



The human right to water - normative foundations and ethical implications¹

By/Par | **Barbara BLEISCH**
Zurich University Centre for Ethics, Switzerland
bleisch@ethik.unizh.ch

RÉSUMÉ

La présente contribution examine les fondements normatifs ainsi que les implications éthiques du droit à l'eau, tel qu'il fut reconnu en 2002 par le comité onusien des droits économiques, sociaux et culturels. Il sera défendu que le droit à l'eau potable peut être justifié en tant que droit moral fondamental, de par son caractère indispensable en vue de la garantie des conditions basiques de survie. Cet état de fait, cependant, s'avère moins évident au vue d'un droit à l'eau d'usage non-domestique. Ici, la discussion se rapproche des débats accompagnant le concept beaucoup plus complexe des droits sociaux et économiques. Par rapport à ce groupe de droits, la question de l'allocation est des plus controversées: à qui incombe-t-il de garantir leur respect? Dans le but d'éviter cette problématique d'allocation, le présent essai soulèvera la question de savoir, si la limitation de l'accès à l'eau peut être conçue comme une violation d'autres droits moraux: bien qu'il y ait des cas où des entreprises transnationales déploient des activités nuisibles à l'égard des populations pauvres en polluant sciemment leurs ressources en eau ou en initiant et en exécutant des stratégies de privatisation les privant de leurs droits, la crise globale de l'eau ne saura être rattachée uniquement aux effets de la mondialisation. Plutôt, l'on reconnaîtra la nécessité d'efforts positifs et soutenus de la part des pays développés en vue de la réalisation d'un approvisionnement suffisant en eau pour tous.

¹ An earlier version of this paper has been presented at the Seventh International Conference on Ethics and International Development organised by IDEA at Makerere University, Kampala, Uganda, July 2006. I am grateful to the audience on that occasion for their comments and to Jean-Daniel Strub, Thora Martina Herrmann and above all Des Gasper for detailed suggestions that have helped me in revising the paper for publication.

ABSTRACT

This paper looks into the normative foundations and the ethical implications of a human right to water, endorsed as recently as 2002 by the UN Committee on Human Rights. The paper argues that a human right to drinking water is justifiable as fundamental moral right guaranteeing basic conditions for mere survival. This is less clear in the case of a right to productive water, which verges on a much broader concept of social and economic rights. There are ongoing controversies about the allocation problem of these rights: Who has to deliver on them? To avoid the allocation problem, the paper will examine whether lack of access to water can be deemed a violation of other moral rights. But although there are cases where transnational corporations harm the poor by polluting their water resources or by sustaining or initiating harmful forms of privatisation, the water crisis cannot be solely traced back to a problem of harmful forms of globalisation alone. There is, thus, need for positive efforts from the developed countries to make safe water for all a reality.

Key words: human rights, privatisation of water, property rights, right to water, welfare rights.

JEL classification: D63, F13, F23, H4, I12, I31, L33, O2.

INTRODUCTION

While fresh, clean water is taken for granted in many places, it is a scarce resource in others. Some 1.1 billion people or 18 per cent of the world's population still lack access to clean water supplies and some 2.6 billion people lack access to improved sanitation.² More than 2.2 million people in developing countries, most of them children, die each year from diseases related to lack of access to safe drinking water, inadequate sanitation, and poor hygiene. Over half of the developing world's hospital beds are occupied by people suffering from preventable diseases caused by unsafe water and poor sanitation. Economies suffer as hygiene-related illness costs developing countries 5 billion working days a year,³ and the situation becomes increasingly complex and dire with the HIV/AIDS pandemic since a person with full-blown AIDS requires far more water than a healthy person.

In view of these appalling facts, it is not surprising that the United Nations Development Programme (UNDP) has dedicated its 2006 report to the global water crisis.⁴ In its foreword, the Human Development Report rejects the view that the global water crisis is about absolute shortages of physical supply. Rather, "the roots of the crisis in water can be traced to poverty, inequality and unequal power relationships, as well as flawed water management policies that exacerbate scarcity."⁵ To put it otherwise: access to safe water for all is feasible, and it has clear human rights dimensions.⁶ It is still above all the poor and marginalised groups that are worst affected since they frequently live in areas deprived of satisfactory access to water resources like rural or urban slum areas. As a consequence, they have to pay exorbitant prices for drinking water and – since they often cannot afford it – use polluted water rendering them sick.⁷ Women and girls who are in most cultures responsible for water supply at the household level and who have to carry water over long distances, tend to be especially afflicted with the lack of safe freshwater and sanitation facilities.⁸ The cost of this lack is reflected in the day-to-day investment of time to collect water, time that is not then available for productive activity, such as keeping the household, child care or education. But lack of access to safe water has also major effects on people's health, and poor health

² See the Human Development Reports 2005 and 2006 by the United Nations Development Programme (UNDP 2000, <http://hdr.undp.org/hdr2006/>). See also WHO/UNICEF 2000.

³ See Water Supply and Sanitation Collaborative Council (WASH), Progress Report 2000 – 2003, http://www.wsscc.org/pdf/publication/WSSCC_Report_2002-2003_en.pdf.

⁴ The complete report is available on <http://hdr.undp.org/hdr2006/>.

⁵ UNDP 2000, V.

⁶ Access to safe water cannot be secured without access to safe sanitation. I will focus in this paper on water, but we have to bear in mind that a successful realisation of the right to water depends among other things on the provision of safe sanitation.

⁷ People living in the slums of Jakarta, Manila or Nairobi, pay 5-10 times more for water than those in high-income areas of their own cities – and they pay more than consumers in New York or London. See UNDP 2000, 7.

⁸ See e.g. Aureli/Brelet 2004 and Brewster et al. 2006.

constrains in turn development and poverty alleviation.⁹ Water is also essential for farming and for manufacturing services. Making more water available to communities can improve, thus, families' incomes by boosting crop production and the health of livestock.

But in spite of its paramount importance to human well-being, water is not mentioned in the Universal Declaration of Human Rights (UDHR) as adopted in 1948 and only rarely in other official human rights documents. Since lack of access to freshwater is one of the most serious threats to mankind in the 21st century, the United Nations Committee on Economic, Social and Cultural Rights adopted in 2002 the General Comment No. 15, which recognises water not only as a limited natural resource and a public good but also as a human right. The alleged right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water, and it must be enjoyed without discrimination and equally by women and men.¹⁰ But ever since, there are ongoing debates about how to conceive best of such a right, to what exactly it entitles one; and about what are the involved obligations for the states, the international community and the non-governmental organisations. Besides the legal, technical, social, cultural and above all political questions about how to best design and implement such a right to improved access to safe water for the global poor, there are also ethical questions referring to the alleged right, and it is these questions I will address in this paper.

