

# Water Crisis by Design: Unpacking India's Political Economy of Water Crisis Through the Marxist Framework of Environmental Justice

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## INTRODUCTION

In the contemporary socio-legal order, the right to clean water is an essential human/constitutional right for the individual, without which life is subject to a few days. In a sense, despite its origin, which can be traced to the right to life, it can be considered an inalienable fundamental right. The inalienable rights are those fundamental natural rights that are given by nature. As NITI Aayog, in its 2018 report, has argued that India is facing the worst water crisis, and around 600 million people across India are suffering from the water crisis. This water crisis is bound to increase when India's population growth takes over China by 2023 (NITI Aayog, 2018).

For the existence of human beings, the inalienable rights are crucial conditions for their survival, which are the bare minimum and cannot be taken away by the state in normal circumstances. In this context, the constitutional courts are more visionary and progressive than the other branch of the government in recognising the right to clean water as a fundamental right in the prevailing context of water scarcity by design and governance structure with hierarchical and exclusionary nature, despite all claims of democracy and constitutional governance vis-à-vis recognition of fundamental rights in Part III of the Constitution of India. Thus, with all egalitarian and aspirational goals in the Constitution of India and recognition of right to clean water as a fundamental right deriving from the right to life under Article 21 of the Constitution of India, the governance structure, it is functioning and mediating social-economic-political structure render the egalitarian and aspirational goals very limited in its execution, if not useless. The underlying causes behind the failure of policies and governance in checking and controlling the water scarcity and water crisis are rooted in socio-economic-political and cultural structures, which are generally ignored in examining and analysing environmental issues and governance. To understand the underlying factors behind the political economy of water scarcity and water crisis, the Marxist environmental justice framework provides a critical approach to examine and understand the contradictions and conflicts in policy-making and executing policies and laws.

**Methodological justification**-The choice of the Marxist framework of environmental justice in this paper is based on the Marxist approach of looking at any phenomenon in its continuous motion through contradiction. In Marxist tradition, this is known as dialectics, which is the motive force of change and progress. This approach examines the complexity of natural processes and social phenomena through contradiction and cooperation. The result of thesis and anti-thesis is the synthesis. Thus, putting the water scarcity and crisis in context, this phenomenon of scarcity

**Abstract:** *India represents around 18 % of the world's population as one of the most populated countries, leaving behind China, and only 4 % of global fresh water resources for drinking water. According to the World Bank's estimates, around 163 million people face clean and fresh water availability for drinking purposes. In terms of the impact of polluted and unclean water, nearly 21 per cent of communicable diseases in India are linked to unsafe water, and around 500 children die every day due to diarrhoea. Thus, the water crisis in India is severe, and India's population is facing the worst crisis of water for drinking purposes as well as other purposes related to life and health.*

*Despite the Constitution of India being an egalitarian document that guarantees certain fundamental rights in Parts III and IV without these guarantees and their inalienability, the scarcity of availability of fresh water or clean water has become so acute in India that billions of people, especially the underprivileged and peripheral, are deprived of their basic need for water. Without fulfilling this basic need of water, the meaning of life is meaningless, and the concept of right to life, envisaged under Article 21 of the Constitution and recognised by the judicial pronouncements, is of no practical use.*

*This paper will deal with the fundamental question of whether the water crisis in India is by design or just incidental. In this regard, policies and laws will be briefly analysed and why the judiciary interpreted Article 21 of the Constitution to recognise the right to clean water as an integral part of the right to life in its broader sense of term and meaning.*

*The Marxist framework of environmental justice will be adopted to unpack the political economy of the water crisis in India. The central focus of the analysis of the political economy of the water crisis will be the policies, laws, and programmes that are, by design, responsible for the water crisis, resulting in environmental injustice.*

and crisis is not happening by chance or incidentally; instead, reasonable causes need to be analysed and examined through the Marxist framework. The Marxist framework ideologically goes to the bottom of the climate and environmental crisis. It lays bare the political and economic decisions responsible for India's water scarcity and crisis. In India, the ecological issue discourse pays little attention to the society's social structure, which mediates the benefits and losses of environmental services. To understand the ecological governance structures and social structures through which the impacts of environmental crisis and water crisis are directed can be better appreciated and examined by the Marxist framework of environmental justice, where the deprived class of people, as 'climate proletariat', will be at the centre of discourse and justice. The Marxist environmental justice framework provides an evaluative approach to question the very foundation and structures of society and governance structures through which and in which the allocation, distribution, and accessibility of water happen (Marx, 1867; Engels, 1925).

**Brief review of literature-** The Marxist school of jurisprudence is a crucial school used invariably to examine and understand the political and economic order of the society regulated and operated through the force of law. The famous quote of Karl Marx in the Communist Manifesto, 'the history of human society is the history of class struggle,' is based on the materialist understanding of the social and economic structure of society, which, in its result, determines the nature of the political structure, including law and justice of the society (Marx, 1848). Throughout his writings, Marx emphasised the utility of dialectical methods to understand the 'contradictory nature of social, political, and economic laws' which determine who possesses what. The concept of production relations based on the ownership of means of production sheds light on who is rich and who is poor. The principle of the mode of production reveals the exploitative nature of capitalist society in general and a unique mode of production in the case of India, AMP (Asiatic Mode of Production), which was distinctively different from the Industrial societies.

