

WATER, DEMOCRACY AND THE CONSTRUCTION OF CITIZENSHIP: lines for a complex socio-juridical analysis¹

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ABSTRACT

This essay aimed at discussing one of the most serious crises experienced in the world today, the water crisis, and placing it at the center of the State from the discussion about citizenship and democracy, considering that access to water is a human right, and its absence may indicate fragility in contemporary democracies and, therefore, precariousness in the full exercise of citizenship. Thus, the central objective was to analyze the access to water, as a fundamental right, in the face of the concept of citizenship. The methodology was developed from access to secondary data and bibliographic research. Thus, it can be affirmed that the contemporary Democratic State of Law has not been able to universalize access to water, although legal instruments and public policies have been formulated and

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implemented, presenting a framework of injustice that imposes on the most vulnerable the lack of water supply, intermittent supply, poor water quality, and lack of basic sanitation.

Key words: water, development, fundamental rights, democracy.

RESUMO

O presente ensaio visou discutir uma das mais graves crises vivenciadas no mundo hoje, a crise hídrica, e colocá-la no centro do Estado a partir da discussão sobre cidadania e democracia, considerando-se que o acesso à água é um direito humano, e sua ausência pode indicar fragilidade nas democracias contemporâneas e, por conseguinte, precariedade no exercício pleno da cidadania. Dessa forma, o objetivo central foi colocar em análise o acesso à água, enquanto direito fundamental, em face do conceito de cidadania. A metodologia foi desenvolvida a partir do acesso a dados secundários e pesquisa bibliográfica. Com base nessa análise, pode-se afirmar que o Estado Democrático de Direito contemporâneo não foi capaz de universalizar o acesso à água, embora tenham sido formulados e implementados instrumentos jurídicos e políticas públicas, apresentando um quadro de injustiça que impõe às camadas mais vulneráveis a falta de água, o abastecimento intermitente, a qualidade duvidosa da água, bem como a ausência de saneamento básico.

Palavras-chave: água, desenvolvimento, direitos fundamentais, democracia.

INTRODUCTION

The present article intends to trace the relationship between water, democracy and citizenship in a sociojuridical approach, understanding that these elements are the inflection points in the current society for the understanding, or at least the problematization, of some questions about lack of realization of rights, lack of access to basic services, denial of basic services, such as the provision of water, something basic and already enshrined as a human right, as we are talking about survival.

This is related to the modern state project that has been devised by dominant groups throughout history. It remains to be seen whether this project was successful. We believe that realizing this crisis of access to water in the world, and especially in Latin America, can help us answer this question, and sometimes even serve as a “lens of interpretation” of an atrocious reality of not having access to the basics to survive, whether due to mismanagement of public power or damage to nature.

As if that were not enough, we are experiencing a world surrounded by crises, rather crises, that is, we are not only witnessing a crisis, but an overwhelming number of crises that seem to be interconnected at some time or another seem to have no apparent relation. Did the project of citizenship of the modern, constitutional state collapsed?

Another approach that will be used here will be to observe the phenomenon from the conflict, the actors involved, the power relationship, this often outsourced through the legal system and its legal provisions that, not always, are presented in the most just way, especially in relation to particular groups that have more or less access to assets in society.

The scarcity of water occurs due to climatic factors or, as can be seen, also by political factors that interfere in the distribution of this good and its consequent access, that is, not all have access to water. This shortage is also observed by virtue of a clear process of commodification of this water around the world, which leads to reflect on the common interest that emanates from the human right to water; this all constitutes a crisis scenario that is designed not only by the absence of rain, but by a political ecology of water, with conflict as an explanatory factor of this issue.

Thus, the general objective of this article is to analyze the water crisis from the theoretical elements that characterize citizenship in a context

of complexity of the present times. Specific objectives are: to demarcate the theoretical framework in the Critical Theory of Citizenship that can present keys of inflection in the water crisis; to verify if it is possible to draw a relation between water and citizenship and to map, minimally, if there are processes of social struggles for water and what has been the role of the Law in these dynamics.

The study on water can point to much more than just the existence or scarcity of a precious liquid, but it can serve as a “lens” of analysis for social problems, regulation, and even injustice in managing that element. The right to life implies that there will be minimum conditions for survival, including access to water. On the other hand, the right to water has become a human right of great repercussion, but it seems that access to this essential good has been financialized over time and has been very scarce, especially for the less well-off society, without mentioning the problem of resource management that still exists, and perhaps the implementation is the biggest problem in the realization of this access.

Therefore, this article will be organized, in an initial part, in the theoretical location of a discussion about citizenship; in the second place, concepts of development will be redeemed, referring to its connection with the concretization of citizenship; then the relationship between development, water and citizenship will be discussed, ending with the process of commodification of water as a reality present in society.

