Why the WTO? This is because WTO multilateral trading agreements and trade rules are legally binding and member nations have recourse to the WTO Dispute Settlement Body. Violations of trade rules between trading partners can be referred to the Dispute Settlement Body which is empowered to impose fines, restrictions, and trade sanctions. Essentially, the WTO would administer and enforce global trade rules brought by countries on behalf of their respective corporations. The WTO dispute mechanisms over the year have acquired: judicial, legislative and executive powers. Once, countries sign on to the GATS agreement, it can be expected that their water services will be up for conquest by water corporations and their rights legally protected by the WTO.

The Bretton Woods institutions actively advocate commodifying and privatization of water resources for profits. Both the IMF and the World Bank push privatization policies and market based solutions as a strategy to create jobs, spur economic growth and reduction of poverty in the developing world. Water privatization is one of the many conditions that determine the extent of loans under the World Bank's Country Assistance Strategy (CAS), a project undertaken in collaboration with the International Finance Corporation (IFC). (31) In fact, not only does the World Bank nudge developing countries to privatize water resources but more importantly, the Bank loans funds, syndicates loans, invests directly in corporations undertaking business in developing countries. (32) However, private investments in the water sector are subject to governments undertaking reforms in their respective legal, regulatory and institutional structures.

The IMF - WB - WTO nexus serve to create an enabling environment for water corporations vis-à-vis creating a profitable investment environment in developing countries. The IMF-WB-WTO nexus initiatives are coordinated and realized through a mechanism called the "Integrated Framework". Specifically, through the "Integrated Framework", "GATS ...regulatory and legal reforms needed to improve investment climates, are proposed as policy advice or imposed on governments through IMF or World Bank loan conditions". (33) The handmaiden role of the IMF- WB - WTO is designed to minimize investment risk and guarantee profits for water corporation in developing countries.

The Visible Hands or what is called in the World Bank's lexicon "partnership organizations" orchestrate the transfer of the public sector control of water services into private hands. The Visible Hands argue that water is an economic good that should be privatized for efficient distribution of water services for profits. The Visible hands are an integrated network of international multilateral agencies, industry and political lobby groups, financial institutions think- tanks, professional bodies and industry captains represented in global water agencies. (35) The Visible Hands forge a formidable political presence and combined with corporate - government relationships and acquire considerable capacity to pressure developing countries and influence their own national governments in terms of economic decision making, legislations and awarding of contracts.

The purpose of the Visible Hands is to create an enabling environment - institutional infrastructure at the country level including embracing of uniform global rules and political and social legitimacy for water commodification; privatization of the world's water resources and services for profit and the notion that water is an economic good. The Visible Hands efforts are supported by the World Bank dictating reforms in the legal, regulatory and institutional structures of countries. (37) The World Bank promotes these reforms through its loan conditionality besides requiring countries to privatize their water resources. (38)

The Visible Hands agenda coincides with the demands of water corporations. Speaking at a Multi Stakeholder Dialogue, on behalf of business and industry, the representative of the water corporation, Alain Mathys indicated five points in solving the water problem i.e scarcity. He suggested that a) creating an enabling environment b) regulatory framework, c) removing water barriers, d) fostering partnerships; and e) valuing water - would solve water problems. He said that the issue was not the merits of public versus private provision of water services, but was efficient and inefficient. (39)

In addition, various international water industry lobby groups promote the privatization of water resources and influence policy decision making of the international financial institutions and nations. The global water industry lobby includes: the Global Water Partnership (GWP), established in 1996, promotes the privatization of water services and is funded by government aid agencies and international financial institutions like the World Bank and Ford Foundation. The GWP's Advisory Board includes representatives of the World Bank and Suez Lyonnaise des Eaux.

The World Water Council (WWC) is a leading water policy think-tank involving government water ministers, global water corporations, financial institutions, outlined a water privatization agenda in its World Water Vision report that was funded by the Canadian International Development Agency, Suez Lyonnaise des Eaux, the UNDP among others. The former Managing Director of the IMF, Michel Camdessus, head the panel of distinguished financial experts of the WWC.

