Water Security, Justice and the Politics of Water Rights in Peru and Bolivia

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Water Security, Justice and the Politics of Water Rights in Peru and Bolivia

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Foreword © Rutgerd Boelens 2016

Softcover reprint of the hardcover 1st edition 2016 978-1-137-54522-0

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First published 2016 by
PALGRAVE MACMILLAN

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Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

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ISBN 978-1-349-58044-6 ISBN 978-1-137-54523-7 (eBook)
DOI 10.1057/9781137545237

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

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Foreword: Divergent Water Securities and the Politics of Formalization

This book presents a fascinating journey through the Andean water-scapes and a profound academic search for scrutinizing some obstinate Andean countries' water policy myths that deeply impact local livelihoods. It sets out to unravel the discourses and practices of legislators, policymakers and development institutes, in direct relation to the reactions and counter-strategies of marginalized peasant communities in the Peruvian and Bolivian highlands. Through their collectives, against all odds, these users fight for autonomy and food and water security.

Water Security, Justice and the Politics of Water Rights in Peru and Bolivia, without exaggeration, importantly contributes to understanding the formulation and workings of policies in a key field of development intervention in the Andean Region, and thereby makes a strong contribution to the field of "the politics of policy" in natural resource management studies. It looks at science in theory, at science at work in everyday practice, and also far beyond science, diving into the livelihoods and life histories of men and women in the Andean highlands.

Political ecology has taught us that water scarcity and water insecurity in countries such as Peru and Bolivia (as elsewhere) commonly stem from unequal distribution of water volumes, quality and services, resulting from unequal power structures. Water insecurity commonly is a political issue rather than a natural problem "created by nature." This book confirms this reading of historical and contemporary water control. Thereby, it challenges a widespread belief that is firmly ingrained in both national and international policy-making institutes: the assumption that formally recognizing ("formalizing") local, customary water rights is the key to increasing water security for local and marginalized water user groups. Dominant scientific and policy discourses regarding the enhancement of "water security through local rights formalization" are taken up not only by national governments and international financing institutions but equally by social movements and "progressive academia." Moreover, this key assumption goes far beyond water science and water development because the same policy assumption is

widespread among nearly all policy and legislative efforts to “support” local natural resource management.

In order to examine this complex and intriguing water rights formalization issue, Miriam Seemann examines national and local case studies in Peru and Bolivia. The two countries are characterized by profound legal and cultural pluralism in relation to water rights, water-based identities and water management forms. Similar to many countries around the globe, Peru and Bolivia are working hard to formalize local water rights, although from a very different perspective: Peru’s policy practice advocates top-down water formalization and focuses on individual water rights within a (quasi)neo-liberal governance framework; Bolivia follows an indigenist-socialist discourse and governance model suggesting to implement a bottom-up water rights formalization policy as requested by the grassroots irrigation federations. As the book elaborates, ironically, both countries speak of “recognizing local, customary water rights.”

In an impressive and creative manner, the book’s chapters combine the analysis of the formalization of water access rights (distribution and how to allocate the resources) and the formalization of decision-making rights over water control (governance and who has legitimate authority). They show the deep discrepancies among dynamic local/customary practices and bureaucratic, static proposals, expressing entirely different ideas about what is “water security.” Standing apart from the mainstream literature in the camps of “neo-liberal,” “new-institutionalist,” “rights-based,” “political-economy” and “common-property-based” approaches, the book clearly shows that uncritical formalization of local water rights often leads to weakening, rather than strengthening, of local water security.

The book’s journey through Peruvian and Bolivian communities reflects upon the complex nature of the real world by combining a highly diverse range of topics, including water resources, politics and power relations, livelihoods, legislation, agrarian issues, infrastructure, etc. It does so by making use of, and interlinking, the fields of rural sociology, political science, anthropology, water resources management, law, human ecology, and geography. The constructivist approach and epistemology allow for making an in-depth analysis of the diversity of interpretations that can be applied to water control and governance realities. In particular, these approaches enable readers to see the very divergent realities of “water security conceptualization.” I am convinced that the cross-national case study design that forms the groundwork of this book’s research – studying two very different water formalization practices in

two divergent policy frameworks – gives the conclusions policy-making and scientific relevance beyond just the countries and cases that were studied.

