

EDITED BY FARHANA SULTANA
AND ALEX LOFTUS

WATER POLITICS

Governance,
Justice and the
Right to Water



Earthscan Water Text

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“The right to water remains elusive for a great number of people around the world. Despite decades of efforts by activists, policy-makers, and committed scholars, access to water remains deeply contested and unevenly distributed. This superb collection teases out why this is the case and, more importantly, presents a range of actions and principles, mobilised by a great variety of communities, that open possible pathways for a more just, democratic and egalitarian distribution of a key resource for securing livelihood. This is a must read for all those who still believe that a more humane, sustainable, and egalitarian access to the earth’s waters is not only desirable, but necessary.”

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“The world faces a growing water crisis. This is not just about water availability, but about distribution: who gets what and how water is used. Sultana and Loftus’ book is ground-breaking. It provides a narrative of and pathways to water justice. It is a must read for anyone who cares water and our common future.”

– Professor R. Quentin Grafton, *The Australian National University and the UNESCO Chair in Water Economics and Transboundary Water Governance.*

“This collection of essays provides much-needed intellectual inspiration for re-imagining water. Its clear message is that realizing the right to water involves re-organizing and re-thinking ways of relating to water, but also requires engaging with the wider transformations needed to make this world more sustainable and just.”

– Professor Margreet Zwartveem, *Professor of Water Governance, IHE Delft Institute for Water Education and University of Amsterdam, The Netherlands*

Water Politics

Scholarship on the right to water has proliferated in interesting and unexpected ways in recent years. This book broadens existing discussions on the right to water in order to shed critical light on the pathways, pitfalls, prospects, and constraints that exist in achieving global goals, as well as advancing debates around water governance and water justice.

The book shows how both discourses and struggles around the right to water have opened new perspectives, politics and possibilities in water governance, fostering new collective and moral claims for water justice, while effecting changes in laws and policies around the world. In light of the 2010 UN ratification on the human right to water and sanitation, shifts have taken place in policy, legal frameworks, local implementation, as well as in national dialogues. Chapters in the book illustrate the novel ways in which the right to water has been taken up in locations drawn globally, highlighting the material politics that are enabled and negotiated through this framework in order to address ongoing water insecurities. This book reflects the urgent need to take stock of debates in light of new concerns around post-neoliberal political developments, the challenges of the Anthropocene and climate change, the transition from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs), as well as the mobilizations around the right to water in the global North.

This book is essential reading for scholars and students of water governance, environmental policy, politics, geography, and law. It will be of great interest to policymakers and practitioners working in water governance and the human right to water and sanitation.

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1 The right to water in a global context

Challenges and transformations in water politics

Farhana Sultana and Alex Loftus

Introduction

The right to water is widely recognized to have effected a paradigm shift in water governance and water politics. In addition, it has transformed struggles to achieve water justice across scales and sites. In this book, we aim to give some form to such a paradigm shift while simultaneously demonstrating how the right to water has transformed and been translated over the last decade. Much has happened over this time, something we are only too conscious of in reflecting on the years that have passed since we sat down to write the introduction to our last book – *The Right to Water: Politics, Governance, and Social Struggles* (Sultana and Loftus 2012). While published in 2012, we wrote the Introduction in 2011, only one year after the UN General Assembly adopted a resolution recognizing the human right to safe and clean drinking water and sanitation in 2010. In the Foreword to that book, renowned water scholar-activist Maude Barlow, who was then serving as the Senior Advisor on Water to the 63rd President of the UN General Assembly, wrote of the joyous scenes at the UN upon the announcement of the General Assembly's unanimous vote. Our own take was cautiously optimistic. While never ignoring the obstacles and difficulties in achieving the promise of the right to water – in particular, as many others had noted, we were acutely aware of the possibility that the right to water could open the way for a new wave of private sector involvement in the provision of potable water – we were, nevertheless, unwilling to downplay the huge efforts on the part of social movements, non-governmental organizations (NGOs), and scholar-activists who had effectively deployed claims to the right to water as part of a struggle for water justice. Our own perspective was that while the right to water could become an empty signifier, it still represented an important starting point for social mobilizations – a condition of possibility – for broader and deeper struggles for water justice.

