

Privatization, the World Water Crisis, and the Social Contract

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To deny someone the right to water is tantamount to denying them the right to life, and to set a price on water is to set a price on life. It comes as no surprise then to find a good amount of anxiety and contention over who gets to set the price of water and how much they charge. And over the past two decades, throughout both the developed and developing world, setting the price of water has fallen increasingly to private companies at the same time as various demographic changes have increased water scarcity. Thus we hear water described simultaneously in terms of both a humanitarian crisis of global proportions—one standard though very rough figure is that more than one billion people lack access to safe drinking water (Davis 2005, 146; Black 2004, 28)—and as the “oil of the 21st century” (Wessel 2005).

The lively discussion over the myriad roles played by private companies in the distribution of the world’s water—known collectively as “public-private partnership,” “private sector participation,” or merely “privatization”—falls roughly into two types, which I will here call “technical” and “moral.” The technical discussion, dominant in academic and policy circles, revolves around the relative costs and benefits of public versus private supply of water in terms of water quality, water pricing, capital investment, extent of water service, and environmental protection (see the review of this literature by Davis 2005). The moral discussion, dominated by activists (Pettrella 2001; Barlow and Clarke 2002; Shiva 2002) and activist journalists (Rothfeder 2001; Ward 2002; Inter-

national Consortium of Investigative Journalists 2003; Holland 2006), focuses on water privatization as a facet of global corporate capitalism, with particular stress laid on the fact that the water industry is dominated by only a few transnational corporations, aided by World Bank and International Monetary Fund loan provisions requiring private sector participation in water infrastructure development (Conca 2006, 221–3; Davis 2005, 154; Center for Public Integrity 2003). To the extent that these authors concern themselves with the actual effects of privatization, it is usually to discuss a few well-known cases of failed privatization efforts, such as that which occurred in Cochabamba, Bolivia (Finnegan 2002; Barlow and Clarke 2002, 154–5; Black 2004, 78–9; Conca 2006, 238; Davis 2005, 166–8).

While the technical discussion of water privatization largely fails to address the larger moral implications of its subject, the moral discussion of water privatization largely fails to suggest any realistic policy solutions, instead resorting in most cases to a call for “grass-roots” control that, I argue, fails to address urbanization as one of the chief causes of world water scarcity. I thus seek to reconstruct the moral argument against water privatization by following the lead of many authors in defining the moral illegitimacy of water privatization in terms of the social contract. That is, if the moral responsibilities inherent in civil society are defined by the initial social contract (Hobbes [1651] 1962, 101–2; Rawls 1971), and if the current social contract allows for water privatization that denies the human right to water, then it is necessary to reformulate the social contract—or, as it has been called, the “world water contract” (Global Committee for the Water Contract 1998; Pettrella 2001).

The social contract delivers humankind out of that most fundamental collective action dilemma, the state of nature, by setting up a system of incentives that compels citizens to interact peacefully.

Key to a successful social contract, then, is a system of incentives appropriate to a given state of nature, or, in other words, incentives premised on a reasonably accurate appraisal of human nature.

“Human nature” is of course a construct of a specific place and time, which thus requires a different social contract in different contexts (cf. Macpherson 1962). I argue here that one problem with the moral argument against water privatization is that it fails to take urbanization into account in its implicit assumptions about human nature and thus formulates a world water contract inappropriate for an urbanizing world. The meaning of water is to some extent culturally relative (Blatter, Ingram, and Levesque 2001; Espeland 1998), yet few would question the fact that, across all cultures, some minimal level of water is necessary for basic sustainability (Gleick 1996), and the changes in land use that come from the industrialization and population growth known as “urbanization” create water stress that threatens sustainability (see, for instance, UN World Water Assessment Program 2006, chap. 3). I thus offer an alternative formulation of the world water contract for an urbanizing world; one that seeks to return to earlier notions of the city as a commercial association and which borrows and extends the notion of corporate citizenship from the literature on business ethics.