World Commission on Water (WCW) co-sponsored by the World Bank, the governments of Canada and Netherlands and various UN agencies with a mandate related to water. It is suggested that the commission given its direct links to the GWP and WWC, promotes the privatization of water. (40)

The supposedly neutral international water agencies - the Global Water Partnership and World Water Council (WWC) - posit water corporations as partners of development by pushing the rhetoric of environmental sustainability, local participation, gender, poverty reduction and job creation - while promoting water as an economic good and should be valued on market principles and privatization of water resources of nations.

In March 2000, at The World Forum on Water organized by the World Water Council (WWC) at the Hague, "clearly proposed the commercialization of water through a worldwide private oligopoly", according to Ricardo Petrella a leading researcher on the privatization of water. He further suggests that "During the 1990s, an international general staff on water was established around the WWC, in which the private multinational enterprises belonging to this oligopoly are represented, This means that the international committee that studies the global problem of water is at the same time partially controlled by the companies that eventually would profit from the solutions the committee proposes". (41) At the Hague water conference access to water was defined as a universal need as opposed to a fundamental human right in order to provide corporations a commercial basis to their acquisitive behavior.

Water MNC's Foray into Asia - Some Observations

Various tendencies emerge as water corporations venture into the Asian water services market. First, these corporations provide water services to countries with high water stress and water scarcity such as India, China and Bangladesh. Thus, water corporation view water scarcity as a business opportunity. Second, a significant number of Asian water investments are funded by the Asian Development Bank and World Bank. Countries receiving loans from either of these financial institutions must undertake water sector reforms as prerequisite for investments. These reforms as in the case of China include, full cost recovery and the elimination of subsidies. South Korea had to change its laws in order to allow foreign direct investments into the country's water sector.

Third, water corporations rival domestic companies for market share as in the case of package mineral water industry in India. In fact these companies expand market share and presence rapidly by merging with and acquiring local companies including technologies and licensing. Four, water corporation enter into agreement with governments in order to win contract at all costs. Once 'locked in' these companies are in a stronger position to negotiate for better prices when their investments begin to show lower returns as in the case of Mayniland Water Services, Inc in the Philippines. Also, contractual obligations, lack of transparency and corruption in awarding of contracts, government -business relationships and cronyism compromises government ability to intervene in the interests of people.

Five, water companies investments activities are in areas of designing, construction, co-financing, managing and operating water systems, including purification, diversion, desalination and packaging mineral water but not in conservation activities. Essentially, water corporations convert existing

scarce fresh water resources from a social good to a commercial product. Profitability depends on more water consumption rather water conservation. Contrary to industry claims, privatization of water services is antithetical to sustainable resource management. (42)

Six, water corporations supposedly promoting sustainable resource management contribute to destroying water security in various regions of the world. Vivendi's Onyx, the waste management unit, collects the city's 1000 tons of garbage on a daily and dumps it around the freshwater wetlands of Pallikarani, considered to be one of the most important freshwater eco-systems in Chennai. (43) This reality is "depressing, especially because the same players entrusted with improving the hygiene and sanitation in the city also stand accused of degrading a large and critical freshwater wetland in the city". (44)

Seven, privatization of water services requires large scale project financing disadvantaging local companies. This is because big businesses have the capacity, manpower and financial resources and the networking to develop and secure these projects. The World Bank appears to favor funding large multi-utility service providers. Corporations such as Vivendi with diversified businesses in construction, energy waste management, and water distribution are better positioned to undertake large projects. Taken together, these factors invariably give big business an in-built advantage, developing water resources of developing and less developing nations.