First, there are questions pertaining to the moral justification of the right. Whereas it may be true for legal human rights that they are – at least to a certain extent – whatever governments declare them to be, this is false in the case of moral human rights, whose validity is independent of any governmental body. This means that those rights are not alienable by governmental disrespect but persist, once acknowledged, irrespective of poor human rights policy. It is the very recognition of moral human rights (and the Universal Declaration on Human Rights was groundbreaking precisely because it is thought of as being based upon moral rights) which makes room for an independent evaluation of the legal order. It has to be asked, thus, whether a right to water may be justifiable as a moral right. Second, there is need for clarification concerning the right's content: To what exactly does the human right to water entitle one? To potable water only? Or also to irrigation water? Water in what quantity and quality? Third, questions arise pertaining to allocation issues: Who is responsible for the right's fulfilment? Access to water seems to come, if at all, under the set of socio-economic rights. The dominant political conception of human rights understands the duties correlative to these rights as falling largely on states. But if governments don't – and sometimes can't – meet their citizens' rights, the respective obligations pass over to the international community. Who exactly bears, then, the counterpart obligations of the alleged right to water?

The aim of this paper is to deal with these questions. First, I will trace the right's evolution and the international legislation (Section 1). For evaluation of the right, it is essential to

⁹ See UNDP 2000, V, 6 and 41. Sub-Saharan Africa loses about 5% of GDP, or some \$ 28.4 billion annually due to the water and sanitation deficit. This figure exceeds total aid flows and debt relief to the region in 2003 (UNDP 2000, 6).

¹⁰ Committee on Economic Social and Cultural Rights 2002.

understand the political and historical background against which the declaration of a right to water took place. Second, I will aim at clarifying the ethical questions underlying the debate (Section 2). I will then examine the argument that the industrialised world not only fails to act upon a right to water, but hinders the most disadvantaged from access to it; and will ask what could be extracted from the concepts of property and ownership (Section 3). Section 4 provides a conclusion.

The venue of the Seventh International Conference on Ethics and International Development is of particular interest to the topic of the human right to water. Uganda is – together with South Africa, Gambia, Ethiopia, and Zambia – among the few countries that have acknowledged the right to water in their national constitution. It started a comprehensive water sector reform ten years ago (as one of the first countries in Africa to do so). A lot of the water supplies have become commercialised, and many of the small towns have now a fairly well functioning water supply company; however, in many of these towns there are low-income areas (slums) which are poorly served. Uganda has, moreover, a strong ‘affirmative action’ policy in its legislation, which provides an instructive background for addressing the right’s implementation process from a gender perspective. The gender perspective is most important to water rights, but left aside in this paper.¹¹

1 EVOLUTION AND CONTENT OF THE LEGAL HUMAN RIGHT TO WATER

When the United Nations Committee on Economic, Social and Cultural Rights, which monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966), adopted in 2002 the General Comment No. 15¹² recognising water not only as a limited natural resource and a public good but also as a human right, this move was acknowledged worldwide as some sort of ‘revolution’. Non-governmental organisations and indigenous movements hoped that the debate on the right to water would command the attention of governments, international organisations and policy makers and that access to safe water and sanitation would be ranked higher on the political agenda. Even though a right to water seemed to be included in several other human rights, water was rarely mentioned separately and explicitly in human rights documents before. Explicit reference to the right to water has been made only in two of the six core international human rights treaties: the Convention on the Elimination of Discrimination Against Women (1979) and the Convention on the Rights of the Child (1989); and also in one of the regional human rights instruments: the African Charter on the Rights and Welfare of the Child (1990)¹³.

The Universal Declaration of Human Rights of 1948¹⁴ proclaims that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services

¹¹ For this aspect see e.g. Aureli/Brelet 2004 and Brewster et al. 2006.

¹² <http://www.unhchr.ch/html/menu2/6/cescr.htm>, 8.2.2005.

¹³ Valuable information on the different African Charters of Human Rights can be found in Evans/Murray 2002.

¹⁴ UNO 1948.

[...]” (Art. 25.1), but the importance of water to achieve this aim is not made explicit. Article 11 of the mentioned ICESCR recognises “[...] the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing [...]” and article 12 states “[...] the right of everyone to the enjoyment of the highest attainable standard of physical and mental health [...]”¹⁵, and the World Health Organization’s constitution enshrined the right to the “highest attainable standard of health” over fifty years ago – but again, there is no mention of water. It was only in 2000 that the United Nations Committee on Economic, Social and Cultural Rights, the ICESCR’s supervisory body, adopted a General Comment on the right to health that provides a normative interpretation of this right as enshrined in Article 12 of the Covenant. The right to health is interpreted therein as an inclusive right that extends not only to timely and appropriate health care but also to those factors that determine good health including access to safe drinking water and adequate sanitation, a sufficient supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information. In 2002, the Committee further recognised that access to water itself was an independent right. Drawing on a range of international treaties and declarations, it stated that “[...] the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival.”¹⁶

As the overview of the present edicts indicates, the right to water does exist as a right to the most essential element of life. But a separate and clearly-stated right to water has not been incorporated in international law nor recognised as a fundamental human right so far. Rather, a right to water is interpreted as being an implicit component of either existing fundamental human rights or is expressly included in non-binding documents that are designed to achieve specific ends.¹⁷ It has been argued in many documents that recognising a human right to water constitutes an important step towards making access to potable water and safe sanitation a reality for all. Enforcing that right means that fresh water is a legal entitlement, rather than a commodity or service provided on a charitable basis and that the means and mechanisms available in the United Nations human rights system will be used to monitor the progress of States Parties in realising the right to water and to hold governments accountable.¹⁸ But this is only the case if the alleged right is normatively backed (meaning that it is understood as an inalienable moral right), and if the notoriously unclear normative issues are resolved. On the one hand, the bearer of the right’s corresponding obligation has to be identified. As said above, governments hold the primary responsibility for ensuring the realisation of human rights within their borders. But if governments cannot or do not meet their citizens’ rights, the respective obligations seem to pass over to someone else within the international community. But who exactly bears, then, the counterpart obligations of the alleged right to water? On the other hand, the right’s content has to be clarified: To what does a moral right to water entitle one? To drinking water only, or also to productive water?

¹⁵ Committee on Economic Social and Cultural Rights 1966.

¹⁶ Committee on Economic Social and Cultural Rights 2002.

¹⁷ See Gleick 1999 and Scanlon et al. 2004.

¹⁸ See Office of the United Nations High Commissioner for Human Rights (OHCHR) 2006.

I will address these normative questions in the next section. Before that, let us turn to the question of the content of the legal right to water (or the suggestion of it).

So far, it has remained ambiguous both in the United Nations' recommendation of November 2002 and in the subsequent international debate whether the content of the right to access to water is limited to drinking water and related needs to secure environmental sanitation or whether it also includes access to productive water. Article 2 of the General Comment 15 interprets the right to water as a right to "sufficient¹⁹, safe, acceptable²⁰, physically accessible²¹ and affordable²² water for personal and domestic use. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease, to provide for consumption, cooking, personal and domestic hygienic requirements."²³ Article 2 focuses, thus, on drinking water and secure sanitation alone. But Article 7 of the Comment says that "[...] sustainable access to water resources for agriculture to realise the right to adequate food [...]"²⁴ should be observed, meaning that there is also a right to productive water, which significantly contributes to income-generation and makes livelihoods sustainable for poor people living in the rural areas of many developing countries.

