RIGHT TO WATER AS A COLLECTIVE RIGHT
A LEVERAGE TO RECLAIM THE COMMONS?

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ABSTRACT

RIGHT TO WATER AS A COLLECTIVE RIGHT
A LEVERAGE TO RECLAIM THE COMMONS?

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This dissertation analyses the concept of right to water as a collective right. It is comprised of three levels of abstraction. At the macro level, it considers the concept of collective right as the basic leitmotif. At the meso-level, it handles the concept of right to water, the subject-matter of the dissertation, which is problematized with a relational approach to the concept of primitive accumulation. It is alleged that one of the basic reasons for the emergence of right to water besides the water crisis is widespread processes and practices of primitive accumulation aimed at the enclosure of the water commons through manipulating the water-crisis.

At the empirical-level, two case studies, one the analysis of the global water justice movement and the other, the analysis of the anti-hydroelectric power plant struggle in Fındıklı/Rize are conducted via qualitative method. Through such empirical analysis, different approaches to right-to-water are compared not only in the empirical sense but also in the theoretical sense. By this way, the theoritical arguments of the dissertation based on the critique of the liberal paradigm of human rights with specific reference to the right-to-water as well as

building for a class-based conceptualization of collective right-to-water are reinforced with emprical data. Within this context, the dissertation aims to contribute to a critical reconceptualization of the right-to-water to augment its explanatory power for various right-to-water struggles.

Keywords: right to water, collective right, human rights, primitive accumulation, anti-hydroelecric power struggles

ÖZ

BİR KOLEKTİF HAK OLARAK SU HAKKI:
MÜŞTEREKLERİ SAVUNMANIN BİR ARACI MI?

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Bu tez su hakkı kavramını bir kolektif hak olarak incelemekte olup üç soyutlama düzeyinden oluşmaktadır. Makro düzeyde, kolektif hak kavramını ana motif olarak ele almaktadır. İkincil düzlemde, tezin ana konusu olan su hakkı kavramına, ilkel birikim kavramıyla ilişkili biçimde yaklaşmaktadır. Su hakkı kavramının ortaya çıkışının ana sebeplerinden birisinin su krizinin yanında, su krizini manipule etmek yoluyla su müştereklerini çitleyen yaygın ilkel birikim süreçleri ve pratikleri olduğu iddia edilmektedir.

Ampirik düzeyde, niteliksel yöntemle iki vaka çalışması yapılmıştır. Bunlardan biri küresel su adaleti hareketinin analizi olup, diğeri Rize, Fındıklı'daki hidroelektrik santral karşıtı hareketin incelenmesidir. Bu ampirik analizle, su hakkına farklı yaklaşımlar sadece ampirik düzlemde değil, teorik düzlemde de karşılaştırılmıştır. Bu yolla, tezin, su hakkı kavramı özelinde liberal insan hakları paradigmasının eleştirisine ve sınıf-temelli bir kolektif su hakkı kavramsallaştırılmasının inşasına dayanan teorik argümanları ampirik veriyle sağlamlaştırılmıştır. Bu bağlamda, tez su hakkı kavramının çeşitli su hakkı

mücadelelerini açıklama gücünü güçlendirmek adına eleştirel bir su hakkı kavramsallaştırılmasına katkı koymayı amaçlamaktadır.

Anahtar Kelimeler: su hakkı, kolektif hak, insan hakları, ilkel birikim, hidro-elektrik santral karşıtı mücadeleler

To the memory of my father who was a trade unionist of the pre-1980 coup era…

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TABLE OF CONTENTS

PLAGIARISM iii
ABSTRACT iv
ÖZ vi
DEDICATION viii
ACKNOWLEDGMENTS ix
TABLE OF CONTENTS x
LIST OF TABLES xii
LIST OF FIGURES xiii
LIST OF ABBREVIATIONS xiv
CHAPTERS
1. INTRODUCTION 1
2. RIGHT TO WATER AND THE UN INTERNATIONAL HUMAN RIGHTS SYSTEM 27
2.1. Right to Water and the Question of Rights 27
2.2. United Nations and the Question of Rights 58
2.3. The Legal Story of the Right to Water 76
3. THE POLITICAL ECONOMY OF RIGHT TO WATER 101
3.1. Mutato Nomine de te Fabula Narratur: Primitive Accumulation and the Commons 101
3.2. Water-Based Primitive Accumulation 134
4. WATER-BASED PRIMITIVE ACCUMULATION IN TURKEY 179
5. APPROACHES TO RIGHT TO WATER 226
5.1. Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy (Water Justice Approach) 227
5.2. Right to Water as a Matter of Politics 260
CONCLUSION 305
REFERENCES 316

APPENDICES

A. 1 ORIGINAL VERSION OF THE DIALOGUE IN TURKISH 346
A. 2 INTERVIEW QUESTIONS ASKED TO THE LEADERS OF THE PLATFORM FOR THE PROTECTION OF THE FINDIKLI BROOKS 347
A. 3 INTERVIEW QUESTIONS ASKED TO THE PARTICIPANTS/ACTIVISTS 348
B. CURRICULUM VITAE 349
C. TURKISH SUMMARY / TÜRKÇE ÖZET 350
D. THESIS PERMISSION FORM / TEZ İZİN FORMU 360

LIST OF TABLES

Table 1: The 1st pilot Study 14
Table 2: The 2nd Pilot Study 16
Table 3: Case study: Platform for the Protection of the Fındıklı Brooks 20
Table 4: Present Status of Installed Capacity in Turkey Status.....207

LIST OF FIGURES

Figure 1: Advertisement campaign of the HSBC Bank 101
Figure 2: Comparison of state-hydraulic paradigm/model and market environmentalism 140
Figure 3: Total number and amount of investments and projects in water and sewerage services 177
Figure 4: Turkey's Electricity Generation by Primary Resources. 206
Figure 5: Installed Capacity Development As Per Years. 208
Figure 6: The Banner still on the Fındıklı streets by 2022. 299

LIST OF ABBREVIATIONS

Aquafed:	Internation Federation of Private Water Operators
DEKAP:	Derelerin Kardeşliği Platformu (Platform for the Fraternity of the Brooks)
EU:	European Union
HEPP:	Hydroelectric Power Plants
IMF:	International Monetary Foundation
IWRA:	International Water Resources Association
NGO:	Non-governmental organization
UN:	United Nations
WBSCD:	World Business Council for Sustainable Development
WTO:	World Trade Organization

CHAPTER 1

INTRODUCTION

(Osman Agha) – Look, guys. Do not get offended. From now on, I shall not let the water flow downhill to the lower fields. I shall firstly irrigate my own fields. You get the remaining water.
(1. Peasant) – Do you hear what you are saying?
(Osman Agha) – Isn't the water mine? Doesn't it spring from my land? I can do whatever I want.
(2. Peasant) – You can't do anything. Water is everybody's good. How can you dare to make a claim on the flowing water?
(Osman Agha) – Of course, I can. The water is my own good.
(1. Peasant) – How can the God's water be your own good?
(Osman Agha) –... I hold a title deed. It is doubtlessly mine.
(3. Peasant) – ... This water has been flowing down from here since Adam, our father. Nobody has the right to lay claim to it.
(4. Peasant) – Water is the blood of the earth, Osman Agha. You want to cut our blood.
(Osman Agha) – Save yourselves. Take measures in advance.
(5. Peasant) – Is there a sort of measure for aridity? No!
(Osman Ağa) – I haven't come here to give a conference. I never give my water. The water springs from my land. I can make use of it however I wish.
(1. Peasant) – You do not have the right for this.
(Osman Agha) – I have, I surely have...
Metin Erksan, *Dry Summer*[1]

The dialogue above is quoted from the 1964 Turkish movie *Dry Summer*. Directed by Metin Erksan, the movie won two awards in 1964: *The Golden Berlin Bear* at the Berlin Film Festival and the Biennale Award at the Venice Film Festival. However, what brought this movie to the introduction of this dissertation is neither its artistic quality nor cinematic value but its plot, or the story it tells. The dialogue above is part of a water conflict in a small Turkish village. Osman Agha, one of the richest farmers in the region, attempts to build a dam in the stream which prevents the other villagers from irrigating their lands.

[1] M. Erksan & D. Durston (1963) *Susuz Yaz* [Dry Summer, https://www.youtube.com/watch?v=BwBPQIaQG3M, retrieved on 15 October 2021.

The story of the movie is not *passe*, though the movie was shot nearly half a century ago. It is the story of all of us. It is the story of the enclosure of the commons. It is the story of the water-based primitive accumulation as part of the commons. Water belongs to all species, thus it belongs to the members of the collectivity. When it is enclosed, there occurs a controversy on the grounds of 'who has the right to claim on water'. In other words, there appears the story of a *rights-based confrontation.*

This dissertation proceeds over such a *rights-confrontation* pertaining to debates on the conceptualization of the right to water. To turn to the insights from the movie, these words of the peasant in the movie can be underlined: "Water is the blood of the earth. You want to cut our blood", says the peasant. He is right; water is the source of life. It is immanently related with the survival of the existence of all species including certainly human beings. It is not only a physical means of existence in the sense of biological essentials. It is also a means of subsistence. That means it becomes a means of production when people produce things – food etc. – by harnessing the power of water. However, the story becomes contentious under the conditions of capitalism. That is, it is by nature impossible to enclose water fully for it has a natural flow, the boundary of which is only set by nature.2 It is part of the natural commons. It belongs to collectivities. Indeed, it is a source of life which recognizes virtually no owner. Attempts at enclosing water and making it an *exclusive property* brings about contentions between *exclusive property* rights and *collective rights*.

This dissertation aims to tackle at its essence with the matter of *right to water.* It analyzes the concept of right to water as a collective right at three levels of abstraction. At the macro level, the dissertation considers the concept of collective rights as the basic leitmotif. At the meso-level, it handles the concept of right to water, the object of inquiry of the dissertation. Conceptualization of right to water as a class-based collective right constitutes the main problem of

[2] For further detail, see Bakker, 2005: 559; Çoban, 2018: 237; Jessop, 2007: 123; Polanyi, 1957: 72.

the dissertation. However, the dissertation treats this problem with a relational approach to primitive accumulation. The theory of primitive accumulation comprises the political-economy background of the terrain of right to water. At the micro level, the analysis of several documents of the global water justice movement, as well as a case study which has been conducted in Fındıklı/Rize with the aim of analyzing the struggle against hydroelectric power plants, constitute the empirical materials of the dissertation. The empirical study is presented as an instrument to invigorate the research questions and arguments of the dissertation.

Conceptualization of a non-cultural, class-based right to water is lacking within the critical literature on right to water. Contributing to the critical literature on right to water by grappling with a non-cultural based conceptualization of right to water as a collective right constitutes the objective of the dissertation. However, it should be noted that such a conceptualization not only contributes to the understanding of the social reality but also to the thinking around possibilities to intervene and change the social reality, which also bears upon the significance of the dissertation.

The terrain of right to water is deeply interlinked with the terrain of primitive accumulation. The developments in both phenomena have mutually influenced each other. Indeed, both the water crisis and the attempts at privatization of water from the 1990s onwards have carried the debates on right to water into the agenda of the international public. Increasing water scarcity and problems with provision of clean and healthy water have been manipulated by capital in the sense that water privatization, rather than public provision of water, can be the only solution (Bakker, 2005: 542-543, 547). As systemic failures and several other problems such as high tariffs have begun to appear subsequent to the privatization of drinking water provision,[3] several reactions have taken the name of *right to water* in the sense that water is a human right that ought to be

[3] See Bakker, 2005: 559.

provided for all rather than only the affluent. Hence, a *rights-based confrontation* has manifested itself between the property rights of capital and the water rights of the people.

Privatization of water is an epiphany of water-based primitive accumulation. Primitive accumulation denotes enclosing the commons, including water assets (Harvey, 2003: 148). Commons are the global assets "that belong to everyone us and none of us" (Fırat, 2011: 104 – translation added). Water is one of those natural, global commons. However, it is excluded from common usage of the commoners – the agents of common practices (Fırat, 2014 – translation added) – through practices of commodification, the conversion of the *use-value* of an asset to *exchange* value. Whereas use value bears upon the utility of a thing, exchange value is the value arising when commodities are exchanged with each other (Marx: 1982). In this regard, commodification implies the replacement of the use value – intrinsic to the commons with no possessor – with the exchange value. Thus, commons which are of common usage are allocated for exclusionary, private usage, which brings about the definition and experiencing of natural assets through private property rights rather than collective rights. Indeed, primitive accumulation is the enclosure of the commons in such a way that leads to the deprivation of the commoners of their means of subsistence and collective rights on the commons. As seen, practices and attempts for water-based primitive accumulation brings the question of water rights in its wake regarding whose – capital group(s), or collectivities/commoners – rights claims on water are legitimate. To put it another way, a rights-based contestation between exclusive property rights and right to water as a collective right comes to the fore. Such a rights-contestation, indeed, becomes an intrinsic part of the reclaiming of the commons on the part of collectivities in the face of the water-based primitive accumulation. Moreover, it should be put that such rights-confrontation is class-based grounded on the nature of the confrontation for the object of confrontation denotes to the defense of the non-commodified life-spheres in the face of the capital which equates existence with the commodity-form. Hence, the collective struggles which reclaim water commons against the

appropriation of water, for instance, denotes to the reproduction of the insterests of the laboring-classes as the collective interest of the entire humanity and nature. Such class-nature of the water struggles, for instance, makes the reconceptulization of a class-based collective right-to-water more and more important to understand and change the social reality.

As seen, the concept of right to water has acquired currency as a consequence of the processes/practices of water-based primitive accumulation that aim to establish the dominance of exclusive property rights on water resources as global commons. Within this context, the study of right to water has to encapsulate the concept of primitive accumulation, for the practices and processes of primitive accumulation are the material phenomenon that have triggered the emergence of the debates on right to water. Nonetheless, the dominant, liberal paradigm of human rights overlooks such material processes that form the background of rights. To put it another way, it skips over the backside of the medallion, the praxis within which rights are produced and reproduced. Ignoring the phenomenon of rights contestations, such a rights paradigm presumes a homogeneous, conflict-free rights terrain. By the same token, it attributes a sort of *naturalness* to rights which are bestowed upon people by virtue of being a member of humankind.[4] Moreover, bearing a methodologically individualist epistemology, the liberal human rights paradigm considers the individual as the fundamental rights-bearer, for the individual holds a sort of "moral supremacy" (Macpherson, 1990: 107).[5]

Such an approach can be observed in the current legal status of right to water within the international human rights system. Right to water was essentially codified within the Resolution of the United Nations General Assembly on 28 July 2010 as the human right to access to "safe and clean drinking water and

[4] Cf. Donnelly, 1989: 17; Kuçuradi, 1995: 81; Shestack, 1998: 202-203; Marx, 1994: 13-14.

[5] For further reading, see Angelidis, 1995; Marx, 1994; Özdemir & Aykut, 2011.

sanitation".[6] In this statement, the bearing of the right to water owes merely to being a human, a sort of natural status ascribed by birth. Hence, the individual is deemed the prime rights-bearer in the legal regulation on right to water that ignores the class-based collective right to water. Yet, denial of access to safe and clean drinking water and sanitation does not constitute the only type of violation of the right to water; in various types of struggles of several collectivities for the right to water, such as struggles against hydroelectric power plants, water-based primitive accumulation in the sense of the enclosure of water assets by the capital is the thing being resisted.

The critical literature on right to water has contributed significantly to the conceptualization of right to water. In this way, such a conceptualization has been rendered compatible with the explanation and transformation of the social reality by embedding the phenomenon of primitive accumulation of water within studies on right to water (Roberts, 2008; Perreault, 2013a, 2013b). Moreover, the inherent primacy of the right to private property and of the individual within the dominant liberal human rights paradigm has been questioned by scholars such as Mitchell (2012), Bakker (2007, 2012) and Hickel (2010). Thus, the studies on right to water produced with a critical eye have filled a dramatic void within the literature on right to water.

Though such critical studies on right to water have advanced the literature towards including the questioning of the material background and the individualistic ontology of right to water, further progress is necessary to elevate the conceptualization of right to water as a collective right. Such an alternative conceptualization is deemed significant for it also questions the cultural-based conceptualization of the phenomenon of rights by including the class-based conceptualization of collective rights as an alternative that emphasizes also the class-nature of the movements that reclaim the commons in the face of the

[6] United Nations General Assembly, Resolution adopted by the General Assembly on 28 July 2010, 64/292. The human right to water and sanitation, https://undocs.org/pdf?symbol=en/a/res/64/292, Article 1 (retrieved on 24 June 2021).

capital's attempts of exropriation. In this sense, criticism of the individualistic ontology of right to water within the dominant conceptualization can be improved towards the embedding of the material background and the class component of right to water within the alternative conceptualization of right to water as a collective right. Thus, the enclosure of the living-spaces of production and reproduction of the laboring classes can find a place within the conceptualization of right to water.

Within this framework, the research question of the dissertation can be worded as follows: *Is right to water a proper strategy of the several types of collectivities to reclaim the commons against the capital under the current moment of primitive accumulation?*

As for minor questions, they can be stated as below:

- Is the literature on right to water sufficient in terms of establishing the relationship between the commons and right to water?
- How can the deficiencies within the literature in terms of the relationship between the commons and the right to water be covered?

In this manner, the dissertation holds two basic arguments, in other words, a bi-dimensional reply to the questions above:

Right to water can be deemed an instrument to reclaim the commons by several collectivities in the face of the capital's appropriation initiatives. However, the current status of right to water within the dominant conceptualization in the international human rights system and the hegemonic understanding of right to water is insufficient for such a defense.

Defense of non-cultural, class-based collective rights is vital for the reclaiming of the commons against the capital. Hence, a critical approach to right to water should conceptualize right to water as a non-cultural, class-based collective right.

Furthermore, such a conceptualization of right to water as a collective right is also needed as a contribution to the literature on right to water.

In addition to theoretical scrutiny based on the concepts of right to water, the main object of inquiry of this dissertation; collective right, the leitmotif of the dissertation; and primitive accumulation, the political-economy side of the terrain of right to water, as mentioned above; the dissertation deepens such theoretical scrutiny through empirical analysis of the approaches to right to water within the terrain of right to water categorized into two groups: the approach of the global water justice movement which can be deemed the approach of right-to-water as an anti-privatization strategy on the one hand, and the approach of right-to-water as a matter of politics in which the agency analyzed is the struggle against the hydroelectric power plants (HEPP's) on the other hand. As for the research method followed in such empirical analysis, *qualitative research* method is drawn on.

Qualitative research methods aim at collecting "*soft data in the form of impressions, words, sentences, photos, symbols, and so forth*" rather than "*hard data in the form of numbers*" as in the quantitative research method (Neuman, 2007: 85). As this dissertation intends to understand and interpret the views and perspectives of right to water on the part of the specified actors within the terrain of right to water rather than measuring a specific aspect of a certain social reality, the qualitative research method is preferred as a research method.