Global water corporation investments in Asia include:

In China:

- In March 2001, Vivendi secured a US \$ 20 million, 20 year contract to operate and renovate water plant in Tianjin, China. In December the ADB extended a US \$ 130 million loan to support the construction of the plant.
- The ADB loan conditions included a) full cost recovery; b) the elimination of subsidies; c) the restructuring of sewer and raw water supply firms into commercially viable enterprises. (45)
- In 2002 both Suez and Vivendi signed long-term deals, some for up to 50 years, to manage municipal water systems in China, which faces huge water shortages.
- In March, 2002, ONDEO, Suez's water division, was given a 50 years contract worth Euro 600 million to design, finance, and manage water treatment installations and services for the Shangai Industrial Park's industrial waste.
- The Asian Development Bank assisted the Chinese government to help design the full cost pricing or recovery system to be implemented in various parts of the country. ADB invested US \$ 1.5 million in designing the full cost pricing or recovery system. (46)
- Vivendi's Generale des Eaux and Marubeni Waterworks Company limited are involved in bulk water schemes in Chengdu China with 'take or pay' contracts, which ensures profits by requiring consumption of regardless of need. The European Investment Bank loaned US \$ 26.5 million and the Asian Development Bank lent US \$ 48 million towards financing the projects.

In India:

- New Delhi's water supply is being privatized to Vivendi.
- In 2000 Vivendi secured a US \$ 7.2 million drinking water management in the State of Calcutta, according to the Global Water Report.

- In September 2000, Vivendi Water and Northumbrian Water Group (NLI) were offered a contract by the Bangalore Water Supply and Sewerage Board (BWSSB) to manage the water services in two pilot projects comprising one million people each. The BWSSB would consider a 30 year contract to both these water corporations if the pilot project proves successful. The privatization of the water services is part of the BWSSB efforts to privatize the entire water supply in the city under the AUS-AID programme, with the assistance of the Australian government. (47)

- Degremont, a subsidiary of Suez is undertaking a design build and operate drinking water production in Sonia Vihar, New Delhi. The contract is worth Euro 50 million. The plant is expected to provide water services a population of 3 million New Delhi. (48) The Water for the Suez-Degremont plant in Delhi will come from Tehri Dam. Farmers have protested as a result of a loss in water for farming.

- Coke Cola, Pepsi, Nestle and Danone are vying for the Indian packaged mineral water market worth between Rs 8 billion and Rs10 billion. Coke's Kinley entered the market in 1993 and has since secured a thirty percent of the market through buy-outs and exclusive licensing deals. Kinley is being manufactured in 15 bottling plants across India. Pepsi's Aquafina has control of 11 per cent of the market since its launch two years ago. (49)

Thirty cities in the States of Maharashtra, Karnataka, Andhra Pradesh, Tamil Nadu and Rajasthan are preparing for privatization of their respective municipal water supply system. (50)

- Monsanto, a chemical and agricultural corporation is acquiring water resources and related technology through joint ventures and equity in various companies in the country. The company expects to earn revenues of US \$ 420 million and a net income of US \$ 63 million by 2008 from its water business in India and Mexico.

- Vivendi's Onyx specializing in waste management was awarded the contract to manage garbage and street litter in the in Chennai, a major port city in southern India. The company is paid US \$ 13,700 a day to collect and dispose garbage in three key areas in the city. Its sister organization, Vivendi Water was given the contract to manage the water services in the city.

In South Korea:

- In 2000, Vivendi Water Korea, a subsidiary of Vivendi Environment was established, acquiring the industrial water treatment facilities of Hundai Petrochemicals for US\$ 125 billion, located in the Daesan Industrial Complex, South Chungchong Province.

- In March 2001 Vivendi Water Korea established Vivendi Industrial Development by acquiring industrial water and wastewater treatment facilities at Hynix complex in Incheon. The contract with Incheon municipality provided for the construction and 20 year operation of two wastewater treatment in partnership with Samsung Engineering.

- In March 2001, Vivendi secured a contract with the state of Chilgok for the operation of two existing wastewater treatment plants over a 23 year period and the design, financing, and construction of a new plant This project would be in partnership with the Hyundai Construction.