While I hope my reformulation of the world water contract is more realistic than others, I readily admit that it is still probably of more theoretical than practical relevance. Possibly more importantly, I hope that my critique of moral arguments against water privatization will provide a new tool to those such as myself who teach about water politics and policy. Books by opponents of water privatization are often sensational and alarmist but they do raise legitimate concerns about the commodification of a natural resource that can help students recognize the significance of the otherwise seemingly arcane academic literature on water administration. The

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argument here hopefully provides a way to link the popular and academic literature on privatization, while at the same time placing them both in the larger context of political theory. Toward this latter end, I suggest how my critique of the anti-privatization literature applies to Thomas Arnold's (2001) notion of a moral economy of social goods.

My argument involves the theoretical significance of what is an important though small fraction of the lively and multi-faceted debate over alternative forms of water administration; left out of the discussion are such important topics as the anti-dam movement and the growth of Integrated Water Resources Management as a more holistic way of balancing the needs of multiple stakeholders, including the environment. Indeed, by looking only at opponents to water privatization who propose grassroots policy alternatives, I do not even address the whole of the anti-privatization movement, which includes as well those who oppose privatization not because of concerns about the human right to water, but simply because they want to preserve the "status quo of monopolized state authority, public sector jobs, and subsidized water prices" (Conca 2006, 247).

Water Privatization and Its Discontents

Opposition to water privatization is hardly a new phenomenon. In response to recurrent cholera epidemics in nineteenth-century England, where most waterworks had been privately owned and operated, the 1869 report of the Royal Commission on Water Supply noted that "of late years many towns . . . have resumed the ancient principle by taking the control of the water supply again into their own hands. . . . A sufficiency of water supply is too important a matter to all classes of the community to be made dependent on the profits of an association" (quoted in Magnusson 2001, 172). A century later, in 1989, the Thatcher government, in one of its most unpopular initiatives (Marvin and Guy 1997, 23), privatized the country's waterworks by selling off 10 regional water authorities in England and Wales, the largest of which became Thames Water PLC. In 1995, Thames Water expanded internationally and by 1999 was involved in various ways with water infrastructure projects in Thailand, China, Australia, Puerto Rico, Turkey, Indonesia, Chile, and the United States, and is the world's third largest water company, although it is now a subsidiary of the German utility

company RWE (Thames Water 2006; see also Public Citizen 2005a). By 2002, the three largest water companies—Thames Water and the two French giants Suez and Veolia—served approximately 280 million people with water in Europe, North America, South America, the Caribbean, the Middle East, Africa, and Asia, generating approximately \$22.6 billion in revenues (Tagliabue 2002, A8). The companies have more recently announced plans to withdraw much of their investments in water service in the developing world (UN Water Assessment Program 2006, 69–70), though they still currently have a large international presence.

As the globalization of the private water industry began in Europe, so too did some of the first resistance to that industry, starting at least with the "Water Manifesto" issued in 1998 by the Global Committee for the Water Contract (also known as the Committee for the World Water Contract, or CWWC), led by former Portuguese President Mario Soares, which declared that water "belongs to all the inhabitants of the Earth in common. None of them, individually or as a group, can be allowed the right to make it private property. . . . Water . . . is not an exchangeable, marketable commodity" (Global Committee for the Water Contract 1998). The secretary of the CWWC was Riccardo Petrella, a longstanding political activist and academic, who in 2001 elaborated upon the message of the CWWC in his book *The Water Manifesto: Arguments for a World Water Contract*.

In North America, in the same year Petrella's book was published, a concerted movement against water privatization was initiated through the Blue Planet Project (BPP) of the Council of Canadians (CoC), which describes itself as "Canada's largest citizens' organization . . . promoting progressive policies on fair trade, clean water, safe food, public health care, and other issues of social and economic concern to Canadians" (Council of Canadians 2006). The scope of the BPP extends well beyond Canada, however, as indicated by its "Treaty Initiative to Share and Protect the Global Water Commons," ratified by "1000 delegates from 40 countries" during the inaugural summit meeting of the project in 2001 (Blue Planet Project 2001; see also Conca 2006, 241). The global focus of the treaty is evident in its declaration that "the Earth's fresh water [is] to be a global commons, to be protected and nurtured by all peoples, communities and governments of all levels . . . [F]resh water will not be allowed to be privatized, commodified, traded or exported