Although perhaps something of a cliché to note how much the world has changed since 2010, it is also patently true. The dramatic effects of the 2008 financial crisis were not yet fully clear when we were writing in 2011. And although many may well have accurately predicted that the result would be a growth in inequality, few at the time predicted the viciously revanchist policies now adopted by many governments around the world. At the same time, as the

red tide in Latin America stalled – prompted in large part by the collapse of a commodities boom – so several new experiments in social and ecological justice collapsed under the same resource curse that had befallen development projects in the past. Left popular projects appeared to give way to a resurgence of right-wing populism globally, a social project that articulated with a set of economic prescriptions threatening to extinguish of any remaining sparks of socio-ecological justice from the preceding decade. The formal recognition of the right to water was born at a difficult moment in world history. With our cautious optimism, we were thereby forced to confront some brutal realities.

Nevertheless, having witnessed and survived these years, much of what we argued previously seems not far off the mark. The right to water and sanitation remains one of several tools within the armory of those struggling for water justice, whether in the moment of global revanchism we find ourselves now or during the interregnum in which we were writing before. Perhaps surprisingly, this tool now appears to be deployed as readily in the global North as in the global South, despite the lack of formal recognition or adoption of the right in many countries of the former. The movement of struggles and discourses around the right to water from the global South to the global North is, therefore, elaborated upon within this book, in which we now have as many empirical studies of the right to water in the global North as we do in the global South.

Aside from a reconfirmation of our earlier arguments and a broadening of the range of empirical studies, this book nevertheless strikes a different tone. Whereas earlier, the debate among water activists and scholars revolved around whether or not the right to water was likely to be a progressive force in the struggles for water justice, many would now take this progressivism as a given. Instead of debating whether or not the right to water is a positive or a retrograde step, therefore, in what follows, the contributors focus on how best to achieve the right to water in ways that can articulate with other frameworks emerging around water governance, with other conceptions of water justice, and with new perspectives on water security. This book is as much about future trajectories – intersectional and articulating ones – as it is about debating the right to water. In establishing such an argument, the text seeks to provide a set of understandings for new research on water politics more broadly. The arguments put forth here, therefore, collectively animate new possibilities for advancing the right to water. Power constellations and relational understandings of different actors become more evident within these arguments. Indeed, given that the right to water is open to contestation, reinterpretation, and negotiation, multiple potentialities are opened up and alternative imaginaries might be envisioned. Thus, we would reassert the point that the right to water and sanitation remains an important political discourse in supporting the fight for water for the most vulnerable. The right to water remains a profoundly important galvanizing call for pursuing water justice at various scales (see also Sultana 2018; Boelens, Perreault, & Vos 2018).

This book, furthermore, echoes broader shifts – while seeking to capture and analyze them – within its chapters: indeed, the scholarship on the right to water has proliferated in interesting and unexpected ways. Through highly productive sets of conversations, both discourses and struggles around the right to water have: opened new perspectives, politics, and possibilities in water governance; fostered new collective and moral claims for water justice; and effected changes in laws, policies, and institutions around the world. In light of the 2010 UN ratification, changes have taken place in policy, legal frameworks, local implementation, as well as in national dialogues within the majority of countries globally. The novel ways in which the right to water has been taken up in Europe, Latin America, Africa, and Asia point to the enduring appeal and material politics that are enabled and negotiated through this framework in order to address water crises and water insecurities. There is, thus, an urgent need to take stock of debates in light of new concerns around post-neoliberal political developments, the challenges of the Anthropocene and climate change, the transition from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs), as well as the unexpected mobilizations around the right to water in the global North. This book, therefore, broadens existing scholarship on the right to water globally in order to critically shed light on the pathways, pitfalls, prospects, and constraints that exist in achieving lofty global goals, as well as advancing debates around water governance and water justice.

In this chapter, we frame the book in relation to emerging debates, paying particular attention to intersections with recent discussions in water justice and water governance more broadly. If the right to water is now widely recognized as having forced a paradigm shift in the governance of water and in water politics, it has simultaneously provided a range of tactical and strategic priorities for activists, policymakers, and advocacy groups. Nearly a decade on from the United Nations General Assembly's recognition of the right to water, the present moment provides a unique opportunity for reflecting on the gains, the losses, and the future trajectories for struggles around the right to water. By opening up dialogues with debates around water justice and water governance, we evaluate these gains, losses, and trajectories while also providing a critical framework for new research in the remainder of the chapter.

Institutional questions: whither the state?