- Both the Incheon and Chilgok project were made possible after the introduction of legislation to attract foreign direct investment in the waste water sector in Korea. Expected revenues from the two contracts are estimated to be over EUR 20 million annually. (51)

- In January 2002, Ondeo signed a build operate and transfer wastewater contract worth Euro 200 million with Yangju, an urban city located outside of Seoul. (52)

- In April 2001, the Korean city of Pusan contracted Ondeo to manage its wastewater management.

The Philippines:

- In 1997, the World Bank arranged the privatization of the water services in Manila. The contracts were awarded to Mayniland Water Services, Inc (MWSI) and Manila Water. MWSI is owned by the wealthy Lopez family's Benpres Holdings, and partly owned by Ondeo a subsidiary of Suez Lyonnaise des Eaux. Manila Water is owned by Ayala family, and backed by Bechtel. (53)

In 2001, 11 French consultants were paid P 168 million by Ondeo. Of this amount, P110 million was for consultancy services. These consultants were taxed at a rate of 5 percent as opposed to the standard rate of 10 percent. (54)

- Vivendi Water Philippines 25 year build-operate-transfer proposal to operate and develop the water systems on Roxas City, Capiz has been put on hold by the Regional Development Council Region VI. The RDC indicated that Vivendi's proposal was not clear in the way the loans of the Metro Roxas Water District would be assumed by the global water corporation.

Indonesia, Vietnam, Malaysia, and Bangladesh:

- In October 2001, Ondeo won a 25 year contract for servicing and distribution of drinking water in Tangerang Indonesia.
- In July 2001, Suez Lyonnaise subsidiary, Lyonnaise Vietnam Water Company (LVWC) was given the contract to construct and operate a treatment plant with a daily capacity of 300,000 cubic meter under a 25 year build-operate-transfer (BOT) contract in Ho Chi Minh, Vietnam. Presently, one third of households in Ho Chi Minh City depend on private vendors for water. The LVWC is a private company. Suez owns 70 percent; Tractebel of Belgium owns 20 percent and Pilecon Engineering Berhad of Malaysia owns 10 percent of LVWC. The ADB views this project as encouraging step towards promoting private sector participation in the country.
- In 1998, Vivendi acquired a 26 percent stake in Intan Utilities for FF 144 million, the concessionaire for the potable water production in the state of Perak, Malaysian. It expects to triple Intan's annual turnover of FF 90 million by 2008. (55)
- The Degremont, a subsidiary of Suez Lyonnaise is involved in building, designing and operating a drinking water production in Bangladesh.

2. Seeking Solutions. Water as a Human Right and State Obligations

The support for the human rights to water in UN covenants and agreements and international law can be categorized into two categories. The first category involves the implicit support for access to water as a right prior to the 1970's. The second category stipulates the right to access to water in explicit terms, influenced by a series of international environmental and water conferences. The Chairman of the European Council of Environmental Law, Alexandre Kiss, states that right to water is one of the first substantive environmental rights recognized internationally. Water as a human right and a basic human need is stipulated implicitly by international law and various United Nations declarations requiring state obligations and practices. Water as a human right is explicitly enshrined in the Convention of the Rights of the Child (1989) (56) and implicitly, as a precondition in the "component elements of an adequate standard of living" in the Universal Declaration of Human Rights (1948). (57) Article 25 of the Declaration indicates "Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food,

clothing...housing (UN General Assembly, 1948). Clearly, Article 25 cannot be satisfied without access to water as an implicit right and a component element. (58). This is because adequate quantity of water of sufficient quality is required to maintain human health and well being in order to satisfy Article 25. (59)

The access to water as a - precondition and a derivative right - is vital in meeting the explicit rights to health, food, an adequate standard of life and development is stipulated in the various United Nations covenants. In a recent review of major human rights progress over the past 50 years, there is support for the notion of the right to water as implicit in the rights guaranteed by the 1966 International Covenant on Economic Social and Cultural Rights (ICESCR): "There is nothing ill-defined or fuzzy about being deprived of the basic human rights to food and clean water, clothing, housing, medical care and some hope for security in old age. As for legal toughness, the simple fact is that the 138 governments which have ratified the International Covenant on Economic, Social and Cultural Rights have a legal obligation to ensure that their citizens enjoy these rights". (60)

Article 6 of the 1966 International Covenant on Civil and Political Rights (ICCPR), states that: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life". As in UNDR, and the ICSECR there is no mention of access to water as a explicit right but the right to life implies the right to the fundamental conditions to support life, namely access to water resources among others.