1 CITIZENSHIP AND ITS MAKING

Originally citizenship has its origin essentially linked to political participation (BELLAMY, 2008), as the phenomenon of participating or not in the political process of nations and communities. This concept has been transformed throughout history, by the need to broaden the notion of citizenship, taking into account the multiculturalism of the world, the relations of identity and, according to Santoro (2011), taking into account the meaning of people as a set of particularisms, cultural diversities, communities, ethnicities, religions, a scenario of tensions increased by a segmentation never before seen and by increasing migratory flows.

Democracy has an intimate connection with the process of advancing or not citizenship in the world, considering it as an attempt

to include, more modern terminology, the interests of those who would not normally have more participation in the destinies of nations and communities. The great difficulty of democracies has always been to improve the lives of the citizens of the national community. Today, the difficulty has increased enormously, insofar as the phenomenon of globalization and multiculturalism have to be taken into account as processes that impact on the understanding of what becomes citizenship (BELLAMY, 2008).

The insertion of multivisions and interests in the understanding of what citizenship means will gain a problematizing outline when one thinks nowadays of Marshall's (1967) text, which relates the concept of integral citizen participation with the inequalities that differentiate various levels of society. This leads us to think that relating citizenship and social class matters a lot, especially when one realizes who really participates in decisions in a democracy, as those who represent the people decide, or their behavior, finally, it seems that participation ends up being restricted to vote, which is a relevant step in itself, however, it is not an exclusive stage of this citizenship.

This process of inclusion and exclusion that guides the field of action of citizenship is marked by a selectivity in democratic states of law, such as Brazil. This can be seen more strictly when one thinks of equality and inequality from development, considered mainly as growth, but which has advanced towards a human development, or as Amartya Sen (2000) adopted, a development as freedom, in which development is all the greater the greater the level of freedom. Thus, it is recognized that a process of approximation of equality or equalization of rights is very difficult, if there is a broad, indistinct process of citizenship, spread throughout society.

Marshall's (1967) approach is very elucidative when one thinks of the modalities in which he divided his analysis of citizenship, namely, civil, political, and social. According to Marshall (1967: 63):

- 1) civil - is made up of the rights necessary for individual freedom - the freedom to come and go, freedom of the press, thought and faith, the right to property and to conclude valid contracts and the right to justice;
- 2) political - is understood as the right to participate in the exercise of political power, as a member of the institution or as an elector of the agent;
- 3) social - refers to everything ranging from the right to minimum economic well-being and security, to the right to participate in social heritage and lead the life of a

civilized being, according to the prevailing standards in society.

Despite all the difficulties and questions experienced today regarding a crisis of institutions and political representation, it is understood that in items 1 and 2 progress has been made; however, these crises need to be considered cyclical and can have a direct impact on civil liberties and political citizenship. Of course, social citizenship follows the taste of the ideals of governments and their priorities, which makes verify countries that invest more in this welfare and others that invest less. However, here he deserves an explanation of the aforementioned “advances”, from Marshall’s (1967) text, in which he describes the historical process of citizenship construction, since there were already historical moments in which political participation passed through a gender issue: woman did not vote; or census: the vote depended on income, or how noble the citizen would be. It can be seen that the “mold” of citizenship was, and still is, given by the format of the rule of law that is designed and legitimized by somebody or by groups, and it can be expanded or restricted the understanding of citizenship. The question is: who are the citizens? Who can be called a citizen?

According to Marshall (1967, p. 76), citizenship is a *status* granted to those who are full members of a community, the holders of that *status being* equal with respect to rights and obligations. For Bellamy (2008, p. 13) citizenship *implies the capacity to participate in both the political and the socio-economic life of the community*. In both definitions, the element of participation is present, but it is believed to be insufficient to assess the extent, or breadth, of citizenship over society. As a counterpoint, this conception of participation can be linked to what Zolo (2006) discusses about the need to appropriate a Rule of Law theory, since the cut of citizenship depends on how the inflections and tensions were considered at the time of to insert in these states as far as the extension of citizenship.

Much is thought of “common sense” that being classified as a rule of law implies a set of rights of citizenship automatically. However, Zolo (2006) deconstructs this conception, stating the need to consider the expression “Rule of Law” as the one that holds in itself an atrocious uncertainty - since it has lived with slavery - such as racial prejudice, Nazism, among other historical phenomena that meant not granting rights, restriction in the exercise of these rights. Two extra excerpts from Zolo’s

publication (2006, pp. 8-9), which attest to this conceptual imprecision and the risks that this may bring to the understanding of citizenship, are set out below:

Obviously it would be serious naivety to look for a semantically univocal and ideologically neutral definition of the rule of law. (...) a coherent theoretical interpretation of the Rule of Law must engage more than in a detailed historical and philological documentation of the particular facts and their relative literature, in an attempt to identify the references of value, normative modalities and forms institutional approaches that bring together the various experiences that have referred - or were referred to - to the notion of the rule of law.