If a human right to water is thought of as a right to drinking water and sanitation only, it might be regarded as a fundamental human right guaranteeing basic conditions for mere survival and as already included in article 25.1 of the UDHR. But if this right entitles to access to productive water, it verges on a much broader concept of social and economic rights. There are, however, ongoing controversies about the normative foundation of these rights pointing at, for example, the dubious concept of the bearers of responsibility in the

¹⁹ How much water a person needs for drinking and food preparation varies considerably, according to diet, climate and the work they do. Yet those with least access to water supply tend to live in warm climates and engage in at least moderately strenuous work. The minimum amount of water needed for drinking ranges from about 2 litres in temperate climates to about 4.5 litres per day for people in hot climates who have to carry out manual work (see Howard/Bartram 2003). Pregnant women and breastfeeding mothers need more water. In addition, most people need at least 2 litres of safe water per capita per day for food preparation and some more water for hygiene purposes (personal hygiene, laundry, cleaning).

²⁰ According to the Comment, *safe* and *acceptable* mean that drinking water must be free from microbes and parasites, and chemical, physical and radiological hazards that constitute a threat to a person's health, and that it must be of tolerable colour and odour.

²¹ Everyone must have safe and easy access to adequate facilities and services in order that clean drinking water is secured and useable. Accessible drinking water can also help to avoid potentially risky methods of water storage and gathering (for example Dengue fever outbreaks in India).

²² Ensuring the affordability of water requires that services match what people can pay. This is not simply a matter of the total cost of water. Many people earn money on an irregular basis, which inhibits them from entering into long-term regular financial commitments that might be cheaper in the long run. Matching services with people's ability and willingness to pay implies the need for a 'demand driven' approach. It may be necessary to offer a range of levels of service and technologies, with the potential for progressive upgrading. Cf. also WHO 2003, 16.

²³ Committee on Economic Social and Cultural Rights 2002, Art. 2.

²⁴ Committee on Economic Social and Cultural Rights 2002, Art. 7.

case of collectives or at the merely progressive realisation of the economic and social rights demanded by the ICESCR. I will now turn to these controversies.

2 THE HUMAN RIGHT TO WATER FROM A MORAL POINT OF VIEW

Deciding which norms should be counted as human rights is a matter of difficulty, and there is continuing pressure to expand the list of human rights to include new areas. Many political movements would like to see their main concerns categorised as matters of human rights, since this would publicise, promote, and legitimate their concerns at the international level. An example might be the minorities' call for cultural rights.

This trend to 'rights-talk' currently dominates not only international law and politics, but also political ethics and moral philosophy. Of course, there are many benefits to this trend: the talk about rights suggests, for example, that something is important, deserving priority in reasoning and action. However, the rights' meaning and value can be undermined when almost every personal and political demand is couched as a right. Moreover, the widespread rights-talk often obscures the need to specify who bears the counterpart obligations to deliver on those rights.²⁵ But unless we can identify the correlative obligations and the responsible agents, these rights may amount to little more than useless words – a dramatic result for moral theory and practice leading to a 'human rights inflation' caused by producing too much bad human rights currency.²⁶ Of course, there may be pragmatic or rhetoric reasons for expressing some very urgent needs as rights. Whether this 'rights-talk' is more conducive to poverty alleviation than a more goal- or need-oriented discourse is a matter of political affairs and diplomacy and cannot be discussed here.²⁷ The philosophical question merely pertains to the normative foundation and justification of the asserted rights: are they justifiable as moral human rights, as part of a (yet to be defined) certain minimum standard that all human beings – simply because they are human beings – are entitled to? And if so, who bears the responsibility of their realisation? If the human right to water should amount to more than political rhetoric, we must tackle these questions and investigate whether the right to water counts as a moral right or not.

One could argue, however, that this investigation is misleading: Because human rights are not (and have never been) rights in a strict (moral) sense, but rather in a fairly loose one, the human rights movement and its purposes are not well served by being forced into a narrow ethical framework, nor will a normative investigation conduce to strengthening the alleged rights. According to some commentators, the most basic idea of the human rights movement is not that of a right but the idea of regulating the behaviour of governments through

²⁵ See Kuper 2005, ix.

²⁶ See eg. Orend 2001 and Griffin 2001.

²⁷ Des Gasper brought to my notice that various authors have argued that human rights discourse is, in large part, grounded in basic needs discourse. See for example Johan Galtung's *Human Rights in Another Key* (Galtung 1994) or Des Gasper's "Needs and Human Rights" (Gasper 2005). This shows that we cannot settle for human rights without thinking of their normative foundation like, for example, evaluative concepts of basic needs or capabilities. See also Shue 1996.

international norms. When we look at human rights documents we find indeed that they use a variety of normative concepts which are not reducible to rights alone. Sometimes these documents issue prohibitions, as when the UDHR says that “[n]o one shall be subjected to arbitrary arrest, detention, or exile [...]” (Article 9), at other times they express general principles, as illustrated by the UDHR's declaration that “[a]ll are equal before the law [...]” (Article 7), and at still other times, the documents speak indeed of rights, as for example that “[e]veryone has the right to freedom of movement [...]” (Article 13.1). Instead of exploring whether a norm that is nominated for the status of human right really deserves the label of a moral right, it might be more appropriate to consider whether it is compatible with the general idea of human rights that we find in the multiple international human rights documents, e.g. whether it ensures that people can have minimally good lives, whether it has high priority, and whether it can be supported by strong reasons that make plausible its universality and high priority.²⁸

I do not think that the scepticism concerning an ethical investigation into the normative concept of a human right to water is justified. On the one hand, the above mentioned formulations can be restated in terms of rights (and, in fact, this has been done consistently). On the other hand, a moral justification of a certain human right may very well serve the purpose of allocating responsibilities and of strengthening and adjusting international law – an opportunity which finds more and more interest with international organisations and which should not be underestimated.²⁹

So let us turn to the question of whether a human right to water is justifiable as a moral human right. The answer depends obviously on the conceptual framework for human rights in general and the grounds for their normative justification. Whereas it is broadly accepted that human rights should guarantee all human beings' liberty, for example, by shielding them from torture, prosecution or discrimination, it is still controversial how economic and social rights or welfare rights are to be defined and justified. The human right to water clearly comes, if at all, under the welfare rights – rights that address matters such as education, food, and employment. The inclusion of welfare rights in the UDHR has been the source of much controversy. Originally, they were, for example, not included in the European Charter of Human Rights (ECHR), but put into a separate treaty (the European Social Charter).³⁰ When the United Nations began the process of putting the rights of the UDHR into international law, it followed the model of the European system: economic and social rights are governed in a treaty separate from the one dealing with civil and political rights.³¹ Thus, the assertion of a human right to water needs more explanation tying up with the different approaches to the justification of welfare rights.³² It has to be shown, first, that welfare rights – or at least

²⁸ See for a helpful discussion of different approaches Orend 2001.

