

The Case of Water Privatization in Bolivia: Substantive Justice and the Right to Water as a Human Right

El Caso de la Privatización del Agua en Bolivia: Justicia Sustantiva y Derecho al Agua como Derecho Humano

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ABSTRACT

This article analyzes the conflict over water privatization in Cochabamba, Bolivia—known as the 2000 "Water War"—as a key case to examine the tension between substantive justice and neoliberal models of resource management. From a human rights perspective, the paper argues that access to water must be viewed not merely as an economic commodity but as a fundamental right, whose effective guarantee is essential to substantive justice. The article explores the social, economic, and political consequences of granting control of the water system to a transnational corporation, and the resulting mass mobilization that ultimately led to the reversal of privatization. The analysis reveals that the market-driven logic excluded vulnerable populations and deepened structural inequalities. It concludes by

proposing a democratic water governance model based on citizen participation, environmental sustainability, and social justice, as essential components to securing the human right to water through a substantive justice lens.

Keywords *substantive justice, water privatization, Bolivia, human right to water, democratic governance*

RESUMEN

Este artículo analiza el conflicto por la privatización del agua en Cochabamba, Bolivia (conocido como la "Guerra del Agua" de 2000), como caso emblemático para examinar la tensión entre justicia sustantiva y modelos neoliberales de gestión de recursos. A partir de un enfoque de derechos humanos, se argumenta que el acceso al agua debe considerarse no solo como un bien económico, sino como un derecho fundamental cuya garantía efectiva es condición para una justicia sustantiva. Se estudian las consecuencias sociales, económicas y políticas de la concesión del servicio a una empresa transnacional, así como las respuestas de la población, que dieron lugar a una movilización masiva y a la posterior reversión del proceso. El análisis evidencia que la lógica mercantilista excluyó a sectores vulnerables, profundizando desigualdades estructurales. El artículo concluye proponiendo un marco de gobernanza democrática del agua basado en la participación ciudadana, la sostenibilidad ambiental y la justicia social, como vías para asegurar el derecho humano al agua desde una perspectiva sustantiva.

Palabras clave *Justicia sustantiva, privatización del agua, Bolivia, derecho humano al agua, gobernanza democrática*

A. Introduction

Water is a vital natural resource and an essential prerequisite for human life, public health, and socio-economic development. Beyond its biological necessity, access to water is deeply intertwined with issues of dignity, citizenship, and social justice. Recognizing its fundamental importance, international institutions have increasingly framed access to safe and sufficient water as a basic human right rather than a discretionary service (Gleick, 1996; United Nations, 2010). Nevertheless, the distribution and governance of water resources remain profoundly unequal, particularly in the Global South, where structural inequalities often limit access for vulnerable populations.

These inequalities have been exacerbated by global economic transformations associated with neoliberalism and market-oriented reforms. Since the late twentieth century, many states have adopted

policies promoting the privatization of public utilities, including water services, under the assumption that private sector participation enhances efficiency and financial sustainability (Bakker, 2010). However, empirical evidence suggests that such reforms frequently prioritize profitability over equity, resulting in higher costs, reduced access, and increased social exclusion for low-income communities (Barlow & Clarke, 2002).

The commodification of water has therefore emerged as a central source of social conflict. As water is redefined from a common good to an economic commodity, struggles over control, pricing, and access intensify, often giving rise to collective resistance and political mobilization (Swyngedouw, 2009). These conflicts reveal the inherently political nature of water governance and challenge technocratic approaches that frame water management as a purely administrative or economic issue.

Within this global context, Bolivia represents a particularly salient case. The country's history of colonial extraction, deep social inequalities, and dependence on natural resources has made it especially vulnerable to the social consequences of neoliberal reforms. During the 1990s, Bolivia became a testing ground for structural adjustment policies promoted by international financial institutions, including the privatization of key public services such as water (Perreault, 2006). These reforms laid the groundwork for widespread public discontent and social unrest.

The Cochabamba Water War of 2000 stands out as a defining moment in this trajectory. Following the privatization of the city's water system and the subsequent increase in tariffs, diverse social groups mobilized to oppose the concession granted to a multinational consortium. The protests, which escalated into nationwide attention, ultimately forced the government to reverse the privatization decision (Veltmeyer & Petras, 2005). This episode has since become emblematic of popular resistance to neoliberal water governance.

Cochabamba is widely regarded as a paradigmatic case because it demonstrates how local struggles over water can resonate globally, influencing academic debates and policy discussions alike. The conflict exposed the limitations of market-based water management and highlighted the capacity of grassroots movements to challenge dominant development paradigms (Holston, 2009). Moreover, it reframed water governance as a matter of democratic participation and social rights rather than solely economic efficiency.

