

---

# VEREDAS

DO DIREITO

DIREITO AMBIENTAL E DESENVOLVIMENTO SUSTENTÁVEL



Dom Helder

ESCOLA DE DIREITO

# WATER RIGHTS AND WATER DUTIES: TOWARDS A CONCEPT OF WATER CITIZENSHIP

**Giulia Parola<sup>1</sup>**

Universidade Federal do Estado do Rio de Janeiro (UNIRIO)

**André Ricci de Amorim<sup>2</sup>**

Universidade Castelo Branco (UCB)

Universidade Estácio de Sá (Estácio)

**Kelly Wu<sup>3</sup>**

McMaster University

## ABSTRACT

This article seeks to explore the legal instruments used to combat the phenomenon of water grabbing and the potential for its use by affected individuals and communities. Evidence will be provided for the recognition of water citizenship to combat the phenomenon of water grabbing. A tentative solution proposed in this article is to identify and stimulate this new form of citizenship, where individual participants may contribute to creating a new conscience by recognizing the right and the duty of citizens. A deductive methodology is used, based on evidence arising from descriptive, bibliographical, and documentary research. Particularly, using specialized doctrine and legal instruments that allow a better understanding of the topic. The first section presents the characteristics and main implications of water grabbing. The second section introduces the theoretical construction of new citizenship as an instrument to combat the phenomenon of water grabbing. In the final section, the article presents an

1 Postdoctoral researcher in the Postgraduate Program for Constitutional Law at Universidade Federal Fluminense (PPGDC/UFF). PhD in Environmental Law at Université Paris René Descartes and Università degli Studi di Torino. LLM in International Environmental Law at Háskóli Íslands. Foreign visiting professor at UNIRIO. ORCID: <https://orcid.org/0000-0001-8107-5765> / e-mail: [giuliaparola.law@gmail.com](mailto:giuliaparola.law@gmail.com)

2 PhD candidate in International Law at Universidade do Estado do Rio de Janeiro (UERJ). Master in International and European Law at Universidade de Coimbra (UC). Bachelor of Laws at Universidade Federal do Rio de Janeiro (UFRJ). Researcher at Laboratório de Estudos e Pesquisas Avançadas em Direito Internacional Ambiental (LEPADIA/UFRJ). Assistant professor of the Faculty of Law at UCB and Estácio. Attorney at Law. ORCID: <http://orcid.org/0000-0002-7365-6372> / e-mail: [andrericci\\_8@hotmail.com](mailto:andrericci_8@hotmail.com)

3 Master in Global Health at McMaster University. Bachelor of Health Sciences at McMaster University. Researcher Assistant at Women's College Hospital (University of Toronto). ORCID: <https://orcid.org/0000-0003-1529-119X> / e-mail: [wukellypc@gmail.com](mailto:wukellypc@gmail.com)

analysis of the Water War in Bolivia and provides evidence to implement the right and duty of participation for the right of access to water.

**Keywords:** human right to water and sanitation; right and duty of citizen participation; water citizenship; water grabbing; water war in Bolivia.

## ***DIREITOS E DEVERES SOBRE A ÁGUA: RUMO A UM CONCEITO DE CIDADANIA HÍDRICA***

### ***RESUMO***

*Este artigo busca explorar os instrumentos jurídicos utilizados para combater o fenômeno do water grabbing e o potencial para seu uso por indivíduos e comunidades afetados. Nesse sentido, fundamentar-se-á o reconhecimento da cidadania hídrica como um meio para combater o fenômeno da captação de água. Uma tentativa de solução proposta neste artigo é reconhecer e estimular essa nova forma de cidadania, em que os individuais podem contribuir para a criação de uma nova consciência, reconhecendo o direito e o dever de participar aos cidadãos. A fim de cumprir o objetivo proposto, utilizar-se-á o método dedutivo, a partir de elementos advindos da pesquisa descritiva, bibliográfica e documental, em particular, lançando mão da doutrina especializada e de instrumentos jurídicos que possibilitam uma melhor percepção sobre o tema. Assim, a primeira seção apresenta as características e principais implicações do water grabbing. Já a segunda seção introduz a construção teórica da nova cidadania como instrumento para combater o fenômeno do water grabbing. Por fim, analisar-se-á o caso da Guerra da Água na Bolívia, que fornece evidências para implementar o direito e o dever de participação para o direito de acesso à água.*

**Palavras-chave:** *cidadania hídrica; direito e dever de participação cidadã; direito humano à água e ao saneamento; guerra da água na Bolívia; water grabbing.*

## INTRODUCTION

The Earth is the only planet in our solar system that is covered with water. Knowing that a planet without water is a planet without life, there is an obligation for every human being to care for and protect this invaluable resource.

By virtue of its indispensability, water should be a fundamental human right. Although this statement may seem self-evident, this right was only recognized by international law recently, on 28 July 2010, through United Nations (UN) General Assembly Resolution A/RES/64/292 as will be shown further.

Why has there been this delay? There are many explanations. It is an era marked by selfishness and greed. On the one hand, humanity spends billions of dollars on finding water on other planets. On the other hand, very little to nothing is done to guarantee access to drinking water for those who live on Earth.

A great amount of time is spent on invoking rights, but regularly forgotten is the reference to one's duty. There is a duty towards the planet and those who barely have the chance to drink a glass of drinking water a day.

