water & economic justice

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economic drivers of water financialization

november 2013

Friends of the Earth International

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november 2013

economic justice resisting neoliberalism (EJRN) program
friends of the earth international (FoEI)

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introduction

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Friends of the Earth International recognizes water at the core of life, as a key element around which the organization of the territory revolves, and identifies it as one of the articulating issues in peoples struggles for social and environmental justice and rights - a cross-cutting component in the campaigns developed by member groups and the different programs of the Federation.

Many FoE groups in every continent around the world have been working on the issue of water, mobilizing in defense of water as a commons, opposing all forms of privatization, commoditization and financialization of nature, promoted by corporate capital and international financial institutions with the complicity of governments in many countries, and underpinned through trade, investment, association or even international cooperation agreements.

Highlighting on the other side the close link between sustainable water management and the sustainable management of territories, these local and international struggles for water and their lessons, victories and challenges have shaped the positions, alternatives and discussion points on water presented in this publication by Friends of the Earth International.

financialization of water and life

New forms of capital accumulation and corporate power over territories have been generated under the current juncture of the dominant political and economic system riddled by environmental, climate and food crises and conflicts over water. Privatization of water sources and water management, commoditization (whether in the form of bottled water sales or the sell-off of utilities), and the more recent financialization of water and other natural resources are in progress, as part of a push to extend neoliberalism one step further.

The financialization of nature involves segregating the natural elements from each other, including water, air, biodiversity, landscapes, and even their cultural and spiritual value. Once segregated, new property titles are issued on each one of them, or their parts - no longer associated to land ownership, collective rights over the territory or the social function of land. Thereby, new sources of capital reproduction and accumulation are created, leading to a process of further appropriation and concentration of the means of production, which are also means for the reproduction of life.

These new property titles, which are often referred to and accounted for as “natural capital”, are acquired by corporations to offset their overuse, degradation or pollution of the environment; and they can be traded in financial markets on the basis of contracts signed between corporations and States, local authorities or the communities themselves.

This allows the same actors that are responsible for environmental conflicts and injustice, not only to benefit from the concentration of their power over resources but to generate as well new profits for themselves through speculation in futures markets with these new property titles. Meanwhile, nature and the commons become increasingly scarce and expensive, once they have been commoditized and a price tag has been set on them as a result of these corporate actions.

Consequently, decision rights over how to live in the territory and how to manage its resources, including water, are increasingly transferred from the local sphere to powerful economic actors and new financial markets, including the emerging "global water market". Meanwhile, the structural determinants of the worsening water quality, quantity and distribution - which are closely linked to the decline of territories, cultures and peoples sovereignty - are not addressed nor stopped.

As a result, society is alienated even further from nature, and the decision-making power of those living in the territories diminishes concurrently with the possibilities of maintaining and strengthening community-based water management systems and ways of living in harmony with nature.

The cases in this publication capture differing degrees of progress of these processes in each country, either as a result of public policy reforms in the water, energy, environment or mining sectors, structural adjustment or economic austerity measures, alignment to new international trade and investment or cooperation agreement rules, or in the context of militarized territorial conflicts.

economic drivers

Until fairly recently, it was generally believed that the State is entrusted to protect and secure peoples' rights to a well-balanced environment. In that line, some progressive governments are exploring ways of promoting the recognition of the rights of Nature itself, including people, to live in harmony and free from exploitation, degradation and pollution. However, other governments are promoting policies, laws and mechanisms that transfer the management of the environment - and as a result, of water - to markets, corporations and the financial system.

This publication showcases the defense of water in relation to resistance struggles against the take-over of territories by corporations in the mining, fossil fuels, plantations, dams and agribusiness sectors, linked to the extractive and intensive energy model. Whether from these sectors or the water supply and management sector, the corporations that threaten access to water and the territories producing it, as well as water quality and availability and peoples' rights, are exposed in each country.

Additionally, international financial institutions, and bilateral/plurilateral and multilateral free trade and investment agreements are also identified as key drivers of the deregulation and liberalization processes that have opened the water and sanitation sectors to corporate profit-making, and as key building-blocs to the architecture of impunity that protects it. Standing out amongst them are the new and increasingly less transparent and non-democratic modalities of transoceanic partnerships led by the United States, such as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), and the World Trade Organizations' agenda on environmental services.

Furthermore, the spotlight is also on the corporate capture of governments and multilateral institutions and international cooperation, as a structural feature that facilitates the advance of financialization of water and the creation of a global water market.

Outright violence against defenseless people has been and is recurrent in many water conflicts around the world, including here in Sri Lanka, Colombia and El Salvador. But the case of Palestine stands out prominently as a very brutal example of carefully planned and fully intentional environmental racism and State terrorism inflicted on the people by the Israeli authorities. The extremely odious and inhuman use of water as a war weapon, the denial of territorial rights and the stark injustices related to access, use and distribution of water, emphasize even with more urgency the need to highlight the violence often involved in the processes of privatization, commoditization and financialization of water.

It is also a call to reflect on who is to be entrusted with the responsibility for granting and implementing the recognition of the human right to water, as discussed in the conclusions. Violent water conflicts in Asia, Africa and Latin America included here underpin the criticism of the corporate capture of States, and of their actions against the people and at the service of corporate interests.

peoples solutions in the struggle against the economic drivers of water neoliberalization

The proposals, insights and issues for further debate included at the end of this publication are a reflection of the ways in which peoples organize themselves to promote real solutions, of their main proposals and alternatives, and their victories or lessons learnt, whether in traditional water management or as part of the processes of struggle in each country and region.

The cases, stories and struggles presented by Friends of the Earth member groups call on the Federation to warn against the strides of neoliberalism in terms of water grabbing and the take-over of water: from the privatization of rivers and water management, to the commoditization of this vital element and its financialization through the legal and institutional framework of environmental services and new associated markets.

On these bases, the Federation's positions on water management and territorial management, the right to water, and nationalization/municipalization/communalization of water as real solutions implemented by the people are presented.

The main social actors that defend water as a commons and the right to water as a peoples heritage are identified. The meaning of public ownership and public management is defined in each context - in some countries it is embodied at the community level, in other countries by the State. Their demands, along with the intensification of community-based water management taking place in Southern countries, can become a real turning point against privatization, commoditization and financialization of nature. Taken together, they can demonstrate the feasibility of public/community-based models as a possible avenue for the reconstruction of the social fabric and the relations between the population and the institutions.

asia pacific region

- palestine
- australia
- sri lanka

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water injustice in palestine: a limiting factor for social and economic development

background

West Bank and Gaza have surface areas of 5572 and 365 km^2 respectively, both enjoying typical Mediterranean climate - dry and hot summers, followed by mild and wet winters. Rainfalls occur only during winter season, which lasts for approximately five months, from November to March, while the average annual rainfall varies from 550-600mm to 400mm per year in the West Bank and Gaza, respectively. The magnitude of renewable groundwater resources in the Occupied Palestinian Territory varies from 640-750 Mcm/year (590-690 Mcm/year in the West Bank and 50-60 Mcm/year in Gaza).

The Jordan River, which accounts for the bulk of the available surface water in the Occupied Palestinian Territory, is not yet accessible to Palestinians. Previous plans such as the amended Johnston Plan from 1955, attempted to distribute the Jordan River's waters among the coastal countries, envisaging the allocation of nearly 200 Mcm/year of those waters to the Palestinians, through the proposed West Ghor Canal. However, this canal was never built due to the Israeli occupation of the West Bank in 1967.

Furthermore, Israel has been continuously depleting the surface water resources since the mid '50s, especially the head waters of the Jordan River. They diverted water from Lake Tiberias in the north to the Negev desert in the south, through the so-called National Water Carrier. This diversion has caused severe water problems and massive reduction of the Jordan River's flow. The amount that historically flew into the lower Jordan River, reaching the Dead Sea, was nearly 1.1 billion cubic meters per year in 1900, while the current flow barely reaches 50 Mcm, mostly consisting of sewerage water from the Israeli Settlements in the upper Jordan Valley, and the brackish water diverted from the springs around Lake Tiberias into the lower part of the river. The greatest share of that decline in flow has happened since 1960.

As a result, the water level in the Dead Sea drops by 0.8 m every year. Such plummeting in the sea level has lead to the development of sinkholes and an increased groundwater flow from surrounding Palestinian aquifers towards the sea, determining a severe drop in groundwater levels.

Consequently, the Occupied Palestinian Territories (West Bank and Gaza Strip) suffer from structural scarcity of water, amongst other forms of scarcity, given an inequitable distribution of resources, where the majority of water resources are concentrated in the hands of Israel, while the Palestinian population endures significant water deficits.

As the power holder in the region, Israel has managed to violate Palestinians´ water rights systematically. Since the establishment of the Armistice Line in 1949, Israel began to impose restrictions on the development of wells in the area under Jordanian administration, specifically in the West Bank area. After the 1967 war, followed by the annexation of the Golan Heights and the occupation of the West Bank, all major Arab water resources, including the Jordan River basin as well as those in the West Bank and Gaza Strip fell under Israel's control.

In sum, the nature of water conflicts between Israel and Palestine span over six main areas:

- the land-water nexus or the control over the hydrospace in Palestinian Territory.
- the misdistribution of water rights over common resources and the resulting water gap between Israeli and Palestinian access to water resources.
- the encroachment by Israeli settlers on Palestinian water resources
- Israel's control of Water institutions, information and legal mechanisms
- out-of-basin water transfers.[1]

water for household use

The total renewable groundwater resources in the West Bank and Gaza are estimated at 722 Mcm per year (not including surface water), however, Palestinians are only allowed to use 250 Mcm / year, while the rest is used by Israel.

The total per capita water use in Palestine averages almost 93 m^3 per year, compared to nearly 244 m3 per year in neighbouring Jordan and almost 344 m3 per year in Israel. Meanwhile, the estimated regional per capita water use averages 257 m3/year.

Additionally, per capita household water use is estimated at 98 m^3/c/year in Israel, 56 m^3/c/year in Jordan, and nearly 34 m^3/c/year in Palestine (NRC, 1999). The average Palestinian per capita water use for household purposes has been reduced further as a result of the restrictions imposed by Israel. In a best-case scenario, it reaches 70 l/c/d in urban centres, including 40% of wasted water due to leaks. However, the use is much less in Palestinian rural areas that have no access to piped water and still depend on collecting rainwater. Water use per capita per day for all household uses (including domestic agriculture, domestic livestock, and all losses) was less than 30 l/c/d in some communities, and in others even below 15 l/c/d. (PHG, 2004)

It is worth mentioning that this quantity does not reflect the actual water needs of Palestinians, and it is far below the level recommended by the World Health Organization (WHO) *of 100 – 250 l/c/d*. The restrictions and limitations imposed on Palestinians to access their own resources and develop them have led to severe water use shortages among Palestinian communities.

1. See Sharif El-Musa, 1996.

Furthermore, the construction of new Israeli colonies and the expansion of existing ones is further reducing the quantity of water that should be allocated to Palestinians. Currently, there are nearly 260 thousand Israeli settlers in the West Bank, and they use nearly 75 Mcm per year, of which 44 Mcm are pumped from wells drilled in the West Bank. The total daily per capita use of water by settlers is 780 l/c/d, of which 461 l/c/d is from the West Bank. This means each settler uses 4 times more water than a Palestinian (World Bank, 2009).

water for agriculture and projected water demand

Agriculture used to contribute with 30-35% of the Gross National Product (GNP) and nearly 35% of the labour force in Palestine. However, according to the Palestinian Ministry of Agriculture (2008), this percentage has dropped substantially and its current contribution to GDP has dropped to nearly 8%, representing only the 13.4% of the labour force. At the same time, it uses about 55% of the available water, approximately 123 Mcm in the West Bank and Gaza. This quantity has been shrinking over the past three decades due to restrictions imposed on developing existing resources and the prohibition imposed on Palestinians for the development of non–conventional resources to meet their growing water needs. This, in turn, has affected the agricultural sector as a whole, leading to a general decline in irrigated land.

Moreover, in some places, Palestinian farmers have been forced to purchase water at high prices from the water sources controlled by the Israeli Water Company. This has lead to increased production costs for agricultural crops, thus affecting the ability of Palestinian farmers to compete with the heavily subsidized Israeli agriculture, leading to substantial economic losses at farmer and national levels.

Furthermore, there is a big gap between water demand and water use -a problem which is likely to aggravate with population growth and the associated increase in demand. Table 1 summarizes the projected water demand in the West Bank and Gaza until the year 2040.

Table 1: Projected water demand in the West Bank and Gaza until the year 2040.

Year	Population (Million)	Projected Water Demand (Mcm/year)		
		Domestic use & Industry	Agriculture	Total
2000	3.15	196	191.8	387.8
2010	4.95	416	301.5	717.5
2040	9.98	1075	607.8	1682.8

Note: Population projections are taken from the Palestinian Central Bureau of Statistics (PCBS) census of 1998 and the water demand projections are adjusted from GTZ reports.

It is worth taking note that the medium and long term water demand will far exceed the available supply in the Occupied Palestinian Territories (West Bank and Gaza), all water sources considered.

access to piped water

While all Israeli colonies in the West Bank are connected to piped water and many have swimming pools, an estimated 220 communities in the Occupied Palestinian Territories are not serviced through the water network - that is, approximately 15% of the population. The reason why so many communities are not connected to the water supply network is that they have always been denied connection. This injustice and inequity of access to water supply has always been a source of tension, especially when Palestinian villagers see how the pipe leading to an Israeli colony passes through their land without supplying their village with water.

The situation is not that much better for the communities purchasing water from the Israeli water company Mekorot. During summer, water is rationed and supply might be reduced up to 70% in certain places. Some cities, towns and villages may have water only once a week or even once a month.

The daily suffering of Palestinian people still continues. Restriction of movement and access is still the norm. Such restrictions are implemented through the wall and the many checkpoints in the West Bank, and the complete closure of the Gaza Strip. Furthermore, Israeli settlers in the West Bank are confiscating local water sources (especially natural springs) that Palestinians have used for ages, blocking them from using them. This has not only affected the overall well being of the Palestinian people, it also makes it more difficult to access water resources for household use, irrigation and other economic activities.

As a result, many communities are not able to access adequate water supply sources. In communities that rely mainly on water tankers, poor families are particularly vulnerable. With few or no alternative options for purchasing water, a considerable percentage of families don´t afford buying water from the tankers.

Restrictions have transformed the villages and towns into large jails or ghettos and caused serious damage to the economy and people´s livelihoods. According to the Palestinian Central Bureau of Statistics (PCBS), GDP has dropped by 14.9% since 1999, bringing down by 30% the per capita share of GDP in the same period.

The situation has become particularly critical since the construction of the separation Wall in the West Bank, which draws apart people from each other, people from their land and people from their water sources, jeopardizing their entire livelihoods.

The consequences of the separation Wall on the ground are catastrophic. The western section of the Wall cuts off and confiscates more than 1000 km^2 from the West Bank's most fertile land and water-richest area. It seizes more than 28 groundwater wells that produce 4.5 Mcm per year and supply irrigation water for hundreds of *dunums* in the agricultural areas in Tulkarem and Qalqilia districts.

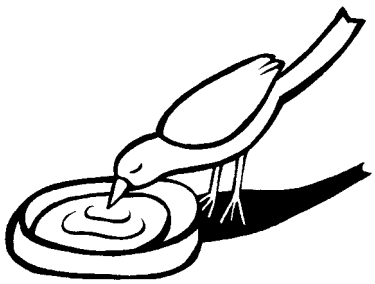
The Wall isolates nearly 6800 Palestinians between the Green Line and its trajectory, leaving them with no access to other parts of the West Bank. Adding injury to insult, they are even required to obtain permissions to stay in their homes and land -permissions that are valid for one year and only for one gate.

conclusion

Water injustice and inequitable allocation of water to Palestinian people has seriously deteriorated the overall economic and social well being of the people. Reductions in available water quantities and pollution caused by Israeli colonies to the land and local water sources and the aggression of Israeli settlers on local sources have all contributed further to the deterioration of social and economic conditions of the Palestinian communities.

Equitable and wise use of available resources among all people living under the same conditions is the basis for lasting peace. Accordingly, Palestinians must obtain their rightful shares in their resources and be granted full authority to manage their resources properly.

The water sources must be protected and pollution sources eliminated, especially those caused by the Israeli colonies. Palestinians can no longer accept to see the illegal Israeli colonies using and controlling their water resources and polluting their land, resources and space without being able to prevent such violations.



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confronting the cultural and environmental impacts of exploitative water management in south eastern australia

In the dry hinterland of Australia's South East, a network of rivers, lakes, streams and floodplains has nourished ecosystems and Indigenous cultures for tens of thousands of years. The Murray-Darling Basin contains Australia's four longest rivers[1] and a serpentine network of creeks, billabongs and wetlands that sprawl across the inland plains, draining into the Southern Ocean.

European occupation of the Murray-Darling Basin has resulted in the degradation of natural ecosystems and dispossession of Indigenous Traditional Owners. Persecution, land clearing, fencing and forced removal from Country threatened to sever the links between Traditional Owners and the places, life-forms and spiritual beings that exist along their rivers. Drought, over-allocation of water for irrigation and climate change have further degraded waterways, creating complex and persistent environmental problems.