This book looks behind the scenes of science, policy and power, and rather than investigating “how to make market-based or public water management work according to the plans of the policy-makers,” it has set out to examine how the model actually *is at work*, in real-life practice, impacting on the lives of ordinary people. It is an understatement to say that this is not at all an easy task, because despite tremendous support from international scientists and national governments, and skyrocketing donor investments to make formalization policies come true, nearly no studies have been done so far to evaluate the *actual impacts* of water rights formalization policies in the field. Among policy-makers, scholars and academic institutes the assumption is widely shared that “formalizing local rights empowers local people.” It is not easy to acknowledge that few entities wondered about, or were able to see, the actual impacts of formalization policies on poor farmers and local communities, often turning the policy dreams into a nightmare for the marginalized.

There to, in a balanced manner, the book criticizes the most important scientific approaches that are popular in water property rights and management debates: new institutionalism, state-based public property thinking, and common property resource management. These schools have many weaknesses, as the analysis demonstrates, in particular when the aim is to understand local water management collectives in contexts with differential powers. The book continues by providing some fundamentals for its conceptual approach, based on legal pluralism and political ecology. It explains legal anthropology and legal pluralism as a dynamic entrance to comprehend local water rights, important building blocks to define and study “formalization,” conflicts, equity, and address power relations in environmental policies.

What I see as particularly important about this book’s research journey is not just its academic thoroughness but also its strong societal importance. Opening “scientific and policy black boxes” in order to scrutinize the taken-for-granted dominant mainstays of water science and policies is key to this endeavor. The research was set up as a response to requests from Latin American academic and grassroots partners in the Justicia Hídrica/Water Justice Alliance. Particularly in countries such as Peru, the latter were confronted with new water and environmental policies imposed from the outside but which, nevertheless, were given a national flavor, presented as “local,” “democratic” and “scientific.” In the case of

Bolivia, the State presumably responded to local movement claims but, in the same way, had no other tools and instruments than those that were adopted from mainstream water policy frames.

Miriam Seemann engaged with peasant and indigenous families, examining their everyday efforts to build livelihoods that are denied existence by the state and market-based policy models. The community stories that were documented profoundly express how serious scientific policy analysis cannot afford to stay at a distance but necessarily must engage with on-the-ground subjects and contexts. Through in-depth community and national studies, this book shows the problematic and power-strategic ways in which water policy discourse and project interventions generate huge tensions in local communities, shaping new water realities that trigger conflicts and inequality. Legal and institutional designs for water development in Andean countries neglect locally existing livelihood strategies and deepen social differentiation.

Rather than executing a “stand-alone” research project, Miriam Seemann has chosen to actively embed her investigation within a broad international network, the Justicia Hídrica/Water Justice alliance, where academic research is coupled with training of young researchers, policy-makers and grassroots leaders, as well as to actions in the field of policy advocacy and civil society forum debates. In terms of process and content, the work importantly contributes to the debates and actions of the alliance.

The book provides alternatives and expresses hope for improvement, in particular by showing the ways in which local communities respond and make bottom-up “livelihood designs” that challenge the powers of indifference. Marginalized natural resource management communities, in adverse globalizing times, increasingly refuse to accept such outside policy models and build up strategies that foster their interests regarding autonomy and local authority. Miriam Seemann gives a profound, refreshing and very creative response to the currently widespread “rights formalization policies” that, despite their intentions of helping the poor, often have a dramatic impact on the lives and livelihoods of precisely these groups.

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Acknowledgments

This book is based on research carried out at the GIGA (German Institute of Global and Area Studies) in Hamburg, Germany. My gratitude goes to Professor Detlef Nolte, for encouraging my research and for allowing me to grow as a research scientist. I am profoundly thankful to Professor Rutgerd Boelens, from the University of Wageningen and the University of Amsterdam, The Netherlands, who introduced me to the field of Legal Pluralism and Political Ecology and whose enthusiasm for the study of Andean water rights had a lasting impact on this research project. His fruitful comments, ideas and patient guidance have been a constant source of inspiration and motivation during innumerable moments of doubts and questions.

I am indebted to the German Friedrich Ebert Foundation for the generous scholarship to conduct my research and to undertake my fieldwork in the mystical Andean water communities.