Several important institutional questions are important to reflect upon in the present conjuncture. First, as a range of different actors have sought to understand how best to achieve the right to water and in whatever form possible, these debates appear to have recentered questions of the state. How the state is understood, its form and function, as well as its potential capacities have all been questioned. In one of her final contributions to efforts for achieving the right to water, the then UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque (2014), developed a Handbook, rather like a toolkit, in which the state is positioned as one of the

crucial actors through which citizens can seek to achieve the rights to which they are entitled. In many respects, the centrality afforded to the state is unsurprising, for while the UN may recognize the right to water, it is clearly the member states that are responsible for giving this right any meaning.

Nevertheless, such a position poses some awkward questions. Some of these questions were already noted in our 2012 book. Thus, Bustamante, Crespo, and Walnycki (2012: 223), drawing on the Bolivian experience, had argued that:

If we are to consider how rights can be recognized and employed by the state, we are recognizing and justifying the state as responsible for ensuring compliance. A rights-based approach means that other institutional and organizational forms are not recognized, even though they may occupy spaces for interaction and rights that don't necessarily originate from the state.

Indeed, although the mechanism that de Albuquerque noted makes intuitive and practical sense, the consequence is a strengthening of the very state institutions that may themselves be responsible for entrenching new forms of hierarchy and perpetuating existing inequalities. Forms of water privatization, to take one example, while appearing to minimize the role of the state, rely on sets of decisions made within the form of the state. Decisions over infrastructure, appropriate levels of investment, and legislation ranging from the ability of water companies to disconnect for nonpayment to the recognition of different groups are all made through the form of the state, very often to the detriment of those who are the least powerful within a given society. Although wrong to generalize from one experience, the South African struggles charted by Clark in the 2012 book, and discussed further in relation to sanitation experiences by Bond in the current book, show how the South African state was able to prescribe a deeper, more participatory, reading of the right to water and, more recently, to inscribe a new "color line" that produces deeply uneven access to different forms of sanitation infrastructure.

Nevertheless, it would be equally wrong to simply dismiss the state as only ever a harbinger of hierarchies or an executive of a racialized bourgeoisie. Indeed, the fact that rates of re-municipalization now outstrip the rate at which water services are being privatized (Kishimoto, Lobina, and Petitjean 2014) – a process that, once again, clearly recenters the state within water provision – is surely something to be celebrated, potentially bringing water services back under some form of democratic control while removing the profit motive with regards to the provision of this most basic of needs. Unsurprisingly, the picture is complicated. As McDonald argues in his chapter in this book, while proponents of privatization are wrong to argue that the involvement of the private sector will bring about the efficiency savings and reduced prices through which the right to water might be realized, the counter-argument that re-municipalization is the only possible way of realizing that right is only partly true. McDonald's chapter, therefore, demonstrates that there is no universal outcome: instead, outcomes are context-dependent, associated with both the form and function of the state, its

historical legacies, and the forms of municipal provision that have emerged in relation to that form, function, and legacy.

For some scholars, conversations with work on state theory necessitate a more relational understanding of both the state and of the right to water (Angel and Loftus 2019). Rather than posing a simple question of whether to posit or reject the state as the key agent through which to achieve water justice, it might be possible to adopt an approach that simultaneously works within, against, and beyond the state. Developing such a position necessitates a move beyond more fetishistic understandings that posit the state as a coherent agent capable of enacting particular sets of policies (Abrams 1988). Indeed, it might be possible to think of strategies that move within, against, and beyond the right to water.

Whereas Clark (2012), Angel and Loftus (2019), and the chapters by Bond and McDonald all tend to focus predominantly on the national and local state, the chapters by Bieler and by Van den Berge et al. demonstrate the ways in which supranational institutions, such as the European Union (EU), have also come to mediate particular struggles around the right to water. In a remarkable feat of mobilization, water activists were able to achieve the first-ever Citizens' Initiative within the European Union, thereby paving the way for a debate over the right to water within the European Commission. The Citizens' Initiative, coordinated by a broad coalition of trade unions and civil society organizations, gathered over 1.9 million signatures across 14 of the 27 countries comprising the EU, in order for the right to water to be prioritized within EU legislation. While certainly not an unqualified success, the Citizens' Initiative serves to demonstrate the ways in which new institutional frameworks now embody and express the different struggles for water justice and, furthermore, how new tools are opened up at different scales – and fundamentally different locations – for pursuing greater water equity.