Despite extensive scholarly attention, critical questions remain unresolved. In particular, there is ongoing debate about how water privatization affects substantive justice and the fulfillment of basic

needs. While some argue that private involvement can coexist with social protections, others contend that neoliberal resource management is fundamentally incompatible with a human rights-based approach to water (Bakker, 2010; Swyngedouw, 2009). These tensions underscore the need for closer empirical and theoretical examination.

Accordingly, this study seeks to address three interrelated questions: how does water privatization affect substantive justice and access to basic needs; can neoliberal models of resource management coexist with a human rights framework; and what lessons does the Bolivian experience offer for democratic water governance? By analyzing the Cochabamba Water War within broader global debates, this research aims to contribute to a deeper understanding of equitable and democratic alternatives for water governance.

B. Theoretical Framework: Substantive Justice and the Human Right to Water

The analysis of water governance requires a theoretical framework capable of capturing not only legal entitlements but also the material conditions under which rights are exercised. This study draws on the concept of substantive justice, the human right to water as articulated in international human rights law, and critical perspectives on neoliberal resource governance. Together, these approaches provide an analytical lens for assessing how institutional arrangements shape access to essential resources and affect social equality.

1. Concept of Substantive Justice

Substantive justice refers to an understanding of justice that prioritizes actual outcomes and lived experiences rather than formal rules or procedural guarantees alone. In contrast to formal justice—which focuses on equality before the law and uniform application of norms—substantive justice examines whether individuals are genuinely able to enjoy their rights in practice (Rawls, 1971; Sen, 2009). This distinction is particularly relevant in contexts marked by structural inequality, where formal access may exist without meaningful realization.

Legal and political theorists have long emphasized that equal treatment under the law does not necessarily result in equitable outcomes. As Sen (2009) argues, justice must be evaluated in terms of people's real capabilities to lead lives they have reason to value. From this perspective, access to water cannot be assessed solely by the presence of legal frameworks or service providers, but must account for affordability, reliability, and social exclusion.

Substantive justice is therefore inherently inequality-sensitive. It recognizes that historically marginalized groups often require differentiated measures to overcome entrenched disadvantages (Fraser, 2008). Applied to water governance, this approach highlights how uniform pricing structures or market-based allocation mechanisms may disproportionately burden low-income households, rural populations, and informal settlements.

Furthermore, substantive justice is outcome-oriented rather than procedure-oriented. It asks whether governance arrangements produce fair and socially acceptable results, particularly with respect to the satisfaction of basic needs (Young, 2011). In the context of water privatization, this entails evaluating whether reforms improve or undermine equitable access, rather than merely whether they comply with contractual or regulatory standards.

2. Water as a Human Right

The recognition of water as a human right represents a significant normative shift in international law. While early human rights instruments did not explicitly mention water, it has long been understood as implicit within the rights to life, health, and an adequate standard of living enshrined in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR, 1966). Over time, this implicit recognition evolved into explicit legal articulation.

A key milestone was the adoption of General Comment No. 15 by the UN Committee on Economic, Social and Cultural Rights (CESCR, 2002), which formally defined the human right to water as the right of everyone to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic uses. This interpretation clarified the normative content of the right and established concrete benchmarks for state responsibility.

The human right to water was further reinforced by the United Nations General Assembly Resolution 64/292 (United Nations, 2010), which explicitly recognized access to safe drinking water and sanitation as a human right essential to the full enjoyment of life and all human rights. Although General Assembly resolutions are not legally binding, they carry significant normative and political weight and have contributed to the consolidation of customary standards.

Under international human rights law, states bear three primary types of obligations with respect to the right to water: to respect, protect, and fulfill. These obligations require states to refrain from interfering with access, prevent third parties from undermining the right, and adopt positive measures to ensure universal access (CESCR,

2002). Importantly, these duties apply regardless of whether service provision is public or private.

The normative criteria of availability, accessibility, affordability, and quality provide a substantive framework for evaluating water governance models. Affordability, in particular, poses a critical challenge to privatized systems, as market pricing may conflict with the obligation to ensure that water costs do not compromise the enjoyment of other basic rights, such as food, housing, or health (Gleick, 1996).

3. Neoliberalism and Resource Governance

Neoliberalism has profoundly reshaped the governance of natural resources by promoting market-based approaches, privatization, and reduced state intervention. In the water sector, neoliberal reforms have often been justified on the grounds of efficiency, cost recovery, and fiscal sustainability (Harvey, 2005). These reforms typically frame water as an economic good rather than a social or cultural resource.

Critics argue that neoliberal water governance depoliticizes access to essential services by treating distribution as a technical or managerial issue. As Bakker (2010) notes, such approaches tend to marginalize questions of power, inequality, and democratic accountability. When water provision is governed primarily by profit incentives, social objectives may become secondary.