The crucial context of the political economy of scarcity and water crisis in India is how and who is responsible for the water scarcity and water crisis in India. How are political and economic decisions being taken, which have resulted in water scarcity and water crisis, depriving millions of people of the basic requirement of life? The significant question in this regard is which class of people determines the direction of policies and laws related to the water? Are they a standard or deprived class of citizens who constitute the majority per democratic principles, or a handful of people who have a monopoly over the wealth of property or control the means of production? Those who were deprived are still deprived, and those who were rich are getting richer (Piketty, 2017). Marx's class conception of society is economically determined, constituting society's base and further determining society's superstructure. Though overlapping, the political economy of castes and class in India reveals the nature of social structures, political representations, and ownership of social, economic, political, and cultural resources.

The political economy of water scarcity and crisis in India deals with how water scarcity and crisis are produced, designed, and distributed through the policies, laws, and social structures, which result in unequal distribution of

opportunities and burden determined by the location of groups or classes of people in the social and economic structure of the country. The opportunities and burden of water scarcity and crisis are based on who owns what in society. The nature of society determines the benefits and losses of the environmental crisis. The privatisation of water resources for profits while depriving the basic need of water from the deprived but majority of people reveals the political economy of water scarcity and the crisis in India.

The structural hierarchy of the society and the political system still operates in India, through which the material needs of the people are fulfilled. The so-called objective market mechanism and liberal-capitalist economic order further exacerbate the divide between haves and have-nots through corporatisation and monopolisation of capital and wealth on a large scale (OXFAM Report, 2024). The inequality in power and resources is being maintained and perpetuated through 'superstructure,' as Marxists call it, to maintain the power and dominance of the selected few. In the Indian context, the constitutional provisions of democracy have been reduced only to civil and political democracy, especially the periodic elections and voting. The liberal values of democracy in India's constitution have become a means to perpetuate the remains of feudal and hierarchical character through the ideological and coercive state apparatus, as emphasised by Louis Althusser (Althusser, 1971). The concept of hegemony by the ruling class in their favour is another way to understand why well-intended constitutional provisions of rights and justice fail to deliver in the context of water scarcity and crisis (Gramsci, 1948). The mass media and civil societies are inclined to maintain the hegemony of the dominant class, which results in dominance over policy-making and influence over the execution of well-intended laws. Even if well-intended by the legislature, the conscious design of laws and policies served the dominant interests. The well-intentioned laws and policies in India related to water and the failure of execution in the intricate social structure reveal the contradictory nature of unity and struggle of two opposite qualities, which can only be examined and analysed dialectically.

The Marxist framework of environmental justice provides the critical evaluative and analytical framework to question fundamental tenets of law and policies and implementations of those laws and policies vis-à-vis the social structures (economic base of the society), which determine the 'superstructure'. The Marxist framework further provides insights into the contradictions and resolution of crisis by examining the elements of justice. The Dialectics of Nature (1925), written by Fredric Engels, also provides insights into understanding the natural processes dialectically.

**Water scarcity and environmental justice-** water scarcity spares no one, and almost every continent faces some water scarcity. By an estimate, around 1.2 billion people live in water scarcity areas, and around 500 million people are approaching the water scarcity situation (Amarsinghe & Sharma, 2009; Sharma & Bharat, 2009). The global water demand is increasing at a significant pace at the rate of 1 % per year, resulting in a water crisis in many parts of the world (WWAP, 2018).

The 'water scarcity' is defined as the point at which the aggregate impact of all users impinges on the supply and quality of water under prevailing institutional arrangements to the extent that all sectors' demand, including

the environment, cannot be fully satisfied. Whenever there is a lack of access to potable water for drinking and sanitation, water is scarce (CHAKRABORTI ET AL. 2019; Batten, 2018). According to a study by the National Institute of Disaster Management (NIDM), India's per capita water availability has declined by almost 20 % in the last two decades. It will likely decline by another 20 % by 2050, making India a water-scarce country (NIDM Study, 2022). There are multiple factors behind the water scarcity in India.

The water scarcity in India becomes a more serious issue when one considers the drinking water scarcity in India since the constitutional courts in India consider the right to clean water as a fundamental right, which is inalienable, in that without it, human beings cannot live. Most Indian population has no reliable means of getting water for daily use. By an estimate, in June 2019, 69% of all reservoirs in the country were below the normal level, and 12 % were dry due to insufficient rainfall in the monsoon season. This aggravates the availability of clean and fresh water for drinking purposes (Mato, 2019).

This paper will focus on the policies and legal failures by design in handling and controlling emerging water scarcity situations. One of the causes of water scarcity is pollution, which could have been effectively dealt with. However, the environmental pollution crisis has been used to privatise further and exploit scarce resources. These aspects of water scarcity did not find enough space in academic writings.