Another form of selfishness, or so-called new-colonialism, began to appear a few years ago in the form of water grabbing. This phenomenon refers to the act of stealing water by multinational companies and some foreign countries. As a consequence, it has caused harm for certain populations to access water in specific regions. These crimes are often committed within the same countries that provide aid or at the least tacit consent of these offences.

As such, this article seeks to explore the legal instruments used to combat the phenomenon of water grabbing and the potential for its use by affected individuals and communities. Evidence will be provided for the recognition of water citizenship to combat the phenomenon of water grabbing. A tentative solution proposed in this article is to identify and stimulate this new form of citizenship, where individual participants may contribute to creating a new conscience by recognizing the right and the duty of citizens.

The first section presents characteristics and main implications of water grabbing. It is by no means an exhaustive list, ranging from the mechanisms used to appropriate water resources to the lack of international standards. The second section introduces the theoretical construction of new

citizenship as an instrument to combat the phenomenon of water grabbing. There will be an examination of important concrete measures for recognizing the substantial human right of access to water and basic sanitation, as well as the realization of the citizen's right and duty to participate in water-related issues. Lastly, the analysis of the 2000 "Water War" in Bolivia provides support for the implementation of the right and duty of participation that is instrumental towards guaranteeing the right of access to water.

## **1 WATER GRABBING**

A few years ago, a tool for a new form of colonization became dominant on the world stage: water grabbing. This model is closely linked to another phenomenon known as land grabbing (BORRAS JR. *et al.*, 2012; PAROLA; TOFFOLETTO, 2019). Namely, the uncontrolled acquisition of land by foreign governments, companies, and investment funds. It should be mentioned that both are "new forms of colonization" because the aims of water grabbing affect mainly, but not exclusively, emerging or developing countries. At the same time, the main offenders seem to be the governments and companies of the most economically advanced countries (SPAGNUOLO, 2016, p. 525).

It can be argued that unequal control of water resources has always existed as a phenomenon. From this point of view, it would be appropriate to comment that water grabbing is no different from other water disputes between actors with different powers. However, in the case that controlling water resources was traditionally associated with state control and dominated by national laws (WORSTER, 1983), then the term water grabbing hinges on the involvement and participation of new private actors in managing these resources and the rise of new political and economic forces (MEHTA *et al.*, 2012).

### **1.1 The definition of water grabbing and mechanisms for the appropriation of water resources**

The choice of the verb "grab" immediately emphasizes the injustice of this practice (MEHTA *et al.*, 2012). The "grabbing," whether of land or water, is an allocation to foreign investors of resources that local populations depend on for their livelihood. In taking possession of this resource, offenders are able to benefit from its use through the absence of open and transparent procedures (DEININGER *et al.*, 2011).

More specifically, the definition of water grabbing has been explicated by Kay and Franco (2014, p. 3) states that:

Water grabbing refers to situations where powerful actors are able to take control of or reallocate to their own benefit water resources at the expense of previous (un) registered local users or the ecosystems on which those users' livelihoods are based. It involves the capturing of the decision-making power around water, including the power to decide how and for what purposes water resources are used now and in the future. Thinking of water grabbing as a form of control grabbing means going beyond the narrow, proceduralist definition of 'grabbing' as 'illegal appropriation' since the means by which new powerful actors gain and maintain access to and benefit from water resources often involve legal but illegitimate dynamics.

As it is evident from the definition above, water grabbing can assume various forms and incorporate different water resource control modes. The first characteristic to point out is the appropriation of varied kind of water environments, such as the river deltas, lakes, marshes, and underground rivers.

Moreover, both land and water grabbing are not confined by geographical boundaries and can occur anywhere globally. However, the first reports and studies focused mainly on African countries (WOODHOUSE; GANHO, 2011).

It is apparent that this phenomenon is in the process of expanding into other continents (RULLI *et al.*, 2013). According to data, water grabbing involves all countries with developing or emerging economies in Latin America (SPAGNUOLO, 2016, p. 526), Asia (MATTHEWS, 2012), the Middle East, and Eurasia (GASTEYER *et al.*, 2012).

The modalities by which appropriation or usurpation is carried out can be very different. As mentioned earlier, the verb "grab" brings with it the idea of illegality. It could suggest that this phenomenon occurs when the acquisition of resources, land or water, complies with the state's law. Although injustice can occur within legal systems, it can also have moral and ethical considerations. Omissions occur daily. There are cases where the state does not pursue violations, even though there is a law that expressly obliges it to do so (MOSSE, 2003; MEHTA, 2005).

There are also cases where appropriation is made through an alliance between the state and one or more international actors. Sometimes the state presents an offer to companies to attract significant investments in its region. In this sense, water grabbing has explicit connections with the phenomenon of water resource privatization. Through the privatization of

water supply services, the public control over water resources passes in practice to the hands of water corporations (SPAGNUOLO, 2016). This took place in Peru, where local authorities entrusted the full responsibility of water management to a private company that has become the exclusive authority for water resources management (BOELENS *et al.*, 2014).

It is essential to point out in some cases, water rights are automatically transferred with land ownership. As it occurred in Ghana, the national legislation allowed numerous water resource appropriation cases (WILLIAMS *et al.*, 2012). There have also been cases where companies corrupt local administrators or national politicians. For instance, in Laos, corruption has authorized a private company to build dams (MATTHEWS, 2012).