Colonial, State and National governments have enabled irresponsible over-exploitation of the Basin's waterways. From the late 1800's, irrigation schemes began diverting large volumes of water from Basin's river for intensive farming and horticulture. By the later decades of the 20th century, the environmental impacts of exploitation had become apparent and in 1981 the mouth of the Murray River, Australia's longest, closed to the sea for the first time. By 2012, twenty of the Basin's 23 major river valleys were considered to be in poor or very poor ecological condition[2]. A series of policy reforms, culminating in the 2004 National Water Initiative, installed federal control over the river systems, established a water trading market and a cap on the extraction of surface water.

Initiated in 1994, the new water market separated water entitlements from land title and created various 'water products'[3]. A free market rationale dictated the design of the water trading system: open buying and selling of water entitlements is supposed to encourage the most efficient and profitable water-users, thereby strengthening economic growth. Water markets have allowed for the commoditization of an essential

1. Australian Government, Geoscience Australia. http://www.ga.gov.au/education/geoscience-basics/landforms/longest-rivers.html (retrieved 23 April 2013).
2. James Horne (2012): Economic approaches to water management in Australia, International Journal of Water Resources Development, DOI:10.1080/07900627.2012.712336. p. 3.
3. Australian Government, National Water Market website. http://www.nationalwatermarket.gov.au/about/products.html (retrieved 23 April 2013).

natural resource. Individuals and businesses can profit from the trade of water entitlements, with 24 hour exchanges and water brokers offering market advice[4]. In 2009-10 the Australian National Water Commission estimated that the value of transactions for traded water was almost $3 billion and involved 4,444 gigalitres (GL) of water[5]. In 2011, nine percent of total water entitlements for agricultural use were either partially or entirely owned by off-shore interests[6]. The environment and Indigenous Nations whose social, cultural and economic traditions are dependent upon healthy rivers, have suffered the worst consequences of the exploitation and commoditization of water resources in the Murray Darling Basin.

The Murray River, is now a quasi-natural system, administered as a giant water delivery channel via a complex system of locks, dams, pumps and regulators. The threatened ecologies of the Basin are couched as 'players' in a competitive water market. The environment must 'pay its way'. Governments and environmental water managers must buy water entitlements from irrigators and private owners to maintain essential river flows.

The Murray Darling Basin Plan, enacted in November 2012, set a minimum of 2750 GL to be returned to the rivers as 'environmental flows'. The Barmah-Millewa Collective of Friends of the Earth Melbourne (BMC) played a leading role in campaigning for more stringent limits to the extraction of water from the rivers in the Murray Darling Basin. Best available science has indicated that at least 4000GL of 'environmental flows' would be required to restore the Murray River to health[7]. Friends of the Earth helped to organize a broad coalition of environment and community organisations to counter the powerful voice of the irrigation and farming lobbies. These groups, and some State Governments had proposed low extraction limits that would have failed to meet key environmental targets. The final Basin Plan has provided for 3200 GL of additional environmental flows, with 450 GL to be secured through efficiencies and infrastructure upgrades[8].

Friends of the Earth has also developed collaborative relationships with Indigenous Traditional Owners who continue to critique and resist the commoditization and exploitation of water. In 2007, FoE Melbourne initiated a working agreement between a range of environmental NGOs and the Murray Lower Darling Indigenous Nations (MLDRIN)[9], an organization representing Traditional Owners from the southern part

4. Waterfind, company website. http://www.waterfind.com.au/why-waterfind.html (retrieved 23 April 2013).
5. Australian Bureau of Statistics. 'Environment' in Year Book, Australia 2012. http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1301.0~2012~Main%20Features~Water~279 (retrieved 23 April 2013).
6. Australian Bureau of Statistics quoted in Nason, James "Who owns the farm? Foreign owenership stats released," in Beef Central, beef industry news, 12 September 2011. http://www.beefcentral.com/p/news/article/600 (retrieved 23 April 2013).
7. Wentworth Group of Concerned Scientists quoted in "Riverina mayor welcomes Murray Darling Basin Plan withdrawal", ABC News, May 23, 2011. http://www.abc.net.au/news/2011-05-23/riverina-mayor-welcomes-murray-darling-basin-plan/2725100 (retrieved 23 April 2013).
8. New South Wales Department of Primary Industries, Office of Water. 'Murray Darling Basin Plan,' http://www.water.nsw.gov.au/Water-management/Law-and-policy/National-reforms/Murray-Darling-Basin-Plan/murray-darling-basin-plan (retrieved 23 April 2013).
9. Cooperation Agreement Between MLDRIN and eNGOs 23rd February 2007.

of the Basin. MLDRIN has developed and refined the concept of 'cultural flows' to translate Indigenous people's diverse needs and values to the language of modern water management. Cultural Flows are defined as: "water entitlements that are legally and beneficially owned by the Indigenous Nations and are of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations. This is our inherent right."[10]

The concept of Aboriginal water rights is gaining currency. Indigenous groups have capitalized on the acceptance of scientific discourses regarding 'environmental flows' to posit demands for water rights. A range of State and Federal policies now require government agencies to improve engagement with Indigenous communities and to account for Indigenous values and uses in water plans.[11]

Following the enactment of the Murray Darling Basin Plan, the BMC is working to strengthen a collaborative engagement with Traditional Owner groups and organisations across the Murray Darling Basin. In 2013 the Collective completed a community film project with the Mutthi Mutthi and Wadi Wadi Indigenous nations. The project produced two 25 minutes documentary films exploring Indigenous understandings and connections to rivers. The films will be distributed to decision makers and presented at community screenings across the Basin, in order to enhance public understanding of Indigenous values and uses.

While institutional and policy changes can deliver improved water outcomes for Indigenous communities, BMC recognizes the need to maintain independence, intellectual property rights and self-determination in research and advocacy work. It is important to ensure that Indigenous agendas are not appropriated and diluted by government agencies.

Indigenous understandings are key learnings that can inform and transform dominant approaches to waterway management in Australia. In Indigenous understandings, values of respect, connectivity, continuity, complexity and community stand in contrast to dominant principles of immediacy, individuality, certainty and competitiveness. The concept of Cultural Flows presents a powerful challenge to the dominant managerial mindset that has damaged Australia's rivers.

10. MLDRIN, Echuca Declaration: http://savanna.org.au/nailsma/publications/downloads/MLDRIN-NBAN-ECHUCA-DECLARATION-2009.pdf (retrieved 23 April 2013).
11.For example the National Water Initiative, Murray Darling Basin Plan and Victorian Waterway Management Strategy.

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Bullets for thirsty

The brutal military attack on the nightfall of 1st August 2013, against the unarmed peaceful protestors in Weliveriya who demanded clean water, ended killing a 17-year-old school boy, Akila Dinesh (the only child in his family) and two others and wounding many other protestors. They were demonstrating against the Venigross Gloves Factory, located in Rathupaswela (about 17 km from Sri Lanka's capital, Colombo), which, the neighbouring 12 communities within a 3-kilometre radius, accused of contaminating their water sources by dumping chemicals and waste water[1].

This incident reminds me of the tragic end to the demonstration in Cochabamba in Bolivia in year 2000 in which Victor Hugo Daza was killed. It was against the privatization of public water in Cochabamba.

The incident in Sri Lanka is a warning to the people about the repercussions of how the authorities will act if people go against neoliberal and corporate interests. It is shameful how some politicians are painting a wrong picture about the incident when media footage and people's testimonies clearly show how the attack was carried out.

As media reported "About 1,000 soldiers wearing flak jackets and armed with T-56 assault rifles were deployed to the area. Members of the army's motorcycle brigade arrived in Belummahara, a junction near the factory, at about 2 p.m. and immediately began harassing demonstrators, demanding they disperse.

About two hours later another group of soldiers were mobilised to Weliweriya to break up the demonstration. While the protestors eventually agreed to a directive from an army brigadier to disperse within five minutes, in the ensuing commotion, commandoes suddenly started firing live rounds. Protestors were also attacked with long batons, tear gas and water cannon."

On the surface, the protest is a water conflict. People were demanding clean water for their daily consumption and the closure of the factory which was deemed a pollutant. At a deeper, more disturbing level, it is an issue of exploitation of a common good by a corporate giant and a business tycoon for corporate interest. By the violent stance adopted by the military, it indirectly served the interests of the businesses against those of the public.

1. For more on the water conflict case in Sri Lanka, visit: http://www.downtoearth.org.in/node/123/2013-11-15

The affected people are living in rural villages, and rely mostly on well water. There are no pipe borne water facilities and no monthly bills. People accuse the factory of releasing acidic effluent and giving the untreated sludge as manure to local people, which also made the groundwater acidic.

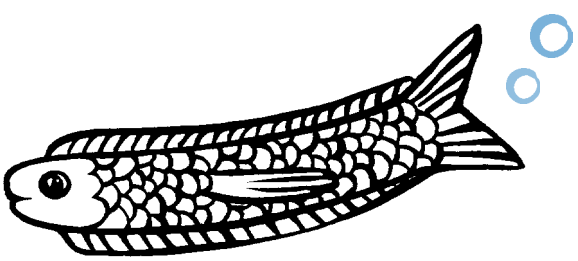
Farming families cannot work the paddy (rice) fields due to the factory pollution; they cannot even drink their own well water. Therefore, the communities accuse the corporate interest, which setup a polluting factory in such a pristine place, for destroying the traditional life and livelihoods.

The affected people have a legitimate right to oppose the operation of the polluting factory. They also have a right to demand clean water, which is a basic need and a human right. However, their new water will come with a bill. Their lands cannot grow uncontaminated food anymore. The water table will not be recovered for at least the next 2-3 decades. The factory, which they thought provided a solution for their unemployed youth, has become a burden for the next few decades.

After listening to detailed accounts from residents, factory representatives and other officials, on August 10th 2013, Mahinda Rajapaksa, the President of Sri Lanka ordered the relocation of the Weliweriya factory, assuring the residents of Rathupaswala in Weliweriya, that the factory would be relocated and that all and any new factory must be strictly constructed within industrial zones identified by the Board of Investment (BOI) in Sri Lanka.

However, there is now an attempt to reopen the factory by creating internal strife and factions within the communities. Tragically, pressure on the streets and the killing of people were required to make the government listen to people's demands for basic needs and for their right to water. This episode illustrates lessons to all governments - that their duty is to provide for people's needs and not to secure corporate profits.

Community members of Rathupaswela in Sri Lanka instigate a protest campaign in front of the Venigross Gloves factory demanding the closure of the factory for allegedly contaminating water sources through illegal dumping of chemicals and waste water. Photo: Hemantha Withanage.



north america

- united states of america

united states

William Waren
Friends of the Earth U.S.

international trade & investment agreements threaten the people's right to water

The essential nature of water and sanitation for human health and survival sets this area apart from other economic sectors covered by international trade and investment agreements. The human right to water and sanitation was appropriately recognized by the United Nations General Assembly in July 2010.[1]

All life on earth depends on water. Sustainable economic development depends on access to water. Public health depends on clean water. Social justice depends on equitable access to water. But freshwater resources are in danger.

Reckless industrial pollution, corporate agricultural practices and commercial exploitation are degrading the quality and availability of water. Population growth and increasing urbanization have pushed some water utilities to the point of collapse. Global warming threatens glaciers and predictable seasonal rains that large populations, especially in the global South, depend upon to water crops and renew drinking water supplies.

The time for treating water as an abundant and endlessly available resource is long past. Corporations and wealthy investors recognize this. They aspire to take ownership and control of water in order to ration it to the highest bidders.[2] Big investors like T. Boone Pickens and large corporations such as Suez are actively engaged in attempts to seize ownership of water resources and turn water into a commodity to be traded in international commerce, just like oil.[3]

In addition to the threat to the right to water posed by existing World Trade Organization agreements, free trade agreements and bilateral investment treaties[4], the United States is facilitating corporate water investment schemes through two new trade agreements. The Trans Pacific Partnership and Trans Atlantic free trade agreements, now being pushed forward by the United States, could thwart water policy

1. See generally, United Nations, The Human Right to Water and Sanitation, Media Brief, 2010, http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_media_brief.pdf.
2. See generally, Jennifer C. Gerbasi, "The Next Privatization of Public Assets: Domestic and Trade Implication Related to Water Right and Land Acquisition." Sustainable Development Law & Policy, winter 2005, 23-19, 77, available at, http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1406&context=sdlp.
3. Manuela Badawy, Looking for gold in water investments, Reuters, December 13,2011, available at, http://www.reuters.com/article/2011/12/13/uk-waterfunds-investments-idUSLNE7BC01B20111213: Seeking Alpha, Take a Pass on Water Company Suez Environmental, April 16,2013, available at, http://seekingalpha.com/article/1345641-take-a-pass-on-water-company-suez-environmental.
4. For general information from a centrist perspective See, Edith Brown Weiss, Laurence Boisson de Chazournes, and Nathalie Bernasconi-Osterwaler, Fresh Water and International Economic Law, Oxford University Press,2005

measures needed to protect people and the planet. It is essential that nations that are parties to existing agreements and TPP or TAFTA negotiations retain authority to adopt water policy measures necessary:

- To protect the public health and the environment;
- To ensure sustainable supplies of water at a fair price for individual consumption and commercial use;
- To regulate or prohibit groundwater extraction for export;
- To keep water in the public domain to preserve the right of access to water; and
- To stop any attempt by international corporate and financial interests to turn water into a mere commodity owned by capital, not the people, and traded on international markets.

These essential water policy measures and many others are put at risk by the U.S. model for trade and investment agreements, which is designed to limit the authority of parliaments, executive agencies and courts in the interest of maximizing the volume and profit of international commerce.

agreements on trade in goods

Bulk water should not be considered a good or a product subject the TPP, TAFTA, the WTO or any other existing or prospective trade agreement with provisions on trade in goods. Water in its natural state is not manufactured or produced by multinational corporations. The traditional view under international law is that water is a natural resource and part of the public commons, not a good or product.[5] Mere diversion, pumping or transfer of water is not a manufacturing or production process that transfers absolute ownership to corporations. Mere water use rights, similarly, do not confer ownership of water.[6]

This traditional view that water is not a "good" covered by international agreements on trade in goods is now under attack from multinational water companies like Nestle and Suez that are seeking to influence TPP, TAFTA, and other international trade negotiators. The big water companies argue that water should be treated the same way as other unrefined natural resources, as products and goods under international trade law.

5. Bryant Walker Smith. "Water as a Public Good: The Status of Water Under the General Agreement on Tariffs and Trade" Cardozo Journal of International Law 17 (2009): 291-314. pp.4-6, Available at: http://works.bepress.com/bryant_walker_smith/.

6. Howard Mann, Implications of International Trade and Investment Agreements for Water and Water Services: Some Responses from Other Sources of International Law, a paper prepared for Agua Sustentable and funded by the International Development Research Center, Ottawa, Canada, May 2006, p. 9 (on file); According to Alix Gowlland Gualtieri, "The most common form in which water can be traded occurs after its transformation or removal from a natural or bulk state. This concerns most prevalently bottled water and other drinks containing water such as soft drinks and juices. An increasingly lucrative international market in bottled water has emerged as a consequence of growing demand for the good, with Nestlé, Danone, Coca Cola and Pepsi Cola as leading corporations in the field." Legal Implications of Trade in Real and Virtual Water Resources, IELRC Working Paper 2008-02, International Environmental Law Research Center, Geneva, Switzerland, p.2., available at http://www.ielrc.org/content/w0802.pdf

The water multinationals, including energy companies, which are getting into the business, argue that as a matter of recent commercial practice, water is being exported as a commodity just like crude oil. Trade negotiators and trade tribunals, companies believe, ought to recognize the commercial reality. New bulk storage and transfer technologies have now made it possible to move large volumes of water across long distances for commercial purposes, including through massive pipelines, supertankers or giant sealed water bags. According to this argument, the process of transferring or transporting bulk water in large containers like tanker trucks, rail cars, ships or even pipelines is the equivalent of a manufacturing production process. Multinationals contend that, as a consequence, bulk water is a product owned by the corporations - whose property rights in the water market should be protected by international law on trade in goods.

It is unclear whether the World Trade Organization's General Agreement on Tariffs and Trade applies to bulk water.[7] While the GATT clearly covers trade in bottled water, there has been no definitive litigation or other determination on whether bulk water is covered by this agreement on trade in goods. Strangely, there is no real definition of a "good" in the GATT.

This should not prompt a complaisant response from campaigners. Massive international trade and transport of bulk water following the model of the oil transport and distribution system is a long-term plan, not a current, large-scale reality in most places. In decades to come, as water shortages increase and conditions of absolute water scarcity expand in more places around the globe, multinational corporations will have a huge incentive to control the supply of fresh water and build a global transportation network for its distribution (at their asking price). Now is the time to firmly establish in the text of international law on trade in goods that water is part of the public commons, not private property owned by Suez, Nestle and Royal Dutch Shell. Otherwise all it will take is few trade tribunal decisions interpreting the ambiguous language of trade agreements to change the rules of the ballgame.

services agreements

Existing WTO General Agreement on Trade in Services (GATS).[8]
The WTO GATS agreement presents potentially serious long-term risks to the public's right to water. WTO member-States have made or in the future may make commitments for application of GATS rules to specific economic sectors or service industry regulations that could have the effect of facilitating corporate control of water services.