Amid water scarcity in India, where does the preambular vision of justice stand out? The preamble of the constitution of India enshrines 'the concept of social, economic and political justice,' and now by interpreting the constitutional provisions of preamble and rights in Part-III and IV of the constitution the apex court has evolved the framework of environmental justice which seek to address the issues of equality, equality and fairness in terms of availability and accessibility of water as a basic need and hence, a right. The aggregate concept of environmental justice addresses the 'distributive, procedural and restorative issues' while construing the right to clean water and addressing the issues of the water crisis. The crisis aspect of water availability and accessibility, whether the crisis is artificial or naturally caused, has been examined through this environmental justice framework. The concept of 'justice' has been defined and used by various political scientists and jurists differently (Difference principle by Rawls (1971), Capability Approach by Sen (2009), Libertarian approach by Nozick (1974), Marxist approach by Marx (1867), and these principles and philosophical trends aim to look at the water crisis differently and solve it differently. The solution for the water crisis will be different in the context of these varied philosophical and theoretical frames. The egalitarian goal for environmental justice for scarce resources like water would be the equal and adequate availability and accessibility to all for drinking and sanitation purposes, irrespective of caste, class, gender, and regional distinctions. However, it does not happen. The availability and accessibility of water resources are mediated through the fundamental hierarchical nature of social structures, which are determined by who controls society's wealth. In this egalitarian sense, the environmental justice framework questions the egalitarian principles and their limitations in their implementation and accessibility to these fundamental rights by the deprived section of the people.

**Why is there a water crisis in India by design?** The Constitution of India, of course, a written constitution, provides the constitutional framework of governance where three pillars of government, namely, the legislature, the executive, and the judiciary, are established based on the separation of powers, as recognised by the apex court as one of the basic features of the constitution. This feature cannot be amended even by a constitutional amendment. Since India has adopted Parliamentary form of the government, the legislature and executive are responsible for the making policies and laws dealing with several subjects as enumerated under seventh schedule of the Constitution of India in order to pursue and achieve the constitutional objectives and goals as enshrined in the Preamble, Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy). Who will be held responsible if any objectives and goals are not achieved or if any state organs fail to address or achieve those goals? Or will it be called a 'crisis by design' or just brute luck? The examination of the constitutional framework, along with the environmental governance framework as developed by the judiciary and the Indian mode of production, where the entrenched social structure determines the material wealth and its distribution, reveals the design through which the water crisis is produced, maintained, and distributed for specific reasons and interests. The legislative and executive evasiveness are such that any statutory or even constitutional law does not expressly mention the 'right to clean water' except in the apex court's decisions, where the right to clean water has been recognised as an integral part of the right to life enshrined in Article 21 of the Constitution of India. Even though the Prevention of Water Act, 1974 (The Water Act, 1974) creates a mechanism for preventing water pollution, which causes water scarcity, the CPCB (Central Pollution Control Board) and SPCBs (State Pollution Control Boards) have failed to prevent pollution. The PRIs (Panchayati Raj Institutions) and ULBs (Urban Local Bodies) failed to provide clean water and prevent water crises. With all quasi-legislative powers, executive and financial powers, they failed the constitutional and environmental justice goals as envisaged by the constitutional courts. The water crisis further aggravates when these constitutional and secular institutions surrender to the hegemony of social structures that produce and perpetuate societal hierarchy and material inequality. This coalition of forces creates a web of 'water crisis' where the scarce resources are accessible to 'haves' but not to those who are 'have-nots.'

**The design of policy-making and development discourse needs to be changed-** What must be done to address the water and progressive realisation of the constitutional goals of 'dignified right to life' without producing 'climate proletariat'? The policy-making design needs to be changed, as well as the 'deprivation and discriminatory model of development.' The water law and water policies in India have failed to recognise the right to clean water, which is highly desirable to recognise in case of an emerging crisis of water, as well as the need to take a bottom-up approach of planning and execution, taking into consideration of the social and cultural structures where these policies and laws are enforced. Without the participation of the intended beneficiary at all levels of policy making and execution, and the target to change the social and cultural milieu in which these measures are executed, the water crisis, whether artificial or otherwise, cannot be

solved. The Marxist conception of justice, which proposes to change the economic base of society, provides the wayout. Environmental justice's distributive, procedural, and restorative aspects must be internalised in policy-making and policy implementation. Thus, it is political, economic, social and cultural decision-making process through action and inaction, omissionand commission are committed, loopholes in policy and law are left, negligence and evasion of duty are committed, the aims of policies never intended to change social and economic structure, which result into water crisis for most of deprived section of society. In contrast, the design of a political economy results in profit and unequal accessibility of scarce water resources for the selected few who have control and dominance over the society's social, political, and cultural capital. The environmental conception of justice can change this conscious design of the political economy of crisis. The political economy of the water crisis produces today's water crisis in India.

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