Beginning in the mid 1970's there was a clear and explicit recognition of the right to water as a human right. The 1977 Mar del Plata water conference indicated that: "... all peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs" (United Nations, 1977). (61)

In 1986 the United Nations adopted the Declaration on the Right to Development (DRD)(United Nations 1986). Article 8 of the Declaration states: States should undertake, at the national level, all the necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources..."The United Nations in interpreting article 8 of the DRD, includes water as a basic resource when it states that the persistent conditions of underdevelopment in which millions of people are "denied access to such essentials as food, water, clothing, housing, and medicine in adequate measure"represents a clear and flagrant"mass violation of human rights" (United Nations, 1995). (62) It is suggested that States should progressively meet the needs of the people to the extent resources permit, as stipulated by the ICESCR. Implicit in this proposition is that resource limitations should not constraint efforts to provisioning of water as a right. (63)

The State has an important obligation to ensure the access to water as a right to its people, especially the poor and vulnerable groups. In Asia, the Supreme Court of India stated that "there is a duty on the State to provide clean drinking water to its citizens". (64) Perceived from a legal standpoint and a human rights framework, legal scholars have suggested that the State has the "due diligence obligations to safeguard these rights", the right to sufficient water to sustain life as a matter of priority. (65) States by acknowledging these rights have an obligation to translate these rights into specific national and international legal obligations and action plans. By "emphasizing the human right of access to drinking water does more then emphasizes its importance. It grounds the priority on the bedrock of social and economic rights, it emphasis the obligations of states parties to ensure access, and it identifies the obligations of states to provide support internationally as well as nationally". (66). In framing the access to water as a right, States' priorities and obligations are to meet the basic need of its people over investment decisions.

Water is perceived as a gift of God to Her/His people. This notion is rooted in the belief systems of

various religions traditions, cultures, and customary rights and is perceived as a common heritage for all people. In Samoa, water is perceived as a gift of God and therefore its provisioning should be free. In India, water is understood to be "life itself, on which our land, our food, our livelihood, our tradition and culture depends. As "the lifeline of society", water is "a scared common heritage...to be worshiped, preserved and shared collectively, sustainability used and equitably distributed in our culture". (67) A divine gift of God cannot be considered in the same category as other commodities. In various cultural beliefs and traditions, water cannot be refused to those who need it and should be made available to vulnerable groups. In short, water as a gift of God cannot be transformed into an economic good with a profit motive but needs to be shared for the betterment of people.

The fight, protest and public outcry - against privatization of water and sanitation services - are erupting in many countries in Asia and other countries in the developing world. Farmers, indigenous communities and the urban poor facing the brunt of the water crisis are in the fore front of these protests. In India, local communities are striking against Coke Cola indiscriminate mining of ground water which contributes to the drying up many wells and contaminated the rest.

In Thailand there is an ongoing struggle on issues related to the Pak Mun Dam, a dam that was built with the support of the World Bank. Twenty five thousand fishermen lost their livelihood as a result of the construction of the dam. The villagers are demanding the removal of the dam, the restoration of the river it blocked and recovery of fisheries. (68) In March 1999 in order to press further with their demands the villager's set-up a "protest village" near the dam. A major anti-dam movement has developed in India Violent protests have erupted in Pakistan over water scarcity, Pickets and various forms of protest are being organized in the region. It appears that the fight for the access to water, water equity and security, the source of life, will be the defining battle of the 21st Century.