There are also cases where powerful international actors use highly sophisticated legal means to steal water from local communities that are not endowed with the strength to fight these abuses. It becomes incredibly complicated for residents to prove the abuse of economic power and to assert their rights.

Similarly, it should be noted that water grabbing can also affect water quality. In this case, the phenomenon can be observed not only when there is control or spoliation of the watercourse, but when the company pollutes water resources and transfers the consequences of pollution to local communities.

## **1.2 The lack of international standards to prevent water grabbing**

Unfortunately, water grabbing has not yet received the same media and academic attention compared to land grabbing. Despite the beneficial association of water with land, water resources can make the land more attractive to private investors (WOODHOUSE; GANHO, 2011). The relationship between land usurpation and water resources was documented in a 2012 study, which gathered data on large-scale land acquisition and the number of water resources needed for agricultural development (RULLI *et al.*, 2013).

It should be noted that up to this time, no international document has explicitly expressed the illegality of this phenomenon. Moreover, as substantiated in the World Water Development Report (2015), there have been problems created by competition between the different forms of water use and its users, as well as the proliferation of conflicts involving foreign investors (SPAGNUOLO, 2016, p. 526).

Nevertheless, what is the origin of this phenomenon?

The idea of controlling and appropriating water resources began to circulate after the 1992 International Conference on Water and Sustainable Development, which officially declared water as an economic good in the Principle n° 4. Consequently, the economic value of water quickly became prevalent in the debate over its scarcity. With the Dublin Declaration's emergence, the World Bank began to play a central role in water and sanitation management. As such, water has lost its value as a common and public good. Water has become a commodity, which can be privatized and managed according to economic principles, ignoring its cultural, social, and spiritual value (BAKKER, 2010).

It can be said that the Dublin Declaration has led to the emergence of a wave of service and resource privatization. The statement that water is a commodity has resulted in the legal transformation of water into a product with economic value. Moreover, it has opened the door to the growth and indirect acceptance of the water grabbing phenomenon.

Similarly, Barlow and Clarke (2003, p. 57) note that the phenomenon of water resource exploitation is highly profitable for the private sector. This can explain the notion that water is a kind of "blue gold".

These are not alarmist theories but simple findings of current facts. An analysis of central policies of the World Bank and the International Monetary Fund can reveal that: i) the privatization of water management is defended as the "pure and simple transfer to the private sector with the total or partial sale of assets"; ii) the transformation of the state body that manages water into an autonomous public enterprise is promoted; and finally, iii) the establishment of Public-Private Partnerships (PPPs) is encouraged (GARCÍA, 2008, p. 57).

Water grabbing is still far from being officially condemned since water governance at the global level is characterized by a high degree of ambiguity. This is the result of only a few international actors who have signed agreements on water resources management. For example, the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, which has the aim to regulate the use and management of watercourses, has not yet produced any concrete results since it entered into force in the 1990s and was amended in February 2013 (UNITED NATIONS, 1992).

In addition, governance problems occur because water remains an exclusively local issue. It varies according to time, space, and other factors



such as climate, season, and temperature. This makes it challenging to find a unique and exclusive water management solution.

While there is no single regime internationally capable of regulating and defending water and neutralizing its appropriation, it is essential to note that a new force is emerging. At the local level, individuals, associations, and local communities react to the abuses and continue to fight against water grabbing every day.

A new type of citizenship, called “water citizenship,” is in the process of formation. The next section of this paper analyzes water citizenship and its significance in combatting water grabbing. This citizenship requires a new type of citizen. One who is more informed and involved, who participates in decisions on the use and management of water resources and is increasingly active and combative in the face of violations of their rights. They are a citizen who protests, resists, and uses all the legal means at their disposal in order to bring about real change.

## **2 WATER CITIZENSHIP: A POSSIBLE TOOL AGAINST WATER GRABBING**

Citizenship has evolved by assuming distinct contents in the historical, political, social, and cultural context. The concept of citizenship began to include a broader character. For example, it began to include an environmental approach when trying to bring a new perspective. It was no longer limited territorially to a single state but extended to the whole world (PAROLA, 2013). The main reason for the expansion of its definition is that an environmental problem can occur in a given territory. However, it can also have an impact on its neighboring areas and any other place on Earth.

In this sense, water citizenship would be an extension of environmental citizenship (PAROLA, 2013). Aside from that, it will be a step forward in recognizing that water and its cycles are the main pillars of existence on Earth (ZEVALLOS, 2007). It is characterized by a new awareness of the symbolic, spiritual, and essential value of water. Moreover, it describes each citizen’s potential to use the available means to participate in the fight against the phenomenon of water grabbing. Therefore, this paper argues the endowment of this new citizenship, recognizes the fundamental human right of access to water and sanitation, as well as the recognition and implementation of the right and duty to citizen participation.

## 2.1 The human right to water and sanitation

As it was introduced, without water, there is no life. However, the importance of human life is tied to the existence of water on the planet and the ability to access safe, affordable, and fresh drinking water for sanitation and a healthy life.

