

The Commodification of Water: social protest and cosmopolitan citizenship

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Water is a basic necessity, essential to life. Profiting from this incontrovertible fact is politically problematic, and the commercial delivery of water services to domestic consumers is highly contested. This socio-legal research project explored conflicts surrounding the provision of water to domestic consumers, bringing together the North-South dimensions of a topic that engages global governance frameworks in local contexts in Argentina, Bolivia, Chile, France, New Zealand and South Africa.

KEY FINDINGS

- 1 The commodification of water is being challenged by the notion of a human right to water, but the rhetorical clarity of this contrast is muddled by a wide range of different visions of water's significance. These incorporate environmental values, public health values, consumer sovereignty and cultural significance.
- 1 The different visions of water are promoted by strategies that mix traditional political means, professional knowledge, and direct action in different combinations depending on the local context.
- 1 France has a critical shaping influence in bringing together disparate activities at international and

national levels, in a way that claims to integrate the competing values embodied in the different visions of water.

- 1 The claim that French-led developments in global water governance successfully integrate social and economic goals is bitterly contested, most productively at the national or local level by combinations of direct protest and judicial and quasi-judicial strategies. Quasi-judicial fora play a vital role in building what I call 'bridges between regulatory and citizen space', because they create a connection between direct protest and sustained, routine political leverage.
- 1 Bridges between regulatory and citizen space can secure 'social' changes to the regulatory framework of water service delivery (such as more redistributive tariff structures, or term limits on the contracting-out of water services), particularly where they are allied with significant participation in legislative reform.
- 1 Detailed positive alternatives to the commodification of water are emerging in more politically polarised contexts – particularly in Latin America – than in those contexts where incremental changes dominate.
- 1 The interaction of the above forces is constructing an emerging regime of 'global water welfarism' along contested lines, particularly in terms of 'competition for the rules' between trade, human rights and professional self-regulation.

A protestor against water price-rises sends his legal payment on a brick to the corporatised water company

Photo: Water pressure Group, New Zealand



HIGHLIGHTS

The project identifies and describes an emerging 'global water welfarism', which is a set of institutions and rules that attempt to establish a legitimate transnational public sphere for the governance of water.

- 1 Two models are being constructed, with similar functional contours, but with contrasting priorities both substantively and organisationally.

Findings:

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Figure 1:
Competing
models of global
water welfarism

Managed liberalisation		
Rule making <ul style="list-style-type: none"> 1 Green Cross Treaty 1 International Standards Organization 1 National legislation under pressure of loan conditionalities 	Implementation <ul style="list-style-type: none"> 1 World Water Council 1 Global Water Partnership 1 Multinational water companies 	Dispute resolution <ul style="list-style-type: none"> 1 Bilateral investment treaties 1 General Agreement on Trade in Services (GATTs) 1 National independent water regulators trained by global consultants
Praxis-based restructuring		
Rule making <ul style="list-style-type: none"> 1 National legislation 1 Under national control 1 UN General Comment 15 on the right to water 1 General Agreement on Public Services (possible) 1 Friends of civil society treaty (possible) 	Implementation <ul style="list-style-type: none"> 1 Local public operators 1 Public-public North-South partnerships 	Dispute resolution <ul style="list-style-type: none"> 1 Local courts 1 Undeveloped, but possible global water tribunal

1 One model is an organized rule-based response (managed liberalisation) that shapes the national governance structures on which it relies for delivering outcomes.

1 The other is a more praxis-based restructuring (and re-energising) of public sector operators working with civil society at the national and local level, supported where necessary by a framework of formal rules at the global level.

1 The two can be contrasted diagrammatically as shown in Figure 1 (above).

The contrast between praxis-based restructuring and managed liberalisation is loosely tied to other lines of conflict that are characteristic of many different areas of global governance, particularly over the balance between national and local control, and between market efficiency and human rights.

1 Access to water may be the first of a sequence of globalised struggles over socio-economic rights, many of which will also revolve around an axis of conflict between market efficiency values and human rights values.

1 This axis of conflict between 'water as market commodity' and 'water as human right' has more clarity as a rhetorical device than as strategy for concrete implementation. As one interviewee said: **'We've often said that we should be very careful that the [idea of a human right to water] not become passé – if it can be bandied about, then it doesn't mean anything and therefore we've lost it, we've lost the word. And these words, many of them we've lost altogether – like freedom: freedom is like freedom reversed you know!'**

1 In water, the conflicts presently play out mainly through national legislative politics, court hearings, less formal spaces such as ombudsman or small claims tribunals and on the street with direct action.

1 At local levels, these less formal spaces can play an important role in channelling direct protest into sustained and more routine political leverage. A protestor blocked from fighting his water company in the small claims tribunals chose instead to write a cheque for his water bill on a brick (see image on front).

1 At global levels, a competition for the rules is emerging between voluntary self-regulatory standards set by professional bodies, trade and investment regimes, and human rights institutions and labour and consumer bodies that stress sector-specific service delivery regulation.