The chapter by Mehta and Langmeier, alongside that by Schmidt and by Meehan, show the ways in which the UN, through its High-Level Expert Panel has also sought to further clarify the roles and responsibilities of different institutions within a broader governance framework. Schmidt charts in forensic detail the evolution of discourses within the UN High-Level Panel on Water and the likely implications of apparent shifts in focus. By beginning to integrate questions around resilience – in its turn to "Valuing Water" – the arguments in favor of non-contingent human rights appear to lose their force. Instead, and problematically, explanations of water scarcity appear to be rooted more in instances of "moral luck." Such discourses clearly matter both for the prominence or otherwise of the right to water and for the political pressure that can be exerted on institutional frameworks in ensuring equitable access to water. As charted in the chapter by Mehta and Langmeier, Mehta's own involvement in the High-Level Panel of Experts on Food Security and Nutrition enabled her to push for far greater attention to the necessary relationship between the right to food and to water, even against the apparent wishes of the Special Rapporteur at the time, for whom such a focusing would distract from the more immediate task of achieving change in the

water sector. The Foreword to this book from the current Special Rapporteur, Léo Heller, furthermore, demonstrates the continued importance of the Special Rapporteur's role and for the position to be able to shape and influence debates, both in terms of the particular lens brought to the analysis and through the thematic reports covered in their role. These institutional levels, positions, platforms, and networks clearly matter.

Water security discourses

If institutional structures have shifted and new institutional forms have come to mediate struggles over the right to water, a range of discourses have also emerged that may or may not be complementary to struggles to achieve that right. Perhaps most prominent among these is a whole set of discussions over how best to achieve water security. Such discussions then pose questions around the degree to which efforts to make communities "water secure" can be considered to be the same as affording the right to water.

The turn to water security in recent decades should be distinguished from earlier discussions – emerging from realist approaches in International Relations (IR), theory – in which water security's primary referent object was the nation-state. In the immediate post-Cold War era, discussions over environmental security appeared to be enrolled in efforts to script the new threats faced by the world. Often couched in thinly disguised – or even avowedly – neo-Malthusian frames, water security was said to pose dangers to national security and to require both careful military planning and new engineering solutions (Starr 1991). Critical perspectives remained unsurprisingly wary of such concerns, and instead sought to demonstrate the ways in which water insecurity is socially produced in relation to broader classed, sexed, racialized, and gendered social relations. Discussions over environmental security have transformed in recent decades, enabled by a shift to a human security framing (in which the referent object shifts from the nation-state to the individual and community) (Barnett 2001; O'Brien 2006) and, for others, to new sets of questions around ecological security, in which the biosphere becomes the principal referent object to be secured (Detraz 2009; Cudworth & Hobden 2011).

But if the referent object has shifted, discussions of water security do not always manage to avoid the Malthusianisms or environmental determinisms of previous iterations. Thus, for Grey and Sadoff (2007) water insecurity can be read as affecting those who are "hostages to hydrology." Both the language and the framing clearly view the environment as shaping the fate of individuals – one's exposure to environmental harms is seen to result from the quirk of one's birthplace rather than the sets of relations that give rise to particular forms of inequality. It is against such dominant framings that critical approaches to water security have emerged, and it is these critical approaches that might influence the future direction of critical approaches to the right to water. Within this book, the chapter by Jepson et al. employs a capabilities approach in order to argue that water security is more about securing the relationships

through which water shapes people's lives. Water security should, therefore, be understood less in terms of securing water as an object. Instead, critical approaches to water security should build on previous relational understandings, thereby enabling new synergies to emerge between the right to water and water security (see also Loftus 2015).

Mehta and Langmeier's chapter similarly emerges from a set of debates over the right to food security and nutrition. As with discussions over water security, food security has come to be framed in fundamentally different ways from the Cold War security discourses of realist IR. Interlinkages are now emphasized such as those teased out carefully by Mehta and Langmeier with the right to water: the referents are no longer nation-states but people, communities, and human subjects. Discussions of ecological security – often emerging through post-human approaches to IR (Cudworth and Hobden 2011) – have sought to shift the discussion more towards a consideration of the security of both human and nonhuman, suggesting a need to consider the rights of the nonhuman alongside the rights of the human. Although we approach some of these discussions with slight skepticism, schooled as we are in critical political ecological debates that reject claims to "the natural," as we discuss in the next section, critiques of the knowledge base of settler colonialism have developed a political ontology that unsettles some of these certainties in important ways.