As part of this qualitative research, this dissertation intends to collect data through the method of *case study* and the data collection technique of *documentary analysis*. As for the *case study* method, it is a research strategy in which "a researcher examines, in depth, many features of a few cases over a duration of time with very detailed, varied, and extensive data, often in a qualitative form" (Neuman, 2007: 20). As put by Yin (2003: 1), "in general, case studies are the preferred strategy when "how" or "why" questions are being posed". Since this dissertation is oriented towards understanding the way in

which ‘right to water’ is perceived by several specified agents in the terrain of right to water, the case study is deemed the proper research strategy in the dissertation.

Case studies can be divided into two categories, *intrinsic* and *instrumental case studies*. In an intrinsic case study, the case is valuable in itself. The study is conducted for providing “insight into an issue or refining a theory”. Whereas the purpose of an intrinsic case study is to access a better understanding of a particular case rather than of an abstract construct or generic phenomenon, the case in an instrumental case study is of secondary interest, playing a supportive role and facilitating our understanding of something else (Stake, 1994: 237). In other words, “the choice of case is made because it is expected to advance our understanding of that other interest” Stake (1994: 237).7 To put it more thoroughly, a researcher pursuing an *intrinsic case study* “is interested in the case not because by studying it he[/she] learns about other cases or about some general problem, but because he[/she] needs to learn about that particular case. [The researcher] has an intrinsic interest in the case” (Stake, 1995: 3 – parentheses added). On the other hand, a researcher conducting an *instrumental case study*

> [has] a research question, a puzzlement, a need for general understanding, and feel[s] that he[/she] may get insight into the question by studying a particular case. [Such] use of case study is to understand something else. Case study is… instrumental to accomplish something other than understanding [the] particular [case] (Stake, 1995: 3 – parentheses added).

The method of case study research applied in this dissertation is an instrumental type of case study. First of all, the subject matter of the dissertation is a theoretical and phenomenal concept; that is, ‘right to water’ rather than the

7 Notwithstanding the distinction between ‘intrinsic’ and ‘instrumental’ case studies, Stake notes that “because we simultaneously have several interests, often changing, there is no line distinguishing intrinsic case study from instrumental; rather, a zone of combined purpose separates them” (Stake, 1994: 237).

analyses of the cases themselves. Using a deductive method[8], the cases are included for the sake of reinforcing the theoretical arguments of the dissertation with empirical data. The empirical data is operationalized as a fortifier for both the critical analyses of the current approaches to right to water and for the construction of the approach defended in the dissertation.

There exist several valuable ethnographic and sociological studies that analyze the cases themselves i.e. as a social movement or as a part of the analysis of Turkish civil society organizations. However, this dissertation is based on the discipline of political science, one of the important study fields of which is the concept of rights. Thus, the intrinsic case study method can be considered more convenient for sociological or ethnographic research. Nonetheless, this dissertation intends to contribute to the discipline of political science with an instrumental case study through presenting the varying terrain of the conceptualizations of right to water. Moreover, this dissertation mainly bears a theoretical concern with the purpose of making a theoretical contribution to the literature on right to water through the conceptualization of right to water as a class-based collective right.

Within this framework, the data collection techniques applied in this dissertation are documentary analysis, in-depth interview and observational method. To begin with documentary analysis, it includes the analysis of "written materials that contain information about the phenomena [wished] to study" (Bailey, 1987: 290 – parenthesis added). Documents are selected and analyzed in this dissertation on the grounds of two reference points: firstly, the existence of the collective context of the right to water in terms of the reference to the collectivity as the claimant of right to water, and the ways in which the collective right is conceptualized, constitute the subjects of examination as the first reference points. The second reference point is as follows: the forms of water provision

[8] *Deductive* approaches to research "tend to let the concepts – if only taking the form of initial "categories" which are another common form of concepts – lead to the definition of the relevant that need to be collected" whereas *inductive* approaches "tend to let the data lead to the emergence of concepts" (Yin, 2011: 94).

proposed – public service, private sector initiative, or public-private partnership model – are traced within the texts that touch upon right to water.

Within the basis of such reference points, the texts analyzed include several online and published documents of the United Nations, World Bank, World Water Council[9], and Aquafed[10], as well as theses by Maude Barlow (a Canadian water activist and former Senior Advisor to the UN on water issues[11]) as well as several local newspapers and magazines (i.e. Viçe Newspaper) published in the Rize region for the grassroots organization analyzed in the case study research: *Fındıklı Derelerini Koruma Platformu* (Platform for the Protection of the Fındıklı Brooks), a part of the Fraternity of the Brooks (Derelerin Kardeşliği Platformu/DEKAP) being organized mainly in the entire Black Sea Region, of which the city of Rize is a part.

The second data collection technique utilized in this dissertation is the method of *in-depth interview*. As defined by Boyce & Neale (2006: 3),

> in-depth interviewing is a qualitative research technique that involves conducting intensive individual interviews with a small number of respondents to explore their perspectives on a particular idea, program or situation.

Types of in-depth interviews can be counted as *structured interview, semi-structured interview, unstructured interview,* along with *focus group interview*. To begin with *structured interview*, it is a type of interviewing "in which an interviewer asks each respondent a series of preestablished questions with a limited set of response categories… all respondents receiving the same set of

9 World Water Council is an international, water-related, capital-oriented think-tank, https://www.worldwatercouncil.org/en (retrieved on 1 July 2021).

10 Aquafed (International Federation of Private Water Operators) is a Europe-based organization of big European water utilities engaging in lobbying facilities (Barlow, 2007: 51).

11 "Maude Barlow stepping down from Council of Canadians as honorary chairperson", https://canadians.org/update/maude-barlow-stepping-down-as-honorary-chairperson, (paranthesis added), (retrieved on 31 August 2021).

questions, asked in the same order or sequence…" (Fontana & Frey, 1994: 363). On the other hand, an *unstructured interview* is "completely unstructured, with no questions written in advance and the interviewer assigned only a topic… [conducting] a free-form interview, composing the questions as it goes along" (Bailey, 1987: 188 – parenthesis added). A *semi-structured interview*, an alternative to *structured* or *unstructured interview*, is an interview "where the researcher and participant[s] set some broad parameters to a discussion" (Cook & Crang, 2007: 60). Last but not least, in a *focus group interview*, "people are informally 'interviewed' in a group discussion setting" (Neuman, 2007: 300). To put it in more detail, a *focus group interview* is described as follows by Yin (2011: 141 – parenthesis added):

> The groups [interviewed] are "focused" because you have gathered individuals who previously have had some common experience or presumably share some common views… When conversing with such groups, you would serve as what has been defined as a moderator. Moderators try to induce all the members of a group to express their opinions but with minimum, if any direction.

Having defined types of interviewing, one can continue with the preference of the interview types in this dissertation. *Semi-structured interviews, unstructured interviews* and *focus group interviews* have been preferred rather than *structured interviews*. Utilizing *open-ended* questions, a question type which "requires the interviewer to transcribe a lengthy statement" (Bailey, 1987: 188-189) as the interviewer asks "the key respondents about the facts of a matter as well as their opinions about events" (Yin, 2003: 90), rather than *close-ended questions*, a question type where "the interviewer reads the question and marks the appropriate answer" (Bailey, 1987: 188), the interviews have been conducted according to the course/flow of the conversation – questions being asked not in sequence despite being pre-written. As for the organizations and people interviewed, they are to be shown in a table in the pages below.

Another data collection technique in qualitative case study research is *observation* which can be divided into two types, *participant* and *non-participant observation*. Defined by Bailey (1987: 239), "a *participant observer*

is a regular participant in the activities being observed, and his or her dual role is generally not known to the other participants" whereas "a *nonparticipant observer*, on the other hand, does not participate in group activities and does not pretend to be a member". The type of participant observation has been used in this dissertation, participating in the activities being observed. The organizations/activities observed are to be presented in a table in the pages below.

The case study has been conducted with several actors by means of the data collection techniques described above. The actors for case study have been selected according to two criteria: first, the actors have been selected from among actors engaged in the terrain of right to water in Turkey owing to reasons of proximity and access. Second, such actors have been picked as the ones that most clearly represent the different approaches to right to water discussed in the dissertation. The basic points to identify such a representation is the conceptualization of the bearer of right to water as well as the conceptualization of right to water as a matter of a juridical terrain or politics.

Two pilot studies have been conducted in the beginning of the case study to "refine… data collection plans with respect to both the content of the data and the procedures to be followed" (Yin, 2003: 79). The first pilot study was conducted in 2012 in order to understand what is going on, and to see the general picture in the terrain of right to water in Turkey at first hand and test the interview questions. The table showing the data collection techniques as well as the interviewees and observations of the first pilot study is below:[12]

[12] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations where no problem exists in their names being known to the public (Beyza Üstün & Mehmet Gürkan). However, several names have been nevertheless changed as no permission was received to make their name known.

Table 1: The 1st pilot Study

	Organization	Name of the Interviewee/Event Observed	Date of the Interview/Observation	Place of the Interview/Observation
Participant Observation	Şavşat DEKAP & Kocabey Köyü Derneği (Kocabey Village Association)	Şavşat Sahara Festivali	11-13 July 2012	Şavşat/Artvin
	Kocabey Köyü Derneği (Kocabey Village Association)	Meeting	13 July 2012	KocabeyŞavşat /Artvin
	Local people of the village	Informal Meeting	12 July 2012	Veliköy/Şavşat /Artvin
Semi-Structured Interview	Artvin Deriner Baraj Köyleri Sosyal Dayanışma ve Kültür Derneği (The Association for Social Solidarity and Culture of the Artvin Deriner Dam Villages) & Artvin Çevre Platformu (Environmental Platform of Artvin)	Timur	12 May 2012	Ankara
	Suyun Ticarileştirilmesine Hayır Platformu[13]	Beyza Üstün	12 August 2012	İstanbul

[13] *Suyun Ticarileştirilmesine Hayır Platformu* (Platform of No to the Commercialization of Water) is a platform made up of anti-capitalist intellectuals, labor organizations, professional associations etc. It produces and disseminates knowledge about the commercialization of nature and of water, empowering the movements in this regard. In this sense, this platform can be called *knowledge-builders.* Nonetheless, it is currently inactive. However, the intellectuals in the platform are still individually active pertaining to the issues of water-based primitive accumulation and other aspects of the commodification of nature.

Table 1: (continued)

Unstructured Interview	DEKAP İSTANBUL	Ahmet	11 July 2012	Şavşat/Artvin
	DEKAP İSTANBUL	Gökhan	12 July 2012	Şavşat/Artvin
	Suyun Ticarileştirilmesine Hayır Platformu	Beyza Üstün (*gatekeeper* who enabled access to the research field)	11 July 2012	Şavşat/Artvin
	Suyun Ticarileştirilmesine Hayır Platformu	Beyza Üstün	9 August 2012	İstanbul
	Karadeniz İsyandadır Platformu (Platform of the Black Sea in Rebellion)	İshak	21July 2012	İstanbul
	Şavşat DEKAP	Muhammed	13 July 2012	Kocabey/ Şavşat/Artvin
	Kocabey Köyü Derneği	İshak	13 July 2012	Kocabey/ Şavşat/ Artvin
	Fındıklı Derelerini Koruma Platformu	Mehmet Gürkan (one of the founders of the Platform)	14 July 2012	Fındıklı/Rize

This pilot study contributed to the dissertation in two aspects: first, acquaintance with the research field and several key informants was provided. Second, the feasibility of the interview questions was tested. As a result, the questions were revised to be an open-ended type for the sake of organizing the capability of answers to reflect the most accurate views/feelings. Most importantly, a decision about the organization to be analyzed was made. As a result of the observations and the interviews conducted as part of the first pilot study, it was concluded that

DEKAP[14] is the most feasible organization for the research design of this dissertation, owing to its strong grassroots basis and the relatively militant struggle method that relies on praxis rather than law.

Subsequent to the decision on the organization to be researched in the case study, another pilot study was conducted in the summer of 2013 not only in the Black Sea Region but in various parts of Turkey in order to decide on the research site or to decide which member of DEKAP is to be studied. The table about the data collection techniques as well as the interviewees of the second pilot study is below:

Table 2: The 2nd Pilot Study

	Organization	Number of Interviewee	Date of the Interview/ Observation	Place of the Interview/ Observation
Semi-Structured Interview	Tonya Çevre Platformu (Environmental Platform of Tonya)	1	12 August 2013	Tonya/Trabzon
	Artvin Halk Evleri (People's Houses of Artvin)	1	20 August 2013	Artvin
	Yeşil Artvin Derneği (Association of Green Artvin)	3	26 August 2013	Artvin
	Şavşat DEKAP	2	25-26 August 2013	Şavşat/Artvin
	Village headman of Kocabey	1	28 August 2013	Kocabey/Şavşat /Artvin

[14] *DEKAP* (Derelerin Kardeşliği Platformu/Platform for the Fraternity of the Brooks) is an informal grassroots organization against hydroelectric plants. It is an umbrella organization of many local organizations with different organizational types ranging from platforms, hemsehri associations, and locally-based village associations located mostly in the Black Sea Region. Struggles against hydroelectric power plant construction had become a widespread social movement especially in the second half of the 2000s in Turkey (cf. Hamsici, 2012 – translation added). DEKAP is one of the most efficient and widely organized of these movements that makes it worth analyzing.

Table 2: (continued)

Unstructured Interview	Fındıklı Derelerini Koruma Platformu (Platform for the Protection of the Fındıklı Brooks)	Focus-Group Interview	5 September 2013	Fındıklı/Rize
Unstructured Interview	Yeşilırmak Çevre Platformu (Environmental Platform of Yeşilırmak)	4	14-16 September 2013	Taşova/Amasya
	Local people (Organized via village headmen)	7	30-31 August 2013	Macahel/Borçka/ Artvin
	Boğazpınar HES Karşıtı Platform (Anti-HEPP Platform of Boğazpınar)	1	13 October 2013	Boğazpınar/ Tarsus/ Mersin
	Tonya Çevre Platformu (Environmental Platform of Tonya)	3	10 September 2013	Tonya/Trabzon
	Yeşil Artvin Derneği (Association of Green Artvin)	1	21 August 2013	Kılıçkaya/Artvin
	Yeşil Artvin Derneği (Association of Green Artvin)	1	21 August 2013	Artvin
Unstructured Interview	Local People	2	28 August 2013	Kocabey/Şavşat /Artvin
Focus Group Interview	Tonya Çevre Platformu (Environmental Platform of Tonya)	3	11 September 2013	Tonya/Trabzon

Table 2: (continued)

Unstructured Interview	Su Politik (Water-Politic)[15]	Gaye Yılmaz & Selim Yılmaz	2013 Winter	London
Semi-structured Interview	Su Politik (Water-Politic)	Gaye Yılmaz & Selim Yılmaz	22 December 2014	Ankara

In consequence of such an intensive pilot study in which a sort of site scanning was carried out, Fındıklı was selected as the site of research.[16] In line with this, *Fındıklı Derelerini Koruma Platformu* (Platform for the Protection of Fındıklı Brooks), a part of the DEKAP (Derelerin Kardeşliği Platformu/Platform for the Fraternity of the Brooks) was selected as the organizational unit of analysis for the case study.

The main reason for the selection of the *Fındıklı Derelerini Koruma Platformu* (Platform for the Protection of Fındıklı Brooks) owes to the grassroots basis of the organization. That is to say, a majority of the activists of the platform as well as people affiliated with the platform consist of people who reside in *Fındıklı* compared to many areas of the Black Sea Region. The Black Sea Region is one of the regions in Turkey where out-migration is high. Hence, for instance in Şavşat/Artvin, where DEKAP is organized as well, much of the activists reside in their home town only in summer. However, this grassroots basis is significant for the internalization of the rights claims and the augmenting of the organizational basis of the movement.

[15] One of the *knowledge-builders*, *Su Politik* (Water-Politic) is a platform made up of anti-capitalist intellectuals engaged in producing and disseminating knowledge about the commodification of nature and of water, empowering the movements in this regard. Nonetheless, it is currently inactive. However, the intellectuals in the platform are still individually active pertaining to the issues of water-based primitive accumulation and commodification of nature.

[16] The sources and techniques of data collection in the analysis of the *Platform for the Protection of Fındıklı Brooks* are exhibited in Table 3.

Moreover, *Fındıklı* differs from other sites in the sense that the possible threat of the enclosure of brooks by the construction of hydroelectric plants pertains to not only means of subsistence but also of the means of social reproduction. In *Fındıklı*, water is critical as a means of subsistence not merely because of the need for water for agricultural irrigation but for the reliance on the humid climate provided by the existence of brooks for tea cultivation, which is one of the most significant means of existence for the people. Nonetheless, concern about so-called breadwinning is not the only concern underlying claims for right to water. In consequence of the case study research carried out in *Fındıklı,* it has been seen that the significance attributed to the protection of the brooks in other terms – claiming rights to the brooks as a natural commons, for the social reproduction of the lives of the local people – constitutes an important ingredient of the social life of the district. Such an insight is significant regarding the arguments of this dissertation for it illuminates that collective rights demands can also stem from the concern for social reproduction while relying on the laboring classes dependent on water for means of subsistence.

In addition, *Fındıklı Derelerini Koruma Platformu* (Platform for the Protection of Fındıklı Brooks) represents one of the most radical and multi-sectorally organized anti-HEPP struggles in Turkey. The dependence on legal mechanisms is relatively low. The right to water is not enunciated explicitly as a legal demand in the platform, notwithstanding the demand for the legal recognition of right to water. In this way, the discourse of the platform challenges the restricted domain of 'water justice' approaches. In addition, it provides insights to elaborate on the 'right to water as a matter of politics' approach.

Besides, the conceptualization by the platform of the rights-bearer of the right to water as *all living* and *non-living* creatures challenges strongly the sole status of the individual within the liberal human rights paradigm. In this regard, the findings from the case study in Fındıklı procure insights for engaging with the liberal approach to right to water with a critical eye.

Last but not least, the class agency is apparent in the *Fındıklı* case for the economy of the district relies on tea cultivation while the class character of the district is based on small commodity producers based on small family farming.

Within this context, data collection techniques as well as the observees and interviewees utilized in the case study in Fındıklı can be found in the table below:[17]

Table 3: Case study: Platform for the Protection of the Fındıklı Brooks[18]

		Name	Position	Date	Place
Semi-structured Interview	Fındıklı Derelerini Koruma Platformu & DEKAP	Müslüm	Leader	6 September 2013	Fındıklı/ Rize
	Fındıklı Derelerini Koruma Platformu	Semiha	Activist	5 September 2013	Fındıklı/ Rize
	Fındıklı Derelerini Koruma Platformu	Saliha	Activist	5 September 2013	Fındıklı/ Rize
	Fındıklı Esnaf Odası Başkanı (Chair of Chamber of Merchants and Craftsmen of Fındıklı)	Kadirhan Kadıoğlu	Activist	5 September 2013	Fındıklı/ Rize
	DEKAP	Ömer Şan	Leader	24 July 2015	Rize
	DEKAP	Kazım Delal	Public figure/ Activist	24 July 2015	Rize

[17] Though the case study has been conducted between 2012 and 2021, it does not offer obsolete data for it has been renewed in 2021 and contact with the one of the leaders of the movement has continued constantly to check the atmosphere in the field. However, it has been found out that the ontological vantage point of the movement is still valid. Moreover, there has not been any construction of HEPP's in the field up to this day. Hence, it has not been found necessary to update the case study.