Recent political struggles over access to water have fostered an emerging, albeit thin, sense of global citizenship that has three disparate and not well-integrated facets.

1 The practices of water companies operating in a global competitive environment constitute a form of global *market citizenship*.

1 The practices of a loose-knit transnational social movement around access to water that self-identifies as part of the international human rights community constitute a form of global *insurgent citizenship*.

1 Epistemic communities of regulators sharing technical know-how across boundaries constitute a form of global *technocratic citizenship*.

1 Despite a present lack of integration between the above three dimensions, there is a sense of belonging to a community that cuts across traditional political boundaries, albeit a *sector-specific* community.

1 The competition for the rules mentioned above is likely to link these sector-specific dynamics to more general patterns of global governance, making water a key ‘test case’ for conflict over the distributive and value struggles over globalisation.

1 The importance of water services in the political rhetoric of Bolivia’s new president and his alliance with Cuba and Venezuela is an instance of the global political salience and sensitivity of what one might call ‘the politics of necessity’.

MESSAGES FOR POLICY AND PRACTICE

The notion of a ‘human right to water’ is compatible with a range of service delivery frameworks.

1 A ‘right to water’ does not necessarily imply public sector delivery

1 A ‘right to water’, in the sense of a socio-economic human right to a minimum amount of a basic good, should be distinguished from ‘water rights’ in the sense of property rights over water in its natural state, even though there is overlap between the two.

Independent regulatory agencies may routinise certain technical issues in water service delivery, but they rarely absorb conflict from direct protest.

1 The technical and apolitical nature of regulatory discourse is often incommensurable with the value-driven nature of direct protest.

1 Even less confrontational consumer concerns are rarely routinised by regulatory agency involvement, unless early involvement in rule-making is an available avenue.

1 Quasi-judicial fora such as ombudsmen or small claims tribunals can link synergistically (and usually in unintended ways) with regulatory agencies in ways that at least routinise conflict.

The political struggles over access to water are crystallising into a ‘competition for the rules’ the outcome of which is likely to be a critical turning point for the global water policy sector.

1 A particularly important contender in this ‘competition for the rules’ are standards elaborated by Technical Committee 224 of the International Standards Organisation on water and wastewater service delivery, showing the significance of voluntary self-regulation.

1 More formal contenders are split between rights-based initiatives and service-delivery-focused initiatives, and competing proposals circulate within each.

1 For example, in rights-based approaches there is General Comment 15 on a Human Right to Water elaborated by the United Nations Committee on Economic, Social and Cultural Rights but more recently suggestions for a free-standing treaty on a right to water of which several versions may soon emerge.

1 In service-delivery focused approaches, there is fierce debate over whether the General Agreement on Trade in Services will encompass water services and more recently collaborative efforts by labour and consumer groups to craft a General Agreement on Public Services.

BACKGROUND TO THE STUDY

The Commodification of Water: social protest and cosmopolitan citizenship was funded by the ESRC/AHRC Cultures of Consumption Research Programme and ran from March 2003 to December 2005 (grant number: RES-143-25-0031). The project team was Bronwen Morgan and Carolina Fairstein, with additional assistance from Russell Hitchings, Min Shu and Elen Stokes and was based

at the Centre for Socio-legal Studies, Wadham College at the University of Oxford, UK and later at the University of Bristol, UK. We studied four specific disputes and two changing dispute contexts in qualitative comparative case studies, mapped global policy networks and made a contextual study of international trade and investment litigation and multi-stakeholder meetings. We carried out 124 semi-structured interviews with 32 activists or NGOs, 27 government officials, 20 private company employees, 13 ordinary citizens, nine legislators, eight water regulators, eight international organisation employees and seven lawyers.

PUBLICATIONS INCLUDE

Morgan B. 'Turning Off the Tap: Urban Water Service Delivery and the Social Construction of Global Administrative Law', *European Journal of International Law*, 17(1) (2006), pp. 215–246.

Morgan B. 'Emerging Global Water Welfarism: Access to Water, Unruly Consumers and Transnational Governance', in Brewer J. and Trentmann F. (eds), *Consumer Cultures, Global Perspectives: Historical Trajectories, Transnational Exchanges* (Oxford and New York: Berg 2006), pp. 279–310.

Morgan B. 'Water: Frontier Markets and Cosmopolitan Activism', *Soundings: A Journal of Politics and Culture*, 27 (2004), pp. 10–24.

More details at <http://seis.bris.ac.uk/~lwbmm/water-project.html>

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The aims of the Cultures of Consumption Programme are:

- 1 to understand the practice, ethics and knowledge of consumption
- 1 to assess the changing relationship between consumption and citizenship
- 1 to explain the shifting local, metropolitan and transnational boundaries of cultures of consumption
- 1 to explore consumption in the domestic sphere
- 1 to investigate alternative and sustainable consumption
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