7. The question is whether the WTO General Agreement on Tariffs and Trade, dealing with trade in goods, applies to water in its natural state, as found in lakes, streams, aquifers for example. Water is, however, included within the tariff classification system used by the WTO, which might suggest that it is a "good" or "product" covered by the GATT. See, Gualtieri, supra, p.4; the author also notes on p.6, that "There is no information on the intent of the parties when negotiating the GATT relevant to the applicability of the [GATT] Agreement to bulk transfers of water..."
8. The General Agreement on Trade in Services (GATS) covers government measures that affect trade in services, except for some services supplied under government authority. Only some government services are excluded: specifically, those that are neither commercial nor in competition with another supplier. Some GATS trade rules cover government measures in all sectors, and some cover measures in selected sectors based on a detailed schedule of voluntary commitment made by each WTO member-State.

The United States, for example, has made positive commitments covering distribution services generally, transport services and other service sectors that might result in GATS litigation *affecting* regulation of groundwater pumping and transport.

While the WTO has tried to reassure the public that GATS will not inappropriately constrain water policy measures,[10] the WTO statement can be read to only apply to drinking water services provided as a public utility, and may be irrelevant to the issue of whether regulation of large-scale groundwater pumping and transportation violates other GATS obligations (for example rail transport of freight or distribution services related to wholesale trade in water).[11] Moreover, while no country has made a commitment specific to water distribution services *per se*, they may choose to do so in the future.

GATS is a living agreement, subject to on-going negotiations and commitments. Its coverage expands through successive rounds of negotiations, which increase the number of service sectors subjected to market access and non-discrimination obligations. As Global Trade Watch explains, GATS is largely, "structured as a bottom-up agreement. This means that most GATS requirements only apply to service sectors countries specifically agree to open up to competition by foreign corporations ... a 'schedule of commitments' for each WTO signatory government ... lists the specific service sectors each nation has signed up to the terms of the agreement.."[12]

GATS also authorizes negotiations to create new disciplines on domestic regulation. Negotiations on these domestic regulation disciplines began in 2000 and still continue today. Domestic regulation rules will apply to those sectors where there is a commitment by a member State to provide market access or national treatment.[13]

The article on exceptions amplifies the risk posed to the people's right to water. The GATS article XIV excuses conflict with a trade rule if a difficulty to meet necessity test is satisfied. *Significantly there is no exception for water or natural resources protection.*

Rebecca Bates, an Australian trade law scholar summarizes the risk GATS poses to the right to water: "The existence ... of continuing debate and uncertainty as to the interpretation of the agreement means that the power and impact of GATS will not be wholly known until it is applied to the water and sanitation market in a real world situation ... greater certainty may be achieved through specifically excluding water and sanitation services from the scope of the agreement. The essential nature of

10. WTO, GATS: Fact and Fiction: The WTO is not after your water, available at, http://www.wto.org/english/tratop_e/serv_e/gats_factfiction8_e.htm.
11. The most significant GATS obligations for listed economic sectors are: National Treatment, which prohibits discrimination in favor of domestic suppliers in committed sectors, including laws that change conditions of competition, even if they do not formally discriminate; and Market Access, which prohibits in committed sectors quantitative limits on service suppliers such as monopolies, number of suppliers, volume of service.
12. Global Trade Watch, WTO General Agreement on Trade in Services (GATS) Glossary, available at, http;// tradewatch .org/trade/wto/gats/articles.cfm?ID=15071.
13. In addition, a potentially greater risk to the right to water arises from on-going GATS negotiations on domestic regulation, which will apply across the board to include service economy sectors, even if they are not on the positive list of commitments.

water and sanitation for human health and survival sets this service area apart from many others when discussing liberalization of a service area, and the existence of a human right to water means that extra care must be taken before water in any form is subject to free trade obligation."[14]

Pending trade agreements.
The TPP and TAFTA services chapters, the first of which is secret and the second unwritten, will likely cover a range of environmentally sensitive sectors including transportation, sanitation, energy, pipelines, public utilities and, of course, water services.

The risk to water policy is especially high in TAFTA negotiations. Many of the biggest water multinationals are European, and the EU may push hard to give them greater access to the U.S. market and substantial freedom from U.S. environmental and water law restrictions. Moreover the U.S.-EU High Level Working Group, which laid out the objectives for TAFTA negotiations, recommended in its report that "in the services area the goal should be to bind the highest level of liberalization that each side has achieved in trade agreements to date."[15] "Liberalization" is a code word for the neoliberal economic agenda of freeing markets from government interference.

The HLWG seems to be encouraging deregulation and privatization of services related to the environment based on broad ideological criteria. This could lead to implementation of TAFTA services provisions that ignore appropriate distinctions between what economists call public goods, such water utility systems, and true private goods, like Coca Cola. In particular, given the experience with some existing trade agreements in cases where the privatization of public services such as water services have gone badly wrong, it could severely hinder governments from returning service provision to the public sector.

Furthermore, heavy government regulation rather than "the highest level of liberalization" would appear to be appropriate given the mixed public-private or even the monopolistic character of some services, such as water utilities. In the same way, the cost of serious environmental externalities in the case of some private services that affect water policy argues for government regulatory intervention, rather than "leaving it to the market to decide."

investment agreements

International investment agreements, whether in the form of trade agreement investment chapters or bilateral investment treaties, are the most likely basis for international lawsuits challenging water policy measures designed to protect people and the planet.[16]

14. Rebecca Bates, 31 Sydney Law Review, 121, 142 (2009), available at, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473591.
15. Final Report of the U.S.-E.U. High Level Working Group on Jobs and Growth, February 11, 2013, available at http://www.ustr.gov/about-us/press-office/reports-and-publications/2013/final-report-us-eu-hlwg.
16 Investment Treaty News, Azurix Wins Claim Against Argentina , International Institute for Sustainable Development, July 26, 2006, available at http://www.iisd.org/investment/itn.; Jim Schultz, Bechtel v. Bolivia: The People Win (Bechtel settles for only symbolic damages), Latin America Solidarity Centre, January 19, 2006, available at, http://www.lasc.ie/news/bechtel-vs-bolivia.html.

Water policy measures are frequently challenged.
Indeed, IIA suits seeking compensation for government water policy measures are quite common under existing bilateral investment treaties and free trade agreements[17] (other than the WTO, which makes no provision for investor-State litigation). Most of these cases deal with challenges to governmental authority to regulate threats to health and safety resulting from pollution of groundwater or surface water (for example Metalclad v. Mexico[18]) or water utility privatization (for example Azurix v. Argentina[19], Aquas del Tunari v. Bolivia[20], and Biwater v. Tanzania[21]). There is at least one example of a bulk water transport case being filed under NAFTA chapter 11, although that claim has been alleged to be frivolous and never went to arbitration (Sun Belt Water v. Canada[22]).

Investment agreement obligations may imply a right to export water.
Equally disturbing are investment tribunal rulings, in at least three cases, that the right to export products can be seen as part of the set of protected rights of foreign investors. This suggests that government prohibitions on the export of bulk water might be a violation of international investment law.[23]

The U.S. model for international investment agreements
is a potential disaster for effective water policy.[24]
On April 20, 2012, the U.S. State Department and Trade Representative's Office released a new U.S. Model Bilateral Investment Treaty.[25] It very closely resembles the previous U.S. Model BIT.[26] This is the template for U.S. proposals for TPP and TAFTA investment chapters, and it is a potential disaster for effective water policy.

17. Argentina alone has been sued in at least 8 different water cases: (1) Compañía de Aguas del Aconquija S.A. and Vivendi Universal v. Argentina Republic (ICSID Case No. ARB/97/3); (2) Azurix Corp. v. Argentine Republic (ICSID Case No. ARB/01/12); (3) Azurix Corp. v. Argentine Republic (ICSID Case No. ARB/03/30); (4) SAUR International v. Argentine Republic (ICSID Case No. ARB/04/4); (5) Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v. Argentine Republic (ICSID Case No. ARB/03/17); (6) Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A v. Argentina Republic (ICSID Case No. ARB/03/19) consolidated with AWG Group plc v. Argentina (UNCITRAL); (7) Impregilo S.p.A. v. Argentine Republic (ICSID Case No. ARB/07/17); (8) Urbaser S.A. and Consorcio de Aguas Bilbao Biskaia, Bilbao Biskaia Ur Partzuergoa v. Argentine Republic (ICSID Case No. ARB/07/26). Information on ICSID cases available at, http://icsid.worldbank.org/ICSID/Index.jsp.
18. Metalclad Corporation v. The United Mexican States, ICSID Case No. ARB (AF)/97/1, available at http://www.italaw.com/cases/671.
19. Azurix Corp. v. Argentine Republic (ICSID Case No. ARB/01/12), available at http://www.italaw.com/cases/118.
20. Aguas del Tunari, S.A. v. Republic of Bolivia, ICSID Case No. ARB/02/3 available at, http://www.italaw.com/cases/57.
21. Biwater Gauff (Tanzania) Ltd. v. United Republic of Tanzania, ICSID Case No. ARB/05/22, available at, http://www.italaw.com/cases/157
22. Sunbelt Water v. Canada, available at, http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/disp-diff/sunbelt.aspx?lang=eng
23. Howard Mann concludes...."there remains great uncertainty as to how trade law will or will not constrain governmental ability to prohibit or restrict exports of freshwater resources. This uncertainty is compounded by elements of international investment law which have led to rulings, in at least three cases in recent years, that the right to export products can be seen as part of the set of protected rights of foreign investors." Howard Mann, International Economic Law: Water for Money's Sake?, Seminario Latino-Americano de Politicas em Recursos Hidricos, September 2004, Brazilia, Brazil, pp.7-8, available athttp://www.howardmann.ca.pdfs/WaterandInternationaleconomiclaw.pdf. Regarding the right to export products, Mann cites Pope & Talbot v. Canada, S.D. Meyers v. Canada, and Marvin Feldman v. Mexico, all available at www.naftalaw.org.

- *A separate court for multinational capital*.[27] Under the 2012 U.S. model and under previous NAFTA-style agreements, transnational corporations and investors are granted the right to circumvent domestic courts by challenging government policy before a tribunal of three arbitrators.[28]

  Unlike judges in many countries, international investment arbitrators do not enjoy tenure with employment security, which serves as a buffer against inappropriate political and financial influences. Instead, investment arbitrators are appointed to each case on an ad hoc basis. Those seeking such an appointment have obvious incentives to curry favor with the politically and economically powerful.[29] Worst of all, this system of ad hoc appointment means that an international corporate lawyer may alternately serve as an arbitrator in one case and as plaintiff's counsel in the next, raising questions of conflict of interest or at least personal bias.[30]

  Most worrisome, international investment tribunals make their decisions based on the text of an international investment agreement and customary international law, both of which are to be interpreted in light of the purpose of the agreement: to promote international investment. As a result, when international tribunals decide cases, commercial interests all too often trump the public interest.[31]

- *Greater rights for multinational investors*. If the TAFTA and TPP negotiations result in adoption of an investment chapter based on the U.S. model, multinational investors will be able to sue governments directly when they believe domestic laws

24. Fifty-two distinguished scholars in the fields of international law and economics in 2010 issued a statement sharply criticizing the current model for bilateral investment treaties and trade agreement investment chapters favored by the United States and others. See Public Statement On The International Investment Regime, 31 August 2010, available at, http://www.osgoode.yorku.ca/public-statement/documents/Public%20Statement%20%28June%202011%29.pdf

25. 2012 U.S. Model Bilateral Investment Treaty, available at http://www.state.gov/documents/organization/188371.pdf

26. For a review of the minimal changes in the U.S. Model BIT made in 2012, see Bill Waren, Old Wine in New Bottle, Friends of the Earth, May 4,2012, available at, http://www.foe.org/news/archives/2012-05-old-trade-deal-wine-in-new-bottle-us-model-for-trans.

27. See generally, Gus Van Harten, Sovereign Choices and Sovereign Constraints: Judicial Restraint in Investment Treaty Arbitration (Oxford University Press, 2013)

28. See, U.S. Department of State, Report of the Subcommittee on Investment of the Advisory Committee on International Economic Policy Regarding the Model Bilateral Investment Treaty: Annexes ,September 30, 2009, Annex B: Particular Viewpoints Of Subcommittee Members, A collective statement from Sarah Anderson, Institute for Policy Studies and other progressive members of subcommittee,: "We recommend that the administration replace investor-State dispute settlement with a State-to-State mechanism. If the administration continues to include an investor-State dispute settlement mechanism, investors should be required to exhaust domestic remedies before filing a claim before an international tribunal. That mechanism should also provide a screen that allows the Parties to prevent frivolous claims..." Available at ,http://www.state.gov/e/eeb/rls/othr/2009/131118.htm.

29. See generally, Corporate Europe Observatory, Profiting from Injustice, November 27, 2012, available at, http://corporateeurope.org/trade/2012/11/profiting-injustice

30. See, David Schneiderman. "Judicial Politics and International Investment Arbitration: Seeking an Explanation for Conflicting Outcomes" ExpressO, (2009), available at: http://works.bepress.com/david_schneiderman/1

31. Ordinary citizens enjoy no significant procedural or enforcement rights under the agreements, in part because the agreements impose very little in the way of foreign investor responsibilities. In other words, values of international commerce may trump other values, such as the appropriate role of government to regulate in the public interest and the need to strike a balance between the rights and responsibilities of transnational corporations.

or regulations, including water measures, impinge upon sweeping new property rights provided to them. The substantive and procedural rights of "property" are generally far more broadly defined in the U.S. model BIT than in U.S. constitutional law or the legal practice of nations around the world.[32]

Greater substantive rights follow from, among other provisions, an overbroad definition of investment that includes the expectation of gain or profit. This potentially allows regulations that incidentally thwart multinational corporations' expectations of future profits to be treated as if they were a government "taking"; similar to how a government is required to pay a landowner fair value for taking property to widen a highway.[33] By contrast, it is very difficult for a U.S. company to use U.S. courts to challenge a water regulation for reducing its profits, so long as there is some "rational basis" for the regulatory policy.[34]

A TPP or TAFTA investment chapter based on the U.S. model BIT would also establish greater procedural rights for multinational investors. The usual practice in international law is for claims to be arbitrated on a government-to-government basis, but the U.S. model investment agreement would put multinational corporations and wealthy investors on the same level as nation-States. No similar procedural rights are provided to ordinary citizens, other than the occasional opportunity to file briefs as a friend-of-the-court.

- *Massive damage awards.* The rights of investors under the 2012 U.S. Model BIT come with a powerful enforcement mechanism: the assessment of money damages.[35] The model BIT would allow foreign investors to sue for millions of dollars in taxpayers' money as compensation for complying with water policy measures and other environmental regulations. Taxpayers could even be forced to pay foreign corporations and rich investors for lost future profits resulting from government regulations. Such damage awards can be large enough to severely stress public budgets in many countries. For example, Ecuador[36] and Argentina[37] now face billions on dollars in potential liability. The fear of such ruinous judgments can force a developing country to settle unjust investor claims and to back away from protecting the right to clean water and affordable water utility services, among other vital environmental concerns.

32. The Forum on Democracy & Trade, Reforming International Investment Agreements, Comments on the Model Bilateral Investment Treaty, submitted to the U.S. Department of State, available at, http://www.regulations.gov/#!documentDetail;D=USTR-2009-0019-0009
33. See, Matthew C. Porterfield. International Expropriation Rules and Federalism, Stanford Environmental Law Journal, Vol. 23, No. 1, January 2004.
34. See generally Matthew C. Porterfield, An International Common Law of Investor Rights? 27 U. Pa. J. Int'l Econ. L. 79 (2009).
35. See generally, United Nations Conference on Trade and Development, IIA Issues Note: Recent Developments in Investor-State Dispute Settlement, May 2013, pp.18-20 and 25-26, available at, http://unctad.org/en/PublicationsLibrary/webdiaepcb2013d3_en.pdf
36. Public Citizen, Eyes on Trade, Tribunal Slams Ecuador with Largest Ever Investor0State Penalty, October 23, 2012, available at, http://citizen.typepad.com/eyesontrade/2012/10/tribunal-slams-ecuador-with-largest-investor-state-penalty-ever.html
37. Carlos Ruano and Jonathan Stempel, Repsol sues Argentina over Giant YPF Seizure, Reuters, May 15, 2012, available at , http://www.reuters.com/article/2012/05/15/us-repsol-ypf-idUSBRE84E1KC20120515; Jorge Carpio, Argentina, ICSID, and the Repsol Case, Network for Justice in Global Investment, available at, http://justinvestment.org/2012/08/the-emerging-challenge-to-the-investor-state-regime-2/

the threat from the united states

These essential water policy measures and many others are put at risk by the U.S. models for trade and investment agreements, which are designed to limit the authority of parliaments, executive agencies and courts in the interest of maximizing the volume and profit of international commerce.

The U.S. model is based on NAFTA, the WTO, and subsequent trade agreements, adopted since 1994, which do not so much regulate trade as they regulate and constrain democratic government and the rule of law administered by legitimate courts. Prior to 1994, environmentalists had little reason to monitor the course of trade negotiations closely because they focused on tariffs, quotas and similar "at the border" discrimination against foreign products. The post-1994 agreements deal not only with "at the border" discrimination, but also impose rules related to government regulation, court decisions, taxation, purchasing, and economic development policies that are regarded as potential non-tariff barriers to trade by the drafters of the agreements. A disproportionate percentage of these "non-tariff barriers to trade" are environmental and climate protections. The result is to facilitate the "commoditization of the commons" - our natural resources, animal, plant and human genes and water in particular.