[18] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

Table 3: (continued)

	Fındıklı Derelerini Koruma Platformu & DEKAP	Mehmet Gürkan	Leader/ Founder	22 July 2015	Fındıklı/ Rize
	Fındıklı Derelerini Koruma Platformu	Orhan	Activist	22 July 2015	Fındıklı/ Rize
	Fındıklı Derelerini Koruma Platformu	Mehmet	Leader/Activist	23 July 2015	Fındıklı/ Rize
	Local resident	Hayriye	Activist	23 July 2015	Fındıklı/ Rize
	Fındıklı Derelerini Koruma Platformu	Mehmet Gürkan	Leader/Activist	19 August 2021	Fındıklı/ Rize
	Mayor of Fındıklı	Ercüment Ş. Çervatoğlu	Mayor of Fındıklı	18 August 2021	Fındıklı/ Rize
Focus Group Interview	Fındıklı Derelerini Koruma Platformu	9 interviewees	Activists	25 July 2015	Arılı/Fındıklı/Rize
	Fındıklı Derelerini Koruma Platformu	5 interviewees	Activists	25 July 2015	Hara/Fındıklı/Rize

Having portrayed the empirical dimension of the research, it can again be highlighted that what is aimed at in the dissertation is to unravel the theoretical arguments of this dissertation further and fortify the theoretical delineation in the chapter about the ‘approaches to right-to-water’ through an instrumental and theory-oriented case study. Having displayed the research design of the dissertation, one can continue with the presentation of the structure of the dissertation herein.

This dissertation starts with an introductory chapter in which general information about the dissertation is provided to the reader. To put it more thoroughly, brief information about the object of inquiry, problem, research questions and arguments as well as the research method and the structure of the dissertation (the line pursued in the dissertation) are presented to make the reader acquainted with the dissertation.

Subsequent to this introductory chapter, the dissertation carries out the debate on right to water in four chapters which comprise, respectively: the question of rights and the United Nations human rights system including the codification of right to water; the subject of primitive accumulation and water-based primitive accumulation in general; the water-based primitive accumulation with specific reference to Turkey; as well as a discussion about theoretical approaches to right to water. The dissertation then ends with a concluding chapter where several questions for further inquiry are raised.

To begin with the chapter following the introductory part – briefly, the *rights-chapter*: this chapter is called "Right to Water and the UN International Human Rights System" and is divided into three sub-chapters, the first being 'Right to Water and the Question of Rights', the second being 'United Nations and the Question of Rights' and the last being 'The Legal Story of the Right to Water'. The first sub-chapter – 'Right to Water and the Question of Rights' – carries out first a debate on the question of rights with specific reference to a brief discussion on the significance of the concept of rights as well as a delineation and critique of the liberal conceptualization of the concept of rights, including the antagonistic relationship with collective rights. Nonetheless, this critical inquiry is restricted within an introductory character regarding both the theoretical debate on the various approaches to right to water as well as the debates about the codification of right to water.

In the second sub-chapter – 'United Nations and the Question of Rights' – the main outlines of the approach of the UN to the phenomenon of rights are elucidated in a historical perspective. The aim is to prepare an introductory background to the sub-chapter on the legal trajectory of the right to water. UN is the focal point in this sub-chapter for it is the main international body in the setting of the international human rights systems through the codification of several rights categories including the right to water.

In the third sub-chapter, named 'The Legal Story of Right to Water', the trajectory of right to water within the course of the codification of water as a human right within the UN international human rights system is exhibited not only in terms of legal developments but also international historical events/developments (i.e. conferences). Moreover, the legal trajectory of right to water is discussed with a relational approach to the UN's main perspective on rights.

As for the third chapter of the dissertation, it is named "The Political Economy of Right to Water". It is divided into two sub-chapters, the first one being 'Mutato Nomine de te Fabula Narratur: Primitive Accumulation and the Commons' and the latter one being 'Water-Based Primitive Accumulation'. As the name implies, this chapter is devoted to the analysis of the political-economic background of the right to water, claiming that the processes and practices of primitive accumulation spawn the phenomenon of right to water. Thereby, the first sub-chapter, 'Mutato Nomine de te Fabula Narratur: Primitive Accumulation and the Commons', introduces the theory on primitive accumulation in general terms as a preparatory background to the water-based primitive accumulation. In this sub-chapter, the concepts of *commodification*, *commons* as well as *primitive accumulation* are delineated in a relational way. As for the phenomenon of primitive accumulation, its genealogy, its historical and contemporary incidents as well as different conceptualizations of the phenomenon are elucidated with reference to the relation of the phenomenon to the concept of *commons*.

In the following sub-chapter – 'Water-Based Primitive Accumulation' – the concept of primitive accumulation is dealt with in relation to water assets as commons. The shifts in water policies are explained through the concept of primitive accumulation, namely enclosing water commons. In this sense, the variants of water-based primitive accumulation are to be scrutinized; problems emergent in the water-based primitive accumulation as well as the institutional

and historical setting of water-based primitive accumulation are analyzed in this sub-chapter.

Related to the third chapter on primitive accumulation, the fourth chapter is narrowed to the water-based primitive accumulation in Turkey, hence the name of the chapter being “Water-Based Primitive Accumulation in Turkey”. The first sub-chapter – 'The Variants of the Neoliberalization of the Water and Sewerage Systems in Turkey' – is, hence the name, reserved for solely the policy shifts in water and sewerage systems. In this regard, different forms of the neoliberalization of the water and sewerage systems in Turkey are explicated in this sub-chapter.

The second sub-chapter is named 'Historical Developments in the Turkish Water Sector'. It deals with policy shifts in the Turkish water sector on a historical timeline divided broadly into the pre-neoliberalism era and the neoliberalism era. The third sub-chapter is called 'The Variants/Influences of Water-Based Primitive Accumulation apart from Primitive Accumulation in the case of Water and Sewerage Services'. As befits the name, this sub-chapter deals with other instances of water-based primitive accumulation in Turkey apart from the ones in the water and sewerage systems. Such variants/instances of primitive accumulation can be grouped into three settings: agriculture, packaged water as well as energy production with specific reference to hydro-electric power plant (HEPP) construction. Such settings of primitive accumulation are described with specific reference to Turkey, followed by a brief discussion of the differences and similarities of the Turkish case compared to other geographies.

Having grappled with the political-economy and legal story of right to water, the fifth chapter is reserved for the major approaches to right to water. The chapter is called “Approaches to Right to Water”. The major approaches are grouped into two categories on the basis of how the approaches treat the right to water with regard to several essential questions regarding rights: the question of private property; the position of collectivities as a rights-bearer; and lastly the question

of social praxis. Within this context, the first approach is named the 'Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy (Water Justice Approach)', and the latter one is 'Right to Water as a Matter of Politics'. This chapter interweaves the empirical data obtained from case study and documentary analysis with theoretical scrutiny. By means of the empirical data, the research questions and theoretical arguments of the dissertation are expounded and opened up.

The first sub-chapter – 'Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy (Water Justice Approach)' – apprehends right to water as a human right on the grounds of access to water. The main objective of the movement for 'right to water' is its codification and improvement as an international human right. Water-based primitive accumulation is basically understood as the privatization of water. Hence, the axis of the struggle is drawn around *anti-privatization* strategies. On these grounds, this approach is deemed *law-oriented* to some extent.

The empirical material utilized in the elaboration of this approach draws upon analyses of the theses of *Maude Barlow* and the *Blue Planet Project* via documentary analysis. Canadian water activist and writer Maude Barlow is the most prominent figure taking this approach. She is the founder and one of the leading names of the Blue Planet Project[19], the umbrella network of the 'global water justice movement', as she calls it (Barlow, 2007: xiii), at the international level. A Canadian-based informal network, the Blue Planet Project aims to "protect water as a vital resource and ensure that it is publicly managed so that it is available to everyone at reasonable, public rates".[20]

[19] "Our Team, Board of Directors," https://www.blueplanetproject.net/index.php/home/about/our-team-2/, retrieved on 31 August 2021.

[20] About BPP, https://www.blueplanetproject.net/index.php/home/about/, retrieved on 30 August 2021.

The second approach is entitled as the approach of 'Right to Water as a Matter of Politics'. This approach, defended in the dissertation, differs from the other approach for it sees right to water as a matter of politics rather than as a matter of law. To reword it, this approach places right to water within the terrain of politics rather than within a juridical terrain. Hence, right to water turns out to be a matter of praxis produced and reproduced within politics and in struggle, its contours and meaning/content defined and delineated by this struggle rather than juridical texts. Moreover, the agents of the struggle for right to water become collectivities rather than solely individuals, leaving a room for collective rights within the terrain of right to water.

Having designated different approaches to right to water and developing the arguments and criticisms of this dissertation in this last chapter, the document ends with a concluding chapter. The arguments, criticisms and results of the dissertation are re-portrayed in addition to providing further insights for further study and research.

Subsequent to this introductory chapter, the dissertation now proceeds with grappling with the so-called rights question and the legal journey of right to water in the next chapter, called "Right to Water and the UN International Human Rights System".

CHAPTER 2

RIGHT TO WATER AND THE UN INTERNATIONAL HUMAN RIGHTS SYSTEM

2.1. Right to Water and the Question of Rights

Ahmet Büke, an outstanding story-author in Turkey, begins his story, *Water-Fight-Water* (Su-Kavga-Su) with the sentence, "*in the first place, there was water* (önce su vardı)" (Büke, 2012: 65 – translation added). Needless to say, water is one of the essential sources of life for all living-beings. It is an inalienable means of production and reproduction for the maintenance of life of all living creatures including humans, animals and plants.

Nonetheless, water, as a natural asset, has been heavily exposed to the assaults of the so-called neoliberalism in the current age of global capitalism. Naturally, such an assault is not independent from the neoliberal assault on nature, illustrated by the term of *natural capital accounting*, coined by the World Bank. The World Bank lists forests, wetlands and agricultural land as examples of 'natural capital' and suggests that "long- term development is a process of accumulation and sound management of a portfolio of assets – manufactured capital, natural capital, and human and social capital".[21] Within this framework, the World Bank defines 'natural capital accounting' as "the movement to incorporate the value of natural resources into economic planning".[22]

[21] Natural Capital Accounting, World Bank Official Website, http://www.worldbank.org/en/topic/environment/brief/environmental-economics-natural-capital-accounting, (retrieved on 25 June 2011).

[22] Going #BeyondGDP: Making Natural Capital Count for Development, World Bank Official Website, http://live.worldbank.org/going-beyond-gdp, (retrieved on 17 July 2017).

As seen, the World Bank perceives the nature as in the form of 'economic figures'. Such point is revealed in the picture on the website entitled 'Natural Capital Accounting' found on the official website of the World Bank. The photograph in question depicts a part of a forest as in the form of an array of figures (See Figure 1). Fuat Ercan (2011) summarizes the logic of the photograph in the way that "the transformation of nature in the capital form" has dramatically increased under neoliberalism. The substantial increase in the expansion of the market logic to every sphere of production and reproduction in the current neoliberal stage of capitalism has dramatically accelerated the efformation of various spheres including water assets in the form of commodity to be circulated in the capitalist world markets as illustrated by the picture at the top of an article by James Cantrell about 'natural capital accounting' on the official World Bank website.[23]

Naturally, such an assault has been faced with various reactions worldwide. The counter-effect to protect water assets from commodification has taken the form of the language of rights, namely the right to water. In this sense, the right to water has taken its place in the repertoire of rights. However, before elaborating on the right to water, one should answer the question of why such sensitiveness to protect water assets has upheld the language of rights. To put it differently, what is the main motive lying behind the concept of right that has led to the emergence of the concept of right to water?

The notion of right is talismanic. It implies what is just and rightful bestowing some sort of domain of legitimacy and sovereignty to the rights-holder (Bürkev & Özuğurlu, 2011: 15). It is defined as "being in accordance with what is just, good, or proper".[24] Etymologically, it is related with the Latin word, ius, which denotes to what is "lawful and just… indicating what is righteous in conformity

[23]James Cantrell, World Bank, Natural Capital, World Bank Official Website, https://www.worldbank.org/en/topic/natural-capital, (retrieved on 24 June 2021).

[24] https://www.merriam-webster.com/dictionary/right, (retrieved on 12 February 2017).

with justice" (Haule, 2006: 370). And as the Roman jurist Ulpian (Syme: 1972) - an outstanding thinker on the idea of natural law[25] (Wolfe, 2006: 153) - defines, justice implies giving "everyone what is due to him with constant and perpetual will" (Haule, 2006: 370). By the same token, Özdemir and Aykut (2010: 24) note that the dialogue of human rights discursively focuses on the realization of the *requirements of justice*.

As the etymological content of the concept of right shows, rights inhold a moral/ethical substance. That is what makes them talismanic; a call for justice or a moral obligation for justice. Owing to such a powerful substance, *rights-discourse* has served as the discourse of the world revolutionary movement (Sitton, 1996: 58, quoted in Bürkev & Özuğurlu, 2011: 42). Sitton (1996: 58) even claims that "rights are the fundamental language of the revolutionary movements in the world". He quotes various scholars such as Bowles and Gindis as well as Willian H. Sewell Jr. who underline the significance of the assertions of rights in the national liberation movements as well as the subsequent workers' movements (Sitton, 1996: 58). In a parallel line, Ingram underlines the revolutionary origins of human rights in that human rights have emerged as revolutionary assertions against the ruling aristocratic class in the bourgeois civil rights movement. The revolutionary character of the origins of human rights reveal the political nature of human rights, not only at a certain time in history when the human rights has been invented, but also in the present day. A democratic/bottom-up approach to human rights focusing on human rights practices (Ingram, 2015: 22-23) can reveal the "mobilizing and organizing potential" of the assertion of rights. In Sitton's words, the discourse of rights has the capacity to create a sense of unity. To exemplify this idea, Sitton quotes Marx who notes that appeal to right in the 19th century labor movement is a means of "making them (proleterians) take shape as 'they', as a revolutionary,

[25] The idea of natural law, from which the idea of natural rights that is the progenitor of human rights is inferred, shall be discussed briefly in the following paragraphs as per the limits of this section.

united mass" (Marx, 1976: 323, quoted in Sitton, 1996: 58). Marx, despite criticizing rights of being the entitlements of the egoistic, atomized individual in pursuit of her selfish interests in his famous work, *On The Jewish Question* (1994: 26), accepts that appeal to rights also has a space in the development of the sense of unity on the part of the working class. In other words, he acknowledges the power of the language of rights to some extent reserving his strong criticisms towards the notion of rights. Moreover, pertaining to the power of the language of rights to organize, mobilize and agitate, Lefort goes further and argues that rights are constitutive of politics (Lefort, 1986: 243-244). For him, rights-based struggles, carried out within the language of rights, bestow social power with the capability to make a change on the part of the excluded (Lefort, 1986: 262-263). In this vein, taking a politics-based approach to rights, Lefort attacks the reduction of rights to the domain of law. At this point, he differentiates rights-based claims from interest-based claims: "Claims based on interests are of a different order… State power is based on interests…On the other hand, faced with the demand for or defense of a right, it (state) has to respond according to its principles, according to the criteria of the *just and the unjust* and not only of the permitted and the forbidden" (Lefort, 1986: 264-265 – parenthesis and italics added).

The embodiment of morality within rights discerns rights from interests. Actually, morality is one of the important starting points of the liberal paradigm of rights, which is the dominant paradigm to the approach of rights rights[26]. In

[26] There are for certain several sub-divisions in terms of the approach to the concept of right within the liberal paradigm of rights. Nevertheless, such sub-divisions are touched upon in this footnote rather than the body of the text for the sake of avoiding disrupting the inter-consistency and flow of the text.

In brief, the approach of the liberal paradigm to the concept of right can be classfied in two ways:

1) The division between the variant of *negative rights* (negative liberties) and *positive rights* (positive liberties) (Deveci & Tütüncü: 2007 – translation mine) is as follows:
   A) The idea of *negative rights* (negative liberties) "highlights the area of non-interference for the individuals from the interventions of the state and other individuals that enables the individual free choice" (Deveci & Tütüncü, 2007: 9 – translation mine). To put it differently, it is assumed that negative rights "require other people merely to refrain from acting in certain ways – to do nothing that violates the rights" (Shue, 1996: 36).

what follows, the approach of several scholars within the liberal tradition of rights to the concept of 'right' who are emblematic of the emphasis upon the concept of 'morality' shall be dwelled on with specific reference to two scholars, Jack Donnelly (1989) and Ionna Kuçuradi (1995a, 1995b).

The dominant liberal approach to human rights features the 'moral nature of the human person' as a given category. Such category is predicated on the ideas of Immanuel Kant, one of the key figures of the Enlightenment thought. Kant considers the dignity or the intrinsic worth of the individual person as the source of human freedom which leads up to individual rights. For Kant, such special dignity or the sui generis worth of the human person is the source of the innate right to freedom of the human person. From such a freedom, follow the rights of the individual as well as the equality of the human beings (Kant, 1999: xv).

B) The idea of *positive rights* (positive liberties) aims to broaden social and economic rights in order to prevent the exposition of the individuals to external factors in the making of their choices since the individuals are reckoned free as long as they make choices independent from external effects (Deveci & Tütüncü, 2007: 9 – translation mine). In other words, it is supposed that positive rights "require other people to act positively - to do something" (Shue, 1996: 36).

2) The division among the *natural law* tradition, *legal positivism* and law- understanding of civil-societism (Aykut, 2011: 18-25 – translation mine) is as follows:
   A) Natural Law Tradition; focuses on the 'laws of nature and 'reason'. The laws of nature are universal and binding over every person, in concomitant with justice and apprehended by the faculty of 'reason' (Shestack, 1998; Sabine, 1961; Wolfe, 2006; Losco and Williams, 1992). On the other hand, the modern doctrine of natural law, the *natural rights tradition*, concentrates on the rights individuals hold "by virtue of their common humanity" (MacDonald, 1984: 19).
   B) Legal Positivism: For legal positivism, the rules formed by the political authority constitute the source of rights. In this sense, right amounts to the interest protected by the law. Rights are inherently associated with *duties* in that individuals become entitled to a right by the law via fulfilling several duties. In another branch of *legal positivism*, on the other hand, rights-demands amount to demands for obedience to formal and processual rules, which stresses unquestioned respectfullness for the law. (Aykut, 2011: 23 – translation mine; italics added; Özdemir & Aykut; 2011: 302-303).
   C) Law-Undestanding of Civil-Societism: This perspective regards the society rather than the state or supra-history/supra-space principles as the source of law. The source of law is constituted by the contracts within the civil society. In this regard, the state and its law-system are obliged to acknowledge the rights emergent within the civil society and protect, realize and carry out the human rights (Aykut, 2011: 24 – translation mine).