Perhaps more symptomatic in this essay is to reflect on the capacity of the rule of law as a liberal project devised on a capitalist basis in a context of class division (MARSHALL, 1967), to realize rights, to guarantee rights, as Zolo (2006) points out, that there is a crisis of this model of rule of law, based on a crisis of the capacity for regulating the law and an inflation of the law. It seems that one walks, or is already inserted in states that are much more concerned to confer “citizenship sensation” than effectiveness, denouncing the incapacity of these “apparatuses” in the implementation of this right. This crisis is pertinent to a Guarantor structure and its functioning, such as that proposed in states such as Brazil, whose Federal Constitution has this bias, draws a State of Law in a very broad sense, in a very programmatic way, centered on a protection model of human rights. In this process, our constitution considers a growing social complexity and a process of globalization with ups and downs, now in crisis, as several nations are closing in a nationalist vision, from moderate to extreme, which directly impacts the breadth of applicability or destination of the term citizenship.

Santoro (2005) shows that the rule of law failed in one of its main promises: that of certainty. It has not guaranteed certainty, but it has to deal with the challenge of uncertainty and it seems that the formula would be, in the Rule of Law, to guarantee citizenship, articulate freedom and discipline, still considering the community of law interpreters as having strength in decisions. Globalization still brings elements that require a re-signification of citizenship, leaving from a local plan, for regional and

international spheres, generating the need for a supposed “new” category: global citizens (ZOLO, 2010). Would attempt to universal rights, in the wake of humanitarian rules, find limiting factors such as those of cultural identity, economic and social barriers? Today we see the United Kingdom approving the separation of the European Union, Mercosur failing, new President of the United States preaching extreme nationalism (“Americans first”), in short, that cyclical crisis accentuated by the refugees that spread throughout the world.

Another issue that is pertinent in this construction of citizenship is to consider it in a context of plurality of identities, since, in a state that calls itself democratic, most have their prevailing interests to the detriment of the minority, which causes a problem for the so called identity minorities (SANTORO, 2011), who hope to become majority, or have a guarantee of their citizenship through the legal system. In Brazil, this process was no different in the face of comings and goings in relation to the access of individuals to the most fundamental rights. The process of expanding citizenship in Brazil, with regard to the most fundamental rights, occurs through the institutionalization of interests in the legal system, and there is inherited a confusing treatment between the public and the private (CARVALHO, 2002), which endures to this day. A variable in Brazil, and also in the modern and postmodern world, which can be considered as a “thermometer” or an indicator of the concretization of citizenship, is the right to development, backed by the project of a nation founded on development for all, which will be problematized below, along with the water issue, from access and struggle for water, as a factor of construction of citizenship equally.

2 DEVELOPMENT, WATER AND CITIZENSHIP

The above authors defend a model of development that effectively contributes to the formation and transformation of society, with the active presence of the State as a development necessity for the formation of citizenship. It could be said that full citizenship includes development as a formative element to forge a developmental discourse. An interesting element to think of citizenship theoretically and empirically is water as a human right, a fundamental right, problematizing access to it.

It is relevant to think that there is a water crisis in the four corners of Brazil and in the world that hinders or hinders the development project, but perhaps the problem is not water scarcity but its distribution, as Bolsan and Haonet (2016, p. 244):

(...) there is a paradoxical situation in Brazil: although there is a great availability of fresh water, thousands of people do not have access to drinking water, they are thirsty and hungry on the edge of an oasis of watery abundance !This assertion is not just a rhetorical phrase, because the water vulnerability of certain regions - the Brazilian semi-arid - is attested by several studies already carried out by the National Water Agency (ANA), universities and NGOs.

In this way, can one speak of detached citizenship from the conception of development? Would there be full citizenship without access to water? Is access to water related to democratic politics? It is argued here that development and water are intertwined with the conception of citizenship. A seminal author in this debate on water crisis, its political, sociological and legal causes is Vandana Shiva (2007), when she is arguing that the great crisis of modernity, or postmodernity, is the scarcity of water and / or access to it, which would cause both health and economic development shocks. The number of inhabitants of nations with little potable water available to the population is increasing considerably (SHIVA, 2007), and the tendency is to increase even more. The United Nations (UN) - Water estimates that one billion people lack access to a sufficient water supply, defined as a source that can provide 20 liters per person per day at a distance of no more than one thousand meters. These sources include domestic sources, public sources, moats, protected wells and springs, and rainwater harvesting (UN, 2017).

