

Is Water a Human Right?

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Hundreds of millions of people around the world lack regular access to clean water and sewerage. In many parts of the globe, obtaining water for everyday use requires an enormous diversion of time and effort. And beyond thirst and reduced productivity, the lack of clean water has very serious health consequences: Dirty water can transmit parasites, bacteria, and viruses and can inhibit sanitation, resulting in millions of cases of water-borne diseases each year, many deadly. The “global crisis in water,” as a 2006 United Nations report put it, “claims more lives through disease than any war claims through guns.” In short, the unavailability of clean water easily ranks among the most serious problems facing humanity.

Over the past decade, clean-water scarcity has been the subject of hun-

dreds of academic studies, improving our understanding of its causes and its scope and identifying many possible solutions. At the same time, however, the problem has also been the focus of a burgeoning activist

movement that tends to be less reflective and less constructive. These activists deem access to water a human right—one that is under constant assault by corporate malefactors.

Two recent documentaries, *Thirst* and *Flow*, make the case for the water-rights

movement. They are cinematically beautiful, showing vividly colorful locales; stunning footage of water dripping, trickling, splashing, and crashing about; and dozens of scholars and activists who can be admired for their energy and passionate commitment to ameliorating very real health and environmental problems. Both documentaries offer an

Thirst: Fighting the Corporate Theft of Our Water

By Alan Snitow, Deborah Kaufman, and Michael Fox
Film: Bullfrog Films ~ 2007
 62 min. ~ \$29.95 (DVD)
Book: Jossey-Bass ~ 2007
 304 pp. ~ \$27.95 (cloth)

Flow: For Love of Water
 Directed by Irena Salina
 Oscilloscope ~ 2008
 84 min. ~ \$29.95 (DVD)

illuminating window into the central assumptions held by this growing movement: Because water is a natural resource necessary for human survival, access to clean water is a human right. Water belongs to all; it is not a commodity that can be legitimately privately owned. Water should be provided by governments; it is immoral to profit from its sale.

These propositions raise important questions. If access to water is a human right, does every human have a right to consume as much water as he wishes, regardless of time and place? If not, to what quantity of water does each individual have a right? Does it vary by circumstance? Whose responsibility is it to provide that water to users? At whose expense? How are disputes between different users of water to be settled? How do we encourage more efficient use of water?

Unfortunately, neither *Thirst* nor *Flow* adequately addresses these practical questions arising from their core convictions. Instead, both documentaries tell us that water is part of an inviolate “global commons” that must not be owned, traded in markets, or otherwise sullied by private enterprise. Once the right-to-water premise is established, it’s not difficult to sort the Davids from the Goliaths. From Bolivia to India to small-town America, the documentaries show us how oppressed communities are rising up against profiteering multinational companies

and their cronies in the World Bank and International Monetary Fund, which are colluding to trample on the people’s right to water.

Notable by its absence in *Thirst* and *Flow* is any discussion of the mounting academic research showing that it is precisely because water is un-owned, un-traded, and hence under-priced, that water delivery systems, aquifers, and watersheds are in serious peril. For the same reason, there is a substantial underinvestment in the development and deployment of new technologies for water management. And although they argue that water should be provided by the public sector, neither *Thirst* nor *Flow* remarks on the fact that the governments of poor countries have failed abjectly to provide water to hundreds of millions of thirsty people. Likewise, we never hear how overbearing government bureaucracy and regulation perpetuates water scarcity and prevents private-sector solutions to water and sewerage issues.

Water use is not a simple science. Both the amount of water and its particular uses vary significantly geographically and among consumers. It typically does not exist in nature in a form suitable for human consumption, so resources are required to test and treat it. It is heavy and difficult to control, requiring infrastructure for storage and transportation—pipes, reservoirs, testing equipment, and maintenance.

Put simply, usable water, at least on a massive scale, is neither free nor natural.

The producers of *Thirst* and *Flow* do not deny that making water usable requires these value-added services. But to them, since water resources are part of a “global commons,” only government can be their legitimate manager. However, a growing body of empirical research shows the shortcomings of government management. With expanding human populations around the world, all of whom want access to clean water and sewerage, there is an urgent need to identify and implement practical solutions to the problems of managing and delivering water—a task so vast and complex that only the private sector is likely to succeed in it.