These prospective TAFTA and TPP rules related to non-tariff barriers to trade seek to encourage international commerce by promoting deregulation, expansion of property rights, and principles of what might be described as market fundamentalism. In other words, the agreements regulate governments, based on the assumption that government stands in the way of global prosperity that will result from unfettered markets and concentrated capital accumulation. This dovetails nicely with aspirations of corporations and wealthy investors who seek to take ownership and control of water in order to fetch the highest market price.

some key areas for action

In the US Friends of the Earth works to educate the public and policymakers about the environmental dangers and undemocratic nature of trade agreements and investment deals. Currently FoE US is working to prevent the Trans-Pacific Partnership, known as the "NAFTA of the Pacific" from being able to overturn laws that protect the environment and the human right to water, and advocates for the following key areas for action:

- Demand that no country enter into trade and investment agreement negotiations with the United States until its models for trade agreements and investment agreements are reformed from top to bottom.
- Demand that no country enter into trade and investment agreement negotiations with the United States until it ends the secrecy of negotiations, the influence of corporate lobbyists and the use of threats and intimidation in the negotiating process.

Existing agreements

- Demand that governments vigorously defend progressive water policies and other public interest measures that have been the target of lawsuits under international trade and investment agreements.

- Demand that governments seriously consider refusing to comply with adverse judgments in such lawsuits, while giving due consideration to the cost of potential overseas asset seisures.
- Demand that governments make no commitments under the WTO services agreement for service sectors related to water policy.
- Demand that governments seek interpretative statements or other official clarifications that ensure that water is not defined as a "good" under the WTO GATT agreement and other existing trade agreements.
- Demand that governments seriously consider withdrawing from the International Center for Settlement of Investment Disputes, the World Bank's forum for international investment litigation, and other similar forums.

new agreements

- Demand definitions in every relevant chapter of proposed trade and investment agreements that preclude coverage of water and water related policies from all those chapters and in particular chapters on goods, services and investment. For example, water must never be defined as a "good" under any FTA chapter on trade in goods.
- Demand that the "obligations" or substantive rules defining violations of trade and investment agreements conform to the general practice of nations in their domestic law, especially with respect to condemnation or expropriation of private property and procedural fairness in administrative and court proceedings. In no way should trade or investment tribunals be authorized to judge the fundamental fairness of the substance of government water policy or any other policy area.
- Demand strongly worded exceptions for water, water services, water transport, and other water related government measures from all substantive chapters of trade and investment agreements. Demand similarly strong exceptions for all environment and natural resources measures.
- Demand that governments refuse to negotiate or ratify any bilateral investment treaty or trade agreement including an investment chapter. (Or, at the very least, demand that no provision be made for investor-State arbitration in such agreements.)

William Waren, Friends of the Earth US
Photo: Friends of the Earth US.

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Danilo Urrea
CENSAT Agua Viva • Friends of the Earth Colombia

water, cooperation and urban-rural relations in colombia: prosperity for whom?

A discussion about the urban-rural relationship associated to water in Colombia necessarily involves taking into account two distinct though complementary perspectives. On one side, the way public policy has been structured, and from that point of view, the value placed -if any- on water availability and the occupation of the territory in the Colombian countryside, in parallel to the correlated water management model for the city. On the other side, the way in which the rural Colombian territory has effectively evolved as a sociopolitical and cultural construction and how autonomous water management initiatives have emerged and developed, generally outside and independent from the State administration and in stark contrast to the systematic neglect of the countryside by the State and its institutions - though not for those reasons alien to the possibility of ensuring water supplies for the population, beyond the rural areas themselves.

rural water policies and community "participation"

In November 2011, the Environment, Housing and Urban Development Ministry (MAVDT) announced the demise of the Department Water Plans (PDAg),[1] one of the most renowned failures of the past decades in terms of water policies in Colombia, though one of the model plans coined in the country for the privatization of water in several parts of the world. The alleged termination of the PDAg responded to the fact that after 5 years of implementation they had been swamped in bureaucracy, and a more effective strategy was needed to solve the water problems of the Colombian people. Concerns around the PDAg included that their investments model implied growing indebtedness with national and multilateral banks for the country's Departments (provinces), and pawning their resources from the national Generalized Participation System.

The PDAg were established without a territorial perspective and without taking into account the specific needs of the population. When the Plans were formulated, the department-level diagnoses were developed with no community participation, the urban-rural relation was not adequately considered in the implementation of the works, and the rural area was not taken into account as a territorial unit for potential investments in water systems, nor for their improvement. These shortcomings, among others, clearly showed these tools totally lacked integrity and holism, making their permanence and continuity unsustainable, at least publicly.

1. The Department Water Plans were part of the National Development Plan under then president Uribe´s second administration; they were presented as the solution to the lack of access by the population to drinking water and basic sanitation, even if they privileged indebtedness with private banks and international financial institutions and brought to that department level the privatization model launched in 1994, mainly in the Colombian Caribbean coast.

Along with the cancellation of the PDAg, a new policy was announced -*water for prosperity*. Surprisingly, this prosperity didn´t seem to be any different from the PDAg, given that the public information provided and the MAVDT webpage did not show any change in the content of the policy-building tools. Beyond being named differently, the same financing schemes and the same structures that were acknowledged as bureaucratized were maintained, but even more surprisingly, the massive entry of private operators into the country was announced under arguments of their effectiveness and efficiency in water management.

The single main difference with the previous program was supposed to be the development of a rural water policy for the country, established by the National Economic and Social Planning Council (CONPES) through Document 3715, whereby the government presented its new attempt to solve the water problems for the Colombian countryside. But a careful reading of this document does not bring any encouraging news. CONPES 3715 is launched "with the aim to obtain authorization for the State to request an external loan from the multilateral banking system for up to US$ 60 million or the equivalent in other currencies, to partially finance the renamed Housing, City and Territory Ministry's (MVCT) Water Supply and Waste Water Management Program for Rural Areas."[2] Once again, as in 1994 when the privatization model was launched in Colombia through Law 142, the multilateral banking system plays a major role in the development of a water policy proposal.

Investments for $82 billion pesos (almost US$ 43.5 million) per year are estimated to be needed to meet the water needs of the rural population, but the current administration's allocation under President Juan Manuel Santos adds up only to $36 billion pesos. The remainder is expected to be financed with the participation of the Spanish Agency for International Development (AECID).[3] In addition to issues raised regarding the participation of the multilateral banking system in the development of water policy in Colombia,[4] the role the Spanish cooperation could play in this context is a matter of major concern, given the involvement of Spanish companies in the process of privatization in Colombia since 1994,[5] and worrying recent trends and conditions in EU cooperation.[6]

2. CONPES 3715. Page 6. Available at: https://www.dnp.gov.co/LinkClick.aspx?fileticket=M7dKVCJR8uw%3D&tabid=1260

3. It is worth mentioning that AECID held several meetings to define the model of water cooperation it would implement in Colombia. Several organizations that participated actively in the water referendum attended these meetings, raising the need to advance towards a public-community model and warning about water conflicts caused by private-public partnerships and privatization in general, mainly in rural areas and least favored areas in the country.

4. For more information about the participation of the multilateral banking system in water policy making in Colombia, refer to Camacho and Urrea: Agua y trasnacionales en la costa caribe: laboratorio experimental del modelo privatizador en Colombia. 2007. CENSAT Agua Viva. Also available at: http://censat.org/publicaciones?task=view&id=2&catid=10049

5. Spanish subsidiaries of transnational corporation Suez, such as Aguas de Barcelona, have had significant participation in the water privatization processes in Colombia. In the Colombian Caribbean coast, Canal Isabel II and Fomento de Construcciones y Contratas have also participated in private-public partnerships.

6. One of the precedents that also caused concern became evident during the latest Peoples´ Summit in Chile. As part of the analyses of the outcomes of the European Union-Community of Latin American and Caribbean States Summit that was held in parallel to the Peoples Summit, it was shown how the European economic crisis has led the EU and specifically countries such as Germany to implement a cooperation model with Latin America which is really an investment protection scheme. For more specific information about this model: http://radiomundoreal.fm/Cooperation-to-Exploit?lang=en

Meanwhile, community involvement in the design and deployment of the rural water policy was limited to participation in 5 workshops - 4 regional and 1 international - that were facilitated by the AVINA Foundation (which was designated as a key player tasked with ensuring community participation). It strikes oddly that in a country with more than 20% rural population, community consultation and deliberation is limited to a few workshops in a handful governors' offices, in which the rural communities that have organized themselves to provide water services had no participation at all. This means, on one side, that one of the main issues that determined the utter failure of the PDAg - the lack of territorial perspective and the lack of participation of those directly affected and involved in the problem - resurfaces again in the supposedly innovative rural water policy for prosperity. On the other side, the appointment of controversial AVINA Foundation as facilitator of communities' participation raises many questions about the government´s idea of a participatory process, given the strong criticism the AVINA Foundation has received for the role it has allegedly played in some countries regarding the cooptation of community leaders fighting against the privatization of commons.[7]

Most importantly, the close interrelationship between rural water policy and the protection of the territory as a necessary condition for ensuring water for the urban population is totally absent in the design of the new water for prosperity program. It seems that the urge to secure the indebtedness-investment-cooperation trilogy, generally with foreign intervention, reduces the possibility of envisioning a country where urban dynamics redesign the future of the Colombian countryside on a daily basis, and where access to water for the urban population relies on the territorial occupation logic resulting from such redesign.

public / community-based model vs. water privatization model

Historically, the organized communities that provide water services in Colombia have worked without State support and under the adverse conditions created by a development model which impacts on the territories. However, these communities and their water systems have ensured access to part of the population. There are an estimated 12,000 small water providers in Colombia, many of them in rural areas. After the Water Referendum process, and as a result of it, community-based water systems have organized themselves as the National Network of Community Aqueducts. The proposal to develop a public/community-based water and territorial management model is part of the debates and efforts of this network.

While differences often arise pursuant to the geographical features of the territories where the network's various communities and organizations are located, the development of the public/community-based model stems in general from the analyses of the territorial dynamics that gave rise to community-based water management and the territorial autonomy that is presumed necessary in a country that has been handed over to corporatization, in a process that can be defined as the consolidation of the 'corporation-nation'. In response to water policies developed to favor private

7. For more about this, please read Paco Puche: Dos mil doce, un año clave en la lucha contra AVINA y ASHOKA. Published in December, 2012. Available at: http://www.ecoportal.net/Temas_Especiales/Contaminacion/Dos_mil_doce_un_ano_clave_en_la_lucha_contra_AVINA_y_Ashoka

investment and the transnational control of territories, community organizations propose a community-based model that has in fact been working in Colombia for more than 50 years. This model is based on the protection of the territory, in the understanding that degraded territories cannot produce sufficient good quality water for living beings. Therefore, defending and protecting the environment is a necessary precondition for water management, not only to secure consumption for the rural population, but also to ensure the protection of the water sources on which urban populations rely.

Solidarity and reciprocity within the communities, on the other hand, are the second necessary objective condition that makes the model viable. Social division of labor is determined with the end goal of serving the common good, and water is not given any exchange value that follows the logic of supply and demand, as is the case under privatization processes. The rates charged for the service are determined in popular assemblies and profits, if any, are reinvested in improving the systems, aiming at dignifying the life of the population.

In last analysis, this alternative entails a new additional definition for what is usually regarded as the 'public sphere -which runs the risk of disappearing in the neoliberal stage of capitalism that commoditizes nature and its resources through strategies such as financialization - rooting in the experience of community - based management. In other words, the community dimension involved in the management of the commons suggests that it is possible to think of a public sphere beyond the State, though without relinquishing the possibility that this new meaning may transform itself into a process of reclaiming the State from corporate attacks, or into the development of a new model of social organization.

In the long term, the process of articulation of community aqueducts foresees the creation of dedicated legislation that takes into account the special features of the communities and organizations. The definition of a legal framework for water services provision that is adapted to the needs and possibilities of the organized communities can also be grounded on the political autonomy of popular laws expressed in spaces such as the National Congress on Land, Territories and Sovereignties held in October, 2011, in Cali, where peoples, organizations and social movements established seven mandates for territorial management and control.

mining/energy model, water and peace

The implementation of the so-called mining-energy locomotive by Juan Manuel Santos´ administration undoubtedly exacerbates conflicts over water, and the impacts of that policy on water territories are already becoming apparent.[8] Mining threatens the availability of sufficient quality water for living beings and generates unequal competition and conflicts for its use, for example, between extractive industries and

8. Transnational corporations, mining companies and dam-building corporations have generally focused their interests on the country's main water basins and the main rivers whose waters are used to process minerals or strangled for hydroelectric projects. There are more than enough examples in the country: diversion of the Ranchería River for coal mining in La Guajira, construction of El Quimbo dam on the Magdalena River, among many others.

communities that have organized themselves to provide water services. Additionally, mineral extraction and its direct impacts on the water cycle threaten the Colombian people's food sovereignty, as already demonstrated in concrete cases such as the mineral exploitation projects in Cajamarca, Tolima, where *Anglo Gold Ashanti* plans to extract gold, threatening food production in Colombia's so-called 'agricultural pantry'. Cases such as this elicit clearly how limited and erroneous the current administration's idea of so called 'democratic prosperity' is in terms of the urban-rural relations and the dynamics therein that need to be respected in order to safeguard territories that ensure access to water for the population in the countryside and the cities alike. The logic of economic growth and of favoring private business interests and transnational corporations is an assault on Colombian tradition and ancestral knowledge, and facilitates the territorial rooting (or territorialization) of capital while displacing ethnic, peasant and urban communities from their territories.

On the other hand, the energy model based on hydroelectric production displaces fisherfolk, peasant, afro-descendant and Indigenous People communities in order to secure the construction of megadams on the rivers that once flowed freely bringing meaning to the lives of these populations. The companies themselves determine how the census are carried out in the regions, and they arbitrarily hand-out compensations that do not solve the loss of livelihoods of the affected and their dispossession from their territories (or deterritorialization). Water is privatized and the State operates to safeguard direct foreign investment, allowing land dispossession and the loss of ancestral knowledge and the country's culture.

While the Santos administration speaks about peace and holds bilateral conversations with the Revolutionary Armed Forces of Colombia (FARC) to bring to an end the armed conflict that has been going on for over 50 years in Colombia, it simultaneously implements actions that are not at all peaceful towards the Colombian population, including against community members who oppose the mining-energy model, especially in rural areas. The contradiction is glaring. In addition to negotiations with the insurrect armed actors, peace in Colombia necessarily requires progress in the quest for social and environmental justice, with the participation of the communities who have historically built relations of solidarity and reciprocity both between themselves and with nature. Peace cannot mean merely the end of the armed conflict, only to give way to the entrenchment and consolidation of a corporate model that destroys water and the relations between the countryside and the city. Peace should involve searching for alternatives that dignify the lives of everyone in the Colombian society. As a life-generating element, water has potentially a lot to teach us in these processes, and a proper understanding of its cycles may provide guidance for remodeling the relationships between society and nature, if and only if we confront, through our efforts and proposals, the metabolism of death that supports the irrational accumulation of capital through wars and destruction, with the metabolism of life.

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Friends of the Earth Argentina

water in buenos aires, challenges in public management

The metropolitan area of Buenos Aires city spans approximately 8000 square kilometers, hosting a population of more than 14 million people. It is one of the biggest urban conglomerates in South America and the world.

The issue of water is key in Buenos Aires, given the very high population density and the relative abundance of water. This abundance, however, does not translate as secure access to drinking water for everybody in the city. The supply of good quality drinking water is limited, due to high levels of industrial and sewage contamination, with several of the country's most polluted rivers and streams running through the city and its metropolitan area, and recurrent floods resulting from increased rainfall - due to climate change - and the lack of adaptation of the urban infrastructure to an irrigated environment. One of the most tragic floods in the area took place in 2013, with a dead toll of more than 60 people.

The first drinking water supply company in the area was Obras Sanitarias de la Nación, established in 1912 to safeguard public health from recurrent yellow fever epidemics at the end of 1800. By 1940 it had reached its maximum level of activity, when it began to supply drinking water to the municipalities in the capital city's periphery. Demand grew from then on, but investment in water and sanitation infrastructure shrunk, leading to a collapse of the sanitation system in the 80s. In response to this situation, and following the neoliberal policy agenda of the 90s, the company was privatized in 1993. The 30 year concession was approved by decree and all rights were signed over to Aguas Argentinas Sociedad Anónima.

French Suez Lyonnaise des Eaux-Dumez and national group Soldati were Aguas "Argentinas"´s major shareholders. Three additional foreign companies held minority shares (the Spanish Sociedad General de Aguas de Barcelona - Agbar, controlled by Suez, French Compagnie Generale des Eaux and British Anglian Water Plc.) as well as two other local companies (Grupo Meller and Banco Galicia de Buenos Aires). Buenos Aires showcased the largest sanitation system under concession in the world, with 6 million customers.

Under the privatized company's administration, the rates charged to costumers were raised between 175% and 475% in relation to the last bill paid to Obras Sanitarias de la Nación, even though the concession contract itself banned any rate reviews.