The question seems to be technical, however, it requires a solution that goes through politics, as well as the citizen training of individuals. The UN Water Declaration clearly exposes the extent of the problem and how much this can even affect governance on the planet:

Clean, safe, and adequate freshwater is vital to the survival of all living organisms and the functioning of ecosystems, communities, and economies. But the quality of the world's water is increasingly threatened as the human populations grow, industrial

and agricultural activities expand, and the climate change; all this threaten to alter the global hydrologic cycle. There is an urgent need for the global community - both public and private sectors - to join together to take on the challenge of protecting and improving the quality of water in our rivers, lakes, aquifers, and taps. To do so we must commit to preventing future water pollution, treating waters that are already contaminated - including purification for human consumption, and restoring the quality and health of rivers, lakes, aquifers, and aquatic ecosystems. These actions will be felt all the way from the headwaters of our watersheds to the oceans, fisheries, and marine environments that together help sustain humanity (UN, 2010, p. 1).

Shiva (2007), from the analysis of his country, India, presents a strong causality between scarcity of drinking water and development model, which means that there is an intensive industrialization, use of pesticides on crops, pollution, among other factors. However, in order to have a protective framework or legal relevance, since social relevance was already evident, only in 2010 the right to water was voted in the UN General Assembly as a human right, which is a great delay, as Bulto (2015) agrees.

The issue of water has gained scope and the UN has placed it as the sixth Sustainable Development Objective (ODS), which is written: “to ensure the availability and sustainable management of water and sanitation for all” (BRASIL, 2016, p. 15). From this goal, which presents a great challenge that is worldwide, with more than 2. 5 billion people who do not have toilets, and 70% of all water is used for irrigation (UN, 2015), it is interesting to draw attention to one of the great difficulties of realizing this human right and objective of sustainable development, pointed out by Castro (2016) in relation to the paradox between universalizing water and sanitation in a world where water is already consolidated as a commodity.

In addition to a shortage of water, caused by irregular rainfall, lack of public investment, poor water distribution, sum up the process of large-scale commercialization of water (CASTRO, 2016), resulting in the transformation of water in a common good, which everyone could enjoy without restriction, for a clearly economic good. This is duly institutionalized, in the case of Brazil, in the National Policy of Water Resources²: Art. 1 The National Policy of Water Resources is based on the following grounds:

² Law no. 9. 433/1997.

I - water is a public domain good;

II - water is a limited natural resource endowed with economic value;

Thus, in Brazil, water is both “public domain” and endowed with “economic value”. It should also be remembered that the Federal Constitution of 1988 places it as a Union good, which means that it is public good; bodies of water, rivers, lakes, groundwater, sea. In addition to this formal legal discussion, we must pay attention to the fact that water can provide an overview of the extent of citizenship in territories, countries, regions, states, from access to this essential good, distribution and management.

It is possible to affirm that water is an essential element for the development project(s) in Brazil within a perspective of economic growth, being inserted in the national development policy, be it in the expansion of the system, or network, of distribution of water, sanitation, or water supply to industry. The scenario, however, in Latin America, is still of great inequality (CASTRO, 2016b), and it is there that access to water is an increasingly essential element. It is necessary to mark that, as discussed above on the beginning of this essay, the concept of citizenship is in dispute, which is reminiscent of its scope and does reflect that all who are in the same community are citizens, as said notion by Marshall (1967). It is interesting to retake the concept of citizenship from what Castro (2016b, p 104) mentions: “[e]n la definición laxa que uso para iniciar la discusión, “ciudadanía”, se refiere al conjunto de derechos y obligaciones que determinan el carácter de las relaciones entre los individuos de una determinada comunidad política”.

Hence comes a relevant question: does everyone in a community have access to all these rights? And that includes, for obvious reasons, access to water. You see, there is a formal dimension that makes you belong to a community, such as to be American, Brazilian, participant of the European Union and etc. However, these are merely formal conditions, and then a substantial dimension would be important, or more relevant, which would account for more concrete factors about whether to have rights or not. It should be said here that formally belonging to a community does not guarantee equal access to certain rights, such as water; there are certainly

distances because of class, gender, and ethnicity. Moreover, the notion of citizenship has undergone a widening of its scope in the face of demands of technology and the environment for example (FRANKENFELD, 1992; STEENBERGEN, 1994). Even the universalizing vision of human rights converges towards this expansion towards “global citizenship”.