The activists’ alternative, which would bar the owning and trading of water, would result in the further spread of the sort of inept and corrupt water management seen in many poor countries today. These countries often have government-owned pipes, but they are leaky, water is stolen or “unaccounted for,” and sewerage is non-existent. Many of these countries’ governments are semi-socialistic, so they view extra people as a burden; these governments often excuse their failure to extend state-owned services such as water, telephones, and electricity into peripheral urban areas with bureaucratic sleight-of-hand: denying the legal existence of people who live in

these areas (e.g., “slum dwellers”) and refusing to recognize them as formal citizens.

Where governments fail in this way, informal entrepreneurs—not the multinational, shareholder-owned water companies attacked in *Thirst* and *Flow*—very often step into the breach. For them, every additional person represents a new opportunity to do business. *They* are the ones filling the water gap in the slums of the world’s poorest cities, from Nairobi to New Delhi, from Abuja to Asunción. Some deliver water on human- or donkey-powered carts, some in diesel trucks, and some even via full-scale tankers. In African cities, street vendors sell water to passersby in transparent plastic bags called “water sachets.” Some entrepreneurs, such as those on the outskirts of Delhi, operate small-scale pipe systems. Informal entrepreneurs also undertake truly unenviable tasks, such as digging out latrines with shovels and hauling the sewage away. In Indonesia, entrepreneurs have set up private sewerage systems. In many countries, including India and Kenya, entrepreneurs and nongovernmental organizations run privately-operated toilet facilities.

The transactions between these informal entrepreneurs and consumers are generally completely voluntary: entrepreneurs supply water and sewerage, and consumers willingly pay for it, because it is more reliable,

and often less costly, than similar services provided by government. These private services make it possible for their customers to pursue other uses of their own time and resources, and to live better lives.

These entrepreneurs and their customers are some of the world's poorest people. Nevertheless, they have created a thriving market to address water problems that their governments have failed to solve. The great extent of such water services throughout cities in Latin America, Africa, and Asia is testament to their success—and just as importantly, to the failure of government provision.

The demand, repeated throughout *Thirst* and *Flow*, that profit from the sale of water be abolished, would have the immediate effect of eliminating these private providers. Given that these markets were formed precisely because of government incompetence and corruption, it seems highly unlikely that governments would replace these markets with a better system. In fact, many governments have already declared the operations of the water entrepreneurs illegal. That's why they operate in the informal sector—the black market for clean water. Abolishing water-selling profit may benefit these countries' governments, but for citizens it could mean an immediate reduction of access to water and sewerage.

That's not to say that the informal markets are free of problems. Because many of these markets are illegal,

both the entrepreneurs and consumers face substantial risks. Informal businesses are by definition unable to establish legally enforceable contractual relations or to build their own brands. They are unable to own property and thus cannot avail themselves of bank loans and other mechanisms to grow their businesses. They live in fear of the police and often are forced to bribe local officials in order to continue their activities.

How does one reform an underground market that provides a good that not only is free of stigma (unlike, for instance, the drug trade) but also is a human necessity? An obvious solution in urban areas, particularly in slums, would be to formally recognize these small-scale entrepreneurs, thus enabling them to own their businesses and carry out their transactions legally. This would empower the entrepreneurs to take advantage of their local knowledge and to acquire the means to “scale up” their services.

In a licit, competitive market, entrepreneurs would have stronger incentives to innovate, which would in turn drive down unit costs, improve service, expand the adoption of technologies, and benefit many more customers. Formalization would also neutralize the common criticism made of many water vendors that they sell “poor quality” water. Without access to capital, which would require formality, these water vendors have little ability to

improve the quality of their water. But if they were able to formalize their operations, they would likely invest in purification and monitoring technologies.

The very existence of these informal water entrepreneurs thoroughly undermines the claim that governments can be relied on to solve the water crisis and that markets cannot. The water entrepreneurs and their customers are employing the human creative drive to solve problems, to use resources more efficiently, and to improve local environmental and health conditions. For these people—among the poorest in the world—government is the problem, not the solution.

