

For Money or For Life: Of Water Security and Human Rights

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Until January, 2005, a local subsidiary of the transnational water giant Suez held a contract in El Alto, Bolivia that guaranteed the company a 13% profit while leaving 200,000 people in El Alto without access to water. The contract also left countless others unable to afford the US\$435 connection fees (almost 8 times the monthly minimum wage). After years of organizing, the people of El Alto forced their government to terminate the contract last year. Bolivia, the poorest country in South America, is now paying the price for respecting the will of its people: Suez is planning to sue the country for breach of contract, despite the company's failure to provide adequate and affordable services.

Suez's failure in Bolivia is one of many such cases. In December 2005, Suez announced it was dissolving one its subsidiaries in Argentina and leaving the province of Santa Fe, where it had a 30-year contract to run utilities in 13 cities. Three months later, the company announced that it would leave Buenos Aires as well, and there is current speculation that the company will soon withdraw from the city of Cordoba, signifying a complete exit by Suez from all of its Argentine water contracts.

During the past decade, before its bankruptcy, Argentina was referred to by water rights advocates as "a global guinea pig for water privatization experiments." In Argentina as elsewhere, these experiments were plagued by set-backs such as lack of investment in the maintenance, repair and expansion of water utilities, rate hikes, cut-offs for those too poor to afford the service, and water contamination due to lack of proper treatment. The withdrawal of Suez from Argentina appears to be a clear demonstration that water privatization as an economic and social practice has failed.

In January, 2003 Atlanta, Georgia canceled a \$500 million contract with United Water, another wholly-owned subsidiary of Suez. The contract had only been in place for 4 of its proposed twenty years when citizen complaints of brown water, lack of service, and sudden price increases caused the fastest growing city in America to put its water system back into public hands.

Of course, water is not strictly an urban issue. In the countryside surrounding Mexico City, the Mazahua Indians have formed an army – the Zapatista Army of Mazahua Women In Defense of Water – to demand rights to the water that rushes through their lands but does not stop. The Cutzamala River supplies 16,000 cubic liters a second to Mexico City, yet several Mazahua villages have no water lines. In response to the injustice, the army of Mazahua women marched over the mountains and into the capital to present their demands to the World Water Forum (WWF) as it convened there this past March.

Old water in new bottles: the 4th World Water Forum

The showdown between corporate water giants and growing social movements struggling to keep water in public hands was strongly evident at this year's World Water Forum – or at least in the streets of the city that hosted it. The massive event, convened every three years by the World Water Council -- a non-governmental body whose President, Loïc Fauchon, was formerly the President of Suez -- refers to itself as "An International Multi-Stakeholder Platform for a Water Secure World." This year's event held March 16-22, was co-sponsored by the World Bank, Coca-Cola and other corporations, in collaboration CONAGUA, Mexico's water agency widely known for corruption and misuse of funds. Commenting on this close collaboration between policy makers and corporate interests, Santiago Arconada, a representative of the Venezuelan Ministry of the Environment, compared the WWF to the World Economic Forum, calling it "the Davos of water."

Not unlike the Forum that meets every winter in Davos, this one has generated a strong reaction among progressive and popular movements, sparking a series of alternative events, protest marches, and actions concurrent with the WWF itself. The events, referred to as the International Days in Defense of Water, but often simply called the alternative water forum, were mostly organized by the Mexican Coalition for the Right to Water (COMDA, by its Spanish acronym) along with an international coalition called the Friends of the Right to Water.

If the alternative forum were said to have one binding element, it is the urge to define access to safe, sufficient water as a human right, rather than as a commodity to be bought and sold regardless of need.

While there is a shortage of fresh water worldwide, there is no shortage of statistics. Worldwide, 1.2 billion people (one in six) lack access to safe drinking water. Two and a half billion lack access to improved sanitation. Lack of clean drinking water leads to nearly 250 million cases of water-related disease each year, and between 5 and 10 million deaths. At present, 12 percent of the world's population uses 85 percent of its water, and global consumption of water is doubling every 20 years -- more than twice the rate of human population growth. If current trends persist, by 2025 the demand for fresh water is expected to rise to 56 percent more than the amount that is currently available. Unless these trends change, the number of people who lack access to improved water supply could increase to one third of the population (2.3 billion people) by 2025.

In Mexico City alone, a city of 23 to 26 million people, the aquifers supplying drinking water are expected to run out within 20 years.