From a legal standpoint, water represented the “Cinderella” of environmental concerns for a long time. Perhaps, this was because it was mistakenly considered a resource that would always be at our disposal. Some authors have understood that the right to access water plays a critical role in the construction of a dignified life and can even be understood as a fundamental right (SHIVA, 2006, p. 36). However, the fact is that access to water as a human right was only recognized in 2010 through United Nations General Assembly Resolution A/RES/64/292 of 28 July 2010, which stated that “safe and clean drinking water and sanitation as a human right [...] is essential for the full enjoyment of life and all human rights” (UNITED NATIONS, 2010). Theoretically, these human rights guarantee access to a sufficient amount of drinking water for personal and household use to provide the individual with a dignified and healthy life. States must therefore take all measures to ensure that this right is guaranteed. That water is easily accessible and of good quality.

However, currently, it is the human right most globally violated. It is estimated that 768 million people lack access to improved drinking water and 2.5 billion people lack access to improved sanitation services (MEIER, 2014)<sup>4</sup>. Thus, the development of strategies to ensure that the right to water is effective cannot simply be left to the implementation of states but must also be recognized as an imperative duty of those who already enjoy the day to day of this right (LARSON, 2011, p. 89; RUSSELL, 2010). Unfortunately, it is the states themselves that violate citizens’ rights by their actions or omissions.

The UN Resolution undoubtedly represents a milestone concerning the recognition and development on the right to water internationally. At the same time, the declaration is not legally binding and seems somewhat inconsistent. Following the Resolution, states reunited in 2012 during the UN Conference on Sustainable Development to ensure that the right to water was recognized. However, most States have not recognized this right since most of international legal instruments on environmental issues are usually erected through soft law (CAMPELLO; GONÇALVES,

2021) Interestingly, the few countries that have recognized this right continue to suffer the consequences of water grabbing and land grabbing (BORRACCETTI, 2016, p. 118; PAROLA; TOFFOLETTO, 2019). In Latin America, citizens have fought against the privatization of water services. By way of example, this made room for the approval and promulgation of the 2009 Bolivian Constitution in recognizing access to water as a human right (SPAGNUOLO, 2016, p. 527; OLIVERA, 2004).

## **2.2 Rights and duties to participate before water: the example of remunicipalization**

The second endowment of this new citizenship is the recognition of the right and duty to participate. Why should we talk about rights and duties, and not just rights? The reason is that the approach that acknowledges duties in correspondence with rights is often overlooked (PAROLA, 2016). The anthropocentric approach, which sees a man at the center of everything, strongly influences law. Moreover, it is consistently very challenging to carry out duty from a legal standpoint. Duty is used to compensate and balance the recognition of rights. Every citizen is not only a passive beneficiary of the right to drinking water, but they also have a responsibility to all those who do not have access.

Therefore, the right to water involves the emergence of the duty to protect and prevent activities that may harm water resources. In this sense, duty helps to restore intra-generational equity. This is equity in the same generation, since there are individual or collective choices that involve profound inequality, particularly concerning the generation that lives in countries that suffer from water grabbing (BROWN WEISS, 2013).

Equity within the same generation is closely linked to the famous water discourse, involving the unequal division of such resources among members of the same generation (PAROLA, 2016). Thus, duty emerges to rectify the injustice resulting from improper and inadequate water management carried out by part of the world population. Therefore, those who exercise access to water are urged to act in practices that reduce unnecessary water use. This ensures that others also have access and, in parallel, join in on combating the phenomenon of water grabbing. In this manner, the right to access water brings the duty to preserve and fight for this right to be guaranteed to all. In other words, the degree of duty corresponds to the degree of the right enjoyed.

Given these considerations, the most critical role for a “Water Citizen” is their participation. The ability to participate can be regulated and established by law or it can be verified in other ways by implementing the duty to protect water, such as citizen participation in decision-making process. The latter aspect has already produced positive results and testifies to the “remunicipalization” processes.

As mentioned, water grabbing also occurs when a state’s water resources are privatized and left under the private company’s management. The term “remunicipalization” means that the supply of water and sanitation, previously privatized, returns to the public sector (LOBINA, 2015).

The unfortunate development of the water sector’s privatization occurred due to the failure of management systems (FEODOROFF, 2014). In this sense, Kishimoto (2013) states that the setback has been driven by a range of recurring problems, including inflated, inefficient services and insufficient investments in infrastructure, increased tariffs and environmental risks, and a lack of transparency. Even after the World Bank sponsored the privatization path for many years, they admitted its failure by stating that “despite the group’s central goal of fighting poverty, little is recorded on the effects of PPPs on the poor” (WORLD BANK, 2015, p. 78). In 2015, the European Network on Debt and Development concluded in its report that “PPPs are, in most cases, the most expensive method of financing, significantly increasing the cost to the public purse” (VERVYNCKT, 2017, p. 25).

Many remunicipalization successes were achieved owing to the participation and tireless commitment of citizens who fought for water to be a common good and to be made public again (KISHIMOTO, 2016). They used participatory tools such as the referendum, which is a suitable method of manifesting popular will (BERSANI, 2015). Along the same line, citizens of Berlin who used self-organization had managed to hold a referendum. The state’s private contracts relating to privatization were made public (CORPORATE EUROPE OBSERVATORY, 2014). In Uruguay, the 2004 referendum proposing a constitutional amendment on water was approved by 64.6% of voters (CORPORATE EUROPE OBSERVATORY, 2008). Furthermore, in Kenya, the right to water explicitly recognized in the Constitution through an amendment resulting from the 2010 referendum was approved by 67% of voters (DEMOCRACY REPORTING INTERNATIONAL, 2011, p.7-8).