Whether the value-added services involved in making water usable—transportation, storage, treatment—come from the public or the private sector, *someone* has to pay for them. While both *Thirst* and *Flow* essentially ignore the informal private water entrepreneurs, they aggressively attack formal private companies supplying water to both the rich and the poor.

The book version of *Thirst* claims that “private systems usually charge more than public systems right next door.” This is a false comparison of the highest order. If the government sets the price of water below the market level, the public system’s true costs can only be gauged by factoring in taxpayer contributions. As even

Thirst concedes, the cost of replacing the crumbling municipal water infrastructure in the United States will run into many billions over the coming years. Many local government officials then face a quandary: Having under-priced water for decades, they have effectively deferred costs into the future. They must raise taxes, raise water rates, or consider other arrangements, such as the private provision of water or the private maintenance of the water infrastructure. This seems particularly objectionable in water-scarce areas, because these deferred costs greatly imperil the future availability of water.

One case covered extensively in *Thirst* is that of Stockton, California. The city attempted to cut back on public expenditure by bringing in a private company to manage and upgrade Stockton’s water infrastructure, a plan that would, according to the mayor, save taxpayers about \$175 million over twenty years. The city council agreed to a twenty-year contract with OMI-Thames Water that went into effect in August 2003. However, a consortium of residents and the local trade unions objected to the deal—they worried about public employee layoffs, reduced water quality, and price hikes—and were subsequently joined by environmental groups in a lawsuit. By 2007, the outcry forced the city to terminate the contract with the company prematurely.

But of course leaving water systems under government control does not make those services free. It only masks the costs by dispersing them among taxpayers, by deferring them until the future through municipal bonds, or by simply ignoring them and allowing infrastructure to decay until it reaches a critical point—by which time the government officials currently in office will be long gone. By undercharging for water, municipal systems often fail to generate the revenue needed to update their infrastructure to cope with increasing demand, and they fail to invest in the protection of aquifers and watersheds. Artificially low water prices can also encourage waste and discourage conservation by individual water users. Economically speaking, the costs of present consumption are being passed on to future users.

While water-system efficiency is not government's strong suit, it is actually an explicit goal of private operators. Privately-operated water systems reflect costs more accurately, while growing revenue that can be reinvested in infrastructure. Companies do this by negotiating long-term contracts, which ensures that costs associated with replacing infrastructure can be recouped over time.

Opponents object on the grounds that higher-priced water is not feasible for the poor, and that water should be subsidized by taxpayers so that it remains "low-cost" for all. But

if equity is a concern, practical steps can be taken to enact minimal mandates that would ensure everyone has access to water, while keeping the water supply managed by the private sphere. When it privatized the provision of water in 1988–89, Chile enacted an individual water subsidy system that guaranteed poorer households a certain amount of water. A study by Mark W. Rosegrant (a policy analyst) and Renato Gazmuri Schleyer (the former Chilean agriculture secretary) showed that, as a result of the combination of privatization and targeted support, household access to water between 1970 and 1994 in Chile increased from 27 percent to 94 percent in rural areas, and from 63 percent to 99 percent in urban areas.

Some activists claim that water and sewerage are a "natural monopoly"—that they are functions that only a single entity can supply, and therefore that entity should be governmental, with the public's best interests in mind, instead of a private corporation that won't face competitive pressures. This is demonstrably not the case in poor countries, and probably not anywhere. Moreover, as British economist Colin Robinson has noted, municipal authorities can create the opportunity for competition along the supply chain of water provision: in infrastructure, testing, delivery, metering, collection, and wastewater treatment. Consumers can benefit from the competitive market process

without the drawbacks that potentially arise from a sole provider.

If water remains an unmanaged or poorly-managed common good, as demand for water grows through increased population and economic development, pressure on water resources will grow, too. But that need not be the case. Water can be managed and supplied more efficiently, and new technologies are foreseeable for treating, filtering, and monitoring water, as well as for distributing and handling wastewater. For example, “graywater”—water left over from household processes like bathing and laundry—might be more efficiently cycled back into the system; the technologies that could make that happen are fairly easy to envision. But these innovations will likely not be pursued, let alone be made affordable, unless the supply of water is subject to market competition.