This is why the social movements are demanding a human right to water – to ensure, in this age of diminishing supplies, that basic human needs are met before corporate profit. Many of the grassroots groups and NGO's in the alternative water forum propose that the best way to ensure that water is managed sustainably, in both ecological and human terms, is to build capacity among local organizations to manage it themselves, and to sanction industries that pollute or abuse this common resource.

Despite the documented failure of corporate approaches to water services, the international financial institutions who support it seem to be

adjusting their angle of approach, rather than abandoning the territory altogether to state management or social control over water resources.

Back in April, 2000, when a wave of popular uprisings in the city of Cochabamba forced the Bolivian government to give Bechtel Corporation the boot, the common term for what Bechtel practiced was “water privatization.” This no-nonsense term bluntly described the practice of putting public water services into private hands – a practice that was aggressively promoted at the 2nd World Water Forum in the Hague that year.

In the years that followed numerous national and local grassroots movements – in Ghana, in South Africa, in Uruguay, throughout Central America, and in villages, towns and cities throughout the world from Grenoble, France to Plachimada, India to Stockton, California – emerged to challenge the doctrine of privatization that seemed to be raising tariffs even as it diminished the quality of water utilities.

By the time of the 3rd World Water Forum in Kyoto, Japan in 2003, the term in vogue had become “public-private partnerships.” The new term made it appear as if the private sector were no longer out to control water resources, but merely to share them equitably with cooperative governments. Even so, movements in many countries continued to resist the kind of “participation” being promoted by private companies like Suez, Vivendi (now Veolia Environment), Coca-Cola, Nestle, and Bechtel. But the companies fought back. For its part, Bechtel had launched a \$50 million lawsuit against Bolivia, revealing the full intent behind the corporate participatory spirit.

Two months before this year’s forum opened, Bechtel was forced to abandon its spurious lawsuit. Oscar Olivera, a key leader in the Bolivian water revolt, commented, “For Bolivia this retreat by Bechtel means that the rights of the people are undeniable.”

Not surprisingly, a warmer and more people-friendly vocabulary term was being used at the 4th World Water Forum to refer to the back-room handshake between governments and the transnational water giants: “Private Sector Participation.” Now, the rhetoric would have us believe, the private sector is merely one participant among many.

While the goal of the transnationals seems not to have changed, this shifting terminology signals an important trend: social movements struggling to define water as a right and not a commodity have put the transnational private water sector on the defensive.

The International Days in Defense of Water

The International Days in Defense of Water kicked off on March 16 by a massive march through the streets of the city that, while largely peaceful, was marked by militancy and a few flare-ups of violence between demonstrators and riot police. Excluded from the official forum by the \$600 entrance fee and labyrinthine bureaucracy, 20,000 people – precisely those whose needs, rights and aspirations are the bread and butter of the international finance and policy juggernauts – took to the streets to voice their opinion in the largest single street action to date in support of the human right to water. This spirit of popular

resistance was maintained over the next week as the social movements forged their collective vision of social control over water.

Wilfred John D'Costa, native of Hyderabad and representative of the Indian Social Forum, hailed the alternative forum as an important step in a growing international movement. "This is the first time the water issue has grown so big. It is the first time anti-privatization groups have come together and been so political and so sharp and so broad, from so many countries."

Patrick Apoya, head of the Ghanain NGO Community Partnerships for Health and Development, and a key activist in the national and global campaign against water privatization, summed up many activists' criticism of the official forum: "Most of the World Water Forum has been about *things* – what we have invented, what we can sell – rather than about actions – what we can *do* together. This is not right. It is a marketplace not for ideas, but for products."

Commenting on the need for an alternative forum, he continued, "There has been a vast difference between the two forums. The official forum is supposed to be a place where stakeholders, technocrats, and policy makers address different problems together. But I think this objective has been defeated. I would like to see a platform where community people are brought together with academics and governments. I don't see that platform. The academics are locked in their rooms, the governments are locked in their rooms, and the community people are not invited.

"If you compare this to the alternative forum, you see every single continent, every single sub-region, and everybody talking together. It is not three people talking here and five people talking there, but everybody talking together. And they are talking about substantive issues – very big issues. This is how the official forum should be, but it is not. I will not be surprised if, in some years, the official forum becomes obsolete and everyone is coming to the alternative forum..."

By the time the official World Water Forum ended, with little consensus among water and environment ministries from the participating countries, the theme had become so embattled that it led Santiago Arconada, of Venezuela's Environment Ministry to comment "I don't think there will be a Fifth World Water Forum. At least not like the first four."