   D) Hereby, rights mark the recognition of the order created by the civil society itself (Özdemir & Aykut; 2011: 304).

Jack Donnelly, one of the most renowned conventional liberal thinkers on human rights. Donnelly states that there are two meanings of the concept of 'right': The first meaning of the concept of 'right' comes from the concept of 'rectitude' (Donnelly, 1989: 9), which is defined as "the quality of being honest and morally correct".[27] The second meaning of right is the meaning we imply when one talks about 'rights'. Such meaning implies 'entitlement' in the sense of having a right, or being entitled to a right (Donnelly, 1989: 9). Although it is the first meaning of the concept of right that embodies the concept of 'morality' in question, a sense of morality is also implied when one talks about a right entitled. But how does the moral substance of rights make human beings a rights-holder? Donnelly formulates this question as "the question of the source of human rights" and replies as 'man's moral nature is the source of human rights'. Human rights enable human beings to pursue a life worthy of a human being, a life that is in accordance with the human dignity. Hence, human rights emerge from the inherent dignity of the human person being steered for the protection of such a human dignity. The violation of human rights do not imply only the violation of a particular right; but of the violation of the human dignity, of being human in itself (Donnelly, 1989: 17). That is what makes human rights *inalienable*. The human person can be debarred from the enjoyment of several rights. But morally, it is impossible to lose human rights as a generic word. For losing human rights is the estrangement from one's moral nature, loss of a life worthy of being a human (Donnelly, 1989: 19). In other words, "one cannot alienate one's human nature and one's human nature confers human rights,… human rights are inalienable"(Wellman, 2011: 39). In relation to the moral nature of the human beings as a species, human rights protect the human potential (Donnelly, 1989: 18). For the moral nature of the human person implies a moral account of human possibility. That is, "human rights represent a particular moral vision of human potentiality, which rests on a particular substantive account of the minimum requirements of a life of dignity" (Donnelly, 1989: 17). Human rights,

[27] https://www.merriam-webster.com/dictionary/rectitude, (retrieved on 20 February 2017).

thus, aim to realize human potentiality by setting the basis for a life compliant with the human dignity.

Ionna Kuçuradi, another exemplary name of the liberal paradigm of human rights, also points to the human potentiality. Kuçuradi moves from the "knowledge of the value of certain *human potentialities*" which the human kind has gained from the historical experiences (Kuçuradi, 1995a: 10; Kuçuradi, 1995b: 81-83). For her, human rights create the potential/possibility of the actualization of a human being's potentialities (Kuçuradi, 1995a: 3, 4, 8, 10; Kuçuradi, 1995b: 81, 83). Embodying an axiological (value-based) approach to human rights (Kuçuradi, 1995a), She follows the lead of Immanuel Kant. To repeat the explanation of Kant's approach to human rights which can be found in the paragraphs above, Kant infers human rights from the dignity or the innate value of the individual person. According to Kant, the exclusive dignity or the sui generis value of the human person constitutes the foundation of the innate right to freedom of the human being from which the rights of the individual as well as the equality of the human beings sprout up (Kant, 1999: xv).

In parallel with Kant, Kuçuradi ascribes significance to the creation of the conditions for the realization of the human potentiality for such "potentialities or capacities… mark, and constitute the value (the special place) or dignity of the human being" (Kuçuradi, 1995b: 81). In other words, human rights set the conditions for the realization of the *value* which is inherent within the human being as a specie. Owing to such a specificity, human rights ethically trump over every other norm, including legal norms that should be deduced from human rights (Kuçuradi, 1995b: 84). In other words, human rights are "a set of ethical principles" (Kuçuradi, 1995b: 76) that are categorically valuable over every other norm.

Such philosophical foundations of the liberal paradigm of rights – based on morality, and correspondingly, human dignity – set the intellectual ground for the development of the actual liberal systems or the bourgeois social order, and

its corresponding system of rights. To reiterate, in a nutshell, to speak from within the liberal discourse, human rights can be defined as "a set of moral principles" that bear upon human beings by virtue of simply being human (Shestack, 1998: 202-203).

To dig such definition of human rights deeper, one needs to take a look at the liberal theory which is the ground of the dominant human rights discourse. The basic premises of the liberal theory can be counted as follows: individualism; rule of law; equality before law; social contract and the delimitation of power; free enterprise and free contract; private property and market institutions and the mythos of free will (Özdemir & Aykut, 2010: 25; Özdemir & Aykut, 2011: 298 – translation added). Such premises also found the principles of the actual bourgeois social order as well as its dominant system of rights. Thus, given that such an order and a rights-system are historical rather than natural just as all the social phenomena, a brief historical journey to the transition to today's dominant rights paradigm is useful to be presented at this point.

Within the historical sources of human rights, natural law thinking has a primary place. Because the idea of natural law has paved the way for the Enlightenment Age theories of *natural rights* that are the legator of the contemporary idea of human rights (Wellman, 2011: 3). The theory of natural rights is, in other words, the theory most closely associated with the contemporary idea of human rights (Shestack, 1998: 207). Indeed, the contemporary liberal paradigm of human rights "is a descendant of… the 18th century idea of human rights" (Wellman, 2011: 3). That is why it is necessary to elaborate on the theory of 'natural law' and 'natural rights' respectively.

The idea of natural law has first been "elaborated by the stoics of the Greek, Hellenistic period, and later by those of the Roman period" who believed that "natural law embodied elementary principles of justice, right reason" which is

"in accordance with nature, unalterable and eternal" (Shestack, 1998: 206).[28] The stoics moreover brought about the idea of the individual that has been figured solely as the citizen in the age of the city-states. Moreover, they have developed the idea of universality, "a worldwide humanity in which all are endowed with a common humanity" (Sabine, 1961: 143). In this sense, the stoic idea of natural law has stressed on universality, on an unchangeable and eternal *universal law*, or *law of nature* as the Roman thinkers put it, dictated by God. Such a law is the conduct of the *right reason* inscribed in the nature of any individual as part of the nature of the cosmos. In this sense, all men share a sort of universal equality and brotherhood (Wolfe, 2006: 156-58).

Saint Thomas Aquinas, a theologian of the medieval ages, has contributed significantly to the thought of natural law by summing up the previous ideas on natural law and elaborating the idea of resistance against tyranny within the body of natural law teaching (Wolfe, 2006: 162; Sabine, 1990: 255-56). To summarize the teaching of Acquinas, there exist two ways to knowledge; one by faith, the other by reason. Reason is the guide to action, being the voice of natural law, the notion that "God instilled in men instincts and abilities, of the participation of the eternal law in the rational creature" (Losco and Williams, 1992: 133-34). Within this context, natural law confers "certain immutable rights upon individuals as part of the law of God" (Shestack, 1998: 206). For "the rulership of one man over another must not take away the *free moral agency* of the subject. No man is bound to obedience in all respects. It is for this reason resistance of tyranny is not only a right but a duty"[29] (Sabine, 1961: 256).

[28] The question of the originator of the idea of natural law is a controversial issue among scholars. See Wolfe (2006: 155-56) who argues that "whatever the ambiguities or ambivalence of some of its teachings, classical Greek political philosophy established nature (in contrast to convention) firmly as the standard of right and the foundation for law, providing an essential element of future natural law theory". See also Fortin (1978: 182-83, quoted in Wolfe, 2006: 156) who deems Cicero as the originator of the natural law teaching.

[29] Cf. John Locke's plea of the right of resistance against tyranny (Sabine, 1961: 255).

Despite the inclusion of rights in this manner, the natural law thinking has still a religious basis in the feudal era. Yet, Aquinas is a theologian trying to combine the classical Aristotelean thinking with the Christian teaching (Losco and Williams, 1992: 132-133). Indeed, such a religious basis existed until the decline of feudalism. The weakening of feudalism has witnessed the development of natural law theories with a secular, rationalistic base (Shestack, 1998: 207). Following such a change, several thinkers, most notably, Hugo Grotius has contributed to the secularization of the natural law theory. Grotius has developed his theory in the first decades of the 17th century when the interest of political philosophy has switched from theology to naturalism and rationalism (Sabine, 1961: 414). Indeed, he has returned to the "pre-Christian tradition of natural law which he found in the writers of classical antiquity" (Sabine, 1961: 422). He has conceived natural law as "a dictate of right reason, a fundamental law lying behind the civil law of every nation, and binding, because of its intrinsic justice, upon all peoples and upon subjects and rulers alike" (Sabine, 1961: 422–423). In this manner, he is considered the "father of modern international law". He attributes two sources to international law; one deriving from the will of men, the other from "the principles of the law of nature" (Shestack, 1998: 207) which is deemed as the fundamental law as stated above. From such aspects, he has contributed to the design of the set of rules, the idea of human rights, binding over positive law of each state.

The classical natural law theory, to a great extent, focuses on "what is good by nature" rather than the rights human beings have by nature (Wolfe, 2006: 188). Differently, emphasis on the rights deriving from nature is the kernel of the theory of natural rights. Natural rights can be described as the idea that "men are entitled to make certain claims (rights-claims) by virtue of their common humanity" (MacDonald, 1984: 19). To define differently, natural rights are rights entitled by virtue of being human independent of the positive laws of governments (MacDonald, 1984: 23). They have a natural status being determined by the nature of man, by their common humanity. As put by MacDonald (1984: 33-34), they are a special kind of assertions regarding what

"ought to be". For they are "ethical assertions or expressions of value" as being fundamental conditions of a good society, of human social life.

The natural rights theory is relevant in understanding the contemporary human rights paradigm. Hence, the historical roots of the natural rights theory in the Enlightenment Age is worthy to be traced. For the innovations at the Enlightenment Age have given birth to the first buds of the liberal theory of human rights.

As aforementioned, the contemporary liberal paradigm of human rights "is a descendant of … the 18th century (Enlightenment) idea of natural rights" (Wellman, 2011: 3 – parenthesis added). Within the contemporary dominant human-rights paradigm, the thoughts of the natural rights-thinker, John Locke's ideas have a prime place. As put in the paragraphs above, the natural law thinking essentially tackles with "what is good by nature". On the other hand, the natural rights thinking mainly deals with the rights human beings have by nature (Wolfe, 2006: 188). Within this context, the idea of natural law features *duties*, namely the good and bad acts determined according to the conformity with nature. However, as put by Strauss (1965: 248), Locke, an innovative thinker, sets forth a shift in emphasis from *natural duties* or *obligations* to *natural rights*. The selfish individual is made exempt from natural/social duties and self-encumbering moral rules in her productive acquisitiveness. (D'Alessandro, 1986: 41, 54).[30]

John Locke, one of the luminaries of the Enlightenment contractarian thinkers, is also one of the most prominent names within the Enlightenment theories of

[30] On the contrary, Dunn and Tully argue for the priority of 'natural law' over 'natural right'. That is, they maintain that Locke, mainly a religious philosopher, features man's duties to God which are embodied in the natural law. In that vein, right to property, as a natural right, cannot be an unlimited right as long as it is bounded by the natural law (natural duties to God) rather than being unlimited (D'Alessandro, 1986: 5-6).

rights[31] which have indeed begun to be directly associated with the contract theories by the 17th century (MacDonald, 1984: 26). It can even be argued that Locke's theory of rights presents one of the substantive ideological grounds of the dominant liberal paradigm of human rights. As claimed by Macpherson in the preface to Locke's renowned book, *Second Treatise of Government*, Locke has "written the title-deeds of the liberal bourgeois state providing an invaluable ideological support for that state and the market society on which it has been built" (Locke, 1980: xxi).

Locke's theory of society and politics is grounded on the conceptualization of the state of nature. State of nature, which is a construct rather than a historical fact, is primarily comprised of reasonable individuals who live freely, equally and peacefully in concert with the law of nature (Losco & Williams, 1992: 276; Bobbio, 1993: 2-3). In Locke's words, in the state of nature:

> … all men are naturally in… a state of perfect freedom to order their actions… (State of nature) is also a state of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another; there being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of the nature, and the use of the same faculties, should also be equal one amongst another without subordination or subjection…" (Locke, 1980: 8 – parenthesis added).

However, disputes arise over ownership of property within the state of nature that leads to the eruption of the 'state of war'. *State of war*, on the contrary to the *state of nature*, is "a state of enmity, malice, violence and mutual destruction" where freedom is absent and force without right dominates (Locke, 1980: 15). To put an end to the state of war and enable peaceful solutions to disputes, arising primarily over private property, members of the state of nature, individuals, create civil society by consent (Losco & Williams, 1992: 277; Bobbio, 1993: 2-3; Locke, 1980: 16). They also form the civil government by

[31] Given that this chapter is devoted to an introductory discussion about the dominant human rights paradigm following the execution of the 'value'/significance of the notion of right, the history of the concept/theory of natural rights is omitted as per the aim and limitations of this subchapter.

making a *social contract* which is the reflection of the consent of the civil society. Indeed, the principle of the legitimation of power is consent (Bobbio, 1993: 2).[32] For the free-will holder individual, which is the founding unit of civil society restricts her freedom not by force, but by consent to create political society, "which is also an artificial fact like civil society rather than a natural fact" (Bobbio, 1993: 2-3). Moreover, in fact, freedom of the individual implies relations with consent rather than by force. In Macpherson's sentences, freedom, comprehended at the individual scale, points to the "freedom from any relation (including ones established by force) other than those a man enters with a view to his own interest" (Macpherson, 1990: 269).

Herein, one arrives at the constitutive motto of the 17th century liberalism which also bears substantively upon the perplexities of contemporary liberal societies. Such a momentous motto is called by Macpherson (1990) – a groundbreaking scholar within the literature of the history of political thought and political philosophy[33] – as *possessive individualism.* In coining this conception,

[32] For Waldron, Locke, a conractarian thinker, establishes *moral* categories within the body of his contractarianism. On the grounds of such principle, "no one can be… subjected to the Political Power of another without his own Consent" as Locke states in the *Second Treatise of Government* (Waldron, 1989: 26). On the other hand, Strauss maintains that Locke abolishes the moral categories that has the potential to fetter acquisitiveness and predicates morality on an individual, therehence varying ground: "Rather than conforming to some eternal concept of morality, man now creates morality to conform to his purposes,… preservation and happiness" (D'Alessandro, 1986: 54-55).

[33] Despite the expansive critique of capitalism and bourgeois society in his studies (Macpherson, 1990; 2012), Macpherson has been faced with criticisms from the left-wing of the intellectual scholarship. Indeed, Macpherson has triggered an intensive criticism on the part of the several Marxist scholars. For instance, Wood (1978) accuses Macpherson of being not Marxist while clinging to a kind of socialism reduced to the moral indignation of capitalism. Wood alleges that the concept of 'class' as well as a thorough and robust analysis of capitalism are lacking in Macpherson's analysis of the liberal order. In a nutshell, she moots that Macpherson holds a liberal-pluralist theory in his studies despite his critique of liberalism. By the same token, Panitch (1981) denounces Macpherson for harnessing the insights of Marxism for the development and/or straightening the weaknesses of liberal democracy rather than socialist democracy or Marxism itself. In a similar vein, as for Levine (1976: 184), no break with liberalism is existent in Macpherson's theory. He claims that Macpherson's works "represent a sustained, theoretical expression of social democracy; of that political force, (that is) the left wing of liberalism, of bourgeois political practice" (Levine, 1976: 192) rather than Marxism or socialism. Last but not least, Svacek (1976: 419) regards Macpherson as a "five-sixths of a Marxist". Macpherson is an elusive Marxist, for Svacek (1976: 416, 422) he is only five-sixths of a Marxist rather than a %100 Marxist owing to his "repudiation of the revolutionary theory of transition from possessive

Macpherson combines two characteristics of liberalism: exchange relations and individualism. As said at the beginning of this paragraph, the concept of *possessive individualism* holds a constitutive place in the ideational world of the contemporary societies. For the ideological structure of the capitalistic market society that has come to spring in the 17th century has been determined by the principles of *possessive individualism* as Macpherson states.

To open up the concept of possessive individualism, one can start with the argument that individual is deemed the basic unit of society. As Macpherson notes, "a new belief in the value and rights of the individual" (1990: 1) has sprung with the rise of liberalism. Herein, a clear distinction between the individual and society has begun to come forth. Individual, reckoned as a moral entity rather than a part of the society, owes nothing to society for her own person and capacities (Macpherson, 1990: 3). Within this context, as briefly explained above, the essential unit of Locke's state of nature is comprised of individuals rather than the community itself. For the individual has a moral supremacy (Macpherson, 1990: 107) being the sole bearer of rights. By the same token, Strauss underlies that Locke's teaching locates the "individual at the center and origin of the moral world" (D'Alessandro, 1986: 41, 55, 69). Strauss

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individualist society to the fully democratic society". On the other hand, Svacek (1976: 398-414) deems Macpherson a Marxist, albeit a five-sixth one, owing to the interconnections of the theory of Macpherson with the essential mottos/postulates of Marxism such as equality, class-society, inequality generated by class relations as an impediment to the good life, knowledge as the conscious apprehension of the material conditions and lastly, history as the progressive development of society by the transformation of relations of productions.

On the other hand, Macpherson's reading of Locke is criticized by different, non-Marxist readings of Locke as well. For instance, C. Pateman and T. Brennan criticize the absence of gender relations in Macpherson's analysis (1979: 183-200, quoted in Tully, 1993: 76). From another aspect, Tully propounds that Macpherson's thesis misrepresents the English economy in the 17th century and misidentifies the main problems the theorists of that time tackled with. He argues that the main problem was the nature of political (not economic) power. Property meant more than economic property and was related to religius and civil liberties. Moreover, the English socio-economic structure had not approximated that much to the road to capitalism as Macpherson had argued (Tully, 1993: 77-79). Moreover, unlike Macpherson, Tully accepts that Locke provides a justicifation not of private property, but rather, the English Common in the *Two Treatises on Government* (Tully, 1980: 130) in that "one's share must be made from the use of the common, so in fact the common remains common" (Tully, 1980: 128) and that Locke's "theory of natural individuation (of the commons) only obtains prior to this situation; that is, 'where there is enough, and as good left in common for others'" (Tully, 1980: 129 – paranthesis added) in contrast to Macpherson's thesis of *possessive individualism* that emphasizes right to exclusive private property.

(1965: 227) predicates this argument on the premise that the strongest motive of the human-being is self-preservation as a natural necessity. In Locke's own words, "the first and strongest desire God planted in men, and wrought into the very principles of their nature, being that of self-preservation" (Locke 2003: 206). In this sense, Strauss assumes that the conceptualization of the 'individual' in Locke's teaching is inclined to the evasion of pain and death. Moreover, such individual also embodies a hedonist character attempting at the denial of pain and enjoyment of pleasure and steering for appropriating more than she needs for self-preservation in pursuit of happiness. Such inclination towards appropriation induces the individual human-being to harness and negate the nature through labor. In this sense, natural assets as well as other valuable assets are appropriated and transformed into exclusive property through the labor of the individual (Strauss, 1965: 224-251). In this vein, "not society, but the individual – the individual prompted by his self-interest alone –is the originator of property" (Strauss, 1965: 236). In fact, Strauss (1965: 235-236) derives the conceptualization of the right to property in Locke's theory from the *individual* right of self-preservation:

The natural right to property is a corollary of the fundamental right of self-preservation; it is not derivative from compact, from any action of society. If everyone has the natural right to preserve himself, he necessarily has the right to everything that is necessary for his self-preservation. What is necessary for self-preservation is not so much, as Hobbes may seem to have believed, knives and guns as victuals. Food is conducive to self-preservation only if it is eaten, i.e., appropriated in such a manner that it becomes the exclusive property of the individual; there is then a natural right to some 'private dominion exclusive of the rest of mankind'. What is true of food applies mutatis mutandis to all other things required for self-preservation and even for comfortable self-preservation, for man has a natural right not only to self-preservation, but to the pursuit of happiness as well.