Both *Thirst* and *Flow* call attention to some of the environmental problems connected to water resources in different locations around the world. Both documentaries treat these subjects superficially and with an alarmist tone, ignoring or dismissing on ideological grounds policies that would lead to better management and more sustainable use of water.

Thirst explicitly rejects the proposition that privately-managed water supply is efficient and promotes conservation. The book tied to the movie

claims that “profit-making enterprises want you to use more water, not less, in order to maximize profit for their shareholders.” In a policy vacuum, that statement might seem sensible: it is true, after all, that companies generally seek to maximize their profits, and selling *more* of something will bring in more revenue. But we are not in a policy vacuum; we are in a system in which the supply of water is dominated by government-run or government-subsidized entities that charge below-market prices. Water users—whether households, farms, or industries—tend to use it less efficiently than they would if they paid its true cost. If we switched to a system in which water and sewerage were supplied by companies charging competitive market prices, users would likely reduce their consumption. The dynamic pricing of water also encourages the adoption of conservation technologies, like household meters, which allow people to better understand the relationship of their water usage to the wider question of water scarcity.

Admittedly, if many people in a given area are currently underserved, the introduction of a competitive private supply may well lead to an increase in their consumption of water. This is no bad thing; it presumably represents an improvement in their standard of living. And while demand may well rise, it will be met with a sustainable supply, since well-run companies will include in the

prices they charge the cost of investing in the purchase of water rights, as well as storage, purification, pumps, and pipes. The same cannot always be said of government-run water systems.

In a similar vein, *Thirst* also claims that “private companies have little incentive to conserve water because payments and profits increase with rising water consumption.” Actually, private water suppliers lose money when they lose water—whether through leaky pipes or other means—so it certainly is in their interest to conserve water. And if water were treated more as a marketable commodity, companies would have a stronger incentive to maintain the ultimate source of water (that is, aquifers and watersheds). Likewise, if private companies that use water pay a market price for it, they will have a clear incentive to use that water more efficiently.

Thirst and *Flow* take an unrealistically short-term view of economic processes, relying on the assumption that companies exist purely to generate a profit as quickly as possible. But private suppliers treat water as an economic resource, which means they will be unlikely to exploit the resource simply to produce short-term gains at the expense of long-term sustainability. In contrast, when ownership is not protected by private property rights, each user typically has incentives to consume as much as possible as soon as possible, because

what he doesn’t consume will be consumed by others. This is the “tragedy of the commons” first described in Garrett Hardin’s famous 1968 *Science* article; it has led to some of the world’s worst environmental disasters, like the near-extinction of the bison in North America.

When government controls resources, the result can be just as devastating. Soviet bureaucrats, starting in the 1940s, decided to divert waters from the three rivers that fed the Aral Sea in order to irrigate cotton plantations in central Asia. Catastrophic environmental problems ensued, including destructive shifts in the local microclimate and the complete devastation of the fishing industry through water loss and salinization. The Aral now covers just a quarter of the area it did in 1960.

Admittedly, the effects of government control of water are generally far more subtle than the Aral disaster. For example, water prices set artificially low by governments can distort agriculture by making it easier for farmers to grow water-intensive crops, like cotton and alfalfa, in places without plenty of water. If farmers are made to pay the full cost of water, they may be more likely to shift away from water-intensive crops to crops suitable for their region. In Chile, South Africa, and India, market-priced water has encouraged farmers to switch to crops (such as orchard fruits, grapes, and avocados) that have generated more revenue,

thus leaving the farmers better off while using water resources far more sustainably.

A parallel example exists with the world's fisheries, which have largely been managed by governments. Many have collapsed or are facing collapse due to extreme over-fishing. But a study published in *Science* in September 2008 demonstrates that when fisheries are managed with quasi-property rights and market processes, the fisheries are far healthier and more sustainable than their government-managed counterparts. In these cases, it is no longer "a race to the bottom"; the fishermen view the fish as a valuable resource to be sustained for the long term, rather than to be exploited in their entirety as quickly as possible.