From a human rights perspective, neoliberal resource management raises fundamental concerns. The delegation of water services to private actors does not absolve states of their human rights obligations, yet regulatory capacity is often weak in contexts where privatization is implemented (Swyngedouw, 2009). This gap can result in diminished accountability and limited remedies for affected communities.

Social justice scholars further contend that neoliberalism reconfigures citizenship by transforming rights into consumer entitlements contingent on purchasing power (Brown, 2015). In the case of water, this shift undermines the notion of universal access and conflicts with substantive justice principles. The Cochabamba experience illustrates how such tensions can provoke resistance and reassert claims to water as a collective right rather than a market commodity.

C. Water Governance and Privatization in Cochabamba

1. Water Governance Prior to Privatization

Prior to the privatization reforms of the late 1990s, water governance in Cochabamba was characterized by a hybrid system combining state provision, municipal management, and community-

based practices. The primary urban supplier was the municipal utility Servicio Municipal de Agua Potable y Alcantarillado (SEMAPA), which operated under public ownership and was formally accountable to local authorities (Assies, 2003). While SEMAPA suffered from chronic underinvestment and limited coverage, it was embedded within a framework that treated water as a public service rather than a commercial commodity.

In parallel to municipal provision, many peri-urban and rural communities relied on autonomous, collectively managed water systems. These community-based organizations—often governed through customary norms—played a crucial role in ensuring access in areas neglected by the state (Perreault, 2005). Such arrangements reflected long-standing traditions of collective resource management and social solidarity, reinforcing water’s status as a shared social good.

The state’s role prior to privatization was therefore ambivalent. On the one hand, it maintained formal responsibility for water provision and regulation; on the other, limited fiscal capacity and institutional weakness constrained its ability to guarantee universal access. Nevertheless, governance arrangements allowed for a degree of local participation and community control that would later be significantly undermined by privatization reforms (Nickson & Vargas, 2002).

2. The Privatization Process

The privatization of Cochabamba’s water system was enabled through a series of legal and policy reforms aligned with Bolivia’s broader neoliberal restructuring. Central to this process was the enactment of Law No. 2029 on Drinking Water and Sanitation Services in 1999, which established the legal basis for private concessions and redefined water use rights (Assies, 2003). The law significantly expanded the scope for private sector participation while weakening protections for community-managed systems.

Under this legal framework, the Bolivian government granted a 40-year concession to Aguas del Tunari, a consortium led by the transnational corporation Bechtel. The concession granted the company exclusive control over water services in Cochabamba, including authority over existing and future water sources (Perreault, 2006). Notably, the contract guaranteed a fixed rate of return, effectively transferring commercial risk from the corporation to consumers.

The regulatory structure accompanying the concession was highly centralized and technocratic. Oversight was entrusted to a national regulatory agency with limited transparency and minimal avenues for public participation. Local governments and civil society

actors were largely excluded from decision-making processes, undermining democratic accountability and weakening mechanisms for grievance and redress (Nickson & Vargas, 2002).

3. Power Asymmetries and Accountability

The privatization process exposed and intensified power asymmetries between the state, transnational corporations, and citizens. While the Bolivian state formally retained regulatory authority, its bargaining position vis-à-vis multinational firms was constrained by debt dependency and conditionalities imposed by international financial institutions (Harvey, 2005). This imbalance limited the state's capacity to enforce social objectives within the concession framework.

Corporate power was further reinforced through contractual secrecy and legal complexity, which restricted public scrutiny and informed debate. Most affected citizens lacked access to information regarding tariff structures, investment obligations, and dispute resolution mechanisms. This opacity contributed to widespread perceptions of illegitimacy and injustice, particularly as water prices increased sharply following privatization (Veltmeyer & Petras, 2005).

Citizen exclusion from governance processes constituted a critical accountability deficit. Communities that had historically managed their own water systems faced the prospect of expropriation or compulsory integration into the privatized network, threatening both material access and local autonomy (Perreault, 2005). These dynamics illustrate how privatization can erode substantive justice by marginalizing users' voices and prioritizing contractual rights over social rights.

From a human rights and substantive justice perspective, the Cochabamba case reveals the incompatibility between weak regulatory capacity, concentrated corporate power, and the realization of equitable access to water. The governance failure that emerged was not merely technical but fundamentally political, rooted in the reconfiguration of power relations and the exclusion of affected populations from decision-making processes (Swyngedouw, 2009).

D. Impacts of Water Privatization

Water privatization has far-reaching consequences that extend beyond service delivery, reshaping social relations, economic vulnerability, and political legitimacy. From a substantive justice perspective, these impacts must be assessed not only in terms of efficiency or investment outcomes, but in relation to how privatization affects equitable access, social inclusion, and the realization of basic rights. The Cochabamba case illustrates how water privatization can

generate multidimensional harms that disproportionately burden marginalized populations and destabilize governance structures.