for commercial purpose and must immediately be exempted from all existing and future international and bilateral trade and investment agreements." In 2002, Canadian political activists Tony Clarke and Maude Barlow (co-founder of the BPP and former national chairperson of the CoC) followed up the initial summit meeting with their book *Blue Gold: The Fight to Stop the Corporate Theft of the World's Water*, which includes a 10-point statement on the "guiding principles and values" of sound water management that is an elaboration of the previously cited declaration from the earlier treaty.

Finally, although the major water companies were somewhat late to enter India, opposition to privatization has been notably vocal there, especially through the environmental activist and scientist Vandana Shiva, whose book *Water Wars: Privatization, Pollution and Profit*, dealing mostly with her home country, was published in 2002. Similar to Barlow and Clarke's 10-point statement, Shiva outlines nine principles of "water democracy," among which she notes, similar to the statements of both the CWWC and the BPP, that water "is by nature a commons. It cannot be owned as private property and sold as a commodity" (2002, 36).

Taken together, the books by Petrella, Barlow and Clarke, and Shiva represent a broad section of the movement against contemporary water privatization, and in the following section I use them as my principle examples of a relatively new call for grassroots control that is also conceived by many in the movement as a call for a new social contract. Petrella and the CWWC are the only ones I examine who actually use the language of social contract, yet the language used by the others suggests the same. For instance, the BPP treaty is in part self-consciously styled on that more famous document calling for a new social contract, the American Declaration of Independence, as it announces for instance that "We proclaim these truths to be universal and indivisible . . ." (Blue Planet Project 2001, 2). And Shiva notes (2002, 15) that "Ending the water crisis requires rejuvenating ecological democracy" thus suggesting a political and governmental change equivalent in scale to a rewriting of the social contract.

A New Social Contract and a Problem of Scale

The new social contract recommended by all the authors is one where control of the world's natural resources, water in

particular, would be taken away from nations and corporations and placed in the hands of grassroots communities. Petrella (2001, 92) argues that control over water should be placed “*at the level of each human community, on behalf of and as a trust from the rights and duties of the world human community, which remains the primary subject of the common water heritage*” (italics in original); Barlow and Clarke (2002, 221) argue that “The best advocates for water are local communities and citizens”; and Shiva (2002) similarly notes several instances where traditional, local practices in Indian villages have been far more successful at conserving water resources, while large-scale water projects have created scarcity in previously water-rich areas. Similarly, in 2005 the American consumer advocacy groups Public Citizen and Corporate Accountability International sent a public letter signed by 47 groups to the headquarters of United Water, a Suez subsidiary, which proclaims that “We are part of a global movement that recognizes water as a human right . . . and defends local community control of public water systems” (Public Citizen 2005b).

One problem with these recommendations of local control is that they do not specify the scale of human society that qualifies as “local.” This is especially striking in the case of Petrella (2001, 18, 65), who highlights the fact that it is in the world’s 600+ largest cities where people face the greatest water shortages, while at the same time claiming that “a solid and lasting system of regulation is more likely to be constructed when the ones mainly responsible for water are the grassroots human communities” (15–6). Yet it seems at least a stretch to claim that cities of several million people are, or are even composed of, “grassroots communities.” Moreover, ground pollution as a result of population density and industrial concentration practically requires that large cities take control over distant watersheds, thus leaving nothing “local” for grassroots communities to control. Barlow and Clarke (2002) at least recognize the contradiction between urbanization and local control, yet this leads them to the unrealistic conclusion that “urban centers should no longer divert water resources from rural areas to service their own needs” (225). Shiva (2002) evades the contradiction between urbanization and local control by restricting her critique of water policy to the damage wrought upon relatively small villages—in India, where residents of some of the world’s largest cities face some of the most severe problems of water shortage and pollution.