A second instrument for implementing the right and duty to participate

is the pressure of public opinion on governments. This has been widely used by citizens around the world. The most significant example that affected Latin American politics and the international scene was the case in Bolivia, known as the “Water War” (QUINTAVALLA, 2016).

### **3 CONFLICTS OVER WATER USE: THE BOLIVIAN EXPERIENCE**

According to the 2019 World Population Prospects report developed by the UN, in July 2015 the world population totaled its historical mark of 7.7 billion people. There is a projection that this number will increase exorbitantly, possibly reaching the number of 11 billion people by the end of this century (UNITED NATIONS, 2019). This data shows the rapid increasing rate of the world population in a short period of time. Therefore, it stresses the difficulty to guarantee access to fundamental goods for a dignified life, food, and water for everyone.

For this reason, we believe that rumors of conflicts, including violent ones, involving access to water may be increasingly common in the coming decades. As Gleick (1993, p. 79) points out, “where water is scarce, competition for limited supplies can lead nations to see access to water as a matter of national security, as an increasingly salient element of interstate politics, including violent conflicts”.

Furthermore, it should be noted that although this is a concern for the future, such conflicts have been a reality for many people for a long time. In the Middle East, the 1967 Six-Day War was waged between Israel and Palestine. The former, who occupied the Golan Heights, was motivated among other reasons to control the headwaters of the Jordan River. Similarly, there were disputes between Ethiopia, Egypt, and Sudan to control the Nile River watercourse. This section will focus on the conflict known as the “Water War”, which took place in Cochabamba, Bolivia<sup>5</sup>.

For the sake of context, it should be noted that in the 1990s, Bolivia was economically immersed in debt. The World Bank and the International Monetary Fund (IMF) suggested that the Bolivian government should privatize state-owned companies for corporate control. In particular, these bodies urged passing on the management of the municipal drinking water and sanitation company, known as SEMAPA (SHIVA, 2006, p. 123).

<sup>5</sup> It is said to be different because in the present case, there was no dispute between States, but the confrontation in which the population of Cochabamba appeared on one side and the Bolivian government on the other, seeking to protect the interests of foreign economic groups.

Shultz (2003, p. 265) describes that the Bolivian government strictly followed the guidelines of the World Bank and proceeded with the privatization of the supply system and committed all water sources in Cochabamba until 2039. Moreover, the author mentions that in September 1999, there was only one competitor that subsequently became the winner: *Aguas del Tunari*, an organization hitherto unknown but later found to be part of the transnational giant *Bechtel*.

In the first months under the management of *Aguas del Tunari*, an exorbitant increase in the value of the fees paid can be noted. However, it is difficult to affirm categorically a percentage that reflects unanimity. Shultz (2003, p. 265) affirms that initially, the rates went up about 200% or more depending on the case. However, others such as Ceceña (2005, p. 105), recall that some local leaders, such as Franz Taquichiri Yapura, claim that tariffs have risen between 600% to 800%.

Despite the percentage, the fact is that the population, especially the poorest, was suffering from this situation. There were people in the Cochabamba region whose monthly salary was around sixty US dollars. With the increase in water tariffs, people started to allocate about a quarter of their monthly income just to keep the water running in their pipes (SHULTZ, 2003, p. 265).

Corroborating what was exposed, Barlow and Clarke (2003, p. 57) point out that this recent phenomenon of water resource exploitation has made water a kind of a “blue gold,” earning billions of dollars annually for companies in this sector. While the benefits are enjoyed by a minority holding capital, the majority of the population suffers from exploitation.

Faced with the privatization of the water supply service, people were being charged for even the collection of rainwater. Successive protests were organized by a local group, later known as *La Coordinadora*. The leaders of this group were representatives of the workers’ union of local factories, farmers, and groups of environmentalists, local economists, progressive Congress members, and a vast number of grassroots organizations and associations (SHULTZ, 2003, p. 265). As Shultz (2003, p. 265-266) reports, the situation worsened when:

In January 2000, after the water company announced its huge rate increases, *La Coordinadora* sprang out of nowhere with its first public action, a city-wide *paro*, a general strike. For three days Cochabamba was shut down. Blockades closed down the two main highways leading in and out of town, eliminating bus transportation and food shipments. The airport was shut. Roadblocks cut off all traffic in the city. Thousands of Cochabambinos occupied the tree-lined, colonial central plaza.

Barlow and Clarke (2003, p. 242) recall that the water tariffs' successive increases contributed to increasingly widespread dissatisfaction. The authors report that opinion polls conducted in Cochabamba showed that about 90% of the population wanted *Aguas del Tunari*, a *Bechtel* branch in Cochabamba, to return control of the supply service to the public administration. Given this, *La Coordinadora* and the regional governor of Cochabamba met to end the protests. During the meeting, the governor signed an agreement, in which he reviewed the agreement signed with *Bechtel* and the act that authorized privatization (BOLIVIA, 1999). However, the agreement was not fulfilled, and new protests were organized (SHULTZ, 2003, p. 266).

In a timely discussion on the topic, Shultz (2003, p. 266-267) reports the conflicts intensified in the central region of Cochabamba for two days. Heavily armed police blocked protester's passage and made use of tear gas to prevent people from approaching. The situation in Bolivia had become highly delicate. On the one hand, responding to *Cochabambean* demonstrators' request would avoid internal political wear and put an end to conflicts. However, if the agreement for the operation of the water supply system in Cochabamba was not fulfilled, the state's reputation, especially in the international arena, could be undermined.