²⁹ See e.g. Griffin 2000, 29 and Hinsch/Stepanians 2005, 297.

³⁰ See Beetham 1995.

³¹ Des Gasper pointed to me that some authors say that the United Nations began the process immediately after 1948 – before the European model existed – but got stuck for 15 years because of Cold War disagreements.

³² Such approaches are discussed, for example, in Gosepath/Lohmann 1998, Orend 2001; the legal and historical background is elaborated for example in Tomuschat 2003.

some minimal core version of them – can be justified successfully, that the arguments against them fail; and second, that the human right to water figures among this core group of welfare rights.

There are several objections against welfare rights. For lack of space, I will concentrate only on two of the main arguments here:³³ 1) Welfare rights do not serve truly fundamental interests; 2) welfare rights lack the counterpart obligations and are, therefore, no rights in *sensu stricto*.

Ad 1) The assertion that welfare rights do not serve fundamental human interests depends obviously on what is included in them. Admittedly, some formulations of welfare rights in international human rights documents go beyond what is necessary for a minimally good life. The problem is often exemplified by quoting Article 24 of the UDHR stating a right to holidays with pay. Such a right pertains indeed more to a good life, not to a minimally acceptable standard of life. But it is far from the case that all or most welfare rights regard dispensable interests. The importance of food, clothing, housing and other basic material conditions of life is, for example, easy to show. On the one hand, these goods are essential to people's ability to live or simply to survive. On the other hand, the most vital goods are relevant conditions to realise other (and less contentious) human rights. E.g. without basic education, people cannot enjoy their political right of democratic participation.³⁴

James Griffin has suggested that we should understand welfare rights exactly in this minimal sense, as “[...] protections of one’s human standing – one’s personhood, as one might put it.”³⁵ There are, however, two different ways of interpreting a personhood account of human rights. As Griffin says, one can see it as “[...] justifying liberty rights, but giving no support at all to welfare rights.”³⁶ If this interpretation holds, it seems that little would have been won in support of a human right to water. But as Griffin argues, rights are also protections of agency, because “I can be stopped from choosing and pursuing my conception of a good life

³³ A third argument against the interpretation of welfare rights as moral rights is the fact that the ICESCR opted for their *progressive implementation* and thereby treated these rights as being somewhat like goals. Goals, however, are not the same as rights. But on the one hand, it is possible to think of a minimal right-goal mixture including a duty to try to realise the goal as quickly as possible. The countries ratifying the ICESCR agree to make it a matter of government duty to realise the list of rights as soon as possible by taking “[...] steps, individually and through international assistance and co-operation [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the present Covenant [...]” (Committee on Economic Social and Cultural Rights 1966, Article 2) The signatories agree, on this interpretation, to make it a matter of *duty* to realise the listed rights as soon and as far as resources permit. On the other hand, a major reason for the progressive realisation is that many of the world's countries were poorly placed, in terms of economic, institutional, and human resources, to realise these standards fully or even largely. For many countries, non-compliance due to inability would have been certain if these standards had been treated as immediately binding. The reasons for a progressive implementation were, thus, pragmatic not ones of principle.

³⁴ A similar point is made by Shue 1996.

³⁵ Griffin 2000, 29.

³⁶ Griffin 2000, 29.

either by other persons' blocking me or by my suffering such deprivation that I cannot even rise to the level of agency. So I am inclined to describe the protection of agency as requiring, and human rights therefore as including, not only autonomy and liberty but also minimum material provision – that is, some sort of right to welfare.”³⁷ One could argue that this only shows that whereas autonomy and liberty are constituents of personhood, material provision is a necessary condition of it. But this is the same as saying that being alive is a necessary condition of personhood, of being autonomous and free.³⁸ Now, it is certainly true that liberty and the conditions to liberty are two separate things.³⁹ But note that liberty rights are defended by saying that autonomy should be protected. So if autonomy is not possible without these provisions, it is useless to promote those rights. Even those who only defend a minimal account of human rights have to vote for at least some provisions, potable water being clearly among them.

What about a right to productive water as suggested by the United Nations in the previously mentioned Comment 15⁴⁰? Productive water is essential, for example, for farming and for manufacturing services and is, thus, conducive to an increase of families' incomes by boosting crop production and the health of livestock. I doubt that a minimalist account of welfare rights as put forward above will allow for a right to productive water as well. Such a right pertains to a broader and more contested account of welfare rights making room for a right to an adequate standard of living, to work, to self-determination etc. Of course, this does not mean that more demanding concepts of welfare rights and a right to productive water respectively are not feasible. It means only that a right to access to productive water must be justified otherwise than by means of a minimalist account as put forward above.

I see two possibilities here: Either one defends a more substantial and broader account of welfare rights allowing for a human right to productive water; or one sees the lack of access to productive water as resulting from the violation of other fundamental rights such as either property rights or the most fundamental moral right not to be harmed unduly by third parties. It has been argued that defending a broader account of welfare rights amounts to the same as defending a substantial account of social distributive justice: that each member of a society should have access not only to the minimal provision with the necessities of life but also to an adequate standard of living, to education, paid work, equality of opportunity and political representation.⁴¹ Social justice, however, is thought by some to be confined in its original meaning to within a certain society. But as said above, human rights persist even if the government of a certain society does not fulfil them and the correlative duties fall then onto the global community. Claiming that the global community is ultimately responsible for the fulfilment of the welfare rights of all human beings, amounts then to the same as arguing for

³⁷ Griffin 2000, 29. Sometimes UDHR's article 3 “Everyone has the right to life [...]” is interpreted as granting already minimal means of subsistence, because if we accept the right to life, it seems natural, to include a right to basic material means (cf. Hirsch/Stepanians 2005, 297 and Rawls 1999, 65). However, others have still claimed that this article should merely be interpreted as a liberty right.

³⁸ See Griffin 2000, 31 and 40.

³⁹ See Berlin 1969, p. Iiii.

⁴⁰ See paragraph I above.

⁴¹ See Gosepath/Lohmann 1998, 15ff. and Shue 1996.

global social justice: guaranteeing every human being more than mere survival and some minimum decency but social justice in a broader sense. The idea of global social justice is, however, much contested. Among other things it is asked whether the domestic principles of social justice may be expanded all over the world, or whether we need other principles of justice for the global scope, and if so, which ones.⁴² I will come back to both possibilities in my last section.

Ad 2) The second objection to welfare rights says that welfare rights lack counterpart obligations and are, thus, under-determined and no moral rights in the proper sense. The 'classical' idea that all rights have to be closely associated with duties whose breach constitutes their violation is an attempt to confer a maximum of regulative force upon them.⁴³ Or, as said above: unless we can identify the correlative obligations, their content and the responsible agents, the alleged rights may amount to little. If we accept this view, we are committed to holding that there must be someone with a clear counterpart obligation to fulfil the human right to water. This gives rise to the allocation problem: Who has to deliver on this right?