1. Social and Economic Consequences

One of the most immediate and visible consequences of water privatization in Cochabamba was the sharp increase in water tariffs. Following the concession to Aguas del Tunari, households reported substantial price hikes, in some cases amounting to a significant proportion of monthly income (Nickson & Vargas, 2002). From an economic standpoint, such increases reflect cost-recovery and profit-maximization imperatives embedded in market-based service provision.

Affordability is a core component of the human right to water. According to General Comment No. 15 of the Committee on Economic, Social and Cultural Rights, water costs must not compromise the ability of individuals to meet other basic needs, including food, housing, and healthcare (CESCR, 2002). In Cochabamba, rising tariffs undermined this principle, effectively transforming access to water into a function of purchasing power rather than a guaranteed right.

The economic burden of privatization fell disproportionately on low-income households. While wealthier users were better positioned to absorb higher costs or invest in alternative water sources, poorer households faced difficult trade-offs between water consumption and other essential expenditures. This dynamic exemplifies what Sen (2009) describes as capability deprivation, where formal access exists but substantive enjoyment is constrained by economic inequality.

Moreover, privatization intensified pre-existing socio-economic disparities by standardizing pricing structures without accounting for income differences or historical marginalization. Such uniform tariff regimes conflict with substantive justice principles, which emphasize differentiated measures to achieve equitable outcomes (Fraser, 2008). In this sense, privatization reproduced and deepened structural inequality rather than alleviating service deficits.

2. Exclusion and Structural Inequality

Beyond affordability, water privatization in Cochabamba generated patterns of exclusion that particularly affected rural and peri-urban communities. These areas, often characterized by informal settlements and community-managed systems, were poorly integrated into the privatized network and faced heightened insecurity regarding water access (Perreault, 2005). The extension of exclusive concession rights threatened locally governed systems, undermining collective autonomy.

From a political ecology perspective, water access functions as a site of social stratification, reflecting broader power relations and historical inequalities (Swyngedouw, 2009). Privatization reconfigured these relations by privileging contractual rights and technical expertise over customary practices and local knowledge. Communities that lacked legal recognition or political influence were rendered invisible within the governance framework.

This process can be understood through the lens of structural violence, whereby institutional arrangements systematically disadvantage certain groups without overt coercion (Galtung, 1969). The marginalization of peri-urban and rural users was not incidental but embedded in a model that prioritized financial viability and investor security over social inclusion.

Legal frameworks enabling privatization further contributed to exclusion. Bolivia's Law No. 2029 failed to adequately protect community water systems and limited avenues for participation in regulatory processes (Assies, 2003). Such legal omissions conflict with emerging international norms that emphasize participation, transparency, and accountability as integral to the realization of economic and social rights (United Nations, 2010).

3. Political Consequences

The social and economic impacts of privatization had profound political consequences. As water tariffs increased and access became more precarious, public perceptions of injustice intensified, leading to an erosion of trust in both state institutions and private operators. Legitimacy, understood as the acceptance of authority as rightful and just, was fundamentally undermined (Weber, 1978).

The lack of meaningful public participation in decision-making processes exacerbated this legitimacy crisis. Privatization was widely perceived as imposed from above, driven by international financial institutions and insulated from democratic accountability (Harvey, 2005). This perception reinforced narratives of dispossession and fueled collective grievances.

As a result, water governance became a focal point for broader social conflict. The Cochabamba Water War demonstrated how disputes over essential resources can catalyze large-scale mobilization, transforming technical policy reforms into symbols of resistance against neoliberalism and social exclusion (Veltmeyer & Petras, 2005). Water thus emerged as both a material necessity and a political rallying point.

From a human rights perspective, the escalation of conflict reflects the failure of governance systems to fulfill core state

obligations. When access to basic needs is compromised and grievances remain unaddressed, social unrest becomes a rational response rather than an anomaly (CESCR, 2002). The Cochabamba case illustrates how neglecting substantive justice can destabilize political order and provoke widespread resistance.

Therefore, the impacts of water privatization in Cochabamba reveal the interconnectedness of social, economic, and political dimensions of governance. Privatization did not merely alter service delivery mechanisms; it restructured power relations, redefined citizenship, and challenged the legitimacy of the state. These outcomes underscore the importance of evaluating water governance models through a holistic framework that integrates human rights, substantive justice, and democratic accountability.