Charles Santiago, Monitoring Sustainability of Globalization (MSN), Malaysia

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- 5 The incoming WTO Director General Designate Dr Supachai Panitchpakdi plans to introduce a code of conduct for MNC's is facing resistance from developed countries. At a recent keynote address he talked of his plans, "to introduce, some sort of a code of conduct. Which is something that I'm not getting support from countries around the world, particularly some advanced countries, they see it that I'll be trying to intervene too much into the corporate sector's movements. But what I'm trying to suggest is that while we are trying to put up new regimes, new agreements, new rules for countries to abide by, we don't seem to have any rules for the multinationals and transnational corporations to go by." (keynote speaker at the World Development Movement's annual conference Whose Rules Rule? Trade, Debt and Corporate Power, held at the Institute of Education in Central London on 8 June 2002).
- 6 'Future Resource Stress' in Water for All: The Water Policy of the Asian Development Bank, 2002.
- 7 Industrial water use in Asia is expected to increase seven times between 1995 and 2025. It takes about 400,000 liters of water to produce one car. The electronics industry is a water intensive industry.
- 8 'Regional Issues and Impacts' in Water for All: The Water Policy of the Asian Development Bank.

2002.

9 Cited in Barlow, Maude, Clarke Tony Blue Gold: The Fight to Stop the Corporate Theft of the World's Water. The New Press, New York (2002) p. 22-23.

10 Cited in Gleick, Peter. 'The Human Right to Water'. Pacific Institute for Studies in Development and Security, 1999, p. 10.

11 Gleick, Peter. 'The Human Right to Water'. Pacific Institute for Studies in Development and Security. 1999, p. 10.

12 Asian Development Bank "Water as a Finite and Economic Good, Water in the 21st Century: Elements of a Water Strategy 2002.

14 The Asian Development Bank policy paper on water states "Subsidies are a controversial issue in the water sector. ADB will support subsidies for water services in the following circumstances: (i) where treated water uses have beneficial external effects in preventing health problems, (ii) where the transaction costs of measuring usage are very high, (iii) where a limited quantity of treated water for the poor is regarded as a basic human need. Taken together, these circumstances may justify a limited lifeline element in tariff policy. Other forms of subsidies, such as cross-subsidization between systems, will be reviewed to ensure that targeting is efficient and transparent. However, in the long run, governments and regulatory agencies will be persuaded to phase out subsidies as economic conditions improve" 'Conserving water' Water For All: The Water Policy of the Asian Development Bank. 2002.

15 World Water Commission. Cited in Alexander Nancy. 'Who Governs Water resources in Developing Countries? A Critique Of The World Bank's Approach To Water Resources Management' New and Services Volume 2 , Number 7 Summer 2002 p 14. This is a publication of the Citizens' Network on essential Services (CNES).

16 Asian Development Bank 'Conserving Water: Water for All: The Water Policy of the Asian Development Bank'. 2002.

17 More on pre-paid water meters and its human consequences go to:

www.citizen.org/cmep/Water/cmep_Water/wssd/articles.cfm?ID=8210.

18 The Malaysian Works Minister Datuk Seri S Samy Velu responsible for water services in the country indicated that "According to the ADB, governments must open up and privatize the water management sector and allow investors to set up their own charges to ensure investments are profitable" 'Driving headlong into Privatization' The Edge Malaysia. June 3, 2002, p. 67.

19 This privatization strategy might not be efficient in conserving scarce water resources. Here the strategy is not to ensure equitable access to water but promote greater consumption of water by those who can pay, the basis for greater profits. The rich will be able to pay for water services and consume more water even if it is for unproductive activities. The phenomenon invariably ensures the poor are disadvantaged.

20 The private sector views the role of government as an a) impartial administrator of essential rules; b) calls on governments to work together to design the multilateral rules with the private sector; c) less regulatory roles of government. Dialogue Sessions: Water for Basic Needs, Energy for a Sustainable Future. 8th Informal Meeting of Environment Ministers, Bergen Norway UNED Forum 2000.