Obviously, the allocation problem does not arise with liberty rights: all of us have a right not to be barred from pursuing our goals, and the correlative duty falls on every other individual or group. We must (prima facie) not harm others, and if we do, we owe these people compensation. Welfare rights, instead, involve obligations that are not only negative duties of non-interference but will often require positive measures from their addressees, which renders them less determinate and leaves open the question about who exactly is responsible for their fulfilment.

At least with regard to the legal human rights documents this problem seems, however, less intricate. A person's welfare rights impose obligations on the government of the country in which the person resides or is located. But this view stands in a certain tension with the assertion of human rights as moral rights, for moral rights are conceived as natural rights that are grounded in human agency, personhood or vulnerability in contrast to special rights grounded in special relationships or transactions and held, for example, only against one's government. The idea of human rights as natural rights does not, however, rule out the idea of cost minimisation via division of labour between governments, for example according to a global principle of subsidiarity.⁴⁴ It only excludes the idea that those rights are alienable⁴⁵ by governmental disrespect, meaning that they do not cease to exist if a government does not act upon them. But, unfortunately, it is everyday life that some governments don't have the means, the knowledge or the will to realise the rights they should. In many cities, the poorest residents live in shanty towns and slums, sometimes on the edge of the city. These settlements generally lie outside formal water and sanitation distribution networks. They are

⁴² See, for example, the debates in the volumes by Follesdal/Pogge 2005a, Miller/Hashmi 2001 and Pogge 2001 or the essays by Nagel 2005, Beitz 2005 and Miller 1999.

⁴³ See e.g. Hirsch/Stepanians 2005 or O'Neill 1986.

⁴⁴ Stefan Gosepath argues for a global principle of subsidiarity (in Gosepath 2005).

⁴⁵ Inalienability does not mean that rights are absolute or can never be overridden by other considerations.

often not recognised by the city authorities, who may not support extension of essential services, whether public or private, to these areas. Suppliers of services give a number of reasons for not supplying such areas – e.g. that residents cannot pay, that they do not have the documentation to prove that they are entitled to services, or that these communities are at risk of eviction. Note that this is not only a problem of developing countries; a lot of indigenous people in the industrialised world still are without safe water (e.g. some of the people living in the ‘First Nation’ reservations of Quebec province in Canada where 76 of these reservations are still under advice to boil drinking water and have to rely on bottled water for drinking, cooking and brushing their teeth⁴⁶). If human rights are to be justified as moral rights, international agencies and foreign governments have to serve as secondary or ‘backup’ addressees and have what Henry Shue calls ‘default duties’ of protection and aid if the rights to life, security and subsistence are to be sustained.⁴⁷ How can we make room for a fair allocation of the ‘default duties’ between different governments, non-state actors, companies and individuals?

Questions about a fair allocation of responsibilities may represent the most pressing and perhaps also the most intricate problems in a globalised world. Great efforts have been made within the last years towards devising comprehensive institutional frameworks for a fair and successful allocation of responsibilities. I will not recapitulate these findings here.⁴⁸ Rather, I would like, in Section 3, to have a look at another lately much discussed argument: As mentioned above, it seems to be somewhat a platitude that liberty rights or negative rights not to harm others do not face the difficulty of allocating the counterpart obligations. They are much less controversial than the positive welfare rights and they hold always for everyone. I will therefore examine whether lack of access to water can be deemed a violation of other more fundamental moral rights. If so, the argument solves two problems at once: It justifies a right not only to potable, but also to productive water, and it meets the allocation problem.

3 A RIGHT TO WATER AND THE MORAL RIGHT NOT TO BE UNDULY HARMED

The argument that we should not exclusively think of our obligations towards the poor in terms of fulfilling their positive rights but rather in terms of our not violating their negative right not to be unduly harmed has been defended most prominently by Thomas Pogge. According to him, the protection of human rights should rely on Article 28 of the UDHR, which states: “Everyone is entitled to a social and international order in which rights and freedoms set forth in this Declaration can be fully realised.”⁴⁹ The realisation of human rights must, then, be understood as part of a just global order prohibiting exploitive contracts and unfair market mechanisms hindering the governments of developing countries from the

⁴⁶ See the article “Water still a problem on 76 reserves”, CBC News, last updated on 20 Feb 2006, <http://www.safewater.org/>.

⁴⁷ See Henry Shue 1996, 170ff.

⁴⁸ See e.g. the lately issued volumes by Chatterjee 2004, Kuper 2005, Barry/Pogge 2005 and Follesdal/Pogge 2005b.

⁴⁹ See Pogge 2002 and Pogge 2004.

realisation of the welfare rights. The current global order allows developed countries, for example, to confer upon corrupt elites and undemocratic rulers the privileges freely to dispose of the country's natural resources (in Pogge's terminology the 'international resource privilege') and, secondly, freely to borrow in the country's name and therefore commit the country to repay, regardless of who has received the funds and how they have been use ('international borrowing privilege').⁵⁰ According to Pogge, the global order impoverishes the already poor even more by preventing the governments of developing countries from rehabilitating the finances and fulfilling the welfare rights of their citizens.

Much ink has been spilled discussing this argument, and I will focus instead on its relevance for access to safe water. Could lack of access to water be interpreted as resulting from an unjust global order making it impossible for developing countries to realise the rights of their citizens? Even if Pogge is right in saying that international law allows the rich countries to profit from the impoverishment of the weakest, governments in developing countries often do not pay enough attention to ensure access to safe water and sanitation for the whole population and set other priorities. The Human Development Report 2006 states: "[F]ew countries treat water and sanitation as a political priority, as witnessed by limited budget allocations."⁵¹ In Ethiopia the military budget is 10 times the water and sanitation budget, in Pakistan 47 times.⁵² However, this does not mean that the industrialized world does not play a role in the water crises we face today. As I will show in the following, lack of access to safe water (potable water as well as productive water) must be interpreted, at least in some cases, as a direct or indirect violation of those people's liberty rights and property rights. The global order – and the rich and powerful countries sustaining it and profiting from it⁵³ – might be responsible for this deprivation insofar as the order does not call to account those who violate the poor people's rights.

Reality proves always to be much more complex when dealing with concrete examples. Issues within the realm of 'real world justice' should therefore be addressed in an interdisciplinary and intercultural manner. In this theoretical paper, my task can only be to address some critical questions from an ethical perspective, and I will content myself with giving some examples from two vital issues, namely water privatisation and environmental issues.

⁵⁰ See Pogge 2002 and Pogge 2004.

⁵¹ See UNDP 2000, V.

⁵² See UNDP 2000, 8f.