The connection between water scarcity and urbanization has hardly gone unnoticed by others, such as the United Nations, which in its second major *World Water Development Report* focused on urbanization as one of the greatest challenges to providing the world’s population with adequate water. Rather than calling for localized grassroots control, the UN report recommends “regional water governance arrangements that often require agreements developed with freshwater users upstream of the city and more attention to reducing the impact of water pollution . . . for users downstream of the city” (UN World Water Assessment Program 2006, 92). In other words, to adequately deal with the largely urban problem of water scarcity, an increase in the scale of water governance is required—the exact opposite of the recommendations made by the opponents of water privatization.

Urbanization or the Corporation?

Rather than urbanization, Petrella, Barlow and Clarke, and Shiva concentrate on the corporation as a chief cause of world water stress. The corporation is an organizational structure that serves to alienate humankind from genuine human community and is thus anathema to community control of water. The structure of the corporation is seen as fundamentally alienating, first, because it creates a fictional individual from which any moral sense has been abstracted, leaving only the selfish motivations of profit maximization. As Barlow and Clarke (2002, 127) put it, “the main goal of a private enterprise is not to serve the public or to make sure water is distributed equally to all users whether at profit or not. Its main goal is to serve its shareholders—to increase profit for a select few” (see also Petrella 2001, 38, 56). Second, as a solely profit-seeking structure, the corporation seeks to constantly commodify what was previously uncommodified, at the cost of environmental degradation and human misery. “In this global market economy, everything is now up for sale, even areas of life once considered sacred, such as health and education, culture and heritage, genetic codes and seeds, and natural resources, including air and water” (Barlow and Clarke 2002, 81; Petrella 2001, 75–6; see also Alternatives Committee of the International Forum on Globalization 2002, 10–1).

The notion of corporate alienation follows in the tradition of an environmental ethic that describes humankind as fundamentally alienated from the natural

world, “based on our capacity to evolve past nature’s internal mechanisms.” If human alienation from nature derives from our fundamental nature as “moral and technological creatures,” then we have the capacity to destroy the natural world, yet also are given an imperative “to achieve that particular balance between human creativity and natural evolution that allows the essential intrinsic value of each to persist in harmony with the other” (Gillroy 2000, 130–1). Corporate globalization, then, reflects our failure to live up to our inherent moral duties to nature. Thus many of the anti-privatization authors espouse the moral position of water in the belief systems of many indigenous peoples. According to Barlow and Clarke (2002, 215–6), for instance, “Water is . . . a foundation of spiritual life for Indigenous peoples . . . their proprietary interest in waters on their traditional lands must be respected and honored” (see also Shiva 2002, x, 12). The moral language of indigenous people shifts to a language of “intrinsic value” for Western environmentalists, though for the same ends, as in Gillroy’s (2000, 116) dictum that “we should recognize the intrinsic functional value of the environment as a foundation that defines our duties to nature, just as the intrinsic moral value of humanity defines our duties to other persons.”

If water, as a part of nature, is understood to have intrinsic and thus incommensurable and noncommodifiable value, the problem of water scarcity, conceived as a problem of corporate globalization, becomes a struggle between humans’ inherently moral nature and the fundamental immorality of the corporation—or, as Shiva (2002, x) puts it, “a clash between two cultures: a culture that sees water as sacred and treats its provision as a duty for the preservation of life and another that sees water as a commodity, and its ownership and trade as fundamental corporate rights.”

The anti-privatization literature thus conceives of the corporation as a “false” product of our technological capabilities that obstructs our “true” and moral relationship to nature. The call for local control in the world water contract is an attempt to bring humanity back to its proper relationship with nature. The absurdity of local control for an urbanizing world results from the fact that it ignores rather than resolves the moral dilemma of the corporation. If the corporation is a tool through which humans behave selfishly, the corporate form is not antithetical to human nature, as implied by the falsity and illegitimacy cast upon it by the anti-privatization literature; it suggests instead the failure of humans to

live up to our responsibilities as stewards of nature.