Special thanks are due to the *Journal of Human Organization* for publishing some of my empirical research in Peru. Thanks to Daniel Kunitz for editing and proofreading the final draft. I also thank Christina Brian and Ambra Finotello at Palgrave Macmillan for their dedication and attention to the whole publication process.

I am also very grateful for the valuable exchange with other academics and professionals from the Water Justice Alliance (*Alianza de Justicia Hídrica*), who provided fruitful feedback, shared their thoughts and ideas and boosted my motivation to continue writing.

Many thanks to a great number of people in Peru and Bolivia who helped me to better understand the general national and regional context of water policies, water injustice and Andean highland communities in their countries. I am grateful for their trust and for sharing with me their impressive personal experiences in the struggle for water justice. My gratitude goes to the research and educational center Centro AGUA, who greatly supported my book project.

Most importantly, my thesis would not have been possible without the cooperation and trust by numerous local water user communities in the Colca Valley (Peru) and the Tiraque Valley (Bolivia). I am especially grateful for their friendly patience when explaining how daily life has been and continues to be shaped by water resources. They welcomed me and proudly showed me their water sources and canals at 5,000

meters above sea level. They kindly allowed me to participate at their communal meetings, ceremonies, and water cleaning activities. Since this experience, the term *water* has evolved a completely new meaning for me, which goes far beyond the simple chemical formula of H_2O .

Outside the academic work, I'd like to give a heartfelt, special thanks to my German and Bolivian families for their enormous encouragement. I particularly want to thank my parents for their love and encouragement throughout my life. They have always allowed me to take my own steps, to remain curious and to go confidently through new doors that open up in life. I am also very thankful to my parents-in-law for their unconditional support during the past few years. Last, but by no means least, a wholehearted "thank you" to my husband, Daniel, and my beautiful children, Leonie and Luka, for all their love and endless patience and support throughout the last years. I thank you three for accompanying me to Peru and Bolivia and for reminding me every day that there is still a life outside of books.

List of Abbreviations

AAA	Autoridad Administrativa del Agua (Peru) (Administrative Water Authority)
ALA	Autoridad Local del Agua (Peru) (Local Water Authority)
ANA	Autoridad Nacional de Agua (Peru) (National Water Authority)
ANARESCAPYS	Asociación Nacional de Regantes y Sistemas Comunitarios de Agua Potable de Bolivia (Bolivia) (National Association of Irrigators and of Community Drinking Water Systems)
ARECRUZ	Asociación de Regantes y Sistemas de Agua Potable de Santa Cruz (Bolivia) (Association for Irrigation and Drinking Water of Santa Cruz)
ARST	Asociación de Riego y Servicios Tiraque (Bolivia) (Association of Irrigation and Services in Tiraque)
ASP	Asamblea por la Soberanía de los Pueblos (Bolivia) (Assembly for the Sovereignty of the Peoples)
ATDR	Administradores Técnicos de los Distritos de Riego (Peru) (Technical Administrators of the Irrigation Districts)
AUTODEMA	Autoridad Autónoma de Majes (Peru) (Autonomous Authority of Majes)
CAF	La Cooperación Andina de Fomento (Bolivia) (Andean Development Corporation)
CAP	Cooperativas Agrarias de Producción (Peru) (Agrarian Production Cooperatives)
CCP	Confederación Campesina del Perú (Peasant Confederation of Peru)
CGIAG	Comisión para la Gestión Integral del Agua en Bolivia (Bolivia) (Commission for Integrated Water Management in Bolivia)
CIDOB	Confederación Indígena del Oriente, Chaco y Amazonía de Bolivia (Bolivia) (The Confederation of the Oriente, Chaco and Amazon of Bolivia)
CIPCA	Center for Research and Promotion of the Peasantry