As seen, the methodological basis of Locke's theory of political government is predicated upon *methodological individualism* with a proper conceptualization of the individual as egoistic and hedonist. Above all, means of subsistence (self-preservation) are transformed into exclusive property through the foundation of the exclusive right to property of such egoistic individual. In fact, within such a framework, it can be presumed that the bourgeois society is founded upon individual rights. All the core ingredients of the liberal idea of bourgeois society, all of which can be found in Locke's theory, namely, government by consent, majority rule, moral primacy of the individual and individual property "are fetched from a first principle of individual natural rights" (Macpherson, 1990: 107). To put it in a different way, it can be stated that rights are the constitutive element of bourgeois society. Capitalistic market relations – the ground upon which the bourgeois society rises – operates through a liberal rights-system. As Fine (2002: 113-114) asserts, free and equal exchange is regulated by the law and the rights-system.

Owing to such an underlying position of the rights-system, Locke (1980: x; 9-11) locates rights in the state of nature prior to the creation of civil society. Hence (individual) rights are deemed natural, in other words, lifted up to a *naturalized* position, at a superior place over the political society. Herein, one arrives at the two inter-related, what is called in the dissertation as traps/infirmities of the dominant liberal paradigm of human rights for which Locke's theory provides substantive ideological anchorage: the question of the bearer of rights, touched upon in the paragraph above, and the source of rights.

The first trap, or to put it in a different way, infirmity of the liberal paradigm of human rights pertains to the ontological status of the individual as the rights-holder. As mentioned above, the individual-subject is considered as the sole/prime holder of rights in this paradigm. Furthermore, the way in which the individual is conceptualized is also problematical. Liberal rights theories can be considered methodologically individualist, conceptualizing social relations starting from the individual action. The individual is perceived in an isolated

position from society (and/or any collectivity) rather than interrelatedly with the society. Rather than holding a relational conception of society, society is conceived as a set of individualized actions and aims. The relations between the individuals are considered as formal relations between separate agents (Angelidis, 1995: 110-111) which is regulated through the rights-system and the law within which rights are codified. By the same token, Marx criticizes natural law theory for taking 'man' as the departure point of history (Angelidis, 1995: 129). In his work, Grundrisse, in which the liberal political economy is criticized, Marx draws on the allegory of Robinson Crusoe. In doing so, Marx states that the isolated individual as in the novel, *Robinson Crusoe*, can only be a fantasy of the political economists, Smith and Ricardo, who take such an individual as the departure point of their analysis (Marx, 1993: 83).

Within such a framework, individual rights occupy an ontologically supreme status. However, people do not participate in social practice only as individuals, but also as members of several collectivities based on sharing several commonalities such as class, ethnicity, religion and so on. As stressed by Felice (1996: 19), in contradiction to the Lockean understanding of the human as the "isolated, lone individual, afraid of other humans", human beings are a social specie "composed of social beings who congregate, associate, and exist within groups". In this sense, people do not only make rights-claims individually but also collectively on the basis of subjects of collective character. Collective demands are also enunciated within the framework of the language of rights just as individual demands. Hence, collective rights are also (and should also be) part of the realm of the rights just like individual rights.

Herein, it is helpful to identify individual and collective rights in order to understand their differences. Individual rights can be defined as the rights the persons hold by virtue of being a person, that can be claimed only individually against the state and other persons (Özdemir & Aykut, 2011: 305 – translation added). Collective rights are defined on the basis of either the object or the subject of right. Focusing on the object of right, collective rights can be defined

as the "rights pertaining to collectivities as such in order to protect some collective interests" (Galenkamp, 1994: 1). In another way, collective rights can be defined with reference to the subject of right. For instance, as defined by Özdemir & Aykut (2011: 307 – translation added), collective rights constitute the rights that human collectivities (classes, ethnic groups, peoples, religious-national minorities) hold by virtue of belonging to a collectivity that can be claimed individually or collectively against the state and other groups. Similarly, Felice (1996: 20) defines collective rights as "…rights based upon the rights of human beings in their various group and social roles".

The concept of collective rights can be classified into two groups: *class-based collective rights* or *culture-based collective rights/cultural collective rights* (Özdemir & Aykut, 2010, 2011 – translation added) on the basis of both the quality of the collective interest and the identity of the collectivity. Both groups of collective rights have been codified within the international human rights system with the codification of the International Covenant on Economic, Social and Cultural Rights on 16 December 1966 within the body of the United Nations. Nonetheless, the acceptance and exercise of collective rights by collectivities both within the international human rights system and the domestic rights-systems of the states have been enabled only through conversion into the language of individual rights. For there exist ontological limits of the liberal rights paradigm in terms of the conceptualization of the rights-subject. It can even be argued that there exists no ontological room for collective rights.

To explicate such an ontological limit, one can begin with the concept of 'autonomy'. The autonomy of the individual is an essential ingredient of the liberal rights paradigm. Such an autonomy should be protected in face of both the society and other individuals. As put by Macpherson, (1990: 3) "the individual owes nothing to society for her own person or capacities". Human freedom is "freedom from dependence on the wills of others; freedom from any relations with others except those relations which the individual enters voluntarily with a view to his own interest" (Macpherson, 1990: 263). Such an

extrinsic relation to society determines the perception of rights. Divorced from sociability (Angelidis, 1995: 133), contemporary understanding of rights framed by the liberal paradigm take the shape of, as put by Zizek (2005: 120) "right not to be harassed, right to be kept at a safe distance from others".

As seen, rights are increasingly intended at the protection of individual autonomy in the current stage of capitalism. Such a situation fortifies the realm of the individual in terms of the ontological status as the rights-bearer. Because the collectivities are formed by the association of individual identities under a collective identity/belonging rather than the protection of the autonomous spaces of individual identities per se. Thus, considering 'individual autonomy' as an essential tenet, liberal discourse of human rights cannot conceive the bearer of rights within their collective existence. Consequently, it is impossible for a rights-subject to enjoy a right merely by virtue of belonging to a particular community, but only by virtue of her citizenship status which recognizes her a collective right by law (Özdemir & Aykut, 2011: 308 – translation added). In this vein, the collective interest of a particular group is recognized and protected through the framework/logic of individual rights embodied within the citizenship status – which is explicitly an individual status. Ultimately, the individual is solely conceived as the legal subject – the legal embodiment of the abstract individual. Hence, the claim of a right is enabled only due to the citizenship status rather than the status as a member of a particular collectivity (Özdemir & Aykut, 2011: 307-308 – translation added).

Having dealt with the first trap/infirmity of the liberal rights paradigm, the question of the bearer of rights, one can turn at this point to the second trap/infirmity. Such a trap/infirmity can be summarized is as follows in the question form: Where does one derive human rights? To put it in a different way, what is the source of human rights? This question becomes more perplexed especially when *class-based collective rights* are at stake. For *class-based collective rights* are ontologically in antagonistic contradiction with the dominant liberal paradigm of rights.

Before tackling with the contradiction mentioned above on the part of the 'class-based collective rights', one can deal with the reply of the liberal paradigm of human rights to the question of the source of human rights. To refer to several outstanding liberal scholars introduced in this sub-chapter, the reply, in a nutshell can be expressed that "man's moral nature" (Donnelly, 1989: 17), "the dignity of the human person" (Donnelly, 1989: 17; Kuçuradi, 1995b: 81) or "the value of certain human potentialities" (Kuçuradi, 1995a: 10; Kuçuradi, 1995b: 81-83) constitutes the source of human rights. On the other hand, as regards Locke, one of the key figures of the Enlightenment, it can be put that he has not paid significant attention to the question of the source of rights. Rather, axiomatically, he has inferred (natural) rights from the natural equality of human beings in the state of nature (Kant, 1990: 199; Locke, 1980: 8), an axiom utterly compatible with him being the heir of the natural rights tradition.

In all of the aforementioned approaches to rights, somewhat a sort of *natural status* is ascribed to human rights. The dignity, the value or the naturalness of the rights fall short of evaluation with a critical eye. Rather, human rights are somewhat *naturalized*, located in a non-material, ideational plane. Moreover, such a plane as well as the status of human rights are universalized. To quote from Marx's famous work, *On the Jewish Question*, "in the state, on the contrary, where he is regarded as a species-being, man is the imaginary member of an imaginary sovereignty, divested of his real, individual life, and infused with unreal universality" (Marx, 1994: 13-14).

Nevertheless, the question of the foundation of rights, or from where the legitimacy of a rights-claim is to be derived, becomes more puzzled when collective rights are in question. As for culture-based collective rights, a middle course can be steered to fix the problem to some extent. A culture-based collectivity can make a rights-claim with reference to its *natural rights* on the object of the right. In other words, a cultural collectivity can build the legitimacy of its rights-claims on the *natural rights* of that collective group (i.e. ethnic groups) on the object of a right (Özdemir & Aykut, 2011: 308 – translation

added; Özdemir & Aykut, 2010: 34 – translation added). However, the problem is only partially fixed. For the substance of the concept, natural, in question herein, points to *particularity* in contrast to the *universality* implied in the universal human rights. That is to say, a collective right is claimed as the natural right of a collectivity, i.e. language rights of an ethnic collectivity, pertains to only a section of the society rather than the entire humanity. What's more, as mentioned above, such a collective right is recognized only with reference to the status of citizenship rather than the status of membership to a collectivity (Özdemir & Aykut, 2011: 307-308 – translation added). The liberal paradigm shifts such a collective right into a constitutional right of the citizen-individual in order to recognize that right within the bourgeois law system.

As regards class-based collective rights, rights based on the status of a person with regard to the social relations of production, the question seems inextricable. It has been discussed in the paragraphs above that collective rights can only be recognized within the liberal paradigm of human rights as well as the bourgeois law systems with conversion into the language of individual rights (Özdemir & Aykut, 2011: 307-308 – translation added). Moreover, as regards the question of the foundation of rights, there remains no room for the accommodation of class-based collective rights with the dominant liberal rights-paradigm. There is an incongruous relationship between the class-based collective rights and the dominant liberal rights-discourse (Özdemir & Aykut, 2010: 33, 2011: 308-309 – translation added). For class-based collective rights are rooted in material bases, built on material processes rather than philosophical grounds. On the contrary, within the liberal rights-discourse, rights are grounded in non-material, abstract plane the source of which is the intellectual construction of inherent human dignity bestowing natural rights upon the individual human being. Moreover, class-based collective rights come to the fore in order to protect class interests molded within social relations of production. For this reason, class-based rights are not situated in an equal plane as constructed in the liberal discourse. The liberal rights-discourse considers all the rights-bearers as equal parties the rights-contestations of which are to be settled within the law-system in a democratic

polity. However, the class interests protected by the class-based collective right are antagonistic that cannot be solved readily through law. To the contrary, the collective interest of the labor derived from its specific character is in contradiction with the maintenance of the market relations based on the commodification of the labor force. Therefore, class-rights of the collective labor are produced and reproduced on a contested plain in which collective rights of the labor come face to face with the class-rights of the capital that is protected by the right to private property[34] esteemed within the liberal rights-paradigm.

Within this context, one should conceive rights in relation to their class-character within the social relations of production. Such a critical vantage point enables one to see that rights are molded and remolded within a contradictory and contestatory terrain of praxis where conflicting rights-claims are brought forward. The world of rights does not signify a smooth and non-contradictory terrain where all the rights-parties are to be accommodated under the umbrella of the rule of law. Rather, the dominant liberal approach to rights conceals the fundamental separations within the bourgeois society (Angelidis, 1995: 111). It overlooks the structural inequalities through discursively equalizing every individual-person as the rights-bearers equal before the law. In turn, the form of rights and law pose as if the unifying element of society. To speak with Angelidis' sentences, such a formalist approach to rights, today's dominant rights-paradigm, "obscures the separating foundation of rights and transforms the libertarian postulate into a principle of constitutive inequality for modern society" (Angelidis, 1995: 111).

To expand on the *separating* foundation of rights, two points can be noted. To address again, the individualistic ontology of the dominant liberal rights-paradigm can be noted as discussed beforehand. What is more, such an

[34] Herein, the concept of 'private property' denotes to 'capitalistic private property' that implies the form of the means of production as private property under capitalist relations of production rather than physical estates that can be possessed by members of different classes.

individualistic approach can be deemed *formalistic*, as called by Angelidis. It can be remarked that such a formalistic view approaches the concept of right "as an analytical device for understanding the formal relations between separate agents" (Angelidis, 1995: 110). Devoid of a relational methodology, this approach "postulates social reality as a fragmented reality – this fragmentation being transmitted to its method of explanation" (Angelidis, 1995: 110). Thus, it falls short of conceiving society and the individual in its aggregated and relational form.

Within the framework of the dominant liberal rights-paradigm, the relations between such distinct individual-subjects isolated from each other are ordered by the law-system. The rights-system and the law constitute the two inter-related pillars that enable the functioning of the bourgeois societal order. Herein, the second meaning of the *separating* foundation of rights appears. The social reality fragmented into distinct individual beings in the ideational world of the liberal rights paradigm is unified within the framework of the motto of *equality before the law*. Such a *juridic fetishism*, generating from the *law-oriented* character of the liberal paradigm, however, does not preclude inequality. Rather, it entails, as a consequence, substantive inequality (Marx, *Critique of the Gotha Programme*, quoted in Fine, 2002: 111). For rights are forged within a *class-divided* social structure where exchange between property-owners and the propertyless both of whom are rights-bearers realizes. Both parties, regardless of their relation to property, have equal right to exchange being equal before law (Marx, *Critique of the Gotha Programme*, quoted in Fine, 2002: 111). In other words, as Fine states (2002: 111) "equality before the law is a formal property of exchange relations between private property owners".

Such a social structure can be considered a *possessive market society* that "generates class differentiation in effective rights and rationality, yet requires for its justification a postulate of equal natural rights and rationality" (Macpherson, 1990: 269). The market society consists of a series of relationship of exchange between proprietors (of themselves and their goods) who take the shape of legal

rights-bearer subjects (Macpherson, 1990: 3, 264). Within this context, political society, a human construct, is intended at the "protection of the individual's property in his person and goods, and (therefore) the maintenance of orderly relations of exchange between individuals regarded as proprietors of themselves" (Macpherson, 1990: 264). Indeed, the main driving force behind leaving the state of nature is the "mutual preservation of lives, liberties and estates,… (with) the general name, *property*… The great and *chief end*, therefore, of men's uniting into common-wealths, and putting themselves under government, *is the preservation of their property*" (Locke, 1980: 66). In brief, the chief end of the civil society and political society is the proper continuity of the *property relations.*

Within this context, Macpherson (1990: 3) underlies that the concept of possession has powerfully shaped the Enlightenment assets of freedom, rights, justice and obligation. Yet, the idea of the 'individual', an outstanding asset of the liberal thought, is inherently linked to possession in the sense that the individual is seen as the owner of herself rather than part of the society. As a matter of course, freedom is perceived as the freedom of the individual that is also a derivative of possession. For an individual's freedom is conceptualized in the sense of being the proprietor of her own person and capacities, independent from the wills of others. As a result of the free will of the individual, the individual is free from any relations except those that she enters voluntarily with a view to her own interest. In other words, such a free individual exercises her freedom in the shape of the right to *free contract*, to enter into self-interested contractual relations with her free will (Macpherson, 1990: 1-3, 263, 271-272).

In this regard, Macpherson (1990: 4) alleges that the premises of possessive *individualism* – the prevailing idea-set of the newly emerging liberal order in the 17th century – corresponds to the actual relations of a market society. Thereby, the individual at stake in such a liberal framework is actually the *market man* (Macpherson, 1990: 269). Such a market individual enters into exchange relations in the market owing to her property rights. However, it is noteworthy to

remark that what is exchanged are not only physical goods. Rather the exchange of labor force with wages, or the selling of the labor force in the market, is the crux of such a capitalistic market order the premises of which have been drafted by the theory of possessive individualism. The understanding of rights within the theory of possessive individualism as an ideological base for the emergent capitalistic social relations of production has laid the ground for such an exchange relation. That is to say, as mentioned beforehand, the individual-subject holds natural rights over her own person, capacities and goods. Liberty or freedom is perceived in the sense of holding such a right. Moreover, such a right is inalienable. Namely, the human being cannot alienate the whole of her property in her own person, for it would correspond to alienating her human nature, her humanity. However, she can alienate her capacity to labor (Macpherson, 1990: 264). Strictly speaking, she is compelled to alienate her labor force, exchange it in the capitalistic market with a certain amount of wage. For she is devoid of capitalistic private property. She does not possess means of production. Hence, what seems a *free contractual relation* between equal rights-parties actually corresponds to the unequal market relations backed by property rights (Fine, 1995; Marx, 1973).

As for Macpherson (1990: 3), the concept of possession lies at the heart of all the other liberal assets such as freedom, rights, justice and obligation. That is the case for Locke as well, the outstanding ideologue of the emergent bourgeois order in the 17th century. His assertion of a natural right to property is at the heart of his theory of civil society and government (Macpherson, 1990: 197).[35] It can even be remarked that Locke's theory has "fixed property rights firmly in the center of all subsequent liberal theory" (Macpherson, quoted in Locke, 1980: xvi).

[35] On the contrary, Dunn alleges that Locke's theory of property is ancillary to his religious commitments: "The central theme (in the Lockean theory) is the doctrine of the calling,… (by God to the humans) to fill particular roles (duties)" (D'Alessandro, 1986: 6; Dunn, 1969: 222 – parantheses added).

Owing to such a core place of the "right to property", Locke has posited this right in the state of nature. Hence, right to property has been deemed a natural right of the individual having a priori status existing before the formation of civil society and the political society (Locke, 1980: xvii, 8-9). To quote from Locke, in the state of nature, "all men are naturally in… a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit…" (Locke, 1980: 8). But what is the source of such vital right as private property? This question can be replied in the sense that Locke has posited his conceptualization of property on the basis of the *labor theory of value*.[36] According to this theory, "property arises from the efforts of the individual to make the land and its resources useful" (Losco & Williams, 1992: 276). However, interestingly, Locke starts his theorizing of private property reversely from the common ownership of the natural assets: "God, who hath given the world to men in common… and nobody has originally a private dominion, exclusive of the rest of mankind, in any of them (the fruits of the earth), as they are thus in their natural state" (Locke, 1980: 18-19). Stunningly, from such an original limitation to private possession on the basis of the bounds of the law of nature, follows the theorization and justification of *private property* on the grounds of the concept of *labor*[37] (Locke, 1980: 19):

[36] Contrarily, for Dunn, the significance of *labor* within the Lockean theory is not that it provides the ground for the conceptualization of property but because it amounts to laboring for the sake of 'eternal salvation', for the fullfilment of duties to God (Dunn, 1969: 220, 224, 250-251; D'Alessandro, 1986: 7).