As the government remained firm in guaranteeing *Bechtel's* interests, the wave of strikes and protests followed for months, culminating in the last protest held on April 4, 2000. The days that followed were of great tension. However, local authorities agreed to meet with *La Coordinadora's* leaders to end the protests definitively. Shultz (2003, p. 271-272) reports that the trigger for what became known as the "Water War" took place on April 8, 2000, when events became known throughout the country:

Protesters set fire to a vacant state office building, sending a huge plume of black smoke into Cochabamba's clear blue sky. Soldiers switched from using tear gas to live rounds. A local television station captured footage of an army captain, Robinson Iriarte de La Fuente, a graduate of the US School of the Americas, disguised in plain clothes as he shot live rounds into a crowd of protesters. He was tried later in a Bolivian military court, and was acquitted, then promoted to Major, even though his flying bullets coincided exactly with the time an unarmed seventeen-year-old boy, Victor Hugo Daza, was killed by a bullet through the face. His companions brought his bloody body to the plaza and held an angry, emotional wake.

Cochabamba had reached a bloody stand-off. President Banzer, who now faced spreading protests on other issues in cities all across the nation, made it clear that he was not about to cancel a contract with a major multinational corporation. His public

relations staff went to work to spin a false story to foreign reporters that the price increases had only been 20 per cent and that the Cochabamba protests were being orchestrated by “narcotraffickers” intent on destabilizing the government. The people of Cochabamba were also not about to back down. The streets were still getting fuller.

As the situation became untenable, the following week Parliament passed a new bill with the changes proposed by *La Coordinadora*. The government announced what the population had been waiting for; the agreement was terminated and *Bechtel* was due to leave Bolivia. As such, the water supply system’s control returned to SEMAPA and the tariffs returned to their previous value. The conflict over access to water has revealed that this resource’s economic exploitation can tremendously affect people who are unable to afford its high costs, even compromising their survival.

The struggle of *Cochabambean* to guarantee adequate access to water demonstrates that large corporations and some international bodies are unable acquire and distribute this resource justly. Unfortunately, there is still ample space that separates commercial practices and the guarantee of certain fundamental rights. Despite the difficulties encountered in acting against the interest of big business, it was still possible to claim more dignified livelihoods. In other words, this demonstrates the current need to build water citizenship.

## CONCLUSIONS

The international community’s effort to develop the system for protecting human rights and guaranteeing access to water has been of great importance but not yet sufficient. The challenges at a national and international level are significant, and as such, its goal has not been achieved. There is still a long way to go in the fight against water grabbing and implementing the human right to water. Nonetheless, human forces have emerged for the establishment of a new water consciousness and a new type of citizenship: water citizenship.

Such citizenship is also being formed through legal instruments resulting from the right and duty to participate. It should be noted that when analyzing the role of citizens and social movements, it is to realize that the issue of remunicipalization involves aspects far beyond the change from private to public (KISHIMOTO *et al.*, 2015, p. 124). This is because:



If citizens are willing to fight for remunicipalisation and against privatization, it is also because they believe that the public sector is better equipped to meet broader social and environmental goals, and in a better position to address fundamental issues such as affordability and equity, as well as climate change adaptation, water conservation and the protection of ecosystems, as opposed to private companies' focus on financial aspects.

In conclusion, as the Bolivian Water War has demonstrated, remunicipalization offers an excellent opportunity to practice water citizenship in order to protect water, its governance, and the struggle against water grabbing. By encouraging the potential to develop a water citizenship for the future, this can create a virtuous cycle of acceptable practices to protect the right to water and its governance.

## REFERENCES

BAKKER, K.J. *Privatizing water: governance failure and the world's urban water crisis*. New York: Cornell University Press, 2010.

BARLOW, M.; CLARKE, T. *O Ouro Azul: como as grandes corporações estão se apoderando da água doce do nosso planeta*. São Paulo: M. Books, 2003.

BERSANI, M. L'acqua in Italia quattro anni dopo il referendum. In: KISHIMOTO, S.; LOBINA, E.; PETITJEAN, O. (Eds.). *L'acqua pubblica è il futuro: l'esperienza globale della rimunicipalizzazione*. Amsterdam: Transnational Institute, 2015. p. 34-41.

BOELENS, R.; GAYBOR, A.; HENDRICKS, J. Water grabbing in the Andean region: illustrative cases from Peru and Ecuador. In: KAAG, M.; ZOOMERS, A. (Eds.). *Beyond the Hype: a critical analysis of the 'Global Land Grab'*. London: ZED Books, 2014. p. 100-116.

BOLIVIA. *Ley de Agua Potable y Alcantarillado Sanitario, 29 de octubre de 1999*. La Paz, Bolivia: Congreso Nacional, 1999. Available from: [https://www.lexivox.org/norms/BO-L-2029.xhtml?dcmi\\_identifier=-BO-L-2029&format=xhtml](https://www.lexivox.org/norms/BO-L-2029.xhtml?dcmi_identifier=-BO-L-2029&format=xhtml). Access on: Aug. 24, 2021.