CLEP	Commission on the Legal Empowerment of the Poor
CNMCIQB-BS	Confederación Nacional de Mujeres Campesinas Indígenas Originarias de Bolivia Bartolina Sisa (Bolivia) (Syndicalist Confederation of Intercultural Communities of Bolivia)
CNRA	Consejo Nacional de Reforma Agraria (Bolivia) (National Council of the Agrarian Reform)
CNTCB	Confederación Nacional de Trabajadores Campesinos de Bolivia (Bolivia) (National Confederation of Campesino Workers of Bolivia)
COFOPRI	Organismo de Formalización de la Propiedad Informal (Peru) (Agency of Informal Property Formalization)
COMIBOL	Corporación Minera de Bolivia (Bolivia) (Bolivian Mining Corporation)
CONAMAQ	Consejo Nacional de Ayllus y Markas del Qullasuyu (Bolivia) (National Council of Ayllus and Markas of Qullasuyu)
CONAPA	Comisión Nacional de Pueblos Andinos, Amazónicos y Afroperuanos (Peru) (National Commission on Andean, Amazon and Afro-Peruvian Communities)
CONIAG	Consejo Interinstitucional del Agua (Bolivia) (Inter- Institutional Water Council)
COPASA	Cooperación Peruano Alemana de Seguridad Alimentaria (Peru) (Peruvian–German Cooperation for Food Security)
CPIB	Central de los Pueblos Indígenas de Beni (Bolivia) (Center of Indigenous Peoples of Beni)
CSCIB	Confederación Sindical de Comunidades Interculturales de Bolivia (Bolivia) (Syndicalist Confederation of Intercultural Communities of Bolivia)
CSUTCB	Confederación Sindical Única de Trabajadores Campesinos de Bolivia (Bolivia) (The Unitary Syndical Confederation of Peasant Workers of Bolivia)
DESCO	Centro de Estudios y Promoción del Desarrollo (Peru) (Center for Development Studies and Promotion)
DMI	Distritos Municipales Indígenas (Bolivia) (Indigenous Municipal Districts)
DNI	Documento Nacional de Identidad (Peru) (National Identity)
FAO	Food and Agriculture Organization of the United Nations

FEDECOR	Federación Departamental Cochabambina de Regantes (Bolivia) (The Cochabamba Departmental Federation of Irrigators' Organizations)
FPS	Fondo Nacional de Inversión Productiva y Social (Bolivia) (National Fund for Productive and Social Investment)
FRI	Fondo de Reforzamiento Institucional (Peru) (Institutional Capacity Strengthening Fund)
GDP	Gross Domestic Product
GIS	Geographic Information System
GIZ / GTZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (former Deutsche Gesellschaft für Technische Zusammenarbeit GmbH) (Germany) (German Society for International Cooperation)
GWL	General Water Law (Peru)
GWP	Global Water Partnership
IASCP	International Association of the Study of Common Property
IDB	Inter-American Development Bank
IDL	Instituto de Defensa Legal (Peru) (Legal Defense Institute)
IDRC	International Development Research Centre (Canada)
IGM	Instituto Geográfico Militar (Bolivia) (Military Geographic Institute)
ILO	International Labor Organization
IMF	International Monetary Fund
INC	Instituto Nacional Colonización (Bolivia) (National Institute of Colonization)
INDEPA	Instituto Nacional de Desarrollo de Pueblos Andinos, Amazónicos y Afroperuano (Peru) (Institute for Development of Andean, Amazonian and Afro-Peruvians)
INE	Instituto Nacional de Estadística de Bolivia (Bolivia) (National Institute of Statistics of Bolivia)
INEI	Instituto Nacional de Estadística e Informática (Peru) (National Institute of Statistics)
INRA	Instituto Nacional de Reforma Agraria (Bolivia) (National Agrarian Reform Institute)
INRENA	Instituto Nacional de Recursos Naturales (Peru) (National Institute of Natural Resources)
IOC	Indígena Originario Campesina (Bolivia) (Indigenous Original Peasant)
IWRM	Integrated Water Resource Management