The Declaration and the other declaration (and the other declaration)

While not organized or formally sponsored by the U.N., each WWF ends with a pre-drafted Ministerial Declaration, and it is this declaration that gives the decisions made at the Forum their official status.

In past Fora, the declarations have hailed water privatization as the only answer to the global water crisis. Critics have loudly pointed out that alternatives to privatization -- such as improving existing public services and involving the people served in critical decision-making -- are consistently ignored in these declarations, which then serve to guide global water policy. This year's declaration, though perhaps more timid than in years past, was little different.

Unsurprisingly, the Ministers agreed to support the UN's Millennium Development Goals, "including the goal to reduce by half, by the year 2015, the

proportion of people unable to reach or afford safe drinking water.” How these goals will be reached is hotly debated, and is anybody’s guess. The declaration studiously avoids the word “privatization,” while using such tepid language as the following:

“We note with interest the importance of enhancing the sustainability of ecosystems and acknowledge the implementation and importance in some regions of innovative practices such as rain water management and the development of hydropower projects. We further reaffirm the importance of the involvement of relevant stakeholders, particularly women and youth, in the planning and management of water services and, as appropriate, decision-making processes.”

It was this lukewarm language that lead, in large part, to conflict within the ministerial itself. Abel Mamani, the Bolivian Minister of Water, in a statement to the social movements gathered in a Telephone Workers’ Union Hall far from the official Forum, said, “We have read the draft document, and it says nothing. It doesn’t take a position. It would be good if it said something – even if this something was something we do not agree with. Even if this document came out in favor of privatization, that would be better, because we would know better what we are talking about. But in a moment of such crisis in the world as we are living today, a document that says nothing is the worst outcome we could expect....”

He went on: “Our role as human beings is to take care of the natural world, and for this reason water cannot be treated as a commodity – because then we are not taking care of the natural world, we are taking care of our pocket books.”

It was Mister Mamani, representing the new Bolivian government of Evo Morales, along with his counterparts from the Venezuelan Ministry of the Environment, who led a campaign within the Ministerial to first discredit and then add an addendum to the official declaration. In the end, the annex was added – though you won’t find it on the official World Water Council website – and signed by Bolivia, Venezuela, Uruguay, and Cuba, with apparent interest from many other countries.

Among other things, the “Additional declaration at the 4th World Water Forum” declares the following:

“Access to water quality and quantity constitutes a fundamental human right. The States, with the participation of communities, shall make efforts at all levels to guarantee this right to their citizens, within their respective countries. Thus, we agree to continue making all efforts within the Commission on Sustainable Development of the United Nations and other international for a according to their mandates, to recognize and make this right effective.

We declare our profound concern regarding the possible negative impacts that international instruments – such as free trade and investment agreements – can have on water resources, and reaffirm the sovereign right of every country to regulate water and all its uses and services.”

While participants in the alternative forum were very pleased with this bold statement by Latin America's two breakaway left governments -- Oscar Rivas, Paraguayan anti-dam activist and a former Goldman Environmental Prize winner hailed it as "a great victory for people's movements everywhere" -- representatives of the official forum were less enthusiastic. Loic Fouchon, President of the World Water Council, called Mamani "discourteous and disagreeable," and the World Bank's Jamal Shagir told the press, "The right to water is not relevant to this forum."

Meanwhile, in the alternative forum, another declaration was drafted "In Defense of Water". Among many other proactive positions taken on water services, the declaration says that water utilities should not be "publicly controlled" -- with the implication that the State should not have ultimate responsibility -- but rather, they should be controlled in a way that is "public, social, cooperative and participatory."

Water is NOT a Human Right?

There are many elements of the Declaration of Human Rights and other UN instruments that can be interpreted to suggest that access to safe water is a human right. But this right is not made explicit in its own Convention. Canada's Blue Planet Project tells it straight:

"When the United Nations' Universal Declaration of Human Rights was drafted over 50 years ago, water was not included in the list of protected rights. The rationale was simple. Water, like air, was considered so fundamental to life that naming a right to it would have been redundant....Times have changed."

In 2002 an obscure agreement called General Comment 15 was forged by the UN Committee on Economic, Social and Cultural Rights, recognizing that access water is a right and that all states have the obligation to protect this right. But General Comment 15, celebrated as a benchmark by everyone from the World Water Council to the Blue Planet Project, has no mechanism for enforcement, and no provision guaranteeing community control over water resources. This is, of course, where the waters divide.