E. Collective Resistance and the Reversal of Privatization

The reversal of water privatization in Cochabamba represents a critical moment in which collective resistance reshaped governance outcomes and reasserted the primacy of social justice over market logic. Rather than emerging from institutional review or regulatory correction, the termination of the privatization contract was the result of sustained popular mobilization that challenged both the legitimacy and legality of neoliberal water governance. This episode underscores the limits of formal legal frameworks in contexts of structural inequality and highlights the role of collective action in achieving substantive justice. The Cochabamba Water War illustrates how rights that are formally recognized but substantively denied may be reclaimed through social struggle, particularly when state institutions align more closely with corporate interests than with citizen welfare (Sen, 2009; Assies, 2003).

1. Popular Mobilization and Civil Society

Popular mobilization in Cochabamba was notable for its breadth, inclusivity, and organizational innovation. The *Coordinadora de Defensa del Agua y de la Vida* emerged as a central coordinating body that brought together labor unions, neighborhood associations, peasant organizations, students, and informal workers. Unlike traditional hierarchical organizations, the *Coordinadora* operated through open assemblies and consensus-based decision-making, embodying participatory democratic principles that contrasted sharply with the technocratic governance structures imposed through privatization (Assies, 2003). This organizational form enabled broad

participation and facilitated the articulation of shared grievances across social sectors.

Grassroots organizations played a crucial role in translating abstract concerns about privatization into concrete claims grounded in everyday experience. Rising water tariffs, threats to community wells, and the loss of local control were framed not merely as economic issues, but as violations of dignity and collective rights. This framing resonates with social movement theory, which emphasizes the importance of interpretive frames and moral narratives in mobilizing collective action (Tarrow, 2011). By redefining water as a collective good rather than a commodity, activists challenged the dominant neoliberal discourse and mobilized widespread public support.

Indigenous movements were central to the Water War, both symbolically and materially. Indigenous actors drew on Andean traditions of communal resource management, particularly the principle of *usos y costumbres*, to contest the legitimacy of privatization. Water governance was framed as inseparable from cultural identity, territorial rights, and historical struggles against dispossession (Perreault, 2008). These claims expanded the conflict beyond service provision, situating it within broader demands for recognition, autonomy, and decolonization.

The participation of indigenous and peasant movements also linked urban protests to rural struggles, highlighting the interconnectedness of water systems across territorial scales. This alliance disrupted the urban bias of formal governance structures and reinforced the idea that water governance is inherently multi-scalar and socially embedded. By asserting alternative epistemologies and governance practices, indigenous movements challenged the universality of market-based models and asserted plural conceptions of justice (Santos, 2002).

More broadly, the Water War reflected a resurgence of civil society in Bolivia following decades of neoliberal restructuring that had weakened traditional mechanisms of political representation. As formal political institutions lost credibility, social movements increasingly assumed the role of articulating public interests and holding power to account. The Cochabamba mobilization thus exemplifies what Holston (2009) describes as “insurgent citizenship,” whereby marginalized groups claim rights through direct action rather than institutional channels.

2. The State’s Response

The Bolivian state’s initial response to popular mobilization was characterized by repression and criminalization of protest. Declaring a

state of emergency, authorities deployed military forces, imposed curfews, and suspended constitutional guarantees in an effort to restore order. These measures resulted in widespread arrests, injuries, and the death of a civilian protester, intensifying public outrage and deepening the legitimacy crisis faced by the government (Veltmeyer & Petras, 2005). Rather than restoring authority, repression exposed the coercive foundations of the privatization process.

From a political theory perspective, the use of force against citizens protesting access to basic necessities represents a profound breach of the social contract. Weberian conceptions of legitimacy emphasize that state authority rests not only on coercive capacity, but on normative acceptance by the governed (Weber, 1978). In Cochabamba, repression signaled that the state prioritized contractual obligations to corporate actors over its responsibility to protect citizens' welfare, thereby undermining its moral authority.

As protests persisted and political costs escalated, the state shifted from repression to negotiation. Dialogue between government representatives and leaders of the Coordinadora revealed deep ideological divides regarding the role of markets, the meaning of public interest, and the nature of democratic accountability. Negotiations ultimately resulted in the termination of the concession contract with Aguas del Tunari, marking a rare instance in which popular mobilization directly overturned a neoliberal reform.

The legal consequences of the Water War were significant. Following the reversal of privatization, Bolivia replaced Law No. 2029 with Law No. 2066, which strengthened protections for community-managed water systems and recognized social participation as a core principle of water governance (Assies, 2003). While these reforms did not resolve all governance challenges, they represented a partial reorientation toward rights-based and participatory approaches.

3. Substantive Justice Through Resistance

The Cochabamba Water War demonstrates how collective resistance can function as a mechanism for achieving substantive justice where formal legal frameworks fail. Although existing laws formally regulated water provision, they enabled exclusionary outcomes that undermined equitable access. Mobilization rendered these injustices visible and politically salient, transforming private grievances into collective claims (Sen, 2009). In this sense, resistance operated as a corrective to formal legality divorced from social reality.