JNUDRP	Junta Nacional de Usuarios del Distrito de Riego (Peru) (National Board of Irrigators)
KfW	Kreditanstalt für Wiederaufbau (Germany) (Credit Institute for Reconstruction)
LPP	Ley de Participación Popular (Bolivia) (Law of Popular Participation)
MARC	Método Alternativo de Resolución de Conflictos (Bolivia) (Alternative Method of Dispute Resolution)
MAS	Movimiento al Socialismo (Bolivia) (Movement for Socialism)
MDGs	Millennium Development Goals
MIMDES	Ministerio de la Mujer y Desarrollo Social (Peru) (Ministry of Women and Social Development)
MITKA	Movimiento Indio Túpac Katari (Bolivia) (The Indian Movement Tupaj Katari)
MMAyA	Ministerio de Medio Ambiente y Agua (Bolivia) (The Ministry of Environment and Water)
MNR	Movimiento Nacionalista Revolucionario (Bolivia) (Revolutionary Nationalist Movement)
MRTK	Movimiento Revolucionario Tupac Katari (Bolivia) (The Revolutionary Movement Tupaj Katari)
MSC	Minera San Cristóbal (Bolivia) (San Cristóbal Mine)
MST	Movimiento Sin Tierra de Bolivia (Bolivia) (Landless Movement of Bolivia)
NEP	New Economic Policy
NGO	Non-Governmental Organization
ONAJUP	Oficina Nacional de Justicia de Paz y de Justicia Indígena (Peru) (National Office of Justice and Peace)
OTB	Organizaciones Territoriales de Base (Bolivia) (Territorial Base Organizations)
PAN	Pacto Agrario Nacional (Peru) (National Agrarian Pact)
PCB	Partido Comunista de Bolivia (Bolivia) (Communist Party of Bolivia)
PCR	Plan de Cultivo y Riego (Peru) (Cultivation and Irrigation Plan)
PETT	Proyecto Especial de Titulación de Tierras y Catastro Rural (Peru) (Special Project for Land Titling and Rural Land Registry)
PIR	Partido de la Izquierda Revolucionaria (Bolivia) (Revolutionary Left Party)

POR	Partido Obrero Revolucionario (Bolivia) (Revolutionary Workers Party)
PRAV	Programa de Riego Altiplano Valles (Bolivia) (Irrigation Program for the Highlands and Valleys)
PROAGRO	Programa de Desarrollo Agropecuario Sustentable (Bolivia) (Sustainable Agricultural Development Program)
PROAPAC	Programa de Suministro de Agua Potable y Evacuación de Aguas Residuales en las Pequeñas y Medianas Ciudades (Bolivia) (Program for Drinking Water Supply and Sanitation in Small- and Medium-sized Towns)
PROFODUA	Programa de Formalización de Derechos de Uso de Agua (Peru) (Program to Formalize Water Use Rights)
PRONAR	Programa Nacional de Riego (Bolivia) (National Irrigation Program)
PRONAREC	Programa Nacional de Riego con Enfoque de Cuencas (Bolivia) (National Irrigation Program with a Watershed Approach)
PSI-Program	Programa Subsectorial de Irrigaciones (Peru) (Irrigation Sub-Sector Program)
RADA	Registro Administrativo de Derechos de Agua (Peru) (Administrative Register of Water Rights)
SAIS	Sociedades Agrícolas de Interés (Peru) (Social Agrarian Social Interest Societies)
SAPs	structural adjustment programs
SEDERI	Servicio Departamental de Riego (Bolivia) (Departmental Irrigation Services)
SEMAPA	Servicio Municipal de Agua Potable y Alcantarillado (Bolivia) (Municipal Drinking Water and Sewer Services)
SENARI	Servicio Nacional de Riego de Bolivia (Bolivia) (National Irrigation Service)
SIRENARE	Sistema de Regulación de Recursos Naturales Renovables (Bolivia) (Regulation System for Renewable Natural Resources)
SIRESE	Sistema de Regulación Sectorial (Bolivia) (Sectoral Regulation System)
SNIRI	Sistema Nacional por Informaciones de Riego (Bolivia) (National System for Irrigation Information)
SUNARP	Superintendencia Nacional de los Registros Públicos (Peru) (National Supervision of the Public Registrations)

TCOs	Tierra Comunitaria de Origen (Bolivia) (Native Community Lands)
TLCs	Tratado de Libre Comercio (Free Trade Agreements)
UN	United Nations
UNCESCR	United Nations Committee on Economic, Social and Cultural Rights
UNDP	United Nations Development Program
UNDRIP	UN Declaration on the Rights of Indigenous Peoples
UNESCO	United Nations Educational Scientific and Cultural Organization
USAID	United States Agency for International Development
WALIR Project	Water Law and Indigenous Rights Project
WWC	World Water Council