[37] According to Tully, the commons form of natural assets (the means of subsistence and production) in terms of utilization prevails over the form of private property within the Lockean theory. Tully predicates this argument on the basis of the 'workmanship model' which he argues to occupy an essential part within the Lockean theory. According to the workmanship model, since man is the workmanship of God made by Him, God is the proprietor of Man. Man undertakes several duties to God, the basic of them being self-preservation and preservation of mankind as well. Man ought to preserve himself as well as the mankind so that he can fullfil his duties to God and utilize the natural assets. This purpose entails *inclusive rights* – right not to be excluded from/included in (the utilization of) something - rather than *exclusive rights* so that the preservation of the mankind, the basic law of the nature, or God's reason, can be sustained. Moreover, inclusive right of the members of the mankind as right-holders, which Locke names by the term, *person* or *individual* rather than *man* – can only be a *use-right* or *usufruct* rather than *possession* for the proprietor of the Nature and the Man is indeed the God. However, on the grounds of the 'workmanship model', as God *makes* Man which makes Him the proprietor of Man, the making of produce through harnessing nature by the man makes the individual man the

> Though the earth, and all inferior creatures, be common to all men, yet every man has a *property* in his own *person*: this nobody has any right to but himself. The *labor* of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his *labor* with, and joined to it something that is his own, and thereby makes it his *property*. It being by him removed from the common state nature hath placed it in, it hath by this labor something annexed to it, that excludes the common right of other men: for this *labor* being the unquestionable property of the laborer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others.

After refuting his original limit to private property, the common ownership of the natural assets stipulated by the natural law, through the labor theory of value, Locke identifies three other limits to the right to property: the supposed labor limitation, the spoilage limitation and the sufficiency limitation (Macpherson, 1990: 199-220). However, such limits can be considered as initial limits for Locke later introduces theoretical ways to transcend such limitations. Thereby, such initial limitations shall be elucidated followed by Locke's ways of transcension in the following paragraphs.

As apparent from the paragraph above, the first limitation can be considered the *supposed labor* limitation. Accordingly, the amount of property one can subtract from the nature is to be equivalent with the amount of labor one has mixed with the natural asset in question. To put it differently, the rightful appropriation is to be limited with the amount one can procure with her own labor (Macpherson, 1990: 201). In this sense, Locke builds an equivalence with the labor invested in and the property gained as a result of such labor. At this point, Locke holds a relatively egalitarian stance.

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proprietor of that produce. In this sense, the labor the person deploys yields *individual exclusive rights.* Nonetheless, such right is limited with the produce emergent as a result of that labor since God is the proprietor of the Nature of which the produce in question is a part. In this sense, the exclusive right derived from labor is not a right to private property in the lexical meaning of the term. The last point worthy to note is that in terms of the shift of focus of analysis from the *exclusive right* to *inclusive right* and from *possession* to *usage/usufruct* and the rejection of private property, Tully's analysis of Locke opposes the analyses of Macpherson (1990) and Strauss (1965) who center on the concepts of *exclusive right*, *possession* and *right to private property* (Tully, 2006: 45-46, 68, 79; D'Alessandro, 1986: 16-17, 21-22, 24-25, 38-39).

As for the second limitation, the *spoilage limitation*, Locke binds entitlement to possession by the potential limit of usage. Herein, he opposes the waste of assets. As interpreted by Strauss, Locke assumes that "the natural law regarding property is concerned with the prevention of waste; in appropriating things by his labor, man must think exclusively of the prevention of waste; he does not have to think of other human beings" (Strauss, 1965: 237). Accordingly, Locke draws on the ordinance of the natural law to support the 'spoilage limitation' (Locke, 1980: 20-21):

> The same law of nature, that does by this means give us property, *bound* that *property* too. God has given us all *things richly*… But how far has he given it us? To *enjoy*. As much as anyone can make use of to any advantage of life before it spoils, so much he may by his labor fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy."

Having briefly explained the two limitations, 'the supposed labor limitation' and 'the spoilage limitation', (Macpherson, 1990: 201-202), presently, one can deal with the last one, the *sufficiency limitation*. To turn to the paragraph from the *Second Treatise* quoted above, Locke (1980: 19 – italics added) states that "no man but he can have a right to what that is once joined to, *at least where there is enough, and as good, left in common for others*". In this sense, he implies that a person is entitled to "appropriate only as much as leaves 'enough, and as good' for others" (Macpherson, 1990: 201). For each human being has a right to subsistence, to appropriate the means of subsistence: "… men, being once born, have a right to their preservation, and consequently to meat and drink, and such other things as nature affords for their subsistence" (Locke, 1980: 18).

Despite such three limitations to private property, - the *supposed labor, spoilage* and *sufficiency* limitation – Locke finds a way within his theory to transcend such limitations and contrives an *unlimited natural right to private property*[38].

[38] Dunn propounds that Macpherson's argument for the 'unlimited right to possession/property' within the Lockean body of thought derives from his view of Locke's rationality. For Dunn, Macpherson depicts Locke's understanding of rationality as based on an unlimited desire for consumption and appropriation. However, the essence of Locke's idea of rationality is grounded

Such an invention has been realized within the state of nature. Thus, the right to unlimited property is deemed a natural right which the government is obliged to protect. It can even be put that the foundations of the political rule ought to be set in accordance with the protection of such a right.

Having put such a significant remark, one can herein deal with the ways of transcension of the initial limitations respectively. To begin with the *spoilage limitation*, it can be put that the transcension of this limitation has been made possible by the invention of money within Locke's theory of right. To speak more clearly, Locke has presumed that the perishable goods could be converted into the form of money which does not spoil. (Macpherson in Locke, 1980: xvii; Macpherson, 1990: 204). In this way, the appropriation of produce beyond the limit that can spoil is made possible: "And thus *came in the use of money*, some lasting thing that men might keep without spoiling, and that by mutual consent men would take in exchange for the truly useful, but the perishable supports of life" (Locke, 1980: 28).

In this passage, Locke also states that human beings have mutually consented to the use of money. From this presumption, follows the first method of invalidating the *sufficiency limitation*. That is to say, from such a mutual consent, Locke hypothetically deduces that explicit consent to the use of money implies the tacit consent to the consequences of the use of money (Macpherson, 1990: 211). However, Locke does not suffice to this explanation alone and brings forward an additional justification for invalidating the *sufficiency limitation*. For this additional explanation, he relies on the concept of

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upon the reality of an after life and truths of religion rather than unlimited appropriation. Hence, rational action, for Locke, is tied to the fulfillment of duties to God. Indeed, Dunn even considers unlimited appropriation morally perilous in contradiction with the moral law of reason (natural law) (Dunn, 1969: 248, 262-266). In a similar vein, Tully features the human beings' duties to God since man is the workmanship of God who is his proprietor. In contrast to the view of Strauss (1965: 236) who highlights the concept of 'self-preservation' in the Lockean theory, the basic duty entailed by the natural law, or God's reason, for Tully, is to preserve mankind, that is the *a fortiori* and fundamental law of nature within Locke's body of thought. For this reason, right to property or appropriation cannot be unlimited but bounded by such duty (D'Alessandro, 1986: 38-39; Tully, 2006: 45-47).

productivity: He defends that the private possession of assets is much more productive than communal ownership. Hence, though all the land is possessed privately, there still remains enough produce for everyone including the ones who do not possess land (Macpherson, quoted in Locke, 1980: xvii; Macpherson, 1990: 211-213; Locke, 1980: 23-24).

Last but not least, one can deal with how *supposed labor* limitation is transcended in Locke's theory. Subsequent to the transcension of the limitations of *spoilage* and *sufficiency*, unlimited appropriation of assets (means of production) becomes possible. The ones who do not possess means of production and subsistence[39] become obliged to alienate their labor power.[40] In other words, they have to sell their labor in return for wage. In this way, the labor power exchanged for wage becomes the property of the buyer (Locke, 1980: 19-20):

> the turfs my servant has cut; and the ore I have digged in any place, where I have a right to them in common with others, become my *property*, without the assignation or consent of any body. The *labor* that was mine, removing them out of that common state they were in, hath *fixed* my *property* in them.

Herein, Locke points to the relation of wage labor. In the bourgeois sense, property is neither a mere right to enjoy nor a physical asset with solid substance. Rather, property denotes to an exchange relation. Expressed by

[39] Marx, in the 14th chapter of the first volume of *Capital* with the title of 'The Buying and Selling of Labour-Power', refers to the material instruments "raw material, implements etc." needed to produce something when he mentions *means of production* (Marx, 2001: 243-244). On the other hand, he refers to assets that must be consumed for the sake of *social reproduction of labor* with the concept, *means of subsistence*: "The minimum limit of the value of labour-power is determined by the value of the commodities, without the daily supply of which the labourer cannot renew his vital energy, consequently by the value of those means of subsistence that are physically indispensable" (Marx, 2001: 249; also see Marx, 1982: 717-718 on the necessity of the means of subsistence for the social reproduction of labor so that labor can continue to consume her labor-power in the capitalist production process). In this sense, the meaning of the concept of *means of subsistence* is similar to the concept of *means of reproduction* which is commonly used in the Marxian lexicon.

[40] Macpherson (1990: 264) counts such a capacity as one of the traits of *possessive individualism*, the essential idea-set of the liberal theory: "Although the individual cannot alienate the whole of his property in his own person, he may alienate his capacity to labour".

Macpherson (1990: 265), "it is a right to dispose of, to exchange, to alienate". In this vein, labor power is also a property of a person which she can exchange for wage. As Macpherson (1990: 264) remarks, "although the individual cannot alienate the whole of his property in his own person, he may alienate his capacity to labor".

Consequently, in this vein, Locke abolishes all the limitations to private property and capital accumulation founding the premises of a class-divided society between capital owners and the wage labor. Indeed, such a market society sets the conditions of 'humane life', that necessarily requires labor to forge the means of production and private possession (Macpherson, 1990: 202; Locke, 1980: 22). In this vein, it can be put that the institution of private property is inherent to the conceptualization of 'life compliant with human dignity' esteemed by liberalism. In this sense, within the framework of the market society the premises of which has been laid down by liberalism, there exists no room for the common ownership of the means of production. By the same token, Locke has theorized and justified the *exclusive* essence of the individual right to property (Locke, 1980: 19; Macpherson, 1990: 204):

> …That labor put a distinction between them and common: that added something to them more than nature;… and so they became his private right. And will anyone say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him. We see in *commons*, which remains so by compact, that is the taking any part of what is common, and removing it out of the state of nature leaves it in, which *begins the property*; without which the common is of no use. And the taking part of this or that part, does not depend on the express consent of all the commoners.

As seen, Locke repudiates the common ownership of the means of subsistence and justifies the conversion of the 'common property' to 'exclusive private property'. Within this context, it can again be noted that there exists no room ontologically for *collective rights* within the liberal paradigm the foundations of which are established by the Lockean rights-theory. However, collective rights

have the potentiality to claim for the defense of commons in face of exclusive property rights. This sub-chapter has been intended to be a prologue to the basic questions of the dissertation, compiling briefly the problematic points within the dominant rights-paradigm, that underlie the defense of class-based collective rights with specific reference to the right to water. Following such a prologue, in the following sub-chapter, the approach of the United Nations – the basic institution that codifies and regulates the international system of human rights - to the phenomenon of right is to be elucidated on the basis of the questions and the problematic points presented in this sub-chapter with specific reference to the question of 'collective rights'.

2.2. United Nations and the Question of Rights

In this chapter, the approach of the United Nations to the phenomenon of right is elucidated. The reason for the focus on UN is that it is the main body that has established and reproduced the international human rights system through the codification of several rights categories including right to water which has been codified with a Resolution adopted by the General Assembly on 28 July 2010.[41,42] For this reason, this introductory part sheds light upon the main contours of the UN's approach to the concept of right with a historical approach. In this way, a preparatory ground can be laid down before entering into the discussion about right to water.

United Nations has maintained a close relationship with the phenomenon of human rights since its inception. As international capitalism is restructured under the leadership of the United States in the wake of the Second World War, human

[41] 64/292. The Human Right to Water and Sanitation, http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E, (retrieved on 11 July 2011).

[42] Since to be dealt in detail in the following sub-chapter, the trajectory of the codification as well as the details of the current legal status of right to water within the UN human rights system is omitted in this sub-chapter, that deals with the phenemon of rights in general albeit with specific reference to the concept of 'collective right'.

rights is placed at the center of this new world order (Evans, 1996: 66). The rhetoric of human rights has found a prominent place within the Charter of the United Nations which has constituted the legal entity of the UN on 26 June 1945.[43] Within such rhetoric, the subjects such as peace, freedom and progress have been associated with the "faith in fundamental human rights and "in the dignity and worth of the human person"[44] in association with the liberal paradigm which places the moral value and the dignity of the human person as the source/foundation of human rights (Cf. Kuçuradi, 1995b, 1995a; Donnelly, 1998; Shestack, 1998; Kant, 1999). Within such ideational grounds, the Charter together with its organs[45] has gained the rhetoric of human rights international legitimacy (Evans, 1996: 66-67) superior over the constitutional rights of the national polities in line with Kuçuradi's axiological approach to human rights that precedes human rights over every other norm (Kuçuradi, 1995b: 76, 84). Indeed, the *Universal Declaration of Human Rights* has been adopted three years later in 1948 by the General Assembly of the United Nations.[46]

Following the establishment of the legal and institutional system of international human rights, human rights has set the new language of the post-War world order that has begun to appear during the War as a counter-attack against fascist ideologies (Evans, 1996: 66). However, this language has appeared under the hegemony of a specific country, namely United States. It can even be said that it

[43] Introductory Note, http://www.un.org/en/sections/un-charter/introductory-note/index.html, (retrieved on 9 June 2015).

[44] Preamble, http://www.un.org/en/sections/un-charter/preamble/index.html (retrieved 11 June 2017).

[45] The principal organs within the body of UN stipulated by the UN Charter are as follows: General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat, http://www.un.org/en/sections/un-charter/chapter-iii/index.html , (retrieved on 11 June 2017).

[46] History of the Document, http://www.un.org/en/sections/universal-declaration/history-document/index.html (retrieved on 11 June 2017).

has been taken on for the sake of the international hegemony of the United States. It can indeed be argued that the underlying motive has been to create the dominance of the liberal state form within both the national and the international domains through the system and language of international human rights. Yet, as elaborated in the previous sub-chapter, the societal relations at the intra-polity and inter-polity levels are regulated through the system of rights (together with the form of law underlying the rights-system) within the bourgeois liberal state form (Fine, 2002). In this sense, it is noteworthy to deconstruct the concept of 'right' that is respected and protected by such an order of liberal states.

Who is the holder of the right described within the international system of human rights embedded in the liberal state form? It is explicitly the 'individual'. What is the character of such an abstraction of the individual? She is "endowed with reason and conscience".[47] There is actually no surprising point in such an understanding to the extent that the liberal state form is consolidated through the United Nations system. Put it differently, it is quite understandable that liberalism as an ideology underlies the conceptualization of right within the UN system of human rights. Having stated such a critical point, herein, one can deal with identifying the main contours of liberalism related to the concept of right.

Liberalism conceives society over the relationship it establishes among legitimacy, consent and contract. To open out the subject in more detail, one can draw on Waldron's analysis of liberalism (Waldron, 1986). Waldron (1987: 128) maintains that liberalism rests on a certain view about how to justify social arrangements. This view rests on a commitment to a conception of (individual) freedom and of respect for the capacities as well as the agency of the individual men and women (Waldron, 1987: 128 – parenthesis added). In fact, liberalism has been a milestone in terms of the rising esteem of the *individual* (Macpherson, 1990: 1). The potentiality of the individual human-beings have been heavily

[47] The Universal Declaration of Human Rights, http://www.un.org/en/universal-declaration-human-rights/index.html , (retrieved on 11 June 2017).

underlined by several liberal thinkers on human rights such as Ionna Kuçuradi (1995a: 10; 1995b: 81-83) who points to the "value of certain human potentialities which mark and constitute the value (the special place) or dignity of the human being" and Jack Donnelly (1989: 17) who states that "human rights represent a particular moral vision of human potentiality".

In line with such assumptions, such a commitment to the individual freedom, agency and capacity requires that all aspects of the social should either be made acceptable or be capable of being made acceptable to the every last individual (Waldron, 1987: 128). Social arrangements cannot be justified in another way. To put it in other words, the enforcements and the maintenance of a social and political order is deemed morally legitimate as long as the individuals who have to live under that order are bound by its rules with their consent (Waldron, 1987: 133-134, 140). In effect, within John Locke's theory of politics, which has paved the cornerstones of the liberal keystones of politics as well as the liberal idea of human rights[48], the sole "principle of the legitimation of power is consent" (Bobbio, 1993: 2) For the free-will owner individual, delimits her freedom not by force, but by consent to create political society (Bobbio, 1993: 2-3). As seen, such significance of the phenomenon of consent also bears upon the conceptualization of freedom. Freedom of the individual requires the establishment and maintenance of relations with consent rather than by force. In other words, (individual) freedom implies "freedom from any relation (including ones established by force) other than those a man enters voluntarily with a view to his own interest" (Macpherson, 1990: 263, 269).

As seen, consent is regarded essential for the legitimacy of a social or political order. How is consent formed then? It is formed by a *social contract* abided by

[48] In this respect, it can be put that Locke has "written the title-deeds of the liberal bourgeois state (of which rights are one of the constitutive elements) providing an invaluable ideological support for that state and the market society on which it has been built" (Locke, 1980: xxi – parenthesis added). It can even be thought that "Locke's doctrine of property is directly intelligible today if it is taken as the classic doctrine of 'the spirit of capitalism'" (Strauss, 1965: 246).

the free will of every individual included. However, the consent which is manifested in the social contract needs not to be an *actual consent*. Rather, a *hypothetical consent* is also acceptable which implies that one *would* give his/her consent to that order or its enforcements. Besides, in fact, the presumptions of the liberal society and polity amount to certain mental constructs rather than actual phenomena within the Lockean theory, which indicates the title-deeds of the liberal state and thought (Locke, 1980: xxi).

Such a hypothetical understanding of the social contract presupposes the *idea of reason* (Waldron, 1987: 140-142). The presumption that the human beings are endowed with reason that drives them into rational action constitutes the ground of such an understanding of social contract. Indeed, in the Lockean theory, the *social contract* is inferred from the hypothetical assumption that *reasonable* individuals within the state of nature agree on making a social contract to construct the civil society and the civil government (Losco & Williams, 1992: 276, 277; Bobbio, 1993: 2-3; Locke, 1980: 16). Yet, reason is deemed as the one of the essential faculties of the human-being according to the thought of 'natural rights' – the progenitor of the contemporary idea of human rights (Wellman, 2011: 3) – of the Enlightenment version of which Locke is the leading name.