A realistic world water contract is more likely to result if we treat human nature on par with the corporation, both as social constructions. More specifically, treating human nature as a construct of urbanization should account for the failure of the anti-privatization literature to take the scale of urbanization seriously. It is in this regard especially fruitful to return to Louis Wirth's (1938) classic formulation of an urban "way of life" as one characterized by interpersonal relations that are "impersonal, superficial, transitory, and segmental" and where "a spirit of competition, aggrandizement, and mutual exploitation" thus reigns (12, 15). Wirth has been criticized over the past half century because there is little evidence for his predictions that urbanization leads to "mental breakdown, suicide, delinquency, crime, corruption, and disorder" (23; for criticism, see Fischer 1995, 543 n. 4). Yet Wirth's more general observations about the anonymity and impersonality of urban life have received apparent empirical support from much of the recent literature on social capital (see, for instance, Putnam 2000, 138, 206), and even such influential proponents of urban life as Jane Jacobs (1961) never contradicted Wirth so much as they believed some form of meaningful community was made possible by the very impersonality and superficiality he described.

Wirth (1938) actually had two definitions of alienation and a take on the corporation that make him particularly relevant to the anti-privatization literature. First, Wirth noted that the corporation was an adjunct to urban humanity; an institutional form uniquely adapted to maintaining social order in the urban milieu because "the corporation has no soul" (13) and would therefore not hinder the unbridled pursuit of self-interest. Second, Wirth described interpersonal alienation as a function of a prior alienation from the natural world: "Nowhere has mankind been farther removed from organic nature than under the conditions of life characteristic of great cities" (1–2). Thus urban residents "tend to acquire and develop a sensitivity to a world of artefacts [sic] and become progressively farther removed from the world of nature" (14). For Wirth, urbanization is the process by which humans lose first their knowledge of the natural world, and then their knowledge of one another. Urbanization thus represents the failure of humankind to live up to the twin moral duties described by environmental ethicists: to both humanity and nature.

Understood in terms of environmental ethical theory, Wirth's theory of urban-

ism sheds light on the fallacy of the anti-privatization diagnosis of the water crisis. Wirth was quick to note that urbanism was not a process constrained to cities, but was "the initiating and controlling center of economic, political, and cultural life that has drawn the most remote parts of the world into its orbit and woven diverse areas, peoples, and activities into a cosmos" (2). The striking similarity between Wirth's image of urban life, and negative critiques of corporate globalization—both describe a world governed by self-interested, instrumental relations that are ultimately predatory and destructive of both civil society and the natural world—suggests that the "urban cosmos" has been realized in the shape of globalization, at least to those who fear the alienating effects of globalization. The problem with a cosmos, of course, is that it defies definition by virtue of its all-encompassing nature. If corporate globalization describes a Wirthian urban world, it is one in which "urban" no longer has a referent outside itself by which it can be defined, and it thus collapses into a universal (or "global") definition of human alienation, exemplified in the form of the corporation, from which anything recognizably human except narrow self-interest has been stripped away. Thus authors of the anti-privatization literature depend implicitly and apparently unknowingly on an urban construction of human nature which they have labeled "the corporation" (which Wirth understood as an adjunct of urban human nature) and have contrasted it to a non-urban humanity.

If opponents of privatization implicitly depict corporate globalization in terms of a Wirthian urbanism, they define grassroots community in the same way Wirth (11) defined the non-urban, in terms of the folk society where life was defined and order maintained through "The bonds of kinship, of neighborliness, and the sentiments arising out of living together for generations under a common folk tradition." Indeed, the anti-privatization literature literally uses the folk society as a policy prescription in its espousal of indigenous attitudes toward water. And just as Herbert Gans (1962) critiqued Wirth for defining urbanism in contrast to a type of society that was no longer relevant, so the call for local control, reflecting as it does the image of the pre-modern, pre-urban folk society, is also largely irrelevant to contemporary urban society.