Resistance also challenged the neoliberal redefinition of citizenship as consumer status. Protesters rejected the notion that access to water should depend on purchasing power, asserting instead

that water is a collective right essential to life and dignity. This claim aligns with Fraser's (2008) conception of justice as requiring both redistribution and recognition, addressing material inequality while affirming the social value of marginalized groups.

Importantly, the outcomes of resistance were not limited to symbolic victories. The mobilization produced tangible legal and institutional changes, illustrating the dynamic relationship between law and social struggle. As Santos (2002) argues, rights are often not granted by institutions but won through contestation. The Cochabamba case underscores that substantive justice frequently emerges from below, through collective action that reshapes legal and political structures.

In further, the reversal of water privatization in Cochabamba highlights the indispensability of popular mobilization in democratizing resource governance. While resistance does not guarantee long-term equity, it remains a critical force for holding states and corporations accountable when formal mechanisms fail. The Cochabamba experience reinforces the broader argument of this paper: that water governance grounded in substantive justice and human rights requires not only legal recognition, but active civic engagement and collective resistance.

F. Discourse of Substantive Justice Versus Market Logic

The Cochabamba Water War crystallizes a fundamental tension between two competing paradigms of resource governance: market logic and substantive justice. While neoliberal water privatization frames access to water as a matter of efficiency, cost recovery, and contractual exchange, a substantive justice perspective emphasizes equity, universality, and the lived realization of rights. This section argues that the failure of privatization in Cochabamba cannot be understood merely as a policy miscalculation, but as a structural incompatibility between market-based governance and the normative requirements of water as a fundamental human right.

1. Why Privatization Failed from a Justice Perspective

From a substantive justice standpoint, the core failure of water privatization in Cochabamba lay in the commodification of a resource essential to life. Treating water as an economic good subject to market pricing mechanisms redefined access as contingent on ability to pay rather than need. This shift directly conflicted with the human right to water, which requires that access be guaranteed to all individuals without discrimination (CESCR, 2002). While privatization proponents

emphasized efficiency and investment, these objectives were pursued at the expense of affordability and social inclusion.

The commodification of water also produced a moral and political dissonance. As Polanyi (1944) famously argued, the treatment of essential elements of social life as commodities generates social dislocation and resistance. In Cochabamba, rising tariffs were experienced not simply as economic burdens, but as violations of dignity and social norms regarding collective provision. This dissonance eroded public acceptance of privatization and transformed water pricing into a symbol of injustice.

Moreover, privatization proved incompatible with principles of equity and universality. Uniform tariff structures failed to account for Bolivia's deep socio-economic inequalities, disproportionately burdening low-income households and informal settlements. Substantive justice requires differentiated measures to achieve equitable outcomes, particularly where structural disadvantage exists (Sen, 2009). By contrast, market logic privileges formal equality and contractual neutrality, masking unequal starting conditions and reinforcing exclusion.

The justice failure of privatization was therefore not accidental or remediable through technical adjustments. Rather, it reflected a deeper normative conflict between a governance model oriented toward profit and one grounded in rights and social obligations. The Cochabamba case illustrates that when essential resources are governed primarily through market mechanisms, substantive justice is systematically undermined.

2. Structural Lessons from Cochabamba

One of the central lessons of Cochabamba concerns the structural limits of neoliberal governance for essential resources. Water differs fundamentally from ordinary commodities due to its non-substitutability, cultural significance, and role in sustaining life. Neoliberal frameworks that emphasize privatization, deregulation, and investor protection are ill-suited to governing such resources, particularly in contexts of inequality and weak regulatory capacity (Bakker, 2010).

The Cochabamba experience demonstrates that efficiency gains claimed by privatization models are often offset by losses in social legitimacy. Governance systems that lack public acceptance and participatory legitimacy are inherently unstable, regardless of their technical design. As Habermas (1975) notes, legitimacy crises emerge when administrative decisions fail to align with societal norms and expectations. In Cochabamba, the exclusion of citizens from decision-

making processes delegitimized both the privatization contract and the state itself.

Participation emerged as a critical missing element in the privatization process. Community-managed water systems and local knowledge were marginalized in favor of centralized, technocratic regulation. This exclusion not only undermined democratic accountability but also weakened governance outcomes by disregarding existing social institutions capable of managing water equitably (Perreault, 2008). The case thus highlights participation not as a procedural add-on, but as a substantive condition for just and sustainable water governance.

3. Comparative and Normative Implications

The relevance of Cochabamba extends far beyond Bolivia. Similar conflicts over water privatization have emerged in Latin America, Africa, and Asia, often involving the same tensions between market logic and social rights. Cases in Argentina, South Africa, and the Philippines reveal recurring patterns of tariff increases, exclusion, and social resistance, underscoring the global nature of the justice challenges associated with water commodification (Castro, 2007).