21 They include three French transnationals - Vivendi, Suez Lyonnaise des Eaux, Bouygues; five English based companies - United Utilities, Thames Water Plc, Severn Trent Plc, Anglian Water Plc and the Kelda group (previously known as Yorkshire Plc); and one German utility company RWE Aktiengesellschaft. Included in the Big Ten of water corporation is Enron the US based multi-utilities company. With the exception of Seven Trent Plc, the RWE Group and Enron, all the other water corporations have investments in Asia.

22 Vivendi: almost 50% increase in net sales for the first half of 2000 PSIRU News Service, University of Greenwich.

23 'Driving headlong into Privatization' The Edge Malaysia. June 3, 2002, p. 67.

24 These corporations target four sectors in the water industry: water and wastewater services,

water treatment, water-related construction and engineering, and innovative strategies. Other targeted sectors include, ownership of dams and waterways, marketing of bottled water, development in water-bag technologies that will facilitate the transportation and exportation of large quantities of water in large, sealed fabric bags. The bottled water industry is the fastest growing industry in the world, estimated to be worth US \$ 22 billion annually.

25 This effort involves a) corporations entering into a public-private partnership or private joint ventures with local and regional firms; b) corporations acquire shares in local or regional firms with the view of gaining control of these firms and turning them into subsidiaries; c) corporations buy-out smaller local and regional firms in order to gain local market access or licensing, and acquire new technology - such as water purification and filtration technology or desalination - through strategic alliances. The Big Ten is known to forge partnership among themselves or be part of consortiums in bidding for contracts to provide water services.

26 Yaron, Gil The Final Frontier: A Working Paper on the Big 10 Global Corporations and the Privatization and Corporatization of the World's Last Public Resource. Polaris Institute 2000.(Draft)

27 Environmental Services identified for commitment include: water for human use and wastewater management, solid/hazardous waste management, protection of ambient air and climate, remediation and clean-up of soil and water, noise and vibration abatement, protection of biodiversity and landscape, and other environmental and ancillary services.

28 Bridges Between Trade and Sustainable Development - A special Johannesburg Summit Issue. A publication of the International Center for Trade and Sustainable Development. June 2002, p. 3.

29 Ibid.

30 Lawrence Summers, a former World Bank economist, Deputy Secretary of Treasury under Clinton indicated "that global trade policy should be to 'lock - in' gains and ensure viable investment opportunities for OECD countries'. Dunkley, Graham in The Free Trade Adventure: The WTO, the Uruguay Round and Globalism. Zed Books. London 2000.

31 The IFC is the private sector lending arm of the World Bank.

32 The World Bank and the IFC by investing its own money or making loans without state guarantees "seeks to assure private sector investors - both national and international - that investments in developing nation markets are worthy risk. In this manner, the IFC says it is catalyzing much greater private sector investment in frontier areas - developing countries and sectors that might otherwise be overlooked were it not involved".

35 Rene Coulomb a former director of Suez Lyonnaise des Eaux is the vice president of the World Water Council and an influential member of the steering committee of the Global Water Partnership. Jerome Monod, chair of Suez's supervisory board is a member of the World Commission of Water (WCC).

37 The legal, regulatory and institutional reforms include: a) legal and regulatory reform granting private sector operators equal treatment to public providers; b) separation of regulatory and operator functions, and development of an independent and autonomous regulatory function; d) establishment of tariff structures based on full cost recovery and automatic adjustment with the rate of inflation; e) decentralization of rural water services from national to local government control; f) "unbundling" or separation of profitable and unprofitable sectors of the water service; and g) definition and establishment of water rights and licenses (Grusky Sara, p4; ADB, 2002).

38 It has been suggested that of the 40 IMF loans approved in the year 2000, 12 loan agreements had water privatization requirements (Grusky, Sara).

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for "dumping indiscriminately on wetlands" ...As a multinational company, they should know better than dump waste in such sensitive areas" Cited in Jayaraman, Nityanad 'Trashing Water is Good Business For Water' Corpwatch India. March 25, 2002.

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57 United Nations General Assembly Universal Declaration of Human Rights. Resolution 217 UN Doc. A/64 1948.

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P.S.

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Footnotes

- [1] <http://www.gatswatch.org/requests-offers.html>