The profitability of Aguas Argentinas in 1999 trumped that of some of the biggest companies in the country. Nevertheless, disinvestment under private management resulted in serious sanitary consequences in metropolitan Buenos Aires: the company

was responsible for the water imbalance that affected its supply area, elevating the water tables and consequently drenching the sewage draining system, flooding numerous neighborhoods such as Lomas de Zamora and Lanus.

Total coliforms (i.e. feces) were found in wells, as well as high levels of nitrates causing serious diseases such as hemoglobinemia, which can have fatal consequences on children under 6 years old.

The privatized company avoided the expansion of coverage in poorer neighborhoods with low purchasing power, thus excluding wide segments of the population from water and sanitation services.

Drinking water consumers aren´t just customers. The company, however, executed water and sewage cuts while still charging for the service, in violation of existing legal provisions, at the same time it was legally seizing the homes of consumers with unpaid service debts.

When the public service concession contracts were reviewed, Aguas Argentinas engaged the Executive branch in several disputes. Finally, in March 2006, then President Nestor Kirchner issued a decree rendering the concession null, arguing that promised investment and service quality levels had not been met.

The total amount of fines imposed on the privatized company in 2006 amounted to $25 million pesos, but the company sued the Argentinian State for $1.8 billion dollars at the ICSID (International Center for Settlement of Investment Disputes) for the alleged breach of the legal certainty framework, due to the 2001-2002 currency devaluation.

On August 2, 2010, 4 years after the company had returned to public hands and only 5 days after the UN had declared "safe drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights," the ICSID, a World Bank tribunal, decided against Argentina in the lawsuit filed by Suez and Aguas de Barcelona.

The creation of the company Aguas y Saneamiento Sociedad Anónima (AySA) in 2006 by the Argentinian State gave rise to several questions raised during the parliamentary debate around it: some sectors of the opposition objected that the new public company would be established as a corporation governed under private law, deprived from the possibility of implementing a government procurement and control regime. Concerns were raised that such a legal modality could lead to total or partial privatization. Consequently, the national Executive branch established through a new decree that 90% of the shares owned by the State would not be transferable, while the remaining 10% were allocated as participatory ownership to the workers of the sector.

The new company´s vision is: "100% drinking water and sewage drainage services coverage within the concession area by 2018, achieved in a sustainable manner and promoting social inclusion while becoming a leading national company with regional projection."[1]

1. Source: http://www.aysa.com.ar/index.php?id_seccion=45

At present, the "profitability" of the water company is in question, under arguments that it generates "losses". Beyond this efficiency assessment by the officials in charge of the company, this kind of analysis risks evaluating the performance of a publicly-owned company merely with economic criteria, by using these parameters as the ones determining the efficiency of the company, instead for social variables such as the number of new consumers serviced by the company, in compliance of its key role in public health.

Privatizing water means commoditizing it, framing it under an inappropriate economic category - an inadmissible approach for a natural resource that is indispensable for life.

Water is a commons. Commons are a category in political economy and they are part of the public resources. Both public resources and commons theoretically imply non exclusion. No one should be denied access to such resources. This concept stands in stark contrast and opposition to the idea of water as a commodity, as something to be appropriated, controlled, monopolized, privatized...Privatized means that it becomes private, but is this a private service? Or are people being deprived from their rights?

Beaches of Bernal: View of Buenos Aires from the southern part of the city, neigborhoods observing de la Plata River. Photo: Natalia Salvático.

REDES
Friends of the Earth Uruguay

progress and setbacks for the human right to water in uruguay

On October 31st, 2004, the Uruguayan people supported the Citizens Initiative for a Constitutional Reform promoted by a group of organizations and social movements gathered in the National Commission in Defense of Water and Life (CNDAV), founded by REDES-FoE Uruguay together with the water workers union (FFOSE) and several local organizations.[1]

On that historic day, the human right to water was enshrined in the National Constitution, in addition to clauses ensuring that drinking water and sanitation services can only be provided exclusively by the State, along with mandatory water-basin-based sustainable water management and citizens participation in all management processes. As a result of the popular will expressed in the referendum, French transnational company Suez and Spanish Aguas de Bilbao had to leave Uruguay. Furthermore, the constitutional reform lead to the approval of a Water Law (in the drafting of which the CNDAV had active participation) establishing the general principles and guidelines on which to base the national water policy, and creating the necessary tools to implement it.

However, 9 years after that historic victory, we are witnessing how the popular will is not being respected while the logic of capital prevails. The rapid expansion of agribusiness in the country - especially for soy and forestry, that now occupy over two million hectares of the national territory - is threatening the quantity and quality of our water, and therefore, our human right to water.

One of the main features of the current agricultural expansion is the homogenous application of technology toolkits that simplify management at the expense of territories' sustainability. The prevailing logic in centralized management of enormous areas for the purpose of obtaining quick profits on invested capital exposes territories to an intense process of serious degradation.

In addition, tree plantations consume huge amounts of water, negatively affecting other farm productions in areas nearby those monocultures, as has been denounced by small-scale dairy family farmers from several departments in the country. Family farm production is getting ringed by monoculture tree plantations.

Furthermore, the widespread practice of no-till farming (that replaces conventional soil and crop management techniques for the application of herbicides) and the

1. Constitution of the Republic of Uruguay: http://www.presidencia.gub.uy/normativa/constitucion-de-la-republica

simplification of agri-ecosystems resulting from so called 'continuous agriculture', have determined an increasingly intensive use of different types of biocides, with ensuing impacts on water quality.[2] The new technologies - such as GM seeds - that were introduced in association to the recent push in agriculture have not resulted in reduced use of these inputs, as touted by biotechnology corporations. Instead, imports of these products have increased at a higher rate than the territorial expansion of agriculture, indicating that an ever-increasing volume of these inputs is being sprayed on fields under cultivation.

The imports of agrochemicals that have increased the most are those related to the cultivation of soy. The main technological tools associated to this crop are the use of glyphosate-tolerant GM seeds, field sprayings with glyphosate (a powerful herbicide) and no-till cultivation. Glyphosate imports skyrocketed from slightly over 1.5 million liters of active substance in 2000 to 12.3 million in 2010. Meanwhile, *Endosulfan* and *Chlorpyrifos* are the insecticides that are most widely used for pest control in soy monocrops. *Endosulfan* imports spiked from 5,300 liters in 2000 to 270,000 liters in 2008, and back to 103,000 liters in 2010, following restrictions imposed by the government. Imports of *Chlorpyrifos* increased from 32,000 kg of active substance to 731,000 kg in the same period. In those ten years, *Cypermethrin* imports grew ten- fold and those of growth-regulating insecticides grew 100 times, while *Thiamethoxam* and *lambda Cihalothryn* imports grew almost seventy-fold.[3]

Some of the most important water basins in the country, including the Santa Lucia River basin that supplies almost 60% of the national population with drinking water are polluted with fertilizers and agrochemicals.

Research conducted in the *Esteros* de *Farrapos and Islas del Rio Uruguay National Park* basin found high levels of endosulfan, glyphosate and derivatives from the decomposition of glyphosate (AMPA) in soils, bees and fish. In particular, high levels of these products were found in the occasion of mass die-off of bees and locally consumed fish, and insecticides and herbicides residues were also found in agricultural lands and monoculture tree plantations where sprayings had occurred more than one year before.[4]

A 'Report on the quality of water in the Santa Lucia River Basin: State of play and recommendations', dated May 21, 2013, published by the University of the Republic "indicates, among other things, that 80% of the pollution with nutrients is generated by diffuse emission sources from agricultural activities (erosion, excessive fertilization, dairy farms, feedlots, etc). Industrial effluents and urban sewage from cities and towns account for the remaining 20%. The document states that the information on the use of herbicides, insecticides and fungicides is scarce at the moment. It also adds that most effluents and point emission sources do not comply with the regulations in force.[5]

2. Serpaj, Derechos Humanos en el Uruguay, 2012, pp220
3. Serpaj, Derechos Humanos en el Uruguay, 2012, pp275, 276
4. Serpaj, Derechos Humanos en el Uruguay, 2012, pp221
5. Universidad de la República, Informe sobre la calidad del agua en la Cuenca del Río Santa Lucía: Estado de situación y recomendaciones, May 21, 2013, http://portal.fagro.edu.uy/index.php/noticias-principales/751-agua-de-ose-informe-de-la-universidad-de-la-republica-.html

In March, 2013, alarm bells rang wild due to the bad taste and smell of water reported in Montevideo and a significant portion of the Metropolitan area. This events only confirmed what was already widely known: large-scale industrial agricultural production, with its associated load of pollutants, fosters the proliferation of green algae in water, some of which are toxic, including *microcystins*.

Prior to this events that made it rapidly to mass media, neighbors from several local communities had already denounced that the agrochemicals used by agribusiness were affecting their water sources. These affected communities have in several occasions raised concerns about the potential effects of these poisons on their health, and formal complaints have been filed about aerial sprayings that seriously compromise the water sources and health of the population.[6]

Compounding this serious situation, the government's new production plans for the country need to be taken into account, including the development of large-scale mineral mining operations that represent an even greater threat to the human right to water.

In the report following her Uruguay mission in February 2012, the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation referred to research by REDES-FoE Uruguay experts and the Sustainable Uruguay Program on the impacts of the expansion of monoculture plantations, and pointed out to the Uruguayan government that "States should ensure the right to water in a sustainable and non-discriminatory way for current and future generations. Taking into account that large-scale investment projects can affect water availability, the State should adopt measures to prevent negative effects, studying in the first place the repercussions of these economic activities."[7]

In response to the pollution affecting the main water basins and freshwater reservoirs in the country, the National Commission in Defense of Water and Life (CNDAV) urged government authorities and the bodies in charge of water and territorial management to adopt urgent measures, but the measures taken are too weak and do not stop or reverse the deterioration of the territory and the water quality decay processes.

In June, 2013, the CNDAV sent a contribution to the UN Human Rights Council Universal Periodic Review Working Group,[8] recommending the Uruguayan government to undertake, among others, the following actions to ensure the human right to water:

6. Serpaj, Derechos Humanos en el Uruguay, 2012, pp276

7. http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-42-Add2_sp.pdf

8. A mechanism of the Human Rights Council through which it regularly reviews the compliance of each one of the 192 member States to the UN with their human rights obligations and commitments: http://www.amnesty.org/es/united-nations/universal-periodic-review

- Adopt measures to ensure the availability of quality water through a sustainable management of the territory and the water basins, prioritizing human consumption over other uses.

- Ban the use of agrochemicals that adversely affect the quality of water and human health, in strategic basins for the provision of water to the population.

- Ensure the active participation of those affected by pollution, in the decisions related to the management and control of water basins.

- Establish clear channels and mechanisms through which people can denounce cases of sprayings or pollution of natural resources and get rapid responses.

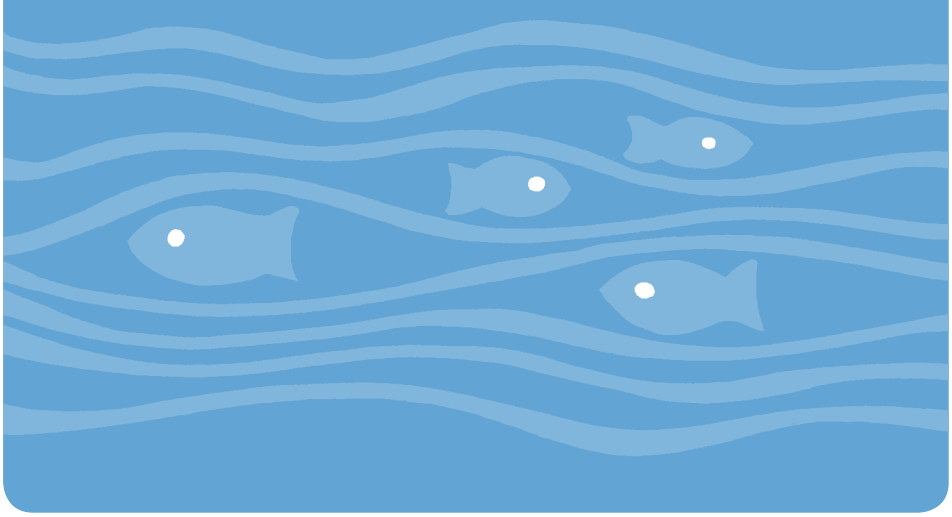
- Design legal appeal, complaint and protection mechanisms for communities whose human rights are violated due to the use of agrochemicals.

The Uruguayan people face once again the challenge of defending its victories. And the government has the political responsibility of ensuring those victories are respected.

Uruguayan people supported the popular initiative of a Constitutional Reform that has included the human right to water in the constitution. Photo: REDES - Friends of the Earth Uruguay.

europe

- switzerland
- england



switzerland

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Pro Natura • Friends of the Earth Switzerland

hydropower is killing rivers
water as an energy commodity

In contrast to many places in Southern countries, access to freshwater is not a major issue for people in Switzerland. Water is a public good and belongs mainly to the communities or the cantons (the regional administrative entities in Switzerland, with their own governments and parliaments). Water is abundant, cheap and tap water is safe everywhere.

Nevertheless, Switzerland has been facing decades-long ecological problems due to the use of hydropower. In this mountainous country, rich in alpine valleys with abundant streams, water has been traditionally regarded as the 'blue gold'. Dozens of dams were built between the 30s and the 60s of the past century, some of them very large, with concrete walls as high as 300 m and massive water reservoirs. Very few valleys were kept aside in natural conditions. At that time, many highland pasture areas and summer shepherd's settlements, and even some permanent villages were destroyed, resulting in major changes in the economy and social conditions of the alpine areas.

Nowadays, however, it is the capture of water itself for hydropower which has become the main problem, as it depletes ecosystems and contributes to massive biodiversity loss in the country.

In the aftermath of the Fukushima disaster and following massive pressure from the population and civil society organizations, the Swiss government decided to phase out the nuclear power plants in the country -which is good news in itself, but potentially with a strong impact on remaining natural waters bodies. Indeed, instead of challenging the current high consumption of electricity and developing clear policies for energy saving, the tendency is now for the massive development of (small-scale) hydropower plants, clearly exceeding all environmentally sustainable levels of use.

renewable energies are subsidized in switzerland through a 'feed-in' mechanism.

Every consumer has to pay a small additional fee to the electricity bill, feeding a fund that adds up nearly US$ 270 million each year. Fifty percent of the fund is allocated to new or renovated hydropower plants, but these subsidies are not bound to any further ecological obligations than the minimal legal standards. Several additional loopholes in fact enable getting higher subsidies than 'deserved' in reality, in order to compensate for the additional costs of hydropower production. This makes development of hydropower very profitable.

On the other hand, companies using hydropower to produce electricity pay taxes to the owners of the water (the regional governments and the communities), and in the mountain areas these taxes represent an important share of the communities' income. Local authorities have therefore a big interest in granting new concessions for hydropower plants, instead of encouraging decreased electricity consumption. Most of the electricity producing companies, such as Axpo, Alpiq or BKW are at least partially publicly owned -even though they are big corporations that are also active in many other countries. These public-private partnerships mean that the system is managed and controlled by those who directly benefit from it financially.

Poor law enforcement is one of the results of this collusion of interests. There is a federal law, for instance, that mandates enough water is left on the streams to fulfill all their ecological, recreational, aesthetic etc., functions, but some regional authorities are simply not enforcing this legislation. Up to 20 years were granted to adapt hydropower plants to the legal requirements, meanwhile, hundreds of water catchments haven't been restored at all -a number of rivers have been literally dying or agonizing of thirst.

The picture is different when it comes to water management for direct human consumption: this is mostly operated very soundly at a very small-scale, community-based level. But, while the population is very attached to this independence, keeping thus far effectively away from Switzerland's doorstep the prevailing trends in many European countries towards water deregulation and privatization, people in Switzerland just don't realize the importance of keeping a network of natural and ecologically-healthy rivers.

Pro Natura/FoE Switzerland takes action at different levels to reverse this situation. First, through awareness-raising campaigns and educational programs about rivers and their ecological values. Additionally, through our policy work we aim to improve the environmental legal framework and its effective enforcement; at that level, we engage with authorities and companies, and help improve the ecological aspects of projects whenever given the possibility, provided there is real willingness to do so. When no such possibility exists, we voice our opposition to the projects and take the project promoters to the courts, if necessary, and demand the full enforcement of the laws.

Pro Natura is also a member of an association for environmentally-sound energy that has established certification procedures and labels for ecological and renewable energy products, along with consumers' organizations and 'responsible' electricity producers and suppliers. In the case of hydro-powered electricity, the standards for obtaining the Pro Natura-promoted label ("nature made star") guarantee a genuinely environment-friendly production of renewable energy.

Using hydropower in Switzerland has overreached all limits. Even if they are small-scale, building new hydropower plants on pristine rivers results in high ecological costs, while only small amounts of additional energy are generally obtained from them.

Pro Natura supports the development of renewables, but calls for public subsidies that are bound to environmental criteria. We call on authorities to set up a comprehensive plan for river basin management which clearly shows where the use of hydropower is possible and where rivers have to be kept out of any further exploitation for the sake of nature and of future generations.

Like other natural resources, water must remain a commons, and its different uses cannot be subordinated to profit-making by private interests. The example of hydropower in Switzerland clearly shows that public-private partnerships do not safeguard the fundamental rights of peoples to well-functioning ecosystems nor the rights of nature to keep alive.