BORRACCETTI, M. Right to water and access to water resources in the European development policy. In: ROMANIN JACUR, F.; BONFANTI, A.; SEATZU, F. (Eds.). *Natural resources grabbing: an international law perspective*. v. 4. Leiden-Boston: Brill, 2016. p. 116-135.

BORRAS JR., S. *et al.* Land grabbing in Latin America and the Caribbean. *Journal of Peasant Studies*, v. 39, n. 3-4, p. 845-872, 2012.

BROWN WEISS, E. *International Law for a water-scarce world*. Leiden: Martinus Nijhoff, 2013.

CAMPELLO, L. G. B.; GONÇALVES, P. G. S. O direito humano à água potável: influência das normas de soft law no seu processo de afirmação histórica. *Revista de Direito Brasileira*, Florianópolis, v. 28, n. 11, p. 217-232, 2021.

CECEÑA, A. E. *La Guerra por el agua y por la vida*. Buenos Aires: Madres de Plaza de Mayo, 2005.

CORPORATE EUROPE OBSERVATORY. The privatization of the Berliner Wasserbetriebe. *Water Remunicipalization Tracker*, jun. 2014. Available from: [http://www.remunicipalisation.org/#case\\_Berlin](http://www.remunicipalisation.org/#case_Berlin). Access on: Aug. 15, 2021.

CORPORATE EUROPE OBSERVATORY. The privatization of Uruguay's water and wastewater services. *Water Remunicipalization Tracker*, jun. 2008. Available from: [http://www.remunicipalisation.org/#case\\_Uruguay](http://www.remunicipalisation.org/#case_Uruguay). Access on: Aug. 15, 2021.

DEININGER, K. *et al.* *Rising global interest in farmland: can it yield sustainable and equitable benefits?* Washington, DC: World Bank, 2011.

DEMOCRACY REPORTING INTERNATIONAL. Lessons learned from constitution-making: processes with broad based public participation. *Briefing Paper*, n. 20, nov. 2011. Available from: [https://www.jointpeacefund.org/files/documents/lessons\\_learned\\_from\\_constitution\\_making\\_processes\\_with\\_broad\\_based\\_public\\_participation\\_dri\\_briefingpaper\\_20.pdf](https://www.jointpeacefund.org/files/documents/lessons_learned_from_constitution_making_processes_with_broad_based_public_participation_dri_briefingpaper_20.pdf). Access on: Apr. 15, 2021.

FEODOROFF, T. Building a new public ethos of water. *Transnational Institute*, 3 jan. 2014. Available from: <http://www.tni.org/article/building-new-public-ethos-water>. Access on: Apr. 15, 2021.

GARCÍA, A. *El derecho humano al agua*. Madrid: Trotta, 2008.

GASTEYER, S. *et al.* Water grabbing in colonial perspective: land and water in Israel/Palestine. *Water Alternatives*, v. 5, n. 2, p. 450-468, 2012.

GLEICK, P. H. Water and conflict: fresh water resources and international security. *International Security*, v. 18, n. 1, p. 79-112, 1993.

KAY, S., FRANCO, J. *The global water grab: a primer*. Amsterdam: Transnational Institute, 2014.

KISHIMOTO, S. Remunicipalization: a practical guide for communities and policy makers. *Water Justice Toolkit*, v. 1, n. 1, p. 1-11, 2016.

KISHIMOTO, S. Struggle for water is struggle for democracy. *Transnational Institute*, 3 sep. 2013. Available from: <http://www.tni.org/article/struggle-water-struggle-democracy>. Access on: Aug. 21, 2021.

KISHIMOTO S.; PETITJEAN O; LOBINA, E. Reclaiming public water through remunicipalisation. In: KISHIMOTO, S.; LOBINA, E.; PETITJEAN, O. (Eds.). *L'acqua pubblica è il futuro: l'esperienza globale della rimunicipalizzazione*. Amsterdam: Transnational Institute, 2015. p. 112-126.

LARSON, R. Holy water and human rights: indigenous peoples religious-rights claims to water resources. *Arizona Journal of Environmental Law & Policy*, v. 2, p. 83-109, 2011.

LOBINA, E. Rivendicare una politica progressista nella gestione dell'acqua. In: KISHIMOTO, S.; LOBINA, E.; PETITJEAN, O. (Eds.). *L'acqua pubblica è il futuro: l'esperienza globale della rimunicipalizzazione*. Amsterdam: Transnational Institute, 2015. p. 6-19.

MATTHEWS, N. Water grabbing in the Mekong Basin: an analysis of the winners and losers of Thailand's hydropower development in Lao PDR. *Water Alternatives*, v. 5, n. 2, p. 392-411, 2012.

MEHTA, L. *The politics and poetics of water: naturalising scarcity in Western India*. New Delhi: Orient Longman, 2005.

MEHTA, L.; VELDWISCH, G. J.; FRANCO, J. Water grabbing? Focus on the (re)appropriation of finite water resources. *Water Alternatives*, v. 5, n. 2, p. 193-207, 2012.

MOREIRA, N. A.; BONDELIND, M. Safe drinking water and waterborne outbreaks. *Journal of Water Health*, v. 15, p. 83-96, 2017.

MOSSE, D. *The rule of water: statecraft, ecology, and collective action in South India*. New Delhi: Oxford University Press, 2003.