Resource problems often arise when rights to a resource are not clearly specified, transferable, and legally enforceable. If governments relinquished their control, stopped subsidizing users, and instead enabled property rights, markets, and prices to flourish, the world's "water crisis" would be a far less serious concern.

Among the case studies highlighted in the documentaries is one involving activists opposed to the operation of the Coca-Cola Company in Plachimada, Kerala, India. *Flow* shows us prominent environmental activists protesting in front of a Coca-Cola bottling plant, a vigil by village women who object to the

plant, and various locals who allege that the groundwater in the area disappeared or became poisonous as a result of the operations of the bottling plant. The documentary's aim to paint Coca-Cola as the source of exploitation and malfeasance is transparent.

The facts paint a more complicated picture. Coca-Cola was invited by the Kerala state government to open a bottling plant, which was constructed in 2000. After a few years of operation, local antagonists blamed the plant's operations for falling water supplies and diminishing water quality, and so local officials refused to renew the plant's license, effectively shutting it down. However, a court-commissioned study indicated that Coca-Cola's operations coincided with a period of low monsoonal rainfall, and that the company was not the primary cause of lower groundwater levels. Nevertheless, the plant has remained shut since March 2004 and the case is now pending before India's Supreme Court. (In a supposedly unrelated matter, the Marxist government of Kerala banned the manufacture and sale of Coca-Cola in the state in August 2006; the ban was overturned by the state's high court a month later.)

This dispute illustrates the need for clear rules pertaining to water extraction and the property rights of local people. Without such clear rules, there is a danger that governments will simply sell the extraction

rights to companies, thereby abrogating the legitimate historic claims of local users. If local people are disenfranchised, and government officials are perceived to be acting against the best interest of the electorate, conflict is inevitable. But *Thirst* and *Flow* do not explore such critical underlying problems, preferring instead simply to note that some locals objected to the presence of a multinational company and to conclude that government therefore should own and manage water.

But the case of another Indian city makes clear that government ownership is plainly not the best solution. Tirupur, a city in the southern state of Tamil Nadu, is not featured in *Flow* or *Thirst*—perhaps because it demonstrates how India’s recent economic development has created the opportunity for Indian businesses to use water more efficiently, through completely voluntary trading.

Tirupur produces at least half of India’s cotton knitwear exports. The city has hundreds of textile firms that employ hundreds of thousands of people. Each kilogram of cloth processed in Tirupur requires approximately 150 liters of water, chiefly for dyeing and bleaching. A vibrant trade in water with local farmers has ensued—because the water is more valuable when used to produce textiles than to produce agricultural goods. Environmental economist Prakash Nellyat notes, “Water-intensive industries are very willing to pay

for water as water is an important, high-value addition and input.”

Thirst and *Flow* also take issue with bottled water, mocking its drinkers as dupes who would be better off drinking tap water. And the films particularly criticize water bottled by foreign multinationals. Nestlé, a large Swiss company which bottles water in locations from India to Indiana, gets a drubbing. *Thirst* (the book) says, “Nestlé isn’t making anything. It is merely exploiting a substance in the public domain, pasting on its brand name, shipping it out, and marking it up for sale by a factor of a hundred or more.”

One of Nestlé’s bottling plants is located at a spring in Mecosta County, Michigan. Both documentaries show us the Michigan Citizens for Water Conservation, a coalition organized to oppose the operation of this plant. Its members alleged that the plant has resulted in environmental problems (such as dry wells and mud flats) and that Nestlé has received government tax breaks. This case—like that of Coca-Cola in Kerala—is complicated, but again, *Thirst* and *Flow* appear to have little patience for anything that might get in the way of a good story.

In its defense, Nestlé points out that it pays more than \$2 million in taxes in Mecosta County each year. Further, according to local geographical experts, the mud flats are a naturally occurring feature of the

local geography. Nestlé, for its part, claims that “no reports of well issues have been made,” that monitoring of local water resources has shown no significant change in water levels, and that this monitoring record shows clearly that “water resources and ecosystems have not been negatively impacted.”