An interesting turning point for the analysis is precisely the paradox between principles of liberal democracy, such as equality, isonomy, and capitalism, which produce inequalities (MARSHALL, 1967; CASTRO, 2016a, CASTRO, 2016b). Without entering into the old dichotomy of socialism *versus* capitalism, the superstructure of capital ends by establishing material limits for the exercise of full, substantial citizenship. It seems that social movements have pushed for the expansion of the scope of citizenship, with the emergence of new rights. In Latin America, the question of the scope of citizenship has been crossed by the widely known regional political instability. Below is a chart that represents the relationship between citizenship and water.

TABLE 1 - relationship between citizenship rights and water

CITIZENS' RIGHTS	LINK WITH WATER
Civil Rights (property, justice)	Rights of water, equality and justice in access
Political rights (democratic exercise of power)	Democratic governance of water and its derived services, participation
Social rights (welfare)	Universal access to essential water volumes and services for life

Source: CASTRO, 2016a.

Table 1 illustrates the relationship between conventional citizenship rights, where it is understood that civil rights also include inherent rights to water, particularly in relation to their access; political rights call attention to the quality of the population's participation in the governance process, leading to the consideration of the governance model adopted by governments in relation to water, and that social rights are sensitive to the basic needs of the population, emphasizing the imperative of access minimum amounts of water for survival and that access is

universalized.

Perhaps one of the main issues with water management is in relation to the transparency of the system, ie it is not clear at all in a time of crisis whether all sections of the population and the market are subject to the same access rules the water. In a severe drought situation that is being experienced in this period, essentially in the Brazilian semi-arid, although there have been periods of drought in São Paulo and Rio Grande do Sul, there is a totally anachronistic water distribution system, without planning, in which the population has no information, or almost no access to information on the source of the water being distributed by public authorities or agents.

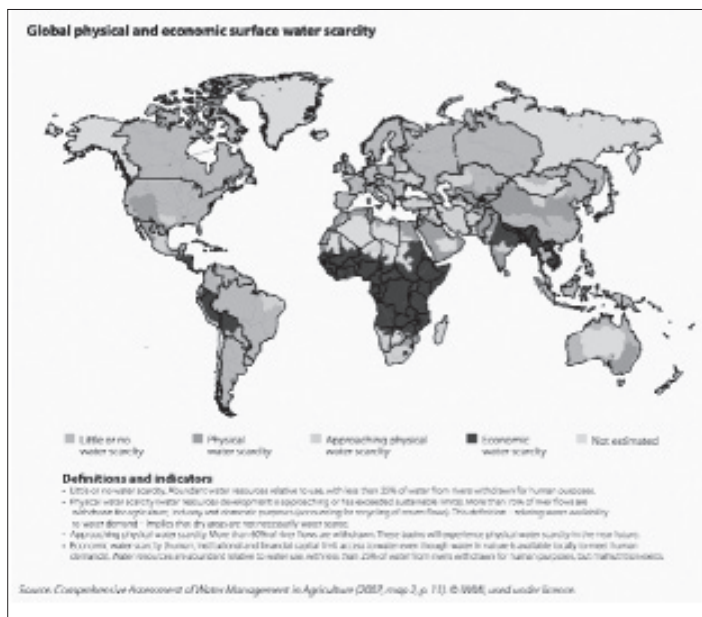
2. 1 WATER: BETWEEN THE PUBLIC AND THE PRIVATE AND THE ENTRAVES FOR THE CONSTRUCTION OF CITIZENSHIP BY WATER

A discussion that seems to have little effect on generally water related institutions, but which social movements end up rekindling, is the question of water ownership, that is, to whom does water belong? Is it private or community property? What kind of right has or should the people have in relation to the use of water? What are the rights of the state? What are corporate rights and business interests? According to Shiva (2007), the globalized economy is changing the understanding of what water means, moving from a common good to a private good that can be commercialized. The global economic order requires the withdrawal of limits and regulations on the use of water and the consequent creation of water markets. It is interesting to perceive the essence of the right to water as being part of the natural rights of mankind, as it is part of the ecosystem of life, being essential to the survival of humanity. The people have the right to life and the resources that sustain it, in this case water.

Water should be a common good, and the state should guarantee access to it; however, what is being seen in several cities of the semi-arid is the indiscriminate drilling of wells in houses and the sale of this water, which is not owned by anyone, or the formation of a large water trade, which feeds on the in the reservoirs, without any supervision. In addition, it is known that the São Francisco river transposition is a major project driven by the economic development project, which requires water, and

that it has been accelerated due to the collapse of supply in medium and large cities in the semi-arid northeast. Figure 1 shows the distribution of water in the world, according to the United Nations report.