From a comparative perspective, Cochabamba offers a cautionary tale for countries considering privatization as a solution to water governance challenges. It demonstrates that reforms which neglect social legitimacy, participation, and equity are likely to provoke resistance and instability. Importantly, the case suggests that policy transfer of neoliberal models without sensitivity to local social structures and inequalities is particularly prone to failure.

Normatively, the Cochabamba Water War contributes to global debates on water justice by reaffirming water as a collective right rather than a market good. It strengthens arguments for rights-based approaches that prioritize universality, affordability, and democratic control, as reflected in evolving international human rights standards (United Nations, 2010). The case also underscores the role of social movements in advancing these norms, demonstrating that global water justice is shaped not only by international institutions but by grassroots struggles.

The discourse of substantive justice articulated through Cochabamba challenges the dominance of market logic in essential resource governance. It calls for a reorientation of water policy toward frameworks that integrate human rights, social equity, and democratic participation. In doing so, the Cochabamba experience offers both an empirical lesson and a normative benchmark for rethinking water governance in an era of global inequality and environmental stress.

G. Toward Democratic Water Governance

The Cochabamba Water War not only exposed the failures of market-based water governance but also opened space for articulating alternative models grounded in democracy, human rights, and social justice. Moving beyond critique, this section outlines a normative framework for democratic water governance that addresses the structural causes of exclusion identified in earlier sections. Such a framework recognizes water as a fundamental right, a shared ecological resource, and a cornerstone of democratic citizenship. Democratic water governance is thus understood not merely as a technical arrangement, but as a political and ethical project aimed at ensuring equitable access, environmental sustainability, and public accountability.

Democratic water governance departs from neoliberal paradigms by rejecting the treatment of water as a commodity subject solely to market allocation. Instead, it emphasizes collective decision-making, public oversight, and the prioritization of social needs over profit. As the Cochabamba case demonstrates, governance models that fail to incorporate these principles are prone to legitimacy crises and social conflict. A rights-based and democratic approach seeks to align governance structures with the lived realities of water users, particularly marginalized communities, thereby advancing substantive justice.

1. Principles of Rights-Based Water Governance

At the core of democratic water governance lies a rights-based approach grounded in international human rights law. The human right to water, as articulated in General Comment No. 15 of the Committee on Economic, Social and Cultural Rights, establishes that water must be sufficient, safe, accessible, acceptable, and affordable for all without discrimination (CESCR, 2002). These normative criteria provide substantive benchmarks against which governance arrangements can be evaluated, shifting the focus from efficiency to equity and from formal provision to actual enjoyment.

Participation is a foundational principle of rights-based water governance. International human rights standards increasingly emphasize the right of individuals and communities to participate meaningfully in decisions affecting their access to essential resources (United Nations, 2010). Participation is not merely procedural but substantive, requiring that affected groups—particularly women, indigenous peoples, and low-income communities—have real influence over policy design, implementation, and monitoring. The exclusion of

such groups in Cochabamba illustrates how the absence of participation undermines both justice and sustainability.

Transparency and accountability are equally essential. Democratic governance requires that decision-making processes, contractual arrangements, and regulatory mechanisms be open to public scrutiny. Lack of transparency in privatization contracts, as seen in Cochabamba, fosters mistrust and shields power holders from accountability. Rights-based governance demands accessible information, independent oversight bodies, and effective grievance mechanisms to ensure that rights violations can be challenged and remedied (Bakker, 2010).

Accountability also entails clear delineation of state responsibility. Even where non-state actors are involved in service provision, states remain the primary duty-bearers under international human rights law. This principle counters attempts to shift responsibility onto private actors while insulating the state from political and legal accountability. Democratic water governance therefore requires robust regulatory capacity and legal frameworks that prioritize public interest over investor protection.

2. Environmental Sustainability and Social Justice

Democratic water governance must integrate environmental sustainability with social justice, recognizing that ecological degradation and social inequality are deeply interconnected. Water scarcity, pollution, and climate change disproportionately affect marginalized populations, intensifying existing inequalities in access and health outcomes (Gleick, 2014). A governance model that ignores ecological limits risks undermining the long-term realization of the human right to water.

From an environmental justice perspective, sustainable water governance requires addressing the unequal distribution of environmental burdens and benefits. Political ecology scholarship highlights how power relations shape access to water and exposure to environmental harm (Swyngedouw, 2009). Democratic governance must therefore confront not only technical challenges but also the social and political drivers of environmental degradation, including extractivist development models and unequal land-use patterns.