More recently than Gans, Thomas Arnold (2001, 85) has argued, similarly to what I have argued here, that "moral economy" explanations in political sci-

ence (those that seek to ground human behavior in social and cultural contexts rather than in rational choice terms of narrowly conceived utility maximization) are misguided to the extent that they explain the moral implications of economic activity by comparison to nonmarket societies, which "reduces to the unduly narrow claim that economic incorporation of a nonmarket people is the basis for the moral indignation that leads to resistance and rebellion." As I have likewise argued, the moral indignation against the corporate globalization of water in the anti-privatization literature relies on the unrealistic presumptions of a nonmarket folk society. Therefore the anti-privatization literature can be viewed as a popular adaptation of the traditional moral economy argument.

Arnold (93) argues that moral economy would be a more broadly applicable model were it to focus instead on particular "social goods" whose status as market commodities is "nested" within a larger moral system of belief that can limit without entirely excluding the commodification of those goods. As an example of such a social good, Arnold examines the case of water in the American West. Because water embodies multiple and competing values, and because it has been constitutive of multiple community and self identities, it is codified in legal restrictions that limit the extent to which it can be commodified. Unlike the issues raised in the anti-privatization literature, however, the competing values reflected in Western water have led to incremental policy changes which, while "broadly and consistently regulatory," have also been piecemeal in fashion, including a host of different legal mechanisms (94). By contrast, the anti-privatization literature that I have examined here challenges us to think about the moral implications of more deeply contested social goods. The anti-privatization literature casts the moral status of water in terms of mutually exclusive categories—water is either a commodity or a human right—and argues that the choice of either category requires an entirely different system of policymaking—that is, a different form of governance, based on a different social contract.

An Urban World Water Contract

I have argued that one of the chief problems with the world water contract as it has been formulated in the anti-privatization literature is that it seeks to create a system of water governance for

an urban world, but is based on an antiquated construct of human nature derived from folk society in which the corporation is an interloper. A more realistic model of the world water contract would acknowledge that the corporation is a structure inherent to, and thus a legitimate part of, urban society. Rather than a right to water, a uniquely urban system of equitable water allocation might convey as a part of citizenship a right to membership in the corporation that supplies water, for instance through the equal distribution of shares in the corporation.

To suggest that the customers of a corporation should possess a right to membership in that corporation is to suggest a partial return to an earlier conception of the city as a commercial association largely synonymous with the corporation: an "entity intermediate between the state and the individual . . . not classifiable as political or economic, as public or private" (Frug 1999, 26). Through the social contract, the liberal tradition based government legitimacy on the relationship between individuals and the state, leaving no room for such intermediate organizations, and thus the city

was divided into "the private corporation, which was an individual right-holder, and the public corporation, an entity that was identified with the state" (39). Yet Wirth (1938) serves as a reminder that intermediate organizations such as cities and corporations are the means of individual expression in urban society, and could thus be constitutive of, rather than antithetical to, government legitimacy. And in a world of global trade agreements where national borders will slowly dissolve into an urban ether, it may be time to rethink the social contract as a means for equitably distributing the world's resources through the institutional structure of the corporation—a change which would of course also fundamentally restructure the corporation.

In suggesting that a reformulation of the social contract in an urban world of scarce natural resources would vest citizenship rights in the corporation, I am advancing the notion of "corporate citizenship" that since the 1990s has become fashionable in the business ethics literature. Most discussions of corporate citizenship leave the notion of citizenship unexamined and use the term as simply a fashionable replacement for the older

term "corporate social responsibility" (that is, the study of the economic, legal, ethical, and philanthropic duties of the corporation—see Carroll 1979). Yet the most forward-thinking treatments of corporate citizenship have turned to political theory to explore how corporations might fill the gap in providing for the rights of citizens who in an increasingly global economy can no longer be conceived of as the subjects of a single national state—a line of thinking that raises new issues about corporate accountability, or the appropriate "mechanisms through which citizens can participate in and even control corporations to ensure that their rights are adequately protected" (Matten and Crane 2005, 176). I have offered only the briefest suggestion of such a mechanism of corporate accountability, but I have suggested more generally that corporate citizenship can be understood as having its origins in the period before cities became adjuncts of the modern state. We might turn back to that earlier period to learn how citizenship, the social contract, and corporate accountability could be otherwise conceived.

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