OLIVERA, O. *Cochabamba! Water war in Bolivia*. Cambridge: South End Press, 2004.

PAROLA, G.; TOFFOLETTO, L. Land-grabbing in and by Brazil: victim and buyer. *Revista de Direito Econômico e Socioambiental*, Curitiba, v. 10, n. 2, p. 3-29, 2019.

PAROLA, G. *Environmental democracy at global level: rights and duties for a new citizenship*. London: Versita, 2013.

PAROLA, G. O modelo teórico da democracia ambiental: uma introdução à obra. In: AVZARADEL, P. C. S.; PAROLA, G.; VAL, E. (Eds.). *Democracia Ambiental na América Latina: uma abordagem comparada*. Rio de Janeiro: Multifoco, 2016. p. 81-110.

QUINTAVALLA, A. L'influenza della governance multilivello sulla gestione dell'acqua: i casi dell'Unione Europea e del MERCOSUR. In: FERONI, G. C.; FROSINI, T. E. (Eds.). *Ambiente, energia, alimentazione, modelli giuridici comparati per lo sviluppo sostenibile*. v. 1. Firenze: Fondazione Cesifin Alberto Predieri, 2016. p. 499-510.

RULLI, M. C.; SAVIORI, A.; D'ODORICO, P. Global land and water grabbing. *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, v. 110, n. 3, p. 892-897, 2013.

RUSSELL, A. F. S. International organizations and human rights: realizing, resisting or repackaging the right to water. *Journal of Human Rights*, v. 9, n. 1, p. 1-23, 2010.

SHIVA, V. *Guerras por água: privatização, poluição e lucro*. São Paulo: Radical, 2006.

SHULTZ, J. The water is ours, dammit! In: AINGER, K. *et al.* (Eds.). *We are everywhere: the irresistible rise of global capitalism*. London: Verso, 2003.

SORENSEN, S. B., MORSSINK, C.; CAMPOS, P. A. Safe access to safe water in low income countries: water fetching in current times. *Social Science & Medicine*, v. 72, p. 1522-1526, 2011.

SPAGNUOLO, F. Accesso all'acqua e water grabbing nel contesto dello sviluppo sostenibile: Spunti di riflessione sulla tutela del diritto umano all'acqua a partire dall'esperienza dell'America Latina. In: FERONI, G. C.; FROSINI, T. E. (Eds.). *Ambiente, energia, alimentazione, modelli giuridici comparati per lo sviluppo sostenibile*. v. 1. Firenze: Fondazione Cesifin Alberto Predieri, 2016. p. 525-535.

UNITED NATIONS. *2019 World Population Prospects*. Available from: <https://population.un.org/wpp/>. Access on: Apr. 15, 2021.

UNITED NATIONS. *Convention on the Protection and Use of Transboundary Watercourses and International Lakes, done at Helsinki, on 17 March 1992*. Available from: <https://unece.org/environment-policy/water/about-the-convention/introduction>. Access on: Apr. 15, 2021.

UNITED NATIONS. *Resolution A/RES/64/292 about the human right to water and sanitation of 28 July 2010*. Available from: <https://www.undocs.org/A/RES/64/292>. Access on: Apr. 15, 2021.

VERVYNCKT, M. The perverse push for PPPs and what we can do about it. *Civicus State of Civil Society report 2017*. Available from: <https://www.civicus.org/documents/reports-and-publications/SOCS/2017/essays/the-perverse-push-for-ppps-and-what-we-can-do-about-it.pdf>. Access on: Aug. 24, 2021.

WILLIAMS, T. O.; GYAMPOH, B.; KIZITO, F.; NAMARA, R. Water implications of large-scale land acquisitions in Ghana. *Water Alternatives*, v. 5, n. 2, p. 243-265, 2012.

WOODHOUSE, P.; GANHO, A. S. Is water the hidden agenda of agricultural land acquisition in sub-Saharan Africa? *International Conference on Global Land Grabbing*, v. 1, n. 1, p. 1-18, 2011.

WORLD BANK. *World Bank group support to Public-Private Partnerships: lessons from experience in client countries, FY02–12*. Washington, DC: World Bank, 2015.

WORLD HEALTH ORGANIZATION. *Water sanitation and hygiene for accelerating and sustaining progress on neglected tropical diseases: a global strategy 2015-2020*, released in 2015. Available from: [https://apps.who.int/iris/bitstream/handle/10665/182735/WHO\\_FWC\\_WSH\\_15.12\\_eng.pdf?sequence=1](https://apps.who.int/iris/bitstream/handle/10665/182735/WHO_FWC_WSH_15.12_eng.pdf?sequence=1). Access on: Apr. 11, 2021.

WORSTER, D. Water and the flow of power. *The Ecologist*, v. 13, n. 5, p. 168-174, 1983.

ZEVALLOS, M. *Water, gender and citizenship Involving men and women in the management of water and sanitation services*. Lima: LEDEL, 2007.

Article received on: 04/16/2021.

Article accepted on: 08/26/2021.

**How to cite this article (ABNT):**

PAROLA, G.; AMORIM, A. R.; WU, K. Water rights and water duties: towards a concept of water citizenship. *Veredas do Direito*, Belo Horizonte, v. 18, n. 41, p. 203-223, may/aug. 2021. Available from: <http://www.domhelder.edu.br/revista/index.php/veredas/article/view/2135>. Access on: Month. day, year.