Calancasca River, Swiss Alps: dead riverbeds with all water retained for hydropower. Photo: Pro Natura.

water: our global impact and uk's contribution

Water is one of our most precious resources, yet we are over consuming water and polluting our water supplies. This text sets out some of the global pressures on freshwater supplies, and how the right to water is being eroded and vital natural systems and biodiversity are being harmed. It also presents some actions for governments, businesses and consumers to help protect freshwater supplies.

hidden water: water footprints and virtual water

Water permeates every aspect of our lives. The average person in the UK uses 150 liters of water per day for domestic needs alone, such as drinking, cooking, washing and sanitation. This is already far greater than the UN's recommended 20-50 liters[1]. But this is just the tip of the iceberg: we indirectly consume a volume far greater than this in the products and services we buy and use - from our daily pint to the car we drive.

The 'water footprint' concept was developed by the scientist Arjen Hoekstra to highlight the hidden water consumption of individuals, businesses and communities, taking into account whole supply chains[2]. Applying the concept in the UK makes 150 liters look like quite a modest figure in comparison with our average daily water footprint of 4645 liters.[3]

Another concept, 'virtual water', helps us to understand the increasingly globalised nature of water consumption. Virtual water is the water embedded in globally traded commodities, including water consumed and polluted.[4] Of those 4645 liters consumed daily in the UK, 62% is the water of other nations. Friends of the Earth Europe's 'Under Pressure' report revealed how the increasing worldwide trade in the amount of embedded or "virtual" water used is steadily rising, as many goods require water for their production. Importing water-intensive products can significantly increase a country's water consumption. Importing water-intensive goods from water scarce countries can increase the pressure on the local water resources.[5]

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meat's large water footprint

The UK lies at the high end of the global water footprint range of 2000-5000 liters, in part because of the meat we consume.[6] The average UK citizen consumes 18 kg per year of beef, which is two times the global average.[7] For instance, producing 1 kg of intensively reared beef requires 15,000 liters of water, and this is ten times what it takes for 1 kg of grain.[8]

The footprints of meat products are even greater when nutritional content is included. For example, the water footprint *per calorie* of beef is 20 times that for cereals.[9] Furthermore, producing meat in intensive systems and using cereal feeds like soya, can consume and pollute more ground- and surface-water than in grazing or mixed systems.[10] Already nearly one-third of the total footprint of global agriculture is related to the production of animal products, but animal production systems are becoming increasingly intensified[11] and meat consumption is expected to keep rising.[12]

In the EU, cutting down the proportion of meat in diets could cut the water footprints of the agricultural products people consume by 38% and shift the EU from a net virtual water importer to a net exporter.[13]

products

It is not only food supply which consumes water. The production of one cotton t-shirt requires 2,700 liters of water, most of which is contributed by the farming of cotton; an irrigation-intensive crop. Monocropping of cotton also leads to enormous environmental problems, as has occurred in the area of the Aral Lake in Central Asia. Once the fourth-largest interior lake on earth, it has since 1960 lost 70% of its water due to irrigation of cotton fields.[14]

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The average Smartphone requires 1 m^3 of water, largely in obtaining raw materials and electrical manufacturing. For example, Apple sold around 93 million Smartphones in 2011 - producing these used enough water to fill Wembley Stadium more than 80 times. Friends of the Earth's *Make It Better campaign* is calling for companies to take responsibility for how they use water to ensure we're not left high and dry.

energy

Energy production is hugely water intensive and is predicted to increase with growth in demand. This includes water for high-pressure hydraulic fracturing of underground rock formations for natural gas and oil -'fracking'. Water is also used in coal fired power plants, for hydroelectric production (e.g. .dams), in nuclear power systems, and biofuels. If today's policies remain in place, the IEA estimates that water consumed for energy production would increase from 66 billion cubic meters (bcm) today to 135 bcm annually by 2035.[15]

In the context of growing concerns about 'peak oil', much investment has gone into developing alternative fuels; especially biofuels produced from crops such as palm oil, soya and sugarcane. Subsidies, loans and policies like the EU's Renewable Energy Directive, have driven the expansion of crops grown for fuel often in the global South.

Far from being a 'green' energy source, biofuels are often highly water intensive, requiring huge volumes of water for crop irrigation and throughout the production process. The water footprint of biofuels varies between crops and countries but sorghum tends to have the largest water footprint, requiring on average 7000 liters of water to produce one liter of ethanol; even the smallest water footprint is 1200 liters for sugar beet.[16] A large volume of these water footprints represents water that has been diverted away from local water users, and threatens lives and livelihoods in a process known as water grabbing.

water grabs and the new colonialism

The footprints of the products we consume have another hidden cost. Water grabs occur when water and land are sold or leased to governments and companies without the involvement of local land users or recognition of their customary laws. The rush for land and water across much of the world is being driven by the high international demand for energy, raw materials and crops for food, biofuels and livestock feed. Land and water deals have undermined the livelihoods and food sovereignty of local communities.

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privatization

Water grabbing is founded upon principals of privatization, whereby publicly and commonly owned resources are sold to individuals or private organizations.[17] As water security declines, the demand for water sources overseas for nations or industries is rising.

Multi-billion dollar companies eager to profit from the business of using and supplying "liquid gold" are acquiring the rights to water on a huge scale.[18] In a Citigroup report on water investments, their chief economist stated that water will *"become eventually the single most important physical-commodity based asset class, dwarfing oil, copper, agricultural commodities and precious metals"*.[19] A former senior advisor on water to the UN General Assembly, Maude Barlow, has warned that private interests are also infiltrating international governance processes. She argues that UN initiatives like the CEO Water Mandate puts transnational corporations into positions of influence over global water policy.[20]

land for water

Linked to recent food price spikes, as well as growing financial speculation on food, acquisitions of land and water have accelerated in the past decade as countries seek to offshore their water consumption and meet the food demands of their citizens by importing virtual water within food.[21] A 2013 report found that the volume of nations' water being grabbed for crop and livestock production is often enough to meet and exceed that country's per capita water requirements for food security.[22]

conclusions: what would wise management of global water look like?

Global Agreements - some progress but not enough

The United Nations announced last year that the Millennium Development Goal (MDG) for drinking water was attained, while the sanitation target will be far from met by 2015, when the MDGs expire.[23] The international community is now shifting away from the narrow focus on domestic water uses, to a 'water security' per-

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spective, as championed by the UN earlier in 2013.[24] It is being advocated for inclusion as one of the Sustainable Development Goals, which will replace the MDGs, shifting the discourse on water to reflect the necessity of water for sustainable livelihoods, human well-being, socio-economic development, pollution, disasters, ecosystem preservation and political stability.[25]

Some key areas for action

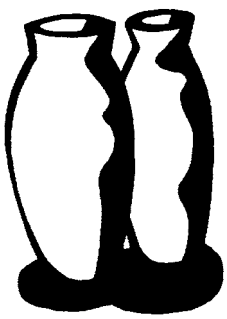
In the UK Friends of the Earth works to protect water supplies and enhance freshwater and marine habitats. To ensure global freshwater protection we advocate the following key areas for action by governments, businesses, international agencies and consumers:

- *Measuring and setting targets to reduce water use* - in Europe and in individual countries we need to measure resource us, including water, taking account of the embedded resources of products and services, allowing us to better see their interdependent and inseparable nature. In this way it will be possible to avoid trade-offs and to set meaningful resource reduction targets. We need strong EU rules on company reporting, and new indicators to measure the EU's impact on the global environment. For water we will then need to look at how we invest in improving water management and innovation.

- *Promoting low impact consumption* - for instance policies which encourage lower water diets, reuse of clothing or energy and other water intensive products and services. Our Sustainable Diets campaign works to promote policies such as in government procurement, marketing and farm subsidies and investment. Production and consumption of energy including biofuels is highly water demanding and so energy reduction strategies which take account of water use must be developed.

- *Action on Climate change* - investment in green energy sources that contribute to mitigation but that are also low in water use e.g. small scale community energy projects; and strategies to reduce dirty energy investment by government and others.

- *Ensuring accessible and affordable freshwater as a human right* and access to water and land for food production



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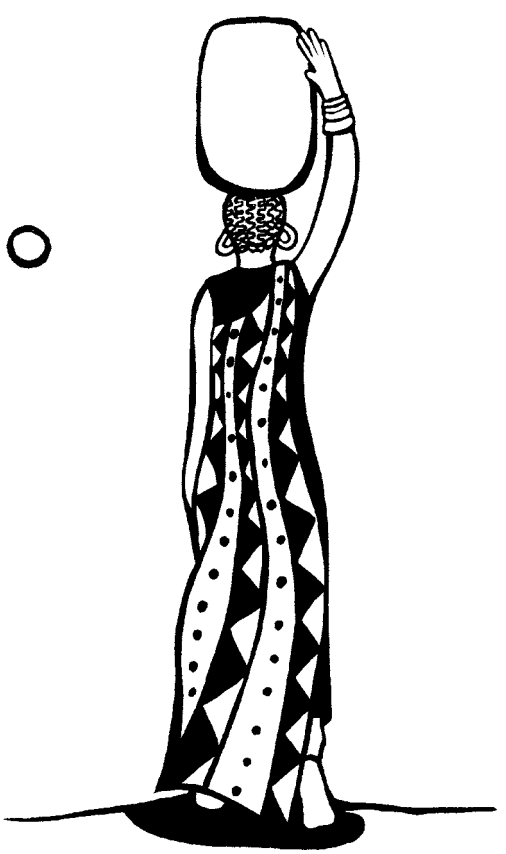

africa

- mozambique

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"do not DAMAGE our life": the sad story of mphanda nkuwa dam

The Zambezi River is one of Africa's most important rivers, supporting rich ecosystems and large, thriving populations of people and wildlife. At over 2500 kms long, it is the fourth longest river in Africa. It weaves its way through several southern African countries, including Zambia, Angola, Botswana, Zimbabwe, Mozambique, and eventually enters the Indian Ocean creating a rich and productive delta. The entire river valley is home to an estimated 32 million people, about 80% of whom are dependent on agriculture and fishing.

For Mozambique, the Zambezi River runs through the heart of our country, pumping life into one of the most productive and biologically diverse tropical floodplains in Africa.

The lower Zambezi valley which falls in Mozambique functions around the seasonal flood regime of the Zambezi River. As with all ecosystems, the Zambezi system is the product of thousands and thousands of years of evolution, and regular floods are a vital factor in its functioning. From ancient cultural practices, such as flood recession farming, to the biological synchronization and dependence of its ecosystems, floods are the core to the past, present and future health of the Zambezi valley. Floods bring nutrient-rich sediment, feed much-needed water to drying floodplains, flush out stagnant water bodies and clear channels, branches and tributaries, thus keeping the system vibrant.

The Zambezi River has already had its flow severely interrupted at two points, the Kariba Dam on the Zimbabwe/ Zambia border and Cahora Bassa Dam in Mozambique, which have caused major hydrological changes along the lower Zambezi, and adversely affected downstream communities and eco-systems. Instead of rectifying the situation, now the Mozambican government is pushing to build more dams. The first one being planned is Mphanda Nkuwa.

Since the beginning, environmentalists, academics, researchers and scientists that have worked for many years on the Zambezi basin were unanimously alarmed by the plans that yet another dam was being planned on the Zambezi River, and many spoke out against it, but despite the mounting warnings from scientists, the concerns of communities and of environmentalists, the Mozambican government continues to push the project ahead.

fast facts: mphanda nkuwa

- Total Cost: Estimated $2.3 billion US Dollars
- Capacity: 1300 MW of electricity
- Energy users : 80% for export, South Africa's energy giant, Eskom, will be the likely buyer
- Location: Lower Zambezi River , 70km downstream the Cahora Bassa dam, in Tete Province,
- Project Development: Consortium Hidroeléctrica de Mphanda Nkuwa (HMNK), a consortium created by Energy Capital/Insitec 40%, Camargo Correia 40% and EDM (Electricity of Mozambique) 20%.
- Financing: Not yet publicly known (as of May 2013)
- Current situation: Environmental Impact assessment (EIA) approved

Justiça Ambiental (JA!) has made regular visits to the communities to be affected by the Mphanda Nkuwa Dam since 2000/2001. From the early visits, we were shocked that communities that were to be affected by the dam had almost no information about it. The government had only told them that they were going to build a dam, and no one could do anything to change that. From that first visit, we decided to fight to stop Mphanda Nkuwa, and if we could not stop it, then we would work to ensure that the communities would not be abused by the undemocratic dam planning process. A dam cannot and must not rob peoples' livelihoods, land, water or other resources. This has constantly been one of our major concerns, because it is so rampant in all mega-projects in Mozambique. The Mphanda Nkuwa planning process confirms our worst fears; that the situation in this project will play out in similar, appalling ways.

For the past over 12 years, JA has been working to stop the destructive dam, inform civil society about the project and hold the government accountable. We have worked with the communities; conducting research; doing capacity-building on community rights; holding various workshops and action days; writing articles, publications, petitions to the parliament; etc.

The Zambezi River gives life and livelihoods to thousands of communities, most of whom have lived by the river their entire lives. They live on the river banks, subsisting on fishing, cattle-grazing and agriculture. During the dry season they remain on the river banks, when flood season arrives they go to higher ground. Now, the communities are unsure where they will be reallocated if the dam is built, and what will happen to them. From generations, their lives have been inter-twined with the river, and they do not want to move if they would have the right to choose, as the young son of an old fisherman, Alfredo, told us:

> *"The river gives us everything. Fish, with which we can make oil, eat and sell, it even pays for my studies. In the margins we can grow crops, and we know what to do here, actually it is all we know, if we are to be moved far from the river we will suffer".*

In March 2013, JA again travelled to meet the communities in Chirodze Sanangue, Rio Chococomo, and other villages. The situation on the ground is tense with the government's intimidation tactics. Community members need authorization to go to meetings. This was the case with the workshop we held on March 14th in Tete to commemorate International Rivers Day. The secretary of the *bairro* (neighbourhood) did not allow most of the outspoken leaders to attend the meeting. The most outspoken are those with the most to loose, and yet their voices are being suppressed the most. To top it all, after our meeting, where we discussed the immense problems with the dam, the local officials went to the communities to claim that what JA was saying in the meeting was incorrect. It was another intimidation tactic.

In our last field visit to the Zambezi River, it was with great sadness and outrage that we witnessed uncontrolled destruction of forests around the river, and 'Caterpillar' bulldozers pulling massive baobab trees apart. A road is being constructed to bring water from the Zambezi river to Jindal coal mine. Not only is the mine having horrific effects on the people, the water, and the forests, but now even the Zambezi river is being attacked. We are rich in resources but these are constantly being grabbed, while other resources are just being destroyed. In the end we will end up with only polluted rivers, no fish, and no forests.

This last visit revealed to us the extent of the destruction of the ecosystem, and also the climate of fear and uncertainty that hangs across the area. It once again showed the cruelty of the extractive model where self-reliant communities are robbed of their natural resources which are then commodified by the corporate-driven development model. Mozambique is just creating another monster that feeds on the poor, while filling the pockets of the corrupt elites.

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meso america

- mexico
- el salvador

Marco von Borstel
Otros Mundos Chiapas
Friends of the Earth Mexico

territory and the water cycle: new paradigms for sustainability

"...This land is sacred to us. This shining water that moves in the streams and rivers is not just water, but the blood of our ancestors. If we sell you the land, you must remember that it is sacred and you must teach your children that it is sacred and that each ghostly reflection in the clear water of the lakes tells of events and memories in the life of my people. T he water´s murmur is the voice of my father´s father..."
Chief Seattle, 1855

Visions from various Indigenous Peoples in our America about the natural elements are based on a completely different paradigm, totally at odds with the Western culture's perspective. Sweeping generalizations aside, we could say that water and fire are perceived as our grandparents, land as our mother, and air as an older brother. We don´t own even a single tree, or the river, not even the land we live on, but we are part of them; it is a family nexus, a way of looking at the world in which the natural cycles must be respected and where human beings cannot reign over, possess or break the intrinsic bond between all beings and their environment, and their duty is to nurture it and protect it.

Today, driven by that wisdom, communities in every continent are raising their voices and defending their territories, cultures, commons and life, in resistance to the prevailing development model's assault, the so-called 'reprimarization' of the economy (that is, refocusing on the extraction and exploitation of raw materials and natural resources) and the intensification of capital accumulation through displacement.

Water is essential for human life and all living beings on this planet, and the balance of ecosystems depends largely on it. Based on their own subjective approaches, Indigenous and rural peoples regard water as Mother Earth's blood, a sacred element that has to be worshiped and respected. Currently, however, ambition and the near-sighted view of human beings having the freedom and right to appropriate themselves of everything are turning water into a commodity.

corporate-tailored water scarcity

In 2005, in the framework of the World Water Forum held that year in Mexico, a major media campaign was launched featuring dry-lipped faces of people from different cultures around the world, fractured drought-ridden lands, and dry riv-

ers without a drop of water flowing on them. Since then, the discourse of governments and corporations participating in these international spaces is focused on promoting the idea that water scarcity is an undeniable fact and that the only way to prevent water from running out is to turn it into a commodity. Consequently, most countries are establishing legal frameworks to promote its privatization and commoditization.

However, the truth is that that there is enough available freshwater in the world for over 20 billion people; even though the fresh water available for consumption represents only 0,26% of all water in the planet, we shouldn't need to fear its depletion if it weren't for the intervention of human beings systematically breaking its natural cycle. Owing to the water cycle, salt water from the oceans is transformed into fresh water through evaporation and condensation, returning then back as rainfall on valleys and mountains, running off and replenishing the various water basins, whether superficial or underground.

