

## FOREWORD

A full understanding of international and inter-state water disputes is conspicuous by its absence in Indian curricula and research. Neither public law nor international law specialists attend even marginally to the cumulative learning in this area. To this extent our understanding of federalism as entailing operation of first-order public law principles for equitable and efficient use of national resources remains profoundly flawed. It has not occurred to many social scientists, including of course lawpersons, that federalism is not just a matter of arrangement of legislative and administrative relationships between the Union and States; nor merely a matter of so-called comparative patterns of federal adjudication. The federal idea, and ideal, subsuming these aspects, is above all about equitable development and the most just uses, humanly possible, of available resources for that kind of development which *disproportionately benefits* the impoverished. In India, we have yet to begin to grasp the fold on the surface of federal idea and ideal and to mistake it for depth. It is unsurprisingly sad that apart from excessively partisan postures, even when this work was emerging out of the press, the conflagration named Cauvery water dispute which began to devour Indian citizen's lives and rights was scarcely even comprehended by scholars of public law; political theory and federalism. The failure of thoughtful scholarship, ready to serve as a mediator of explosive resource disputes, creates a breeding-ground for bloody practices of power. To the extent water turns into human blood, the practitioners of knowledge become co-accused with the practitioners of power.

I commend Dr. B.R. Chauhan's lucid work for serious study to all concerned for the human rights reason that it would escalate our capabilities as citizen-scholars to mediate and shape public choices which will enable the nation to adjust to, in lamented Roscoe Pound's striking phrase, conflicts of interest with "least friction and waste".

Professor Chauhan is a scientific leader in this field, acknowledged as such worldwide. I felt deeply honoured by his enthusiastic agreement to contribute to our ongoing exploration of law relating to water as a resource and water-based resources. The honour stands enhanced by the fact, if one may mention a national detail, because Professor Chauhan is among very few senior Indian law teachers to exemplify life-long commitment to contribution to knowledge. Negotiating myriad problems upon superannuation, unfortunately equivalent to civil death in India, Professor Chauhan has worked indefatigably through a vast mass of materials, not all easily accessible and willingly borne the afflictions of a copyeditor's pen. His association with our project kindles the hope that other senior colleagues might also step forward to assist the rejuvenation of legal scholarship and literature, a task which forms the hidden agendum of our Water Law Project.

Professor Chauhan, in this comprehensive examination of the jurisprudence of resource-sharing, adopts all along (what he describes as) an approach

(ii)

to water as a "medium for amelioration of the underprivileged". This perspective, animating our entire project, is somewhat unusual in the discursive arena of water-resource disputes populated as it is by languages of sovereignty, collective entity rights, and a host of associated conceptions of riparian rights. Professor Chauhan reminds us that equitable resolution of water disputes is critical for "optimum water utilization". But in turn that goal gains legitimacy only if understood as serving the right of humanfolk to :

*"access to ....water resource, which is not only their wealth but their life, as well as the foundation of their economic growth and cultural well-being, nay their future" (p.6, emphasis added.)*

Optimum water utilization as a policy is justified only when it "serves as a model for amelioration of the lot of the least-privileged humanfolk." And, significantly, the problems of women who have to fetch and carry water over long distances form a recurrent theme articulating a feminized vision of both the "least-privileged" and "optimum water utilization." This commitment and concern enlivens the entire discourse, albeit arcane, concerning legal principles and procedures for adjustment of conflicting claims over water-resource sharing.

In this perspective, we move beyond 'water' as a metaphor of power. Water is now a metaphor for human emancipation, well-being and human future. And it is the construction of this future which summons analysis and imagination. Disputes over water resources may seem to many of us, imbued with post-modernist ethos, to be marginal to sculpting visions about human futures. But a close reading of the text would undoubtedly suggest the deep fallaciousness of marginalizing legal discourse. From this standpoint, even though addressed to constituencies of lawpersons and policy-makers, I commend the work to the entire fraternity of practitioners of knowledge in the hope that the potential of legal learning as an insurrection for a better human future is more adequately realized.

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