⁵³ It is to my view an open question in what respect profiting from harm is morally wrong and to what extent it calls for compensation. Thomas Pogge has argued that the rich people in the western world have "a *negative* duty not to uphold injustice, not to contribute to or profit from the unjust impoverishment of others." (Pogge 2002, 197; see also p. 21, 66f, 172 and Pogge 2004, 273) How do these forms of causal involvements hang together and how should we evaluate them? I have said more about that in a forthcoming article ("Beitragen und Profitieren. Ungerechte Weltordnung und kausale Verstrickung", together with Norbert Anwander in *Weltarmut und Ethik*, Paderborn, Mentis, 2007).

a) Water privatisation and the involvement of foreign water companies

The involvement of the private sector in water delivery has accelerated over the past decade. Private sector involvement has extended beyond selling water from trucks and supply of infrastructure to the full operation and management of water delivery systems.⁵⁴ The roles of public and private providers have been a source of much heat in public debate. According to the Human Development Report 2006, this debate “has been curiously out of step with reality. While the number of people served by private water companies has grown – from about 51 million in 1990 to nearly 300 million in 2002 – public water companies account for more than 70% of total investment globally, and fewer than 3% of people in developing countries receive water or sanitation services that are fully or partially private.”⁵⁵ Although private provision did not turn out to be the “magic bullet solution”⁵⁶, privatisation of water services is still promoted by the International Monetary Fund (IMF) and World Bank.

I cannot discuss here the pros and cons of privatisation in the water sector in general. Rather, I am interested in the possible involvement of foreign water companies and in the claim that the global order harms the poor. Under GATS rules (GATS stands for ‘General Agreement on Trade in Services’, is part of the WTO treaties, and aims to promote international trade in services and to remove barriers to such trade), a government cannot give better treatment to local service companies than to foreign service companies (e.g. Suez and Vivendi) in the area it has listed in the agreement.⁵⁷ As a result, water privatisation in developing countries generally has been led by foreign multinational companies who are believed to provide services more efficaciously, cheaper and technically more reliably.⁵⁸ But just as vulnerable to corruption as state companies and operating according to a profit-driven corporate agenda potentially incompatible with delivering an essential service, private water companies have in practice often failed in providing citizens with safe, affordable water. Although a privatised water industry could lead to increased technical efficiency, it needs effective regulation. While governments under international human rights law may permit private sector involvement, their own responsibilities remain the same. Steps must be taken to ensure that the sufficiency, safety, affordability and accessibility of water are protected as well as ensuring that everyone will enjoy the right in the shortest possible time. To act upon these responsibilities, one option might be so called public-private partnerships in which priority is given to the poor, through stable and transparent national regulatory frameworks respecting local conditions and involving all concerned stakeholders.⁵⁹ However,

⁵⁴ England and Wales have entirely privatised their water supply and sewerage systems. Bakker 2004 gives a review of the so-called ‘British Model’. For an examination of the interrelationship between urbanization and water supply privatization in cities in the global South, see also Bakker 2003.

⁵⁵ UNDP 2000, 89. See also the study by Gary Wolff and Eric Hallstein (Wolff 2001). The full report is available on http://www.pacinst.org/reports/beyond_privatization/Beyond_Privatization.pdf.

⁵⁶ UNDP 2000, 77.

⁵⁷ For an overview of the impact of the GATS rules on poor people's right to water and national governments' ability to safeguard the interests of poor people through regulations, see e.g. Mehta/la Cour Madsen 2005.

⁵⁸ See Razzaque 2004.

⁵⁹ See Balanyá et al. 2005.

municipalities in developing countries often do not dispose of either the know-how or the will to supervise the foreign companies. And the companies, in turn, profit from weak laws and the powerlessness of the poor countries that depend heavily on the investment of the private sector. Water prices rise without consultation with the public, there is no monitoring whether the service provided was satisfactory and the poorest citizens living in the countryside are often not served at all. The opponents of water privatisation therefore point to recent empirical evidence which show how foreign water privatisation in developing countries has frequently had severely deleterious consequences in terms of water distribution for the poor who are unable to pay for the amount of water needed.⁶⁰

While in most countries of the world no foreign companies are currently involved in public-private partnerships in the water sector, there is continuing pressure from the WTO, the IMF and the World Bank to open the water markets to foreign companies and problems could increase. From a moral point of view, the global community has to work for better international regulations preventing foreign companies from exploitative business strategies and for an alignment of the GATS regime allowing for a fair competition and the participation of local companies.

b) Environmental issues

A lot of water problems are related to its accessibility and quality and not to its relative abundance.⁶¹ Serious problems might arise for example because of the construction of dams (e.g. Narmada Valley in India), soil waterlogging and salinisation caused by excessive surface water irrigation or surface water diversions (e.g. Aral Sea).⁶² Unsafe water may contain toxic chemicals from natural sources as well as from pollution. Some naturally occurring toxic chemicals such as arsenic and fluoride affect many people (e.g., in much of Bangladesh people are exposed to arsenic through their drinking water). This calls for positive action fulfilling at least their welfare right to safe potable water. But there are many more man-made disasters than natural disasters. Pollution from factories, farming or sewage can for example greatly damage the quality of water used for drinking. Access to safe water is threatened by deforestation and by exposures to toxic chemicals, hazardous wastes and contamination destroying also fishing resources and poisoning irrigation water. One of the most damaging sectors is the garment industry. Dyestuff and bleaching agents flow unfiltered in the local rivers polluting the most precious resources of the population.⁶³ Whereas the wealthier can afford purchasable purified water, the peasants and slum dwellers are left with unsafe water and may become even more impoverished. Those who pollute the

⁶⁰ See Hall 2002. One of the most famous cases is the water war in Cochabamba, Bolivia. See e.g. the report on the International Water and Sanitation Centre (IRC), <http://www.irc.nl/page/2082>. For further examples see UNDP 2000 and the article by UNDP “Cruel irony: water costs the most for those who can least afford it” on http://hdr.undp.org/hdr2006/press_kit.cfm.

⁶¹ See Llamas 2004, 6.

⁶² See Llamas 2004, 18.

⁶³ In Tiruppur, India, dyestuff and bleaching agents nearly destroyed the local river Noyyal. See e.g. Bühler/Fuchs 2002, 105ff. and Jacob/Azariah 1998.

natural environment are not just destroying nature, but clearly violating the most fundamental right not to be unduly harmed.