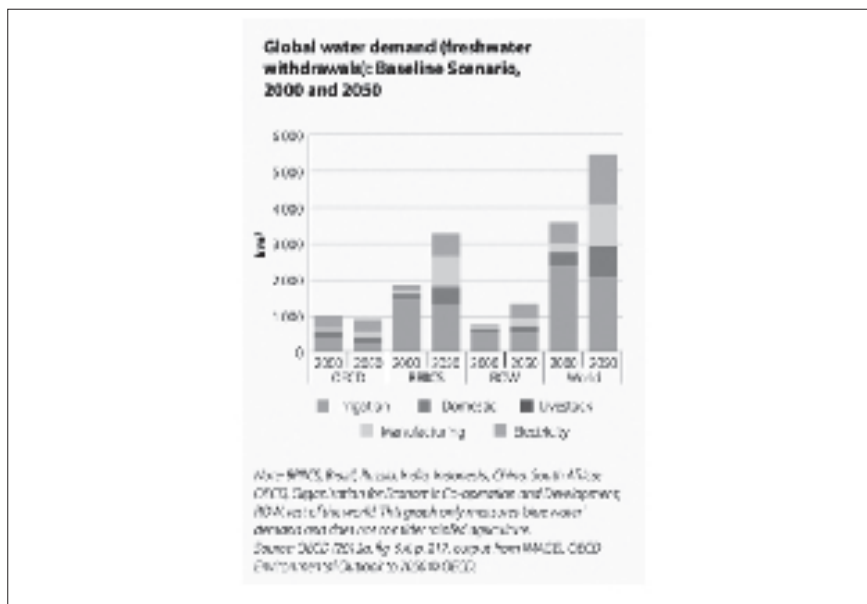
Figure 1 - map of the distribution of water around the Planet



Source: UN, 2014.

The above map clearly shows that the available water actually does not reach the population directly; much of it is used for agriculture and industry. Below, in Figure 2, this assertion becomes clearer:

Figure 2 - distribution of drinking water



Source: UN, 2014

Figure 2 clearly shows that the highest expenditure on water is related to economic activity and not to human consumption. In addition, it is important to be aware that water is widely used in the production process in general, called “virtual water”. This virtual water is precisely the one used in various production processes, be it to foods that are sold internally and externally, or to high-value goods such as cars, motors etc. According to Carmo et al. (2007), the largest volume of water spent is in the productive sectors of industry and agriculture, and the lowest percentage is domestic. According to the same authors, there is a significant loss in exports of Brazilian *commodities*, considering that the water used is not accounted for, which is increasingly aggravated by a crisis, water scarcity. Brazil is the fifth largest exporter of virtual water in the world (FREITAS, 2015), which is mainly due to its activity as a major exporter of food, considering

also that Europe is a major consumer of this virtual water. Many countries have insufficient water resources, being much cheaper to buy outside.

The curtailment of this right of citizenship of access to water becomes more and more real with the movement of commodification of water. Rodrigues (2016) calls attention to an increasing process of transforming water into a great *commodity*³ in a commodity that may even be traded on a stock exchange. To this end, the author cites the Iraq war as having been a theater around the water of the Middle East and that, in fact, the conflict occurred to protect the existing water and process it for sale. Another conflict of the East is between Israel and Palestine; the former captures water from the Jordan to irrigate its plantations, passing the image of efficiency in agriculture to the world, leaving the Palestinians in a great drought, with a true water *apartheid*, whereby more than half of the Palestinians do not have access to it (MORIN, 2013). This restriction on access to water ends up creating a selectivity around a good that should be common, confronting this right of fundamental citizenship for any citizen.

Morin (2013) brings an important fact that reveals this face of prejudice to citizenship from the lack of access to water, citing the example of South Africa, where 600,000 white farmers consume 60% of the country's water resources in irrigation, while 15 millions of black citizens do not have access to safe drinking water. In addition, the more developed the country is the greater the water consumption *per capita*; in developing countries, about 20 liters; in Italy, 213 liters; in the United States, 600 liters; only in California it reaches 4,1 thousand liters (MORIN, 2013). In Brazil's case, it holds 11% of the planet 's fresh water resources and also 45 million citizens do not have access. Below the compilation of some problematizing data:

3 any good in the raw state, of agricultural origin or of mineral or vegetable extraction, produced on a large scale worldwide and with homogeneous physical characteristics, whatever their origin, destined for foreign trade.

◦ each of the primary products (eg, coffee, sugar, soy, wheat, oil, gold, various minerals etc.) whose price is determined by international supply and demand.

◦ any product produced in mass.

TABLE 2 - Data on the water crisis

1. 5 billion people do not have access to safe drinking water
2. 4 billion people live without access to basic sanitation.
40% of the water used for irrigation is lost by evaporation.
the loss in aqueducts amounts to 30% to 50%.
In 2000, private water and sanitation companies began to serve around 400 million people.
Switzerland is one of the only countries whose water losses reach 9%; in France this level can reach 35%.