Articulating race/class/indigeneity/coloniality

As with the relational approaches developed around critical approaches to water security, recent discussions have also emphasized the ways in which water injustice always exceeds the socioeconomic inequalities through which it is, in part, produced. Indeed, the social productions of race, class, and gender articulate with and are reinforced through access to water. The right to water needs to be understood within such a framework, not only because it has implications for how we understand the articulations of social difference and access to water, but also because social difference and access to water have material and reciprocal effects.

To provide some context, scholars have shown how water is intersectionally gendered, racialized, and classed in different contexts (e.g. Brown 2010; Harris 2009; O'Reilly 2006; O'Reilly et al. 2009; Sultana 2009, 2011). In so doing they have elucidated the impossibilities of single narratives on water in any location. Hardships and struggles have to be analyzed in nuanced ways to underscore the heterogeneity of power relations involved. Scholars focusing on the global South have provided a plethora of analyses that can further articulate with the right to water, from a range of perspectives, such as postcolonial, feminist, critical race, and critical urban studies (e.g. Gandy 2008; Harris et al. 2017; Hellum, Kameri-Mbote, & van Koppen 2015; Kooy 2014; Sultana 2009; Sultana, Mohanty, & Miraglia 2016). In any context, water insecurity, unavailability, and stress will exacerbate existing intersectionalities of power differences. Investigating the

ways water marginalization follows the contours of historical and intersectional dispossessions fosters a greater understanding of inequities on the ground. For instance, the chapter by Clark shows how racialized structural violence is perpetuated through water injustices in Flint, Michigan, USA. The (re)production of racialized difference within post-apartheid South Africa is also captured in the chapter by Bond, focusing on sanitation struggles in Durban. And the chapter by Zenner shows how a focus on indigeneity raises ontological questions and challenges in materializing a right to water.

If the continuities and inheritances of colonial systems of inequality have been widely acknowledged within the literature on the global South – thereby emphasising how such relations have shaped the infrastructure networks, as well as the systems of governance, through which water is provided in different parts of the postcolonial world – more recently, attention has also turned to questions of settler colonialism as a specific set of social relations that shapes the colonial present of North America, Australia, New Zealand, and Palestine. Ontological certainties over the hydrologic cycle, the right to water itself, and the modes through which it might be realized have been called into question as the assumptions of settler colonial states, along with Eurocentric frameworks, have been called into question. Human rights frameworks might, therefore, be read as a Eurocentric application of a liberal framework that guarantees the entitlements and freedoms of some over others. The need to disrupt – or at least question – settler colonial understandings is perhaps best seen in the chapter by Linton in which he poses the question of how the right to water sits with the settler colonial problematic. For Linton, troubling settler colonial relations forces the question of how the right to water might adequately account for fundamentally different ontological framings of water: water-as-lifeblood is a rights-producing ontology. It is the right to perform the enactments and practices associated with water-as-lifeblood and respecting such a right and enabling its achievement requires recognizing the right to ontological difference. Echoing the work of Yates, Harris, and Wilson (2017), Linton demonstrates how right to water discourses might be brought into conversation with other non-European ontologies and non-anthropocentric worldviews. The challenges posed in recognizing the right to ontological difference are many and, as Linton demonstrates, not easily or comfortably resolved. Zenner, in a slightly different vein, argues in her chapter that different ontologies are incommensurate with – and sometimes even oppositional to – more anthropocentric understandings of the right to water. She teases out such an analysis through her engagements with two indigenous movements – the *nni wiconi* at Standing Rock, USA, and the conferral of legal personhood to the Whanganui River in Aotearoa, New Zealand – alongside the moral proclamations on the right to water by the Catholic Church. Together, these chapters bring into sharper focus the need for nuanced reflexivity and an understanding of multiple framings and ontologies in any discussion of the right to water.

Translating the right to water from the South to the North

As we noted at the outset, one of the differences from our earlier book is the number of studies within this new book that draw on experiences from the global North. The right to water has become a crucial tool for water justice activists in the global North in recent years seeking to achieve fairer access to water, contesting different forms of privatization and commercialization, and exposing and challenging the effects of racial capitalism as well as settler colonialism. Each of the chapters focusing on the global North shows the emergent and existing ways that the right to water has been deployed as discourse, practice, imaginary, solidarity, and critique. Contextually-rich, these chapters show how such discourses and practices work within spaces of imperialism, through-and-against the relations of advanced capitalism, and through the infrastructural forms of so-called advanced industrialized countries. Initially, the right to water was expected to galvanize further social movements in the global South, whereas now the right to water has truly gone global. Concerns around poverty, inequalities, and dispossessions provide challenges to fulfilling livelihood needs globally, mobilizing different groups to make moral and material claims around water.