One can also consequently realize that such a conceptualization of the society and the human species also constitutes the basis of the idea of human rights which is clearly manifested in the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations in 1948. The first article of the Declaration enunciates that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".[49] However, herein, it should be noted that the underlying understanding in such stipulation implies a specific understanding of rights, that is the *liberal* paradigm of human rights.

[49] The Universal Declaration of Human Rights, http://www.un.org/en/universal-declaration-human-rights/index.html, (retrieved on 11 June 2017).

The views of the liberal human rights scholars such as Kuçuradi (1995b, 1995a), Donnelly (1998), Shestack (1998) and Kant (1999) who consider the moral value and the dignity of the human person as the baselines of human rights illustrate such connection between the liberal paradigm of rights and UN's rights-approach.

On the other hand, the human-person conceptualized in such a way realizes her rights within a certain social setting the basis of which is constructed through the *contractual relations*. Yet, it has been mentioned in the paragraphs above that social contract is the way to the formation of the civil society and the civil government, namely to the exit from the state of nature in the Lockean thought (Losco & Williams, 1992: 276, 277; Bobbio, 1993: 2-3; Locke, 1980: 16). However, what is the character of the *contract* made by such a reasonable human individual? The answer can be given in such a way that it is a type of contract that finds character/meaning within the market relations (Özdemir & Aykut, 2011: 300-301). To refer to Marx's famous work, *On the Jewish Question*, rights and the law regulate the regime of private property between the free-contracting parties (Marx, 1963) that realizes within the capitalistic market relations. In this sense, the existing system of rights is actualized upon a modern juridic fetish supposing that the "ownership of property is an attribute of the abstract individual, taken in isolation from other people" (Fine, 2002: 105). Put it differently, rights are forged within an unequal social structure where exchange between the property-owning and the propertyless rights-bearers within the market takes place. Within the framework of such a juridic fetishism of 'equality before law', such exchange relationship seems a free and equal relationship between parties holding the *right to property* as a consequence of their being *equal before law*. However, the juridic principle of the 'equality before law', stipulating the equal right to being property holder, clouds the existing actual inequalities within the unequal market relations (Fine, 1995; Marx, 1973). In effect, the equal right to being property holder implies the possession of property as the ownership of means of production or of the capacity to labor. Hence, such inequality of ownership denotes an unequal exchange relationship "regulated by

the rights and the law-system" (Fine, 2002: 113-114). In this respect, property rights constitute the kernel of such an exchange system.

Since the bourgeois societies the pillars of which are established by the liberal theory of the Enlightenment rise upon such exchange relations, such substantive place of property rights do not only bear upon the exchange relations but on the liberal theory of rights. The place of right to property as a *natural right* in the Lockean theory of rights (Locke, 1980: 8-9; Macpherson, quoted in Locke, 1980: xvii) illustrates the essential position of the right to property in the liberal paradigm of rights. Even, it can be commented that Locke's theory has "fixed property rights firmly in the center of all subsequent liberal theory" (Macpherson, quoted in Locke, 1980: xvi).

The approach of the United Nations to the concept of right also predicates upon the liberal paradigm of rights. In line, the right to property is deemed a basic right rather than a mere economic right. It is included within the Article 17 of the UN *Universal Declaration of Human Rights* expressed as "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property".[50]

Within this framework, an organic relation between the law and the right, particularly the right to property, is established within the functioning of the bourgeois society. Such a relation is reflected within the conceptualization of right within the liberal paradigm. *Rule of law*, one of the core premises of the liberal human rights discourse (Özdemir & Aykut, 2010: 25 – translation added), protects the interests of the rights-holder. Indeed, right is considered as the interest protected by law. This is the main motto of the *legal positivism*, which is the dominant liberal discourse of law (Özdemir & Aykut, 2011: 303 – translation

[50] The Universal Declaration of Human Rights, http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf, p. 36 (retrieved on 11 June 2017).

added). At this point, one should note that this discourse is reflected within the founding principles of the liberal state form. That human rights should be protected by the rule of law is stipulated within the United Declaration of Human Rights as well.[51]

As such assets – rule of law, free contract, and the contracting individual as the sole rights-holder – constitute the basic ingredients of the dominant human rights discourse, the hegemonic power of the United States adds to the hegemony of this discourse. However, as the US hegemony begins to falter due to the increasing hegemonic power of the Soviet Republic and the Third World countries, several changes within the categories of rights take place. Whereas the variants of human rights multiply, the actors within the global human rights dialogue also get more varied. While the first decade of the UN talk of human rights "reflect the views and values of the pro-Western majority" (Luard, 1982, quoted in Evans, 1996: 66), the interests and values of the socialist and post-colonial countries increased their hegemony to the detriment of the US hegemony on the sharpening of the human rights discourse (Evans, 1996: 116-118). As a consequence of such a shift, *collective* rights get the chance to become part of the international system of human rights.

As discussed beforehand, rights are diversified as *individual* and *collective rights* with reference to the identity of the rights-holder and/or the quality of the interest that constitutes the subject of the right. Individual rights, thereby, can be defined as the rights the persons hold by virtue of being a person, that can be claimed only individually against the state and other persons (Özdemir & Aykut, 2011: 305). On the other hand, collective rights constitute the rights that human collectivities (classes, ethnic groups, peoples, religious-national minorities) hold by virtue of belonging to a collectivity and that can be claimed individually or collectively against the state and other groups (Özdemir & Aykut, 2011: 307).

[51] The Universal Declaration of Human Rights, p. 1. http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf (retrieved on 11 June 2017).

By the same token, Felice (1996: 20) describes collective rights as rights "based upon the rights of human beings in their various group and social roles… which can only be exercised with the cooperation of a group". In a similar vein, albeit with reference to the interest to be protected by the right, Galenkamp defines collective rights as the "rights pertaining to collectivities as such in order to protect some collective interests" (Galenkamp, 1994: 1).

What about the place of collective rights within the United Nations body? Following the end of the World War, the pressure upon the UN by the socialist bloc, the rising class-struggle worldwide and the anti-colonial struggles have constituted the most important dynamics that have molded the human rights agenda of the UN. Within such context, for instance, the rights of the peoples to independent statehood was brought to the agenda of the international community by the influence of anti-colonial struggles (Felice, 1996: 24). As a result of such developments, the UN Charter, the main document founding the legal entity of the UN dated 1945, has integrated collective rights as the *right to self-determination of peoples*: Article 1(2) of the Charter stipulates that UN aims to "develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples..."[52] Besides, Article 55 refers to the "creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples..."[53] (Galenkamp, 1994: 54). What's more, the *Convention on the Prevention and Punishment of the Crime of Genocide* dated 9 December 1948 – adopted as a reaction to the tragedy of the Second World War – contains collective rights in the form of cultural rights through stipulating the provision of "protection from genocide to all persons and groups living within a State" (Galenkamp, 1994: 54). Subsequent to this

[52] Chapter I: Purposes and Principles, http://www.un.org/en/sections/un-charter/chapter-i/index.html (retrieved on 13 August 2017).

[53] Chapter IX: International Economic and Social Co-operation, http://www.un.org/en/sections/un-charter/chapter-ix/index.html, (retrieved on 13 August 2017).

Convention on Genocide, a similar Convention has been adopted on 21 December 1965, namely the *Convention on the Elimination of All Forms of Racial Discrimination*. This Convention recognizes the collective right of ethnic groups and individual members of these groups for the possibility of preferential treatment (Galenkamp, 1994: 55).[54]

Collective rights have been stipulated in the most encompassing manner – including both class-based and culture-based collective rights – with the International Covenant on Economic, Social and Cultural Rights on 16 December 1966. The Covenants are "of general character and in principle cover all fundamental human rights" (Felice, 1996: 27). However, the process of the codification of the renowned *Twin Covenants* - the International Covenant on Economic, Social and Cultural Rights[55] and the International Covenant on Civil and Political Rights[56] – that have simultaneously been stipulated in 1966 has witnessed heated ideological struggle within the UN (Evans, 1996: 142). Even, Renteln (1990: 33, quoted in Felice, 1996: 21 – parenthesis added) enounces that the underlying reason for the adoption of two treaties, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, rather than combining the International Covenant on Economic, Social and Cultural Rights with the International Covenant on Civil and Political Rights, was that "the Western states could avoid the economic (and social) rights for the most part" by repudiating to sign the International Covenant on Economic, Social and Cultural Rights. It can be commented that, otherwise,

[54]International Convention on the Elimination of All Forms of Racial Discrimination, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx, (retrieved on 13 August 2017).

[55] International Covenant on Economic, Social and Cultural Rights, https://treaties.un.org/pages/viewdetails.aspx?chapter=4&lang=en&mtdsg_no=iv-3&src=treaty, (retrieved on 9 June 2015).

[56] International Covenant on Civil and Political Rights, https://treaties.un.org/pages/viewdetails.aspx?chapter=4&src=treaty&mtdsg_no=iv-4&lang=en#EndDec, (retrieved on 9 June 2015).

the adoption of the civil and political rights could have been endangered with the preparation of a single combined treaty. In this sense, the codification of separate, so called *twin* treaties, has been favored. However, still, the US, the leading state of the international capitalist order, refused to sign the Covenants owing to the domestic reaction from the conservative sections of the American society as well as the capital groups (Evans, 1996: 111-112). The fear of 'socialism by treaty' on the part of the American public caused by the ascendancy of the economic and social rights into legal status at the international level (Evans, 1996: 116-117, 143) made the US sign the Covenants only in 1977.[57,58] Indeed, *the International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* could enter into force on 3 January 1976 and 23 March 1976, respectively, about ten years later than their adoption (Galenkamp, 1994: 55).

Such a reaction to collective rights from the US as well as the long period that took for the Covenants to enter into force manifest that there exists tension between the logic of the international human rights system and the logic of collective rights (Özdemir & Aykut, 2011: 305 – translation added). It is certain that the pressure from the Soviet Republic and the Third World Countries, the ascendant universal class struggle as well as the anti-colonial struggles have obtruded the boundaries of the system paving the way for the inclusion of collective rights within the set of human rights. However, as long as the capitalist social relations maintain their dominance, the logic of the system is preserved. Hence, collective rights are only accepted through conversion into the language of individual rights. That means, a rights-subject cannot enjoy a right merely by virtue of belonging to a particular community, but by virtue of his/her

[57] International Covenant on Economic, Social and Cultural Rights, https://treaties.un.org/pages/viewdetails.aspx?chapter=4&lang=en&mtdsg_no=iv-3&src=treaty, (retrieved on 9 June 2015).

[58] International Covenant on Civil and Political Rights, https://treaties.un.org/pages/viewdetails.aspx?chapter=4&src=treaty&mtdsg_no=iv-4&lang=en#EndDec, (retrieved on 9 June 2015).

citizenship status which recognizes him/her a collective right through the law (Özdemir & Aykut, 2011: 308 – translation added). In this sense, the collective interest of a particular group is protected through the logic of individual right that is embodied within the citizenship status, which is explicitly an individual status.

What generates the collective interest which constitutes the subject of the collective right is "the attachment to some specific community and the having of some specific characteristics that count" (Galenkamp, 1994: 69) on the part of a collectivity. However, there is an incongruous relationship between the *class-based collective rights* (Özdemir & Aykut, 2010: 33, 2011: 308-309 – translation added) and the dominant human rights paradigm. For the collective interest of the labor derived from its specific character is in contradiction with the maintenance of the market relations based on the commodification of the labor force. The entrance of the *class-based collective rights* (Özdemir & Aykut, 2010: 33, 2011: 308-30 – translation added) –manifested both in the Covenant on Economic, Social and Cultural Rights and in the sphere of domestic jurisdiction – to the set of human rights should be regarded as the consequence of the class struggle in ascendancy under the influence of the expanding hegemony of the socialist bloc during the Cold War rather than as the international expansion of the idea of human rights.

The collapse of the socialist bloc with the end of the Cold War brought in retreat from the class-based collective rights. This era which is characterized with the dominance of the Washington Consensus brought in the ascendancy of the property rights to the detriment of economic and social rights. To quote from Evans,

> Thirdly, the new post-Cold War order is clearly a liberal capitalist order based on free market principles that cannot accept economic claims as human rights… While economic rights have formal parity with political rights under international law, the West has been successful in maintaining a definition of human rights that emphasizes the primacy of civil and political rights over economic claims (Evans, 1996: 185).

The post-Cold War order is actually characterized with the *de-constituonalization of labor* (Hardt & Negri, 2003) the result of which is retreat from class-based collective rights. To expound in more detail, one can begin by noting that collective labor was regarded as the constitutive element of the constitution in the period of the capitalist reformism of the social welfare state, a specific mode of capitalist organization of social relations of production which owes to the "social pressures and contestations in form and the reconfiguration of the continuity of the process of accumulation in substance" (Hardt & Negri, 2003: 105). Such historical phase of capitalism brought along the recognition of class-based collective rights by the law-systems of the capitalist economies, a process that can be called as the *constitutionalization of labor* (Hardt &Negri, 2003). Such process of the *constitutionalization of labor* can be described as the "mediation and ordering of the productive and antagonistic forces of labor within the juridical constitution of the State while at the same time grounding that constitution on these very forces of labor" (Hardt &Negri, 2003: 221-222). In that vein, the inverse trajectory of the exclusion of labor from the constitution and its foundational status that came along with the end of the social welfare state and the decline of class contestations can be regarded as the *de-constitutionalization of labor* (Hardt & Negri, 2003). To clarify, such process of 'de-constitutionalization' brings about the discrediting of labor and production per se as the sources of society replaced with circulation as an uprising motto. To express in Hardt & Negri's words,

> … labor or – even production in general – no longer appears as the pillar that defines and sustains capitalist social organization… As the foundational role of production wanes, as capitalism is 'freed' from the productivist model and the 'fetishism' of labor, … the importance of circulation and distribution rises as the lifeblood that sustains the system" (Hardt & Negri, 2003: 225).

Such a process of *deconstitutionalization* of labor brings about retreat from class-based collective rights since collective labor loses its foundational status within the juridical system. However, one should note that such retreat has taken place in favor of cultural rights within an atmosphere where the concept of *identity* has replaced the concept of class as an uprising trend and a buzzword.

Indeed, the UN *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities*[59] has been adopted in 1992 (Galenkamp, 1994: 56) in an era when cultural collective rights have been on the rise. Besides, one year after the adoption of the declaration in question, the UN *Draft Declaration on Indigenous Rights* has been assented (Galenkamp, 1994: 58) which has evolved into the UN *Declaration on the Rights of Indigenous Peoples* in 2007.[60]

Within such an atmosphere, the crisis situation faced by international capitalism during the second half of the 1990's has, nonetheless, led to a paradigm shift from Washington Consensus that favored the minimal state for the sake of the penetration of the market relations to the *governance* paradigm advocating the so-called 'second-generation reforms', despite the maintained priority ascribed to cultural rights to the detriment of class-based collective rights. Having kept this point in mind, the main policy recommendations of the 'second-generation governance reforms' can be listed as the reduction of public spending, investing in primary health, education and social protection, promoting the private sector by regulatory reform, reinforcing private banking, reforming the tax system as well as promoting the principles of 'transparency' and 'accountability' in government and corporate affairs (Kersbergen & Waarden, 2004: 145, quoted in Kurt, 2008: 14).

The premise put forward by the concept of governance is that the state should take a crucial role for the functioning of market relations on such a ground depicted above. Hence, it redefines the role of the state and maintains that political power should not be reserved within the state. Rather, political power

[59] Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, http://www.ohchr.org/Documents/Publications/GuideMinoritiesDeclarationen.pdf, (retrieved on 27 August 2017).

[60] United Nations Declaration on the Rights of Indigenous Peoples, http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf, (retrieved on 9 September 2017).

should be harnessed in collaboration with other stake holders including the civil society actors and the capital groups which are all equal partners in the governance processes. In this vein, themes such as *co-governance, heterearchy* instead of 'hierarchy', *partnership, co-operation, interaction* and *interdependency* set the new language of the governance agenda (Kooiman, 2003: 5-11, 130, quoted in Kurt, 2008: 12-13).

The term, *governance*, has been circulated expansively in the field of development by the World Bank and United Nations. These two institutions prefer to use the term, *good governance* and establish a correlation between democracy, human rights and good governance (Bayramoğlu, 2005: 129). Despite such nice euphemisms through the appeal to the concepts of democracy and human rights, "the good governance agenda was explicitly designed to be the complement, the political extension, of structural adjustment programs" (Uvin, 2002: 4) which have been pioneered by the World Bank. Furthermore, the governance rhetoric serves to "depoliticize the concepts of democracy and human rights" (Uvin, 2002: 4-5) turning them to be imbued with technical and procedural essence.

As regards, United Nations, it can be put that it is the main institution that has gained the governance model ideological legitimacy (Bayramoğlu, 2005: 71-76 – translation added). The subject of 'governance' is one of the thematic work areas of the United Nations comprising six sub-areas such as constitution-making, corruption, elections, freedom of information, *good governance* and parliaments. It is indicated that;

> … in the report entitled "A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015" (A/68/202), the importance of building peace and effective governance based on human rights and the rule of law through sound institutions was underlined. Accountable and accessible institutions support the implementation and application of the rule of law and

> human rights and thereby strengthen the ability to maintain durable peace and build sustainable development for all. [61]

As seen, governance is one of the rising values of the UN correlated with human rights and development as well. The *UN Millennium Declaration* – the main text that announces the Millennium Development Goals - conceives human rights and governance within the same ideational set. As noted by Frankovits (2006: 52), "the Millennium Declaration does include a section on human rights, but this is linked to democracy and good governance". Hence, it can be put that human rights and governance principles are comprehended within a common logic by the United Nations.

Within the framework of the rhetoric of 'governance', United Nations has coined a new term called 'human rights-based approach to development'. Indeed, this term has revised the concept of 'right to development' which has been accepted with the *UN Declaration on the Right to Development*[62] in 1986 (Felice, 1996: 30; Galenkamp, 1994: 56). Indeed, the so-called 'governance framework' together with the generic setting of human rights – which brings in a *high* moral ground, namely legitimacy to the development enterprise via the banner of human rights (Uvin, 2002, 4, 8, 10; Uvin, 2007: 603) – has been tendered as the solution for developmental problems and/or the way for realizing the right to

[61] United Nations and the Rule of Law, https://www.un.org/ruleoflaw/thematic-areas/governance/, (retrieved on 11 June 2017).