Integrating ecological concerns with human rights also entails adopting precautionary and intergenerational principles. Water policies should ensure that present consumption does not compromise the ability of future generations to meet their basic needs. This approach aligns with emerging interpretations of economic and social rights that emphasize sustainability as a condition for rights realization

(Boyd, 2018). In this sense, environmental stewardship becomes an integral component of substantive justice.

Community-based water management systems offer valuable insights into how environmental sustainability and social equity can be jointly pursued. Such systems often rely on collective norms, local ecological knowledge, and long-term stewardship rather than short-term profit. The marginalization of these systems under neoliberal reforms represents a missed opportunity for sustainable governance. Democratic water governance should therefore recognize and strengthen community-based practices rather than displacing them.

3. Policy Recommendations

Drawing on the Cochabamba experience, one key policy recommendation is the strengthening of public and community-based water management. This does not imply idealizing state provision, but rather reimagining public governance through participatory, decentralized, and accountable institutions. Public utilities should be reformed to incorporate citizen oversight, social tariffs, and mechanisms for inclusive decision-making, thereby addressing the inefficiencies and inequities often cited as justifications for privatization.

Legal recognition of community-managed water systems is equally critical. National legal frameworks should protect collective water rights, customary governance practices, and local autonomy, particularly for indigenous and rural communities. Bolivia's post-Water War reforms, including the recognition of social participation in water governance, illustrate how law can be reoriented toward plural and democratic models (Assies, 2003). Such recognition enhances resilience and social legitimacy.

Finally, democratic water governance requires the explicit legal recognition of water as a non-commodifiable human right. This principle, increasingly reflected in constitutional reforms and international norms, affirms that water cannot be reduced to a market good without undermining human dignity and social cohesion. Embedding this principle in law provides a normative anchor for policy, ensuring that economic considerations remain subordinate to human rights and ecological sustainability.

Moving toward democratic water governance entails a profound shift in both discourse and practice. It requires abandoning the primacy of market logic in favor of frameworks grounded in rights, participation, and environmental responsibility. The Cochabamba Water War demonstrates that such a shift is not only normatively desirable but

politically necessary for achieving just, sustainable, and legitimate water governance in an unequal world.

H. Conclusion

1. Summary of Key Findings

The findings of this study indicate that water privatization in Cochabamba functioned as a significant barrier to substantive justice. Although privatization was formally justified in terms of efficiency, investment, and service expansion, its practical effects included rising tariffs, exclusion of marginalized communities, and the erosion of local autonomy. These outcomes disproportionately affected low-income, rural, and peri-urban populations, demonstrating a clear disjunction between formal access to water services and the substantive enjoyment of the right to water. From a justice perspective, privatization failed to accommodate Bolivia's deep structural inequalities and instead reproduced existing patterns of social stratification.

Moreover, the study shows that the legal and institutional frameworks enabling privatization lacked democratic legitimacy and accountability. The exclusion of citizens from decision-making processes, combined with weak regulatory oversight, contributed to a crisis of trust in both state institutions and private operators. The subsequent social mobilization and reversal of privatization illustrate how collective resistance emerged as a response to this governance failure, functioning as a corrective mechanism when formal institutions proved incapable of ensuring justice.

2. Theoretical Contributions

Theoretically, this research contributes to the literature by linking the concept of substantive justice to natural resource governance. While justice theories have often been applied to welfare distribution or legal rights, this study extends their relevance to the governance of essential ecological resources. By integrating substantive justice with human rights law and political economy, the analysis demonstrates that justice in resource governance must be evaluated in terms of lived outcomes, power relations, and social inclusion rather than formal legality or economic efficiency alone.

The Cochabamba case also reinforces critical perspectives on neoliberal governance by illustrating the limitations of market-based approaches for managing non-substitutable resources such as water. The study highlights the tension between commodification and rights-based frameworks, showing that market logic is structurally ill-equipped to guarantee universality, affordability, and equity. In this regard, the research contributes to broader debates on water justice by

providing empirical support for normative arguments against the commodification of essential resources.

3. Implications for Policy and Future Research

From a policy perspective, the findings underscore the need for governance reforms that prioritize democratic participation, accountability, and social equity in the provision of essential public services. Water governance frameworks should strengthen public and community-based management, ensure meaningful participation of affected populations, and explicitly recognize water as a non-commodifiable human right. Regulatory systems must be designed to protect vulnerable groups and to align economic considerations with human rights obligations and environmental sustainability.

For future research, comparative studies are needed to examine how similar dynamics unfold in other national and regional contexts. Comparative analysis of water privatization and social conflict across different socio-political settings would deepen understanding of the conditions under which market-based reforms succeed or fail. Further interdisciplinary research integrating legal analysis, political ecology, and social movement theory could also illuminate how collective action shapes the evolution of resource governance norms.

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