The challenges of deploying the right to water within the racial capitalism of the global North is seen within the chapter by Clark, focusing on the case of Flint, Michigan. Whereas Clark, drawing on Bello (2004), makes the claim that Flint is as much part of the global South as the global North, elsewhere Ranganathan (2018) urges against Third World comparisons in the case of Flint, suggesting that these obviate the specific ways in which racial capitalism has developed and unfolded within the United States. Clark is in no way blind to the “racial liberalism” through which Ranganathan (2016) structures her analysis of Flint, but through her own critical legal scholarship, Clark is able to draw connections between her earlier work in Johannesburg and the struggles for water justice in Michigan. In so doing, Clark’s chapter demonstrates how struggles that largely emerged from the global South have now come to profoundly shape efforts for water justice in the global North, including in contexts where the right to water has not been formally adopted by nation-states.

Given Clark’s attention to both contextual specificity and the possibility for shared struggles to develop across both North and South, perhaps it might also be possible to read Flint – and the right to water more broadly – through a form of relational comparison (Hart 2006, 2018). Hart’s understanding of relational comparison is perhaps best seen in her rich explorations of the divergent trajectories of Ladysmith and Newcastle in South Africa, always understood in their relations to global processes that link land tenure in East Asia to forms of industrialization and racialized dispossession in South Africa. For Kipfer and Hart (2013: 323) relational comparison requires paying attention “to the spatio-historical, articulatory, and denaturalizing aspects of translating practice.” In relation to the right to water, we might, therefore, begin to consider the manner in which the political practice of achieving the right to water articulates with and through the contextual specificities (always relationally understood) of specific sites.

In this regard, the practicalities of the right to water must always be seen as simultaneously contextual, discursive, and material albeit always articulating with broader globalizing relations. Thus, Walnycki's chapter on Bolivia shows us the complexities involved in state-community relationships to actualize what the right to water could mean. She argues that there has been a gradual de-politicization of the global campaign to realize the human right to water as it has been subsumed under Sustainable Development Goal 6 (water). The practical and strategic innovations required to implement the right to water in complex under-served urban areas in the global South is found to be lagging even if numerous informal providers can enable the progressive realization of the right to water. Non-state actors are often essential in materializing the right to water, especially from the informal sector, NGOs, and grassroots mobilizations (see also Wutich, Beresford, and Carvajal 2016). In another chapter, Meehan shows how different institutional actors operate at a range of different scales in Mexico in order to develop practical authority for human rights through a diverse set of sites, tactics, and strategies. Moving beyond constitutional scripts and policy impasses, Meehan argues for the necessity of attending to the different and alternative pathways by which the right to water is materialized on the ground. Both Meehan's chapter and Walnycki's chapter are reminders of the continued struggles and battles being fought in spaces where formal adoption of the right to water exists but where there are no straightforward solutions. They also offer examples of the contextual specificities and relationalities fostering and hindering the achievement of the right to water.

While perhaps more prominent as a theme in our earlier book, encroaching commoditization of water is often identified as one of the key shifts enacted through capitalist relations of production within the hydrosocial cycle. One of the crucial touchstones within the previous book was Bakker's argument that commoning strategies might provide a more useful strategy for countering commoditization than struggles for the right to water, given the aforementioned risk that the right to water is used as an opening for new forms of private sector involvement in water delivery (Bakker 2007). Given the trend to re-municipalize water, debates over commoditization are somewhat less present within this current book – although see the chapters by van den Berge et al. and by Bieler for important and thoughtful takes on such questions. A somewhat trickier set of questions emerges in relation to the massive growth of the bottled water industry, as highlighted in the chapter by Pacheco-Vega, in which he shows how the right to water can be instrumentalized by the bottled water industry, yet at the same time packaged water can foster the fulfillment of the right to water in times of disasters and crises. Developing a comparative analysis of two disasters, one in the United States and one in Mexico, his chapter demonstrates the ways that bottled water sits uncomfortably within the majority of the right to water discourses. Disasters create immediate demands for a greater supply of packaged/bottled water to distressed communities. At the same time, the rise of bottled water consumption, when easily accessible safe potable water exists via public

provisions, continues to raise questions of intensifications over commodification and privatization of water sources (see also Hawkins 2017).