Such environmentally abusive practices of national and transnational corporations (TNCs) have caused devastation of the natural resources of people around the world in the last decades. So far, the attempts to regulate TNC behaviour have failed. In 1993, the United Nations gave up the effort to establish a code for TNCs when it became obvious that compromise was nearly impossible.⁶⁴ The international initiative Agenda 21 attempted to encourage TNCs “[...] to introduce policies demonstrating the commitment [...] to adopt standards of operation equivalent to or not less stringent than those existing in the country of origin.”⁶⁵ This represents progress since ninety percent of the world's TNCs originate from developed countries with more stringent environmental regulation. However, it is a non-binding instrument. The lately issued United Nations “Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”,⁶⁶ raise hope that a binding instrument allowing for taking legal actions against corporations who destroy natural resources will be found one day. Despite the unlikelihood that a legal instrument to award damages against TNCs will soon be established, the international community – when formulating a human right to water – must above all consider the creation of duties with regards to the private sector not to destroy the natural resources of less powerful people.⁶⁷

To sum up, transnational corporations play sometimes indeed a harmful role with regard to safeguarding access to safe water for the global poor. We – the citizens of the industrialised world – have to work for global rules prohibiting the exploitation and pollution of natural resources in foreign countries and impeding harmful forms of water privatisation.⁶⁸ Fulfilling the human right to water is not only about ‘helping’ the poor, but also about not hindering them from freely enjoying their right to dispose of their natural resources. However, the global water crisis cannot be reduced to harmful forms of globalisation. There is, thus, need for positive efforts to be made by the wealthy countries and citizens to invest know-how and financial means to overcome the crisis.

NGOs, governmental development agencies and the United Nations have persistently pointed to water as a ‘common good’, a ‘common property’ or a ‘common heritage of mankind’, alluding to the idea, that the water resources belong to all. Sometimes it is argued that water as a common good cannot be reduced to a commodity nor become a property of private, commercially-oriented interests. Water is indeed different from other tradable goods in so far as its resources are finite. This, however, does not stand against the general idea of

⁶⁴ See Scanlon et al. 2004, 31.

⁶⁵ Agenda 21 1992.

⁶⁶ The draft norms can be found e.g. at <http://www1.umn.edu/humanrts/links/NormsApril2003.html>. They are not legally binding yet, and there are strong resistances on the side of the corporations against their enforcement.

⁶⁷ Scanlon et al. 2004, 30f.

⁶⁸ This is not to say that there are no positive examples of transnational corporations involved in water privatisation or industries.

trading purified potable water. Oil is a finite resource as well, and nothing stands against the idea that the consumer should pay for the processed resource. Nor does the idea that we vitally need water exclude its commodification: we also need food, and it has become quite natural for us to pay for it. One may argue, that most food has to be prepared, but the same holds true with drinking water which has to be purified before consumption.⁶⁹ From an ethical point of view it is, thus, unclear who owns the water resources and thus, has the right to use them, to sell them to companies or also to pollute them. But instead of dealing with the notoriously unclear concepts of ‘common goods’ or ‘heritage of mankind’, I deem it more promising to elaborate on the concept of property rights and ownership.⁷⁰ Admittedly, in ethical theory questions about the system of ownership are said to be only secondary or derivative questions following from theories of justice. Property is, thus, understood as the product of social rules, and normative thinking about the former must be preceded by normative thinking about the latter.⁷¹ I said in section 2 that there are ongoing debates concerning the justification and the principles of global justice. The discourse about water rights shows that theories of global justice need above all to incorporate approaches of a fair distribution of access to scarce natural resources which are indispensable to life and to poverty reduction.⁷² There is, thus, need to elaborate on the concept of justified ownership (linked with legitimate rights to trade and sale). Such a concept could for example call for democratic management of the resources at stake involving all relevant stakeholders of a society. Special attention has to be paid also to rights of vulnerable groups such as women, elderly persons, children and indigenous people.⁷³

4 CONCLUSION

“Make water a human right – and mean it!” is one of the slogans of the 2006 Human Development Report dedicated to the global water crisis. I have tried to give some answers to what it probably could and should mean to understand a right to water as a human right from an ethical perspective and what the implications of such an understanding are. The aim was to analyse the normative foundations of a human right to water and try to give an overview of some of the most pressing and intricate ethical questions regarding a rights-based approach to access to water.

I have argued that a human right to drinking water is justifiable as a moral right. Even the most minimalist accounts of human rights include some (even if only a few) positive welfare rights, water being clearly among them. No coherent (let alone acceptable) moral theory may

⁶⁹ In many cases this is even true for irrigation water: Polluted irrigation water may poison the plants which in turn may poison the cattle eating these plants.

⁷⁰ The legal human right to property is stated, for example, in Article 17 of the UDHR: “1. Everyone has the right to own property alone as well as in association with others. 2. No one shall be arbitrarily deprived of his property.”

⁷¹ See De Soto/Cheneval 2006.

⁷² See Boudreaux 2006.

⁷³ UNDP persistently points to the fact that indigenous people are amongst the most vulnerable groups within the global water crisis. See UNDP 2000 and also UNESCO 2006.

do without positive rights (e.g. the costs of liberty include also the costs of law and criminal justice; political participation presupposes some basic education; the freedom to live one's life autonomously requires basic health care, etc.). A minimalist account, however, faces two problems with regard to water rights: on the one hand it only allows for a provision with potable water (on not for irrigation water), on the other hand it is unclear who is responsible for fulfilling the right to water of those living in countries where the governments cannot or do not act upon their citizens' rights. A negative duties-account arguing that the developed world does not (only) fail to help the poor, but above all hinders them from enjoying their welfare rights because we contribute to and profit from an unjust world order, could solve the latter and maybe even the former problem. I have claimed that there are indeed cases where transnational corporations harm the poor by polluting their water resources or by sustaining or initiating harmful forms of privatisation. However, the water crisis cannot be solely traced back to a problem of harmful forms of globalisation alone – and yet the crisis will not be overcome without positive efforts from the developed countries to make safe water for all a reality.

The debate on water scarcity shows that access to water pervades all aspects of human development and poverty alleviation. The costs of deprivation in water and sanitation include 4'900 child deaths each day and lifecycles of disadvantage affecting millions of people, with illness and lost educational opportunities in childhood leading to poverty in adulthood.⁷⁴ Accounts of global justice therefore have (among other things) to incorporate theories of fair distribution of natural resources and special attention has to be paid to water. I have suggested that theories of justified ownership and property rights require further attention here. There is also need to further elaborate on the question of a fair allocation of responsibilities to act upon the demand of global justice. In light of the fact that the global water crisis is not about absolute shortages of physical supply, but that the roots of the crises can be traced back to poverty, flawed water management and unequal power relationships, the good news is that the crises can be overcome. Hopefully we will not content ourselves with the bad news that we have not yet agreed upon what it means to share the responsibilities in a fair manner to tackle the problem successfully.

REFERENCES

Agenda 21 (1992),
<http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21toc.htm>.

Aureli A. and Brelet C. (2004), *Water and Ethics. Women and water: An ethical issue*, Paris: UNESCO.

⁷⁴ See UNDP 2000, 6.

Bakker K. (2003), "Archipelagos and networks: urbanization and water privatization in the South", *The Geographical Journal*, 169 (4), 328–341.

Bakker K. (2004), *An uncooperative commodity: Privatizing water in England and Wales*, Oxford: Oxford University Press.

Balanyá B. and Brennan B. and Hoedeman O. and Kishimoto S. and Terhorst P. (eds.) (2005): *Reclaiming public water: achievements, struggles and visions from around the world*: Transnational Institute and Corporate Europe Observatory.