Source: MORIN, 2013.

One issue that comes to the fore, especially when neoliberalizing “winds” are increasing from time to time in the “brazuca” nation, is the privatization of water, as it is already a reality, mainly verified by the lack of inspection, the indiscriminate use of the water table, the dams, canals, rivers, seas, among other sources of water. The presence of water companies, companies that negotiate water, in various parts of the world. However, one question that is directly related to the formation of citizenship around the right of access to water is: does privatization improve water supply and sanitation?

Privatization ends up being a cause for failing to realize a fundamental right of citizenship such as access to water. However, studies have indicated a reestatization of water supply and sanitation services. A study prepared by the International Public Services Research Unit (PSIRU), Transnational Institute (TNI) and Multinational Observatory, also pointed out that the initiatives for reestablishment occurred in response to the false promises of private operators and their inability to prioritize service to communities in detriment of profit, as well as lack of transparency and difficulty in monitoring their activities by the public power. The map below demonstrates the situation of returning the former private equity to the public again.

MAP - presenting the world diagnosis about the resumption of public patrimony - a process called remunicipalization



Over a period of 15 years, following a wave of privatizations, a reverse process is taking place: remunicipalization is precisely the return or reincorporation of publicly owned companies deprived of water supply and sanitation (PSRIR, 2014). Note that this opposite movement for the recovery of water citizenship has been taking place in the most diverse countries, around 180, including in the United States, with a long tradition of liberalism, being the subject matter common in this nation. The question is whether the private extends rights, because countries, as the map above shows, are making public service again. It seems that this process of remunicipalization⁴ or reestablishment, started from a collective demand for access to water, and from the understanding that the service did not improve and served to further restrict the right to water; this has been well proven by the considerable increase in countries that are reestablishing the supply and sanitation service (KISHIMOTO *et al*, 2015, MCDONALD, 2012). The privatization of water goes in the opposite direction to the universalization of rights, as well as to the full constitution of citizenship.

It is also possible to question the state's ability to universalize

4 Accra (Ghana); Almaty (Kazakhstan); Antalya (Turkey); Bamako, Mali; Bogota (Colombia); Budapest (Hungary); Buenos Aires (Argentina); Conakry (Guinea); Dar es Salaam (Tanzania); Jakarta, Indonesia; Johannesburg (South Africa); Kampala, Uganda; Kuala Lumpur, Malaysia; La Paz (Bolivia) - Some of the sites that have reestablished their services of water distribution and basic sanitation.

this good, in addition to the fact that in times of scarcity, the inability to plan and solve shortages is more clearly seen. Currently, in Brazil, a water crisis is occurring, especially in the semi-arid region, but recently there was scarcity in the city of São Paulo, quite severe. When this occurs, one can perceive the state's amateurism, class segregation in society, low democracy expressed in the lack of transparency and participation of the population in decisions about access to water, distribution and sanitation.

Access to water often represents the model of society that is divided, where water does not reach in some sectors of the cities. The number of people with low incomes is higher, sanitation is not enough; we can cite the problem of the city of Recife (FERREIRA *et al*, 2015). In addition, currently, during drought, municipal governments are having to install water distribution points in communities, many of them fueled by wells, as the photo below illustrates.



The wealthier classes of these regions acquire water that is sold in trucks, as well as irregularly drill artesian wells on their properties, even selling water, a water that is not theirs. The portion of the population that has the conditions can obtain alternatives of supply. In addition, there is practically no pipeline supply to rural communities, and these, in the case of the semi-arid in Brazil, are supplied by “kite-cars”, or some still have water in the cisterns of the plate; the priority is urban space.

These systems, presented in the photos above, represent public and private forms of water supply that have little or no state control, especially with regard to water quality and distribution. With regard to the

privatization of water, it can be said that companies will be attracted to the most interesting market niches for investments, for example stratification of the quality of supply; that is, the better the more refined the site, and the more it is paid, not contributing to the universalization of water (HUBNER, 2015).

FINAL CONSIDERATIONS

This essay presented the intimate relationship between access to water, democracy and citizenship, the former being an interesting indicator to verify the degree of completion of the other two, although a consolidated or consolidating democracy ensures that citizens have access to the most basic assets for survival. However, it is important to realize that water is being treated as a public good, although in the world there is still a movement of privatization of water supply and sanitation accompanied by a retraction and return to the public domain of water control.

Public access to water can be one of the indicators to show a greater or lesser consolidation of citizenship. Thus, the article serves to draw attention to the relevance of taking into account development concepts as essential for understanding the interests involved in the social dynamics around water, understanding that this is not only a technical issue, but involves diverse fields of knowledge such as politics, sociology, anthropology, law, education, engineering, among others.

