

Comment

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On the last day of the recent United Nations summit on climate change, the representative of the small Pacific Island state of Tuvalu, Ambassador Enele Sopoaga, made a big impression with his plea for a major reduction in greenhouse gas emissions. He noted that rising sea levels caused by unchecked global warming would completely destroy 43 nations, many of them small and powerless Pacific Island nations. ‘What will history say of us if we let whole countries disappear?’ asked Ambassador Sopoaga.¹

At the other end of the spectrum, every observant schoolchild knows that Australia is the world’s driest continent. However, it is only in recent years, with Australia gripped by another terrible drought—including six consecutive years of drought in the Murray-Darling Basin, Australia’s largest river system; every mainland capital city on a regime of tight water restrictions; and the situation causing the Prime Minister to convene a National Water Summit—that water has finally become a headline issue.

On the day this ‘Comment’ was written, it was announced that record low dam levels require that the water will be turned off in early December for 90% of irrigated farms along the Murray River in New South Wales—and even ‘high security’ water allocations will be cut in half.²

A recent inquiry into water policy initiatives by the Australian Senate Rural and Regional Affairs and Transport Committee noted that:

Professor David Weisbrot,
President, ALRC



Until recently, Australia has not valued water as it should, has taken water supplies for granted, and our recycling of water is poor by international standards. For example Israel, with a similar Mediterranean climate, recycles 70% of its water, compared to Sydney’s 3% recycling of wastewater. Strong community concern is being expressed to the Committee over issues such as: reduced rainfall; over allocation of rivers; and water security.³

The Australian Attorney-General recently announced that the impact of a disruption to Australia’s water supply—whether caused by natural circumstances or a terrorist attack—would be added to the Critical Infrastructure Protection Modelling and Analysis (CIPMA) program, joining the banking and finance, communications and energy sectors in the model.⁴

The United Nations’ *Comprehensive Assessment of the Freshwater Resources of the World 2006* reports that approximately 1.7 billion people are ‘living under water stress’—and that by 2025 the figure is likely to rise to three billion. The UN report calls for 20 litres of clean water per person per day to be declared a human right and for governments to spend a minimum of one per cent of GDP on improving water security and sanitation.⁵

Not surprisingly, in the United States, the Pentagon has recently received a study from a think tank warning that ‘one of the biggest challenges facing the military this century will be short, sharp regional wars over water’.⁶

While the challenges represented by this crisis are now obvious, the way forward seems to be

less clear—although there is little doubt that strong and creative leadership will be required.

A September 2006 report by the Business Council of Australia (BCA) found that Australian governments have continued to operate a 'flawed water system' instead of 'taking the hard decisions to fix the problem', which the BCA suggests is largely man-made and is acting as a 'major brake' on economic growth and prosperity. The BCA was critical of governments for 'offering water restrictions instead of sustainable solutions'.⁷

In metropolitan Sydney, with a population in excess of four million, only about 5,000 residences have rainwater tanks. It was estimated that a weekend storm in late November 2005 dumped 30 billion litres of rainwater on Sydney, virtually all of which was lost down the drainage system and into the sea.⁸ Nevertheless, governments have offered few incentives (and fewer orders) to capture rainwater or to recycle 'grey' water for future use. Instead, much of the formal discussion has involved building expensive—and energy intensive—desalination plants.

In the lead article in this edition of *Reform*, author and broadcaster John Doyle is similarly critical of the historical inability of Australian governments to innovate or cooperate in managing our scarce water resources.

In a recent groundbreaking decision, the High Court of Australia ruled that the federal government could effectively take over the field of industrial relations by relying on the 'corporations power' of the Australian Constitution, in an area previously subject to state and territory regulation.⁹ Perhaps the growing awareness of the severity of the problem, coupled with the 'big stick' threat of a federal takeover of responsibility for water resources, will finally produce some overdue 'cooperative federalism'.

Other authors in this issue consider the nature of the water crisis in Australia and overseas, and describe some of the efforts (both the success stories and the disappointments) to create a sustainable and equitable future.

For example, Cr Dianne Thorley, mayor of the Queensland city of Toowoomba, writes about her championing of a desperately needed program for recycling drinking water—which, sadly, was defeated at a referendum. On the other hand, Professor Barry Goldstein recounts a long, but ultimately more successful,

campaign to protect the river systems in America's Pacific Northwest.

In late November 2006, religious leaders across all denominations responded to worsening drought conditions in Australia by organising a National Day of Prayer. With the festive season recently behind us, one is reminded that in the New Testament, the Gospel of John tells the story of Jesus going to a wedding and turning water into wine. In contemporary Australia, with its glut of wine and dearth of water, perhaps the greater miracle now would be to achieve the reverse.

Endnotes

1. J Button 'Tiny Tuvalu packs a powerful punch', *Sydney Morning Herald*, 20 November 2006; <<http://www.smh.com.au/news/world/tiny-tuvalu-packs-a-powerful-punch/2006/11/19/1163871272168.html>> at 22 November 2006.
2. D Lewis, 'Big dry cuts irrigation', *Sydney Morning Herald*, 21 November 2006; <<http://www.smh.com.au/news/scorchdearthbig-dry-cuts-irrigation/2006/11/20/1163871338977.html>> at 22 November 2006.
3. Australian Parliament Senate Rural and Regional Affairs and Transport Committee, *Water policy initiatives—Interim Report*, 7 September 2006; <http://www.aph.gov.au/senate/committee/rat_ctte/rural_water/int_report/> at 22 November 2006.
4. P Ruddock, (Attorney-General of Australia) 'Water Added to Computer Model of Critical Infrastructure', *Media Release*, 12 September 2006. The CIPMA project is managed by the Attorney-General's Department and a number of scientific and research agencies, including the CSIRO and Geoscience Australia.
5. M Wade, 'Declare water a human right: UN', *Sydney Morning Herald*, 10 November 2006, 4; see also N Arnell, 'The impacts of climate change on water resources', <http://www.met-office.gov.uk/research/hadleycentre/pubs/brochures/B1999/imp_water_res.html> at 22 November 2006.
6. 'Why water will be like gold', *Sunday Mail* (Adelaide), 16 September 2006; <<http://www.news.com.au/adelaidenow/story/0,22606,20425415-5006336,00.html>> at 22 November 2006.
7. Business Council of Australia, *Water under pressure: Australia's man-made water scarcity and how to fix it*, 19 September 2006; <<http://www.bca.com.au/Content.aspx?ContentID=100665>> at 22 November 2006.
8. A Clark, 'Water, water, everywhere—and most of it's going down the gurgler', *Sydney Morning Herald*, 28 November 2005, 3.
9. *New South Wales v Commonwealth of Australia* [2006] HCA 52 (14 November 2006); <http://www.austlii.edu.au/au/cases/cth/high_ct/2006/52.html> at 22 November 2006.