On the other hand, mainstream media discourse and some academics often make the general population responsible for water problems and suggest shorter showers and reduced water consumption for basic human needs as the solution. There is no doubt that responsible individual water use is indeed key, but it is important to point out that in Mexico, for instance, of all the water used, 76% is used in agriculture, 14% in households and 10% is used in industrial processes. Furthermore, 56% of the water used for irrigation is wasted due to technical inefficiencies, and loses in water supply networks average 40%. Clearly, the biggest share of water problems in places like Mexico require more effective solutions than those advanced through current public policies, which need to adopt a totally different approach and rethink their most basic paradigms.

Lack of water in some parts of the world is the result of uneven distribution patterns in different regions, but nowadays, the most relevant factors determining the lack of drinking water for over 1.1 billion people in the planet are: water access inequity, pollution, channeling and diversion of rivers, deforestation, climate change and corporate capture. These interventions break the natural water cycle and have determined that over 60% of the world's rivers are now dammed, the desertification of extensive areas, and contamination of most superficial and underground water sources. This water "crisis" could be referred to as "scarcity" generated by corporations themselves, given that they are the main responsible for the impacts on the natural water cycle - an alleged scarcity which is now allowing them to set a monetary value on our water commons.

The entire geography of land on Earth is naturally divided into various basins (the territorial sphere of influence of a water body). Rivers flow on their lowest grounds, and they all discharge their waters in lakes and oceans. Water basins are also biodiversity corridors with which the human societies inhabiting them hold an intrinsic relationship that is accounted for in their culture. The environmental health of all ecosystems, regardless their size, is intimately linked to the quality of water and the non-obstruction of water run-off in water basins.

Dams - whether for hydroelectric power generation, irrigation or water supply - and industrial, agricultural and urban pollution from big cities are all examples of the disorganized and unsustainable water and water-basins management that is depriving an ever increasing amount of people in different regions of the world from access to sufficient and good quality water, and determining the deterioration of entire ecosystems. A clear illustration of this are the mangrove forests that rely on a combination of saltwater from the ocean and fresh water from rivers. When river-flows diminish due to up-stream barriers or sedimentation and excessive organic matter, they cannot reach the coastal areas, seriously damaging huge mangrove extensions that become over-saline and are often doomed to disappear.

The pragmatism with which the commons are currently seen and with which the multiple interventions of human beings over water sources are conducted, is causing a climate, social and environmental crisis that cannot be addressed with partial measures and neglecting the importance of respecting the natural water cycle.

One of the origins of this shortsighted incomprehensive management of water basins is directly linked to the limits imposed by nation-States. The territories of water basins are all too often fragmented under the jurisdiction of different nations, with each country and their internal political subdivisions trying to "make the most" of the water flowing through their jurisdiction, without taking due account of downstream impacts in other municipalities, regions and even countries.

water, not borders

The geographical borders currently in place were established arbitrarily, especially in Latin America, where national and regional identities are based on historical events and the interests of the power elites installed after the conquest - they are alien to the vision of the Indigenous Peoples whose societies have in many cases been split by those borders imposed on them, separating them under different states and/or even countries. These borders weren't established either with a water basins vision in mind, therefore most national and/or internal limits are drawn exactly where the main rivers flow or with straight lines that do not respond to any environmental or cultural criteria.

This arbitrary borders between countries and their internal subdivisions lead to partial public policies, generate regionalisms that divide peoples and cultures, and give way to identity visions of the territory that are not based on environmental or water flow criteria.

The nexus with rivers was extremely important for the indigenous Maya peoples (who have lived in this region for over 10,000 years) before the European invasions. There are various accounts of the cultural and commercial exchanges that took place in their main water basins, formed by the Grijalva and Usumacinta rivers (as they are currently named) and their many tributaries. The headwaters of these river basins are located in the region currently under the jurisdiction of the northern Guatemala departments of Huehuetenango, Ixcan, Alta Verapaz and Peten), flowing then into Mexico through Chiapas State, finally discharging their waters in the Gulf of Mexico, irrigating Tabasco State's wetlands and mangroves.

The memory and history of these territories is full of stories of looting and exploitation. Indiscriminate interventions with so-called "development" projects have caused widespread environmental destruction, additional dispossession and displacement, and the release of huge amounts of pollutants into the environment, with serious impacts on the health of the community and the environment, thus contributing to the further impoverishment of an already highly marginalized population and the decay of the natural and cultural wealth.

dams, 'development' and human rights

The experience of dam building for electric power generation in the region has been one of systematic human rights violations and lack of compensations and consultation processes for prior, free and informed consent, all with an endless number of impacts. A clear example of this is the Chixoy dam, built on the Upper Usumacinta River basin in Rio Negro, Guatemala, in 1996, which became globally known because of the violence with which it was built: the communities in the area were displaced and relocated after a terrible massacre in which more than 400 Mayan peasants who opposed the project were killed. This and other similar projects led the World Bank in 1997 to call for a review of its own policies regarding hydroelectric dams, leading to the establishment of the World Commission on Dams[1], which drafted a groundbreaking report on the various social and environmental impacts of dams.

The 4 dams built in the '70s on Grijalva River, Chiapas State, have not only caused an endless amount of damages down-stream and the loss of communities and extensive areas of excellent arable land, but they have also generated land grabbing, conflicts between communities and extreme marginalization for the displaced people, due to lack of consultations, census and adequate compensation processes. These dams are also at the root of downstream out-of-cycle floods that have had serious repercussions in Villahermosa city and on the livelihoods of Chontal-Maya and mestizo communities in the Centla wetlands area.

In response to current threats of new dam projects and mining exploitation in the region, a variety of joint community, social movements and civil society platforms with a cross-border water basin perspective are emerging, such as the Binational Alliance for Rivers and the Maya Territory[2] built around the defense of culture and territory as a major common concern.

This and other platforms are calling for and striving to establish 'megaproject-free territories' with a common territorial perspective, beyond the imposed boundaries and political divisions, where the peoples in the upper, medium and lower river basins are linked to each other on the basis of their resistance and the development of local initiatives for a "good living", taking into account their nexus of interdepen-

1. World Commission on Dams, http://www.internationalrivers.org/files/attached-files/wcd_espanol.pdf
2. Call for the Cross-Border Defense of the Maya Territory, http://www.otrosmundoschiapas.org/index.php/represas/68-represas/1496-material-otros- mundos-llamado-por-la-defensa-transfronteriza-del-territorio-maya.html

dency in relation to the water flows. Furthermore, given the energy and extraction projects being resisted are generally promoted by transnational corporations that operate in the different countries, over and above the nation-State governments and with their complicity (aimed at imposing their "development" model that externalizes environmental and social costs and criminalizes the movements who defend the territory), the defense of the territories needs to become transnational as well, in order to fight these companies on a better footing, with the protection and legitimacy provided by the international declarations and human rights conventions signed and ratified by our countries.

Breaking away from the vision of the territory as defined by the political boundaries imposed by the nation-States has allowed us to see the problems and challenges we have in common, and generate joint strategies to face the assault of the different looting projects on specific territories, but which affect a basin as a whole, including the populations that co-inhabit them.

conclusion

There are many proposals and examples of local and community-based water management, but to solve the problem of water "scarcity" it is essential to change the way we conceive our relationship with water and our environment. We need to overcome the dichotomy of unscrupulous local water management that does not take into account the intrinsic interdependence between all the territories that form part of a water basin and the biodiversity hosted by them, including of course the human beings that build those territories. If we throw flowers and seeds upstream in the river, these will travel downstream with the flow. However, and very much in the same way, if we contaminate any water body, this will affect the environment and the communities living downstream in the mid and lower basins.

The subjective approach with which we see water, land and other components of our environment - whether as commodities, natural resources, human rights, commons or natural elements - determines the way we handle and manage them. The discussions about the environment, sustainability, development and territory all center around the need to change the prevailing cultural paradigm, and replace it with one that radically shifts the way we humans relate to one another and with our environment - a key part of which we must understand we are, whether to affect it or to live in harmony with it.

Silvia Quiroa
CESTA • Friends of the Earth Earth El Salvador

water: scarcity, contamination and privatization threats

Water is one of the most highly polluted and scarce strategic natural resources in El Salvador. Official figures indicate that at least 90% of our surface water bodies suffer some degree of contamination, the main sources of it being coffee processing, inadequate management of industrial effluents, waste dumps, pesticides use in agricultural areas and inadequate sanitation (95% of the sewage waters in the country are discharged into superficial water sources having undergone no treatment whatsoever[1]), among others. In addition, coverage through the National Aqueducts and Sewage Administration (ANDA) continues to be very low, approximately 63.7% at national level (96.1% in urban areas, but only 30% in rural areas).[2]

El Salvador lacks a consistent policy and regulatory framework for the protection of water - both for its different social, economic and cultural uses, and to ensure the ecosystem functions it performs. Existing regulations are patchy and scattered among several government bodies, generating conflicts between the different institutions administering them. This does not happen by chance. On the contrary, World Bank, Inter American Development Bank (IADB) and International Monetary Fund-led economic, institutional and legal reforms have been ongoing in the country for over two decades, aimed at liberalizing markets, opening the economy and privatizing public sector assets and companies, thus facilitating the corporate control of production and resources. As a consequence, for instance, "While payments for water, electricity and telephone services represented only 4.7% of the minimum nominal wage in 1992, following the privatization of thermal energy generation and telephone and electricity distribution services, payments for those same services accounted for more than 42.3% of the urban minimum wage in 2003."[3]

liberalization threats

As far as water is concerned, the plan was to implement a "modernization program" with IADB funding, aimed at reforming the water resource sector and the water and sanitation subsector. "The goal with this program was to establish a domestic water market where 'water rights' or concessions would be traded in order to facilitate the private use of waterways, in addition to the transformation of ANDA under public control, into merely one among many system operators that

1 National State of the Environment report, El Salvador, Central America, MARN and UNEP, 2002.
2. Ibid.
3.Globalización neoliberal en El Salvador, un análisis de sus impactos e implicaciones. Raul Moreno, 2004.

would compete with other private or mixed public-private companies, municipalities, and neighborhood boards who would be allowed to run water systems under concession contracts."[4]

This bill faced strong opposition and was eventually stopped. However, other actions were already underway, for instance, one focused on the decentralization of the State-owned water systems, whereby water provision administration in 62 municipalities was transferred over to the Mayors, under promises that water services in those municipalities would be improved with the participation of private companies.

Meanwhile, privatization attempts have been ongoing. The so-called 'Partnership for Growth', for example, an initiative promoted by US President Barack Obama, presented in the framework of the US-Central America & Dominican Republic Free Trade Agreement (CAFTA-DR)[5], requires the approval of a Public-Private Partnership bill in El Salvador, aimed at establishing an even more permissive legal framework to attract foreign investors, foreseeing their co-participation with the State in the provision of public service areas that haven't yet been privatized, such as water. However, the Public-Private Partnership Bill does not truly contemplate a shared presence of El Salvador government and private companies, it rather means the replacement of the State with private companies who will undertake the execution and provision of public works and public services that are really the State's responsibility.

US Ambassador in El Salvador, Mari Carmen Aponte has reportedly said that "the bill does not seek to privatize", and that is why we are urging the Frente (the ruling leftwing party) to analyze the bill and pass it soon." The funds the US government would provide El Salvador in the framework of the Partnership for Growth program are conditional to the approval of that bill.

civil society demands

On the other hand, social movements and civil society organizations in the country are demanding at least two things from the Legislative Assembly: first, a general law on water, and second, to enshrine the right to water as a constitutional right, in order to minimize privatization threats.

One of the arguments for a general law on water is to regulate the uses of water, especially the use of water by big companies, and prevent access from being limited only to those who can pay for it. The discussion of the bill has advanced very slowly, given that the national and transnational companies want the law to be tailored to suit their interests.

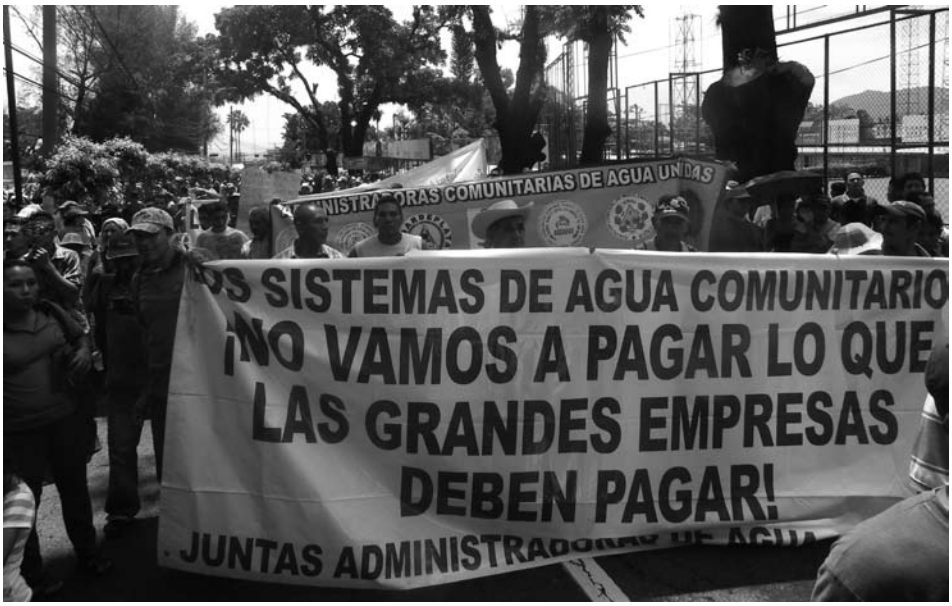
According to estimates by the United Nations Development Program (UNDP), the bottled water market in El Salvador represented in 2005 an annual income of $43.5 million dollars, an amount equivalent to 65% the annual income of the National Aqueduct and Sewage Administration (ANDA), according to UNDP. An important factor for this market to be so flourishing is the low price paid by companies that

4. El Marco jurídico para la privatización del agua en El Salvador. Raul Moreno, 2005.
5. US - Central America and Dominican Republic Free Trade Agreement

exploit the underground aquifers or use the public water network to bottle and sell this essential resource. Industrias La Constancia, for example, and their brand Agua Cristal[6] extract water from an aquifer at a cost of six cents of a dollar (US$ 0,06) for every 1000 liters they extract - a petty fraction of the significantly higher two hundred and forty dollars (US$ 240) sum they get in return from the sales of 1000 liters of 'bottled' water (in small plastic bags) at retail price.

On the other score, water has not yet been enshrined in the Constitution as a basic human right, given the balance of power in Parliament has been unfavorable. The issue was recently discussed in plenary but the required majority was not reached -the proposal only got 47 of the 56 votes needed. Unfortunately, the outcome was highly influenced by an ultra rightwing party's request that conditioned the vote to the passing of a bill that establishes that marriage can only be held between a man and a woman. Therefore, the human right to water in the country will still remain unrecognized in the national constitution.

Nevertheless, it is worth mentioning that despite the existing water privatization threats, the communities whose access to water is limited or nonexistent have been looking all along for ways to organize themselves in order to improve its availability, access and quality, giving rise to many examples of community-based water management whose most outstanding features are: organization at the local level, which enables joint decision making, capacity building, reproduction of local knowledge, transparency and follow-up work, among others.



Protests for water in El Salvador: "For communitary water systems. We are not going to pay what big corporations must pay". Photo: CESTA - Friends of the Earth El Salvador.

6. A subsidiary of SABMiller, the second biggest brewer by volume of sales in the world, which resulted from the merger of South African Breweries and Millar Brewing in 2002, and Bavaria S.A. in 2005. The headquarters of the company is in London, England.

conclusions, proposals and debate perspectives

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EJRN Program

conclusions, proposals and debate perspectives

This document outlines the main conclusions derived from the case studies that make up this publication, which compound Friends of the Earth International's vision on the current threats to and conflicts around water, and in relation to current debates and proposals for the defense of water and life.

conclusions

Financialization, as a process of further development of neoliberalism represents one of the major threats to nature and the commons, including water. Following decades of water privatization processes driven mainly by the World Bank (WB), and the imposition of public-private partnerships (PPPs) as a form of transnational control over water resources, new forms of misappropriation have taken place in our countries. They involve both said privatization through the commoditization of water or the private appropriation of water management, and the current process of financialization as a strategy for corporate capital accumulation, appropriation of nature and land-grabbing in our territories.

1. Forms of privatization

Extended scope of the concept and transition to commoditization and financialization.

Far from fading away, the trend of water management privatizations that swept over the '90s with the take-over of public water supply utilities by specialized operators that are subsidiaries of multinational companies and transnational corporations still persists. Currently, privatization has mutated significantly when the new forms of privatization that are impacting on the territories are taken into account.