Barry C. and Pogge T.W. (eds.) (2005): *Global Institutions and Responsibilities. Achieving Global Justice*, Oxford: Blackwell.

Beetham D. (1995), "What Future for Economic and Social Rights?" *Political Studies*, 43, 41-60.

Beitz C.R. (2005), "Cosmopolitanism and Global Justice", *The Journal of Ethics*, 9 (1-2), 11-27.

Berlin I. (1969), *Four Essays on Liberty*, Oxford: Oxford University Press.

Boudreaux K. (2006), "Property Rights and Resource Conflict in the Sudan", In: H. De Soto and Cheneval F. (eds.), *Realizing Property Rights*, 68-73, Zürich: Rüffer&Rub.

Brewster M.M. and Herrmann T.M. and Bleisch B. and Pearl R. (2006), "A Gender Perspective on Water Resources and Sanitation", *Wagadu*, 3.

Bühler M. and Fuchs E. (2002), *Mode, Marken, Märkte*, Bern: Hep-Verlag.

Chatterjee D.K. (ed.) (2004): *The Ethics of Assistance. Morality and the Distant Needy*, Cambridge: Cambridge University Press.

Committee on Economic Social and Cultural Rights (1966), *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, http://www.unhchr.ch/html/menu3/b/a_ceschr.htm.

Committee on Economic Social and Cultural Rights (2002), *General Comment No. 15. The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*, www.cohre.org/water.

- De Soto H. and Cheneval F. (eds.) (2006): *Realizing Property Rights*, Zürich: Rüffer&Rub.
- Evans M. and Murray R. (2002), *The African Charter on Human and People's Rights*, Cambridge: Cambridge University Press.
- Follesdal A. and Pogge T. (eds.) (2005a): *Real World Justice. Grounds, Principles, Human Rights, and Social Institutions*, Dordrecht: Springer.
- Follesdal A. and Pogge T.W. (eds.) (2005b): *Real World Justice. Grounds, Principles, Human Rights, and Social institutions*, Dordrecht: Springer.
- Galtung J. (1994), *Human Rights in Another Key*, Oxford: Polity.
- Gasper D. (2005), "Needs and Human Rights", In: R. Smith and Van den Anker C. (eds.), *The Essentials of Human Rights*, 269-272, London: Hodder and Stoughton.
- Gleick P.H. (1999), "The Human Right to Water", *Water Policy*, 1 (5), 487-503.
- Gosepath S. (2005), "The Principle of Subsidiarity", In: A. Follesdal and Pogge T. (eds.), *Real World Justice. Grounds, Principles, Human Rights, and Social Institutions*, 157-170, Dordrecht: Springer.
- Gosepath S. and Lohmann G. (eds.) (1998): *Die Philosophie der Menschenrechte*, Frankfurt a.M.: Suhrkamp.
- Griffin J. (2000), "Welfare Rights", *The Journal of Ethics*, 4, 27-43.
- Griffin J. (2001), "First Steps in an Account of Human Rights", *European Journal of Philosophy* 9,306-327.
- Hall D. (2002), *Water in Public Hands*, London: PSIRU.
- Hinsch W. and Stepanians M. (2005), "Severe poverty as a human rights violation – weak and strong", In: T. Pogge (ed.), *Real World Justice: Grounds, Principles, Human Rights, and Social Institutions*, 295-315, Dordrecht: Kluwer Academic Publishers.
- Howard G. and Bartram J. (2003), *Domestic water quantity, service level and health*, Geneva: World Health Organization.

- Jacob T.C. and Azariah J. (1998), "Environmental and Ethical Cost of T-Shirts, Tiruppur, South India", In: N. Fujiki and Mauer D.R. (eds.), *Bioethics in Asia: Proceedings of the UNESCO Asian Bioethics Conference 1997*, 191-195, Christchurch, NZ: Eubios Ethics Institute.
- Kuper A. (ed.) (2005): *Global Responsibilities. Who Must Deliver on Human Rights?*, New York/London: Routledge.
- Llamas R. (2004), *Water and Ethics. Use of Groundwater*, Paris: UNESCO.
- Mehta L. and la Cour Madsen B. (2005), "Is the WTO after your water? The General Agreement on Trade in Services (GATS) and poor people's right to water", *Natural Resources Forum*, 29 (2), 154–164.
- Miller D. (1999), "Justice and Global Inequality", In: A. Hurrell and Woods N. (eds.), *Inequality, Globalization and World Politics*, 187-210, Oxford: Oxford University Press.
- Miller D. (2005), "Reasonable Partiality towards Compatriots", *Ethical Theory and Moral Practice*, 8, 63-81.
- Miller D. and Hashmi S.H. (eds.) (2001): *Boundaries and Justice. Diverse ethical Perspectives*, Princeton: Princeton University Press.
- Nagel T. (2005), "The Problem of Global Justice", *Philosophy & Public Affairs*, 33 (3), 113-147.
- O'Neill O. (1986), *Faces of Hunger: An Essay on Poverty, Development, and Justice*, London: George Allen & Unwin.
- Office of the United Nations High Commissioner for Human Rights (OHCHR) (2006), *Rights-based approaches. What is a rights-based approach to development?*, <http://www.unhchr.ch/development/approaches-04.html>.
- Orend B. (2001), "Justice after War", *Ethics and International Affairs*, 16 (1), 40-56.
- Pogge T. (2002), *World Poverty and Human Rights*, Cambridge: Polity Press.
- Pogge T. (2004), "'Assisting' the global poor", In: D.K. Chatterjee (ed.), *The ethics of assistance: morality and the distant needy*, 260-288, Cambridge: Cambridge University Press.

- Pogge T. (ed.) (2001): *Global Justice*, Oxford: Blackwell.
- Rawls J. (1999), *The Law of Peoples*, Cambridge MA.: Harvard University Press.
- Razzaque J. (2004), "Trading Water: The Human Factor", *Reciel*, 1.
- Scanlon J. and Cassar A. and Nemes N. (2004), *Water as a Human Right? IUCN Environmental and Law Paper No. 51*, Gland/Cambridge: IUCN Publications Services Unit.
- Shue H. (1996), *Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy*, Princeton: Princeton University Press.
- Tomuschat C. (2003), *Human Rights. Between Idealism and Realism*, New York: Oxford University Press.
- UNDP U.N.D.P. (2000), *Human Development Report*, Oxford: Oxford University Press.
- UNESCO (ed.) (2006): *Water and Indigenous Peoples*, Paris: UNESCO.
- UNO (1948), *Universal Declaration of Human Rights*, <http://www.unhchr.ch/udhr/lang/eng.htm>.
- WHO (2003), *The Right to Water*, France: WHO Library.
- WHO and UNICEF (2000), *Joint Monitoring Programme on Water Supply and Sanitation. Assesment 2000 Report*.
- Wolff J. (2001), "Economic competition: should we care about the losers?" In: H. LaFollette (ed.), *Ethics in Practice. 2nd edition*, Oxford: Blackwell.