In the face of all the advancement of laws, treaties and humanitarian conventions, there are people who do not have access to water. In spite of being a basic item, public policies designed by the states, in the context of the Democratic State of Law, are not able to universalize access to water, and still have a framework of injustice that imposes on the poorer, more deprived and information lack of water, intermittent supply, dubious quality of water, as well as open sewage and greater susceptibility to diseases caused by mosquitoes such as dengue and zika. What seems to be that there is still a kind of sub-citizenship when one thinks of water distribution, access to water and basic sanitation, which forces the population to live in a context where there is no transparency in supply systems, nor confidence.

REFERENCES

BELLAMY, Richard. *Citizenship: a very short introduction*. Oxford: Oxford, 2008.

BRASIL. *Transformando Nosso Mundo: a Agenda 2030 para o Desenvolvimento Sustentável*. Disponível em: <<http://www.br.undp.org/content/dam/brazil/docs/agenda2030/undp-br-Agenda2030-completo-pt-br-2016.pdf>> Acesso em: 15 de Janeiro de 2017.

CARVALHO, José Murilo de. *Cidadania no Brasil: o longo caminho*. 2. ed. Rio de Janeiro: Civilização brasileira, 2002.

CASTRO, Jose Esteban. *Água e democracia na América Latina [Livro Eletrônico]*. Campina Grande: EDUEPB, 2016a.

_____. O acesso universal à água é uma questão de democracia. In *Boletim Regional, Urbano e Ambiental nº15*, Julho/Dezembro 2016b.

FERREIRA, Hermelinda Maria Rocha et al. A política de racionamento de água na cidade do Recife, Brasil: impactos e desigualdades nos assentamentos precários. In CASTRO, J. E. *O direito à água como política pública na América Latina : uma exploração teórica e empírica*. Brasília: IPEA, 2015.

MARSHALL, Thomas Humphrey. *Cidadania, classe social e status*. Rio de Janeiro: Zahar, 1967.

MORIN, Edgar. *A via: para o futuro da humanidade*. Rio de Janeiro: Bertrand Brasil, 2013.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS. *Wastewater untapped resource*. França: Unesco, 2017. Disponível em: <<http://unesdoc.unesco.org/images/0024/002471/247153e.pdf>>. Acesso em: 12 de dezembro de 2016.

_____. UN - Water Statement

on Water Quality. Disponível em: <http://pacinst.org/wp-content/uploads/2013/02/UN_Water_Statement.pdf>. Acesso em: 10 de Janeiro de 2017.

_____. Conheça os novos 17 Objetivos de Desenvolvimento Sustentável da ONU. Disponível em: <<https://nacoesunidas.org/conheca-os-novos-17-objetivos-de-desenvolvimento-sustentavel-da-onu/>>. Acesso em: 20 de Janeiro de 2017.

_____. Water and Energy. Volume 1. França: Unesco, 2014. Disponível em: <<http://unesdoc.unesco.org/images/0022/002257/225741E.pdf>>. Acesso em: 25 de Janeiro de 2017.

PSIRU, Food & Water Watch, Corporate Accountability International, Remunicipalisation Tracker. Veio para ficar: a remunicipalização da água como uma tendência global. In Unidade Internacional de Pesquisa de Serviços Públicos Editado por: Madeleine Bélanger Dumontier (PSIRU), Instituto Transnacional (TNI) e Observatório Multinacional. Disponível em: <https://www.tni.org/files/download/heretostay-pt.pdf>, acessado em 20 de Janeiro de 2017.

RODRIGUES, Lúcia. A nova Commodity: o papel estratégico da água no século 21. In: Caros Amigos, out., n. 82, 2016.

SACHS, Ignacy. Caminhos para o desenvolvimento sustentável. Rio de Janeiro: Garamond, 2002.

_____. Desenvolvimento: includente, sustentável, sustentado. Rio de Janeiro: Garamond, 2008.

SANTORO, Emilio. A democracia é ainda adaptável às sociedades multiculturais? In: FREITAS, J.; TEIXEIRA, Anderson Vichinkeski. Direito à democracia: ensaios transdisciplinares. São Paulo: Conceito, 2011.

SEN, Amartya Kumar. Desenvolvimento como liberdade. São Paulo: Companhia das Letras, 2000.

SHIVA, Vandana. Las guerras del agua: privacización, à contaminación y lucro: Mexico: Siglo XXI editores, 2007.

ZOLO, Danilo. *Globalização: um mapa dos problemas*. Rio de Janeiro: Conceito Editorial, 2010.

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