While we would concur that the capture of human rights discourses by market forces can undermine the realization of community water rights as well as a notion of the commons in water, we simultaneously wish to show how contingent relations, contours, and struggles over water open up spaces for greater democratic, participatory, and equitable interventions and possibilities. None of this is monolithic nor utopian. Forms of political praxis aimed at realizing the right to water have always been birthed through struggles. Critical attention must, thus, remain focused on issues of elite capture, participatory exclusions, and marginalizations across intersectionalities of gender, race, class, and other axes of differences. The chapters in this book, therefore, deconstruct public/private binaries, emphasizing the complex terrains within a maturing set of understandings over the right to water, and bring into focus the different actors, options, processes, and challenges involved. Issues of accountability, decision-making, cooperation, and transparency are shown to be central in realizing a right to water, since normative claims, devoid of politics and materiality, do not necessarily result in actualized gains.

Conclusion

In looking backward and thinking forwards while pondering a decade of water rights and wrongs, this book discusses the multiplicity of possibilities around how to achieve the right to water rather than only theorize what it is or could be. The book is more about the struggles and strategies for thinking through the right to water and the tensions therein. The chapters collectively encourage learning from the different frameworks in relation to that right, the various struggles that have worked with and through the right to water, and those that have reinterpreted what it means on the ground. What we see now are various power constellations and relational understandings from different actors involved in ensuring the right to water in different contexts. Access to safe, clean water by differently situated groups is a product not necessarily of one independent actor but usually several in constellations of power.

While legal strategies and policy instruments are often thought to be the common outcomes of adoption of rights discourses by nation-states, it is certainly not limited to these, as the right to water has been found to offer strategic tools for organizing, mobilizing, and resisting across scales and locations. The right to water is not just about quantity, quality, availability, or access but fundamentally about the right to participate in water governance and power structures that influence those rights. Broader goals of justice and equity are being envisioned and pursued globally at the current conjuncture. Emancipatory politics in the Anthropocene is being made more possible through the different ways that the right to water has been taken up globally. This has important ramifications for water governance and water justice in practice and in discourse. The right to water has enduring appeal precisely because it offers ways to move past

reductionist prescriptions that render technical the things that are very much political. The malleability of the term offers a politics that can engage anticolonial, decolonial, anti-race, feminist, and other intersectional strategies to contextualize grounded realities. The right to water has become a galvanizing call to reimagine and co-construct a politics that works from the bottom up and holds multiple possibilities for hope and social justice in relation to water.

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2 Valuing water Rights, resilience, and the UN High-Level Panel on Water

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Introduction

Human rights are designed to be non-contingent; equality independent of moral luck. Geographical location, gender, ethnicity, or religion are just a few markers that human rights are intended to operate free from. In practice, however, human rights have been “kindest to the rich,” as the pursuit of equality has been displaced by norms of sufficiency—largely couched in terms of human needs—that are unconcerned with inequality so long as subsistence minimums are met (Moyn, 2018). For instance, the 1948 Universal Declaration of Human Rights begins with the recognition that “the inherent dignity” and “equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (United Nations General Assembly, 1948). Yet, when the Human Right to Water and Sanitation (HRWS) was under consideration in 2010, the expert report to the United Nations rarely referenced equality. Instead, experts stressed norms of sufficiency, such as in statements like, “The normative content of the rights to water and sanitation can be determined in terms of the criteria of availability (referring to sufficient water for personal and domestic use, or sufficient sanitation facilities)” or assertions that “Water supply for each person must be sufficient for personal and domestic uses” (United Nations General Assembly, 2010, p. 10, 11). In this chapter, I argue sufficiency approaches to the HRWS naturalize moral luck at the expense of equality in programs of global water governance. I show how by examining the “valuing water” initiative of the United Nations High-Level Panel on Water (HLPW), which seeks to unite the HRWS, the Sustainable Development Goals, and the profound impacts of humans on the Earth system.

My argument builds on two earlier interventions. In the first, I outlined an approach to ethics and the HRWS grounded in an appreciation of the judgments through which states of affairs are rendered into governance propositions, such as water scarcity or water security (Schmidt, 2012). In the second, I examined how the international uptake of such propositions has naturalized global hydrology to the management institutions and governance norms of political liberalism (Schmidt, 2017). Those accounts rely, in part, on Hannah Arendt’s (1958a, 1982) arguments regarding how shared practices produce