But in some ways, all this is beside the point. People value the convenience of bottled water, so they pay more for it. It enables them to carry water on public transportation or in other locations where potable water is scarce or non-existent. And people also seem to value the quality of bottled water. Perhaps they don't like the overly chlorinated water produced by some municipal water systems and they appreciate water being filtered. Tea brews better in softer water, and often doesn't brew in water with a relatively high mineral content (as is frequently true of well water). In some areas, the use of groundwater results in limescale deposits, which can, over time, harm electrical elements in coffee machines, electric kettles, and other devices; the use of bottled water can help prevent these and other problems. Beyond that, consumers clearly trust the brands of bottled water—much as the opponents of bottled water would like us to believe otherwise—and that trust exists with good cause. In contrast, numerous studies have shown that some city water systems provide low-quality water, often because of

the proximity of water pipes to sewer pipes. Municipalities with compromised water supplies occasionally make the news—Fresno, California; Phoenix, Arizona; and Washington, D.C. are among the major U.S. cities with public water problems in the last decade.

The choice between bottled and tap water should be a matter of personal preference, but activists have inflated the debate far out of proportion, connecting it to larger complaints about markets and “corporate globalization.” Presumably caving to pressure from activist campaigns, some U.S. cities have begun taxing the sale of bottled water and banning its purchase with city funds.

At the heart of the debate is our attitude toward individual choices. Bottled water is a good and a service; it enables individuals to experience a better quality of life. This, rather than the parody of markets depicted in *Thirst* and *Flow*, is what defines a dynamic market process. Individual consumers make choices about which goods and services to purchase. Businesses take risks to produce and supply those goods and services. A set of fundamental institutions—including property rights, contracts, the ability to engage in trade, regulation, and taxation—facilitate that process.

To be sure, in calling attention to the process by which bottled water is manufactured, *Thirst* and *Flow* do raise some important issues. For

instance, it is truly objectionable when governments create exclusive deals for large businesses rather than trying to create a level playing field for businesses of all sizes to compete. And perhaps Mecosta County's agreement with Nestlé could have been arranged so as to yield more community power over decision-making—a prospect that would have been likelier if the rights to that water were clearly defined, transferable, and enforceable. (For instance, each resident might be granted a share in the county's water, entitling him to a vote on how the county's water resources can be used.)

The authors of the book *Thirst* compare the water crisis to “the Boston Tea Party, the movement for the abolition of slavery, [and] the Vietnam War protests.” While they are right to point out the importance of water policy, the makers of *Thirst* and *Flow* have misdiagnosed the problems, and their proposed solutions would only exacerbate them.

Many of these films' protagonists are members of a well-coordinated group of activists opposed to capitalism and globalism; water is but one of their pretexts for inveighing against the growth and integration of national economies. Their attacks are broad and radical. International trade and market institutions, such as property rights, are their common targets. *Thirst*, for example, speaks favorably about the forced taking of

private property through eminent domain, evincing a general disdain for anything “private.”

These anti-capitalist activists have a penchant for attacking multinational businesses, since these are very visible and susceptible to attacks on their reputation. The activists identify issues involving a high-profile target, such as Nestlé or Coca-Cola, and make these issues out to be a “crisis” of one form or another, repeating mistruths and creating alliances with local nongovernmental organizations that may or may not have a legitimate grievance with the company in question.

Several of the people featured in both of the films make their living as full-time activists, including Maude Barlow, a Canadian, and Vandana Shiva, an Indian; they and their union friends jet around the globe armed with placards, giant puppets, costumes, and expensive video equipment to document themselves. They protest at global water meetings in Japan, Mexico, and Turkey, and somehow are always on hand when TV cameras draw near.

Ultimately, it is not these activists' methods or love of street theater that is the problem. Nor is it even their lack of pragmatism or their factual omissions. The chief problem is that these activists' ideas can genuinely harm the very people they mean to help. They find disenfranchised local people—people who truly suffer from government-induced water

scarcity, for example—and exploit them for ideological ends. Well meaning though they may be, these water activists misunderstand or misstate the institutional deficiencies that contribute not just to water scarcity, but poverty in general.

Attacking corporations and lamenting globalization will not alleviate the water crisis. Nor will pretending that water is a human right. We require another paradigm of right—the right to property, and the institutions and practices that enforce that right—to

put self-interested individual creativity in the service of managing, delivering, and preserving our world's precious water.

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