While the final declaration of the 4th World Water Forum explicitly excluded any reference to "human rights," the propaganda surrounding the forum was rife with it. For example, in his opening remarks to the Forum, Mexican President Vicente Fox (notably, the former President of Coca Cola Mexico) declared water to be a human right -- but this statement did not appear in the subsequent published version of the speech. At the time of the forum, the use of the "rights" argument by both the World Water Council and the opposing social movements led to serious confusion in the media. When asked "What is the difference between the Water Council's right to water and the alternative forum's right to water?" Maude Barlowe, Chair of the Council of Canadians and Director of the Blue Planet Project, stated simply, "We mean it. They don't."

The WWF's opportunistic use of the language of human rights signals that the corporate water sector sees its role as guaranteeing the right to water to the rest of us, for a price. The social movements, on the other hand, argue that

corporations not only should *not* be positioned to guarantee this right – they should be held accountable in many cases for violating the right.

It is this division which has led to the formation of the international coalition Friends of the Right to Water, whose goal is to pressure the UN to draft a Convention on Water as a Human Right.

Peter Gleick, President of the Pacific Institute, a leading think tank largely devoted to water issues, has written extensively on the issue of water rights. Several years before General Comment 15 was adopted, he wrote, “Would the recognition of the human right to water actually improve conditions worldwide? Perhaps not. The challenge of meeting human rights obligations in all areas is a difficult one. But the imperatives to meet basic human water needs are more than just moral, they are rooted in justice and law and the responsibilities of governments. A first step toward meeting a human right to water would be for governments, water providers, and international organizations to guarantee all humans the most fundamental of basic water needs and to work out the necessary institutional, economic, and management strategies necessary for meeting them.”

Social control over water resources

On October 31, 2004, a popular referendum in Uruguay led that nation to amend its constitution to make access to piped water and sanitation a fundamental human right available to everyone, and to ensure that water provision happens on a strictly not-for-profit basis. According to Carlos Sosa, a member of the Union of Water and Sanitation Workers of Uruguay, and a leader of the Uruguayan popular movement, the water struggle is a key element that unites movements throughout Latin America.

“In Uruguay the water referendum was pushed by the center-left parties, but also by organizations from the nationalist party. This brought about a very wide spectrum of participation in the water issue that went much deeper than political opinion. This means that its important for us to understand that the problem of water is different from traditional party politics – it is a political problem, but one with a fundamentally human character. How can we resolve our common social problems from the perspective of something that is a basic human right, a right to life, a right that we all share regardless of political perspective? From there we realize that we have to pose the water issue as a social problem, not a political problem, and I think it is this perspective that has allowed it to build such momentum in all of our countries. I think at this point, because this perspective has taken off, the doctrine of privatization cannot win, the way it did not win in Uruguay, or in Bolivia, or in Argentina. It’s clear by now that the vision of the World Bank, the vision of water as a commodity that is being discussed at the Official Water Forum, is not a popular vision, and not a winning vision.”

While several South American countries are passing laws that bring their water policies in line with a human rights perspective, the big three free-trade partners -- Canada, the US and Mexico -- are less than supportive. Mexican activist Areli Sandoval, representing the NGO *Equipo Pueblo*, pointed out that, in

Mexico, the failure of public water management has been an explicit attempt to sell Mexico's water to the private sector:

“The Mexican government has not taken up the cause of water as a human right. In fact, the position of CONAGUA (the National Water Commission) is that water costs money -- a lot of money -- and so the people should pay the full price for water. The human rights perspective on water does not mean we think water should be absolutely free. We understand that it costs money to build infrastructure, to maintain infrastructure, and so forth. But there is already a fiscal system in place for providing public services, and what the Mexican government is doing is under financing public services, and then arguing that private investment is necessary to keep the services running. Year after year the Mexican government cuts its financing of public services, and this leads eventually to a crisis. But in reality this is not a crisis of financing, but a crisis of management. When the crisis hits, the private sector comes to the rescue. And what happens then is that the private sector does not meet its commitment, and the Mexican government, using public money, ends up bailing out the private companies. Nobody comes to the rescue of the public services. This why a human rights perspective is important – to force our governments to respond to a basic human need.”

Wide consensus on issues of social control over water resources led many participants in the International Days in Defense of Water to leave feeling that it was a major step forward in building a global people's water movement. And, in light of failure within the official World Water Forum to reach true consensus, as well as the perception that it was top-heavy and exclusionary, the success of the alternative forum will resonate for a long time to come.