We refer to the privatization of water sources as a result of pollution and appropriation, mainly caused by extractive activities that are at the core of the dominant development model that has been imposed – mainly based on mining, hydropower production through medium and large dams, crops to produce agrofuels, monocrops to produce cellulose, among others. In the case of privatization through pollution, the mining activity is one of the clearest examples. When water is polluted by the use of chemical substances necessary for leaching, the population and other living beings can't access those waters anymore, therefore being deprived from the possibility to use that water source. This represents a form of privatization. In the case of appropriation, the building of dams implies the grabbing of water sources, rivers for instance, and once again a form of privatization takes place, the denial of access to water for people and other living beings, and the violation of the ecological balance of the web of life. This is clearly explained in the case study on Switzerland, where the use of hydroelectric power seems to be exceeding all limits, with huge environmental impacts resulting from the construction of new power plants

-even the smallest ones- to produce minimal amounts of power. Or as exemplified in the case study on Mozambique, where the highways built to transport water from the Zambezi River to the Jindal Mine (coal mining) generate environmental conflicts for human beings and irreversible impacts on forests and water. This case study also highlights how the interruption of the river's flow in two different locations -the Kariba dam on the border between Zimbabwe and Zambia, and the Cahora Bassa Dam in Mozambique- has caused massive hydrologic changes that affect communities downstream, privatize water and dam up life.

Thus, today we understand water privatization as the denial of access to water for any living being, the looting of our common water heritage. And we therefore refer to the privatization of water management and sources resulting from pollution and appropriation.

Water commoditization is a consequence of the privatization process and consists of assigning exchange values that are prioritized over the use value of the common good. This is the case with water for human consumption -including the very profitable bottled water market-, water for irrigation in agriculture and water used for industrial purposes. Large business empires take over the rights to water and turn them into just another commodity, a tradable good. In these cases, access to water depends on the purchasing power of the population, which also implies the payment for water rights that are traded within markets.

We understand financialization -the core issue in this discussion- as the establishment of a stock market that controls production and distribution of wealth. The agents controlling that wealth are alien to the process and the production cycles, and they are transnational. In this strategy, financial capital markets generate political and direct control over the resources and territories, and the financialization of raw materials becomes a critical and key feature of financial accumulation. This way, investments in territories become financial assets that can be traded in stock markets, and a source of capital accumulation through speculation on natural resources.

In the case of water, a new market strategy is emerging, with an integrated global market approach that allows water grabs and commercialization by the very same economic actors that spoil it, through the rationale of payment for stock and water rights purchases in foreign territories. The creation of these new financial markets is only possible through structural adjustment of public policies and the inclusion of a new logic into the legal and institutional frameworks that are in turn promoted via trade agreements and multilateral negotiations, as illustrated in the Friends of the Earth United States text about the relationships generated by the trans-oceanic agreements spearheaded by that North American country. As a result, banks and transnational corporations are further empowered and the local population's water rights are transferred to them, bringing local projects and development processes to a halt, and/or displacing communities by depriving them from the opportunity to live in their territories and from access to adequate means of subsistence.

Water is a common good, not a commodity! We oppose any type of privatization, commoditization and financialization. We demand a peoples- controlled sovereign management of waters and territories based on their worldviews.

2. New modalities of water looting through international cooperation

The current economic crisis that affects northern countries in particular as a consequence of a model that has created the prevailing international division of labor, is generating new modalities of water and territories appropriation. The Colombia case study shows the specific ways through which international cooperation supposedly focused on the development of a national policy framework for water and water management is turned into an investment protection system.

The concern arises over the new European cooperation policy that includes companies as a direct actor in beneficiary countries, so that they can recover the invested capital.

This same strategy can be viewed in a case study about mining investments in Latin America. In the framework of the relationships between countries of the European Union and Latin America, agreements are established to further the extraction and exploitation of common goods, mainly with the purpose of financing the economic crisis. Specifically, German cooperation for mining in Chile incorporated as one of its pillars the work with German transnational companies, protecting investments that are presented as cooperation. The "cooperation" program involves several countries of the Andean region such as Chile, Peru, Ecuador and Colombia, in a new phase of the European economic expansion in the South, expanding the market and including the natural heritage/resources in it, that is, common goods that had yet not been commoditized.

We aim for solidarity and reciprocal agreements between the peoples, and we work to dismantle the forms of cooperation that disguise the domination over water, territories and culture.

3. Direct financialization of water through speculative markets.

The Integrated Global Water Market's capture of language

The strategy devised by transnational corporations and multilateral organizations known as the *integrated global water market* for the implementation of what they refer to as the "human right to water" and for the mitigation and compensation of the water footprint from industrial production, came wrapped in an ambiguous language that allowed multinational companies to tweak the historical demands of the peoples into corporate concepts such as effectiveness and transparence. Water justice, sovereignty and autonomy are now used to maintain and give new life to water management privatization processes and secure further strategic control over water sources to produce food and other goods. At the same time, this strategy aims to introduce water rights into the market, making it the regulator of peoples access to this natural resource.

An example of this strategy is the *+Agua*[1] initiative launched in 2012 by the AVINA Foundation in association with the multinational company Coca Cola, whose goals of "realizing the human right to drinking water, mitigating the effects of cli-

1. For more information on this program visit: http://www.avina.net/esp/4270/avina-y-coca-cola-se-unen-para-lanzar-la-iniciativa-agua/

mate change and protecting water sources in basins" are expressed in a language that is well known by the peoples and organizations, and maybe coined by them, thereby managing to disguise the conflicts and impacts generated by the Public-Private Partnerships model on which the initiative is based, and its real interests of expanding water commoditization and financialization (as the Colombia case study shows).

These corporate and multinational alliances are an example of the consolidation of a global market as a means to expand the opportunities for companies such as Coca Cola and Nestle to increase their profits with the complicity of governments that facilitate the simulation of peoples involvement in the development of water and land/territories management policies. The cooptation of the peoples terminology around the historical claim and popular struggles for water justice, allows these companies and corporations to generate empathies and build trust in order to link their projects to community organizations that are unaware of these corporate strategies.

We defend water for life, free rivers and lively peoples. No to international financial institutions' and transnational corporations' involvement in the management of our waters.

4. Indirect financialization. REDD strategies and forest grabs

Land grabbing and control strategies such as Reducing Emissions from Deforestation and Degradation (REDD) have been identified as concrete cases of financialization of nature. We believe these strategies are generating at the same time an indirect financialization of water. Water is an essential component of forests that are targeted for financialization, and thus is also affected by it.

We reject market mechanisms, the role of the private sector and a global water market. Water for life, not for business.

for discussion

The human right to water and its realization

The struggles for water and life that have taken place in the past years have shared in general the demand for water as a basic human right. The experience of Uruguay -which also discusses in this publication the development model and highlights how it works against that right- and those of Bolivia and Ecuador elicit a strategy that combines social mobilization and the use of popular participation mechanisms enshrined in the national constitutions, in order to declare the right to water and strive for a dignifying life. However, the right to water language and its realization have also been captured by corporate giants, and the advances in the recognition of the human right to water fallen into contradictions, such as the ones inside the United Nations. One of the current debates is the one about the use or not of the human right to water as a tool of struggle against corporate management, especially when we understand that corporations are also claiming the right to water as an imperative, but realized by private sector actors.

In our opinion, to abandon the rights-based struggle for the human right to water would imply a historical setback for the movement in defense of water and for the communities organized around this claim; the path of struggle that has cost the lives of men and women, and that has also involved victories against the neoliberal model should not be abandoned as a consequence of the corporate attempts to co-opt that language. However, we recognize the need to redefine our common views and give a new meaning both to the conceptualization of our demands and the scenarios in which these are raised and promoted. A new meaning of "public" that is rooted in the community [rather than in the State or the individual], the recovery of the collective effort/construction to realize the human right to water so that it prevails over the individualistic and individualizing approach that claims that private ownership is the grantor of liberalized rights. Maybe we will be able to find right there a common space to think together and in public whether these actions also aim to recover the State, the structure that enabled the private appropriation of common goods promoted by the different economic drivers of neoliberalism, such as transnational corporations, free trade agreements and the financial sector, or whether these proposals and alternatives of the people are aimed to re-socialize the common goods in such a manner that waters can officiate as the facilitating fluid for the reconfiguration of our lives as societies embedded in nature.

It is up for debate and remains to be discussed which are the scenarios and mechanisms for the realization of the human right to water, whether multilateral organizations should be the ones driving such realization, taking into consideration, for example, that the UN itself has been an object of transnational corporate capture.

At the latest Peoples Summit organized in Rio de Janeiro in parallel to the UN Conference on Environment and Sustainable Development -also known as Rio+20-,Friends of the Earth International federation presented case studies that reveal the corporate capture of the UN and launched a global campaign under the slogan *Reclaim the UN from corporate capture*. The case studies presented by the environmentalist federation are an example of what may be happening within the multilateral organization, and an expression of the need to reclaim it back from corporate influence as a precondition for preventing proposals and demands such as the fundamental human right to water from being co-opted by corporate influence.

On the other hand, concerns and criticism has also been raised on the role of the UN in the creation of the World Water Council (WWC), the main promoter of water privatization in alliance with the World Bank (WB). In recent decades, these two bodies -the WWC and the WB- have micromanaged and facilitated privatization, legitimizing it by inviting civil society to approve the precooked statements of the World Water Forums, signed many times unanimously by pro-corporate civil society organizations and governments.

Far from attempting to disqualify the UN as an organization created to play an important role on the planet and as a multilateral actor to ensure the right of the peoples, these ideas aim to put into consideration the extent to which the right to water is effectively guaranteed, mainly when enacted as a human right, taking into account the potential contradictions within this multilateral organization.

We also need to analyze and follow up on how and where the content of the fundamental right to water has been realized after the grand resolutions and declarations, and on the flipside, but in the same context, what progress have corporations and private companies made in taking over the functions of States, based on a supply/demand and capital accumulation rationale that stems from the need of the population to access water and other common goods.

The case study on Uruguay helps understand the steps and mechanisms used by social organizations in the struggle for the right to water, while signaling at the same time a warning regarding the contradictions of the development model. Additionally, it brings insights about advocacy paths arising from popular initiatives that demand the passing of a general water bill and the right to water to be enshrined in the Constitution as a basic human right.

proposals

Public/community-based water management

In response to environmental conflicts over water and the processes of its privatization, commoditization and financialization that put at risk the availability of water in terms of quantity and quality, therefore threatening all forms of life, the peoples have developed important proposals.

Public / community-based water management has been carried out by organized communities that have found in it a solution to the States' lack of action and the perils of a market-based approach. Public / community-based water management implies much more than plain water management aimed at ensuring access for the population. It is, at the same time, a possibility of territorial management and control. That's why it is so important. Building a model with these features requires a broad vision of territory and an understanding of its integrality. Therefore, the development of a public / community-based model involves fighting against the forms of occupation of territories/land use forms that destroy the water cycle's integrity, such as the extractive model. The Mexican article provides a concrete experience of water peoples integration under the concept of basin, that goes beyond administrative borders of countries and allows understanding the water cycle as an integrator of all living forms in the territories.

The model under construction is based on the protection of the territory, in the understanding that degraded territories cannot produce the quality and quantity of water needed by living beings. Therefore, the defense and protection of the territory is a necessary condition for water management, not only to ensure consumption for the rural population, but also to ensure the protection of the water sources on which the urban populations depend.

In addition, the solidarity and reciprocity relationships within communities reveal themselves as the second objective condition for this alternative model to be possible. Social division of labor is carried in such a way that it enhances the common good, and no exchange value is given to water in accordance to a supply/demand approach, as effectively happens under privatization. Service rates are defined in popular assemblies and profits, if any, are invested in the improvement of the

systems, aiming at dignifying the lives of the population. This necessarily implies water education and community strengthening processes in order to prevent the economic offers of profitable megaproject developers from dividing communities and weakening their views on territorial defense.

Ultimately, this alternative entails giving a new meaning to the concept of "public" -which was at risk of disappearing in the neoliberal stage of capitalism that commoditizes the natural heritage through strategies such as financialization - that is rooted in community management. Thus, the communal dimension of management of the common goods aims to show that it is possible to conceive the "public" beyond the State, but without renouncing to the possibility that this new meaning can lead the way to the process of recovery of the State from the attacks of the corporate world, and enable States to serve the interests of the peoples, and also engage in ensuring the rights of nature.

Community-based water systems are concrete examples of the materialization of this alternative model, and although not as widespread a solution to the global water problems as it should be, it delivers concrete solutions to a significant number of people in some countries, especially in the South. In that regard, the development of a global water policy should be influenced by a modality of North-South cooperation that favors a reconstruction of the "public" that is rooted in community, in sharp contrast to its current orientation focused on public private partnerships aimed at providing profits to transnational economic groups.

Towards a new public policy

In that same vein, we highlight the successful processes of re-municipalization of water that have taken place in countries such as France, particularly Paris. Such key demands, together with the strengthening of community-based water management taking place in Southern countries, can become a real turning point against privatization, commoditization and financialization, and at the same time demonstrate the feasibility of a public / community/based model as a possible avenue for the reconstruction of the social fabric and the relationships between the populations and the institutions.

Territorial rights, right to life

Directly linked to the possibility of developing a public / community-based water management model and ensuring water management and sovereignty, it is strictly necessary to make reference to territorial rights, as shown in the case study from Palestine. Without entitlement to rights over the territory, or a sovereign management and administration according to their worldviews, knowledge and independence of the peoples, it is not even possible to think about water management forms. The Palestinian case study also invites to reflect upon the injustice and inequality that comes when territorial rights for the management of the water heritage are not granted, which translates into a deterioration of the social and economic conditions of society. Moreover, and in terms of the global situation, the Palestinian case helps to understand the relationship between a fair access to natural resources as a necessary condition to consolidate everlasting peace, another aspect where water has a lot to teach, in rebuilding the social networks and the society-nature relationship.

photographs

Om El khair, a Bedouin community in Southern eastern part of Hebron city, West Bank, Palestine. Photos: PENGON - Friends of the Earth Palestine.

Auntry Mary Pappin of the Mutthi Mutthi Indigenous Nation inspects low flows and erosion along the Murrumbidgee River, New South Wales, Australia. Photo: Will Mooney

Getting ready for the long haul: community members of Rathupaswela in Sri Lanka engage in a sit-in protest campaign demanding the closure of the Venigross Gloves factory. Photo: Hemantha Withanage.

It's killing: Setting a coffin in front of the Venigross Gloves factory, community members in Rathupaswela in Sri Lanka staged a protest alleging the factory of contaminating the water sources in the area by illegal dumping of chemicals and waste water. Photo: Hemantha Withanage.

Friends of the Earth trade protest in United States. Photo: Friends of the Earth United States.

Public meeting of the 'inter watershed space', where neighborhoods and civil society organizations meet to discuss water management in Buenos Aires and surroundings, Argentina. Photo: Natalia Salvático.

Blue October: In 2004, the Uruguayan people supported the popular initiative of a Constitutional Reform that resulted in the inclusion of the human right to water in the constitution of Uruguay. Photo: REDES - Friends of the Earth Uruguay.

Mobilization in support to the Water Referendum in Bogotá, Colombia.
Photo: CENSAT Agua Viva - Friends of the Earth Colombia

Boat trip with Embera Katio communities in the Sinú River in Colombia, in defense of water as a common good. Photo: CENSAT Agua Viva - Friends of the Earth Colombia

Natural streams in the Swiss Alps: Val Frisal, Switzerland.
Photo: Michael Casanova.

Hydrodam at Hinterrhein, one of the rivers that make the Rhine, in Switzerland.
Photo: Pro Natura - Friends of the Earth Switzerland

March 14: Protests in Mexico in the International Day Against Dams.
Photos: Otros Mundos Chiapas - Friends of the Earth Mexico.

Building a dug-in canoe in the river bank of Zambezi River, Mozambique. Photo: Daniel Ribeiro

Alfredo, and his baby: the young fisherman tells what the rivers gives them. Photo: Anabela Lemos.

His old father, Mr. Morais, is also a fisherman. Photo: Anabela Lemos.

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Friends of the Earth International is an international federation of diverse grassroots-based environmental organizations with over 2 million members and supporters around the world. We challenge the current model of economic and corporate globalization, and promote solutions that will help to create environmentally sustainable and socially just societies.

Our vision is of a peaceful and sustainable world based on societies living in harmony with nature. We envision a society of interdependent people living in dignity, wholeness and fulfilment in which equity and human and peoples' rights are realized.

This will be a society built upon peoples' sovereignty and participation. It will be founded on social, economic, gender and environmental justice and free from all forms of domination and exploitation, such as neoliberalism, corporate globalization, neo-colonialism and militarism.

We believe that our children's future will be better because of what we do.

Friends of the Earth has member groups in: Argentina, Australia, Austria, Bangladesh, Belgium, Belgium (Flanders), Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Costa Rica, Croatia, Curaçao (Antilles), Cyprus, Czech Republic, Denmark, El Salvador, England/Wales/Northern Ireland, Estonia, Finland, France, Georgia, Germany, Ghana, Grenada (West Indies), Guatemala, Haiti, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Korea, Latvia, Liberia, Lithuania, Luxembourg, Macedonia (former Yugoslav Republic), Malaysia, Mali, Malta, Mauritius, Mexico, Mozambique, Nepal, Netherlands, New Zealand, Nigeria, Norway, Palestine, Papua New Guinea, Paraguay, Philippines, Poland, Scotland, Sierra Leone, Slovakia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Tananzia, Timor Leste, Togo, Tunisia, Uganda, Ukraine, United States, and Uruguay.

Acknowledgements
Many thanks to everyone who gave help and advice in the writing and production of this report. All of the views included in the report are those of Friends of the Earth International member groups who contributed to this publication.

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