Water Rights:
The State, the Market and the Community
Three loops of hydrological cycle

- Evapo-transpiration
- Surface runoff
- Groundwater
Human impacts

• On Earth’s surface
  – Ex: Impacts of deforestation

• On Climate
  – Ex: Impact of increased temperature and evaporation

• Atmospheric pollution
  – Ex: impact of aerosols

• Withdrawals
  – Ex: are many!

Human uses of water
Who Do Water Belong to?

- Historically a common good, managed by the community
  - Riparian rights: The natural right of dwellers supported by a water system, especially a river system, to use water. Riparian rights are usufructuary rights: Water can be used but not owned.

- The emergence of modern water extraction technologies and colonisation had increased the role of state and corporations in water management.
  - The doctrine of prior appropriation: Who is first in time is first in right. Establishes absolute rights to property, including the right to sell and trade water (a form of water enclosures).
Water are Commons?

- The Commons: All gifts we inherit and create together. They are gifts and they are shared. Three attributes of such gifts:
  - Nature (air, water, biodiversity, fragile ecosystems...)
  - Community (streets, playgrounds, law, ...)
  - Culture (language, knowledge, internet, ...)
They are meant to be preserved regardless of their return to capital.

- Common pool resource: A class of goods that lies somewhere between private property and state property. Like private property, common resource arises when the state recognizes it. Unlike private property, it is inclusive rather than exclusive.
- Common property regime: Governance and self management of common pool resources by their beneficiary communities.
Locke’s argument for enclosures

- John Locke’s treatise on property effectively legitimized the theft of the commons in Europe during the enclosure movements of the 17th century.
  - Property is created only when idle natural resources are transformed from their spiritual form through the application of labor.

The law locks up the man or woman
Who steals the goose from off the common
But leaves the greater villain loose
Who steals the common from off the goose

17th century protest against English enclosure
Tragedy of the Commons

• Garrett Hardin’s 1968 Science Magazine article calls for “privatization” or “state control”. Assumes that community resources are under open access regimes and not regulated.
  – Individuals try to maximize their benefits by increasing their resource extraction, while total extraction increases, social benefit declines and the resource can be driven into destruction.

Communities and commons

• Groups can manage themselves and commons can be regulated by communities. Groups can set rules and restrictions regarding water use.
Role of World Bank and WTO

- World Bank’s credit conditions require privatization and several form of public private ownership.
- WTO’s General Agreement on Trade in Services (GATS 1995), opens market access in water services.

Public private partnership: disguises the fact that partnership arrangements usually entail public funds being available for the privatization of public goods.
- Example: Build-operate-transfer; build-operate.

- Applied in hydropower projects, irrigation works, municipal water supply (water utilities).
- In defense of water as a natural right, the criteria in management should be public control and accountability.