[62] 41/128. Declaration on the Right to Development, http://www.un.org/documents/ga/res/41/a41r128.htm, (retrieved on 27 August 2017). The Declaration formulates the rights-bearers of the right to development as both individuals and peoples. For example, Article 1(1) stipulates that 'the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized' (Galenkamp, 1994: 56). Under the influence of the post-Second World War context, the Declaration comprises the economic, social and cultural aspects of development in addition to the political aspects. Moreover, the right of peoples to self-determination and to full sovereignty over all their natural wealth and resources is codified in Article 1(2). Nevertheless, the individualistic spirit of the liberal paradigm of human rights is reserved. As noted by Galenkamp (1994: 56), the individual is still kept at the center of development. Article 2(1) underlines that 'the human person is the central subject of development and should be the active participant and beneficiary of the right to development'.

development. Such remark is also addressed by the advocates of the rights-based approach. Boesen & Martin (2007: 13) moots that the rights-based approach "offers legitimacy by being based on internationally agreed laws and standards". However, in practice, this "new approach amounts to a standard repetition of the… liberal dogma of the sanctity of economic growth combined with a measure of human resource development" (Ulvin, 2002: 9) despite all the attractive appeal to mottos such as participation, democracy and human rights. Moreover, it carries out the risk to connoting not more than "making nice statements of intent regarding things that it would be nice to achieve, or duties we would like to assume one day" (Uvin, 2007: 603).

The term of 'human rights-based approach to development' is defined as "a framework that integrates the norms, principles, standards and goals of the international human rights system into the plans and processes of development" (Boesen & Martin, 2007: 9). This approach emends the *Declaration on the Right to Development* by "redefining development itself in human rights terms" (Uvin, 2002: 2), thus interpreting development in a wider and holistic context beyond the particular right of 'right to development'. It has gained prominence for the first time with the UN World Conference on Human Rights in 1993 which has "provided the momentum for the integration of human rights in the UN's development agenda" (Frankovits, 2006: 15). According to this approach, human rights enable participation in development and ascribes responsibility to the political authorities responsible for development[63]. In a human rights-based approach, the main objective of the policies and programs oriented towards development is to fulfill human rights.[64] Human rights determine the relationship between individuals and groups with valid claims (rights-holders) and State and

[63] Office of the United Nations High Commissioner for Human Rights (2006) *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, p. 7.

[64] Office of the United Nations High Commissioner for Human Rights (2006) *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, p. 15.

non-State actors with correlative obligations (duty-bearers).[65] However, governance failures in the field of development bring along failures in terms of respect for human rights. As a response to such failure, it is propounded that one of the basic advantages of the rights-based approach is that it "focuses on participation and empowerment and the right to hold governments and other responsible actors accountable" (Boesen & Martin, 2007: 12). Needless to repeat, the concepts of participation and accountability are also one of the main tenets of the governance paradigm. Within this context, the underlying idea behind this approach is that if governance frameworks are strengthened through the setting of human rights frameworks, human rights and governance reinforce each other mutually for they are "based on the same core principles of participation, accountability, transparency and State responsibility". Within such an ideational ground, for instance, the UN Reform initiated in 1997, one of the milestones of the incorporation of the rights-based approach within the UN system, has declared that the "(UN) Agenda for Development… stresses the mutually supportive though complex relationships among development, peace, democracy, good governance and human rights" (Frankovits, 2006: 18). The subject of water as a component of development is not also exempt from such an ideational framework. Indeed, the rights-based approach has been offered as a framework to achieve the Millennium Development Goals, one of which is to halve, by 2015, the proportion of people without sustainable access to safe drinking water (Center for Human Rights and Global Justice, 2003: 27). Given that the Millennium Declaration that codifies the Millennium Development Goals inscribes human rights, democracy and good governance, within the same set, under the same title (Frankovits, 2006: 52), it can be commented that the framework proposed for the realization of the right to water is indeed intertwined with the governance principles.

[65] Office of the United Nations High Commissioner for Human Rights (2006) *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, p. 37.

As seen, right to water has come into the agenda of the United Nations in such a framework in which the interest in the governance paradigm has been on the rise. In this introductory part, the baselines of the relation the UN, the main body for the codification of the international human rights regime, to the rights have been delineated. In this sense, the contours of the UN approach to rights have been presented. In this vein, the background of the debate about right to water has been set out for the sake of building the analytical linkages of the dissertation. Following this background, the next chapter deals with the trajectory of the right to water within the international human rights regime with specific reference to the UN. In other words, the readers shall accompany the legal story of right to water.[66]

2.3. The Legal Story of the Right to Water

Right to water has entered into the UN international system of human rights with its codification through a Resolution numbered 64/292 adopted by the United Nations General Assembly on 28 July 2010. In this resolution, for the first time, the right to water and sanitation has been formally recognized by the General Assembly, one of the main UN bodies. Such a crucial Resolution has been adopted with the 122 votes in favor, 0 votes against and with the abstention of 41 countries from voting[67], including Turkey. Moreover, it should also be noted that the co-sponsors of the Resolution comprise of overwhelmingly several African, Asia-Pacific as well as Latin American and Caribbean states. In line, the votes in

[66] In the sub-chapter entitled 'the legal story of the right to water', the trajectory of the right to water within the international system of human rights is dealt with specific reference to the legal status and legal trajectory of the right to water excluding the approaches of the several parties related to the codification of the right to water as well as the several contentions for they are to be handled in the third chapter tackling with the approaches to right to water.

[67] General Assembly declares access to clean water and sanitation is a human right, http://www.un.org/apps/news/story.asp?NewsID=35456#.WT_wENwlHIU, (retrieved on 13 June 2017).

favor primarily belong to such group of countries, but also include several Eastern and Western European states as well as other states.[68]

In the resolution it has been specified that;[69]

> *Acknowledging the importance of equitable access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights,*
>
> 1. *Recognizes* the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;
>
> 2. *Calls upon* States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all;
>
> 3. *Welcomes* the decision by the Human Rights Council to request that the independent expert on human rights obligations related to access to safe drinking water and sanitation submit an annual report to the General Assembly, and encourages her to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly, at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium water and sanitation and their impact on the achievement of the Millennium Development Goals[70].

[68] UN General Assembly Resolution 64/292 (July 2010), http://www.wash-united.org/files/wash-united/resources/States'%20recognition_HRWS_WEB_2015.pdf, p. 10-11, (retrieved on 13 June 2017).

[69] 64/292. The Human Right to Water and Sanitation, http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E, (retrieved on 11 July 2011).

[70] The Millennium Development Goals comprise eight goals to be achieved by the year 2015 addressed in the United Nations Millennium Declaration issued in 2000 by the 147 countries who attented the UN Millennium Summit. The goals addressed are (i) eradication of extreme poverty and hunger, (ii) achievement of universal primary education, (iii) promotion of gender equality and empowering women, (iv) reducing child mortality, (v) improving maternal health, (vi) combating HIV/AIDS, malaria, and other diseases, (vii) ensuring environmental sustainability, and (viii) developing global partnership for development. The goal of halving the proportion of people without sustainable access to safe drinking water is accepted as part of the seventh goal of ensuring environmental sustainability (Salman & McInerney-Lankford, 2004: 14).

Such codification of the right to water inshells the *governance rhetoric* as well from several aspects. Firstly, the subject of *state responsibility* (as an antidote in face of the lack/absence of transparency and accountability) is embedded in the Resolution. The Resolution highlights state responsibility by "calling upon states and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all".[71] Besides, the Resolution reaffirms "the responsibility of States for the promotion and protection of all human rights."[72] As mentioned above, such emphasis on 'state responsibility' is quite closely compliant with the governance rhetoric, and its accompanier, the "human rights-based approach to development" according to which human rights and governance reinforce each other mutually for they are "based on the same core principles of participation, accountability, transparency and State responsibility".[73]

Moreover, the Resolution refers to the commitment of halving the proportion of people unable to reach or afford safe drinking water by 2015[74] within the Article 19 of the UN Millennium Declaration that has been adopted by the UN General Assembly in 8 September 2000 within the context of the Millennium

[71] 64/292. The Human Right to Water and Sanitation, http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E, (retrieved on 11 July 2011).

[72] 64/292. The Human Right to Water and Sanitation, http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E, (retrieved on 11 July 2011).

[73] Office of the United Nations High Commissioner for Human Rights (2006) *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*, p. 10.

[74] 64/292. The Human Right to Water and Sanitation, http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E, (retrieved on 11 July 2011).

Development Goals.[75] To deconstruct the Declaration, one can again encounter the governance rhetoric. Under the title, *Development and Poverty Eradication*, of the Declaration, of which the water-related goal of halving the amount of people without reach or access to water mentioned above is a part, it is indicated that "success in meeting these objectives depends, inter alia, on good governance within each country… and at the international level".[76]

Furthermore, as indicated in the handbook entitled 'Realising the Human Right to Water and Sanitation' prepared by the UN Special Rapporteur, Catarina de Albuquerque, the human rights principles related to the human right to water and sanitation are listed as "non-discrimination and equality, access to information, participation and accountability".[77] The last two principles, *participation and accountability*, are certainly part of the governance assets. Yet, they are described within the governance paradigm in the handbook. The principle of 'participation' is described in such a way that "the human rights to water and sanitation can only be realized effectively through full, free and meaningful participation in decision-making processes by people affected by the decisions. Participation ensures better implementation and enhances the effectiveness and sustainability of interventions, offering the possibility of social transformation". As regards the principle of 'accountability', it is defined as "the process by which people living under a State's jurisdiction can ensure that States are meeting their obligations with respect to the human rights to water and sanitation". As explicitly illustrated by such definitions, such principles are built on the governance paradigm which feature assets such as accountability

[75] 55.2 United Nations Millennium Declaration, http://www.un.org/millennium/declaration/ares552e.htm, (retrieved on 11 June 2017).

[76] 55.2 United Nations Millennium Declaration, http://www.un.org/millennium/declaration/ares552e.htm, (retrieved on 11 June 2017).

[77] Introduction, Realizing the Human Right to Water and Sanitation: A Handbook By the UN Special Rapporteur Catarina de Albuquerque, http://www.ohchr.org/Documents/Issues/Water/Handbook/Book1_intro_.pdf, (retrieved on 11 June 2017).

(Kersbergen & Waarden, 2004: 145, quoted in Kurt, 2008: 14) and participation (in the sense of partnership in governing/decision-making) (Kooiman, 2003: 5-11, 130, quoted in Kurt, 2008: 12-13). Last but not least, the right to water is codified in a restricted way limited with the problem of 'access', and further, with 'access to particularly drinking water' associated with sanitation. Hence, right to water is reduced to the daily reproduction of the human-individual neglecting other aspects of the right to water as well as the collectivity as the rights-bearer.

As seen, the right to water is embedded in the governance rhetoric and paradigm, and also in a rather restricted vein within the international human rights-system. Having stated such a linkage of the right to water with the emergent trends in the international arena, one can herein examine the trajectory of the codification of the right to water. Before starting such examination, it can be noted that the codification of the right to water has followed an oscillating and jerky path rather than a smooth one.

The debate on the right to water can be traced back to the *Mar del Plata UN Water Conference* dated 1977 (Salman & McInerney-Lankford, 2004: 8). In fact, "the Mar del Plata Water Conference can be considered the starting point for the debate on the right to water, and it has indeed provided the basis for the current discussion on the issue of the human right to water" (Salman & McInerney-Lankford, 2004: 9). Yet, the Conference is considered as one of the milestones in the codification of the human right to water and sanitation by the UN for in the conference, for the first time, "the right to access to drinking water (of all peoples) in quantities and of a quality equal to… basic needs" has been enunciated in a UN-organized event.[78] Yet, the right to water is again reduced to the right to access to drinking water, producing a narrow conceptualization of the right to water.

[78] The Human Right to Water and Sanitation: Milestones, http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_milestones.pdf , (retrieved on 26 March 2017).

Subsequent to the Mar del Plata Conference, right to water has also been enunciated in the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) dated 1979 as "the right to water supply" and in the Convention on the Rights of the Child dated 1989 as "the right to clean drinking water",[79] again in a narrow vein restricted with right to clean drinking water and to water supply. Furthermore, these two conventions do not recognize right to water as an entirely independent right (Topçu, 2011: 34). Rather, they approach the right to water as a derivative right, as an element of non-discrimination against women in rural areas in the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and as a "derivative of the right to health" (Cahill, 2005: 391, quoted in Topçu, 2011: 34) in the *Convention on the Rights of the Child*.

In fact, the right to water has gained prominence before the international public with the 1990's onwards. Two causal factors have been determinant in the rise of the right to water in the international agenda, the *water-crisis* and the *privatization and commodification of water*. As for the first factor, it comprises primarily the hardships of access to clean water as well as the pollution of water resources. As Salman and McInerney-Lankford (2004: vii) state, human rights and water are placed at the top of the global developmental agenda owing to several reasons such as the linkage between poverty and water shortage in the developing world. As the statistics from the UN website, *UNWATER* show,[80]

- 842,000 people die every year from diseases caused by unsafe water, inadequate sanitation and hygiene.
- 50% of child malnutrition is associated with unsafe water, inadequate sanitation and poor hygiene

[79] The Human Right to Water and Sanitation: Milestones, http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_milestones.pdf , (retrieved on 26 March 2017).

[80] Facts and Figures, http://www.unwater.org/water-facts/water-sanitation-and-hygiene/#dismiss_notice, (retrieved on 11 June 2017).

- Universal access to safe drinking water and adequate sanitation and hygiene would reduce the global disease burden by 10%.
- Seven out of ten people without improved sanitation facilities, and nine out of ten people still practising open defecation, live in rural areas.
- More than 340 000 children under five who die annually from diarrhoeal diseases due to poor sanitation, poor hygiene, or unsafe drinking water
- 1.8 billion people use a source of drinking water contaminated with faeces, putting them at risk of contracting cholera, dysentery, typhoid and polio.

By the same token, the World Bank also states that the world faces a water-crisis owing to water-related diseases, caused by unsafe drinking water and improper sanitation facilities, that impedes socio-economic development. Moreover, there exist several other factors such as shortages of fresh-water and the rising demand for water due to the increase in the world population81 (Salman & McInerney-Lankford, 2004: 1). In effect, the discourse of *water crisis* is so widespread that it is deployed by the critics of the World Bank policies as well. Maude Barlow and Tony Clarke, who rigorously challenge World Bank's water-privatization policies in their works, also point to the water crisis in their studies. In the book, *Blue-Gold: The Fight to Stop the Corporate Theft of the World's Water*, written by Barlow and Clarke, the language of 'fresh water shortages' and 'global freshwater crisis' is deployed as well (Barlow & Clarke, 2004: xi-26).

Nevertheless, the solution designed in face of the global water crisis has not solely been the recognition of the right to water as a human right. Rather, the proposals that present water as an economic good being a solution to the water crisis have triggered the demands for the recognition of water as a human right

[81] As Barlow quotes, according to a recent study coordinated by the World Bank, by 2030, global demand for water will exceed supply by 40 per cent. (Barlow, *Our Right to Water, A People's Guide to Implementing the United Nation's Recognition of the Right to Water and Sanitation,* https://canadians.org/sites/default/files/publications/RTW-intl-web.pdf, p. 6, (retrieved on 16 June 2016).

(Bluemel, 2004: 963, quoted in Topçu, 2009: 45 – translation added) as in Barlow & Clarke, 2004; Barlow, 2007 and Barlow, 2016. Such pro-market proposals emerge from the increasing interest of the corporations in the water services and water supply within the atmosphere of the ongoing debate on water crisis.

Indeed, the concerns regarding the presentation of water as an economic good have proved to be sound. The discourse of water crisis has been exploited by the corporations and several international organizations (Topçu, 2009: 60-69 – translation added). Particularly, the discourse of 'water scarcity' has been overstated to advocate that water, as a scarce resource, necessitates the "entrance of the private sector for its efficient management" (TÜSİAD, 2008: 43, quoted in Topçu, 2009: 63 – translation added). The underlying idea is that the determination of the price of water within the market brings about efficient use of water "for high prices can impede high levels of consumption" (Anderson and Synder, 1997: 8, quoted in Topçu, 2009: 66 – translation added).

As a consequence of such logic, the recommendations of "privatization and commercialization of water as a solution to the water crisis" (Barlow & Clarke, 2004: xii) have been widely put forth. Indeed, such recommendations have been put into practice. The total investment in the sector of water and sewerage has ascended to $9,965.700M in 1997, the year with the highest rate of investment. By 2016, the amount of projects in the sector of water and sewerage has escalated into 967, while the total investment has climbed up to $84.083 billion.[82]

Such rise on behalf of the capital has also been reflected in the *International Conference on Water and Sustainable Development Conferenc*e convened in

[82] PPI Visualization Dashboard, https://ppi.worldbank.org/visualization/ppi.html#sector=Water+and+sewerage&status=&ppi=&investment=&region=&ida=&income=&ppp=&mdb=&year=&excel=false&map=&header=true, (retrieved on 25 February 2017).

Dublin in 1992. In this conference, water has been enunciated as a basic right albeit with the recognition of water-pricing, which is a market mechanism. To quote from the conference declaration itself, it is specified that "… it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price"[83] though the definition of 'affordability' is lacking in the conference declaration (Salman & McInerney-Lankford, 2004: 9). Indeed, such an approach is predicated upon the view that water is limited which is not enough for everyone, and thus, access to water should be determined through pricing (Robert, 2003: 26-27, quoted in Topçu, 2011: 33), illustrating the exploitation of the 'water crisis' by the capital. Within such an atmosphere, for the first time, water has been declared as an economic good in the Dublin Conference (Topçu, 2011: 33). Principle 4 of the Dublin Statement proclaims that "water has an economic value in all its competing uses and should be recognized as an economic good" (Salman & McInerney-Lankford, 2004: 9). In line with this statement, it is specified that "Within this principle, it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price. Past failure to recognize the economic value of water has led to wasteful and environmentally damaging uses of the resource. Managing water as an economic good is an important way of achieving efficient and equitable use, and of encouraging conservation and protection of water resources".[84]

As seen, the Dublin Conference has cleared the way for the enunciation of the right to water as a commodity in the UN documents. The *United Nations Conference on Environment and Development (Rio Summit)* held in Rio de Janerio, Brazil in 1992 has followed a similar path. In the Rio Summit, the

[83] The Human Right to Water and Sanitation: Milestones, http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_milestones.pdf , (retrieved on 26 March 2017).

[84] Dublin-Rio Principles, http://www.gwp.org/contentassets/05190d0c938f47d1b254d6606ec6bb04/dublin-rio-principles.pdf, (retrieved on 1 March 2012).

Resolution of the Mar del Plata Conference that all peoples have the right to access to drinking water has been acknowledged called as a 'commonly agreed premise' (Salman & McInerney-Lankford, 2004: 10). Nonetheless, water has been acknowledged also as a 'social and economic good' and a 'natural resource' the price of which has to be paid by the 'water-users'. Water should also be charged at full costs the planning of which is to reflect benefits investment, environmental protection and operation costs, as well as the opportunity costs reflecting the most valuable alternative use of water. The charging of water at full costs also requires that the charging mechanisms should reflect as far as possible both the true cost of water when used as an economic good and the ability of the communities to pay.[85]

Besides, the right to water has been associated with right to development in two other UN declarations, which illustrate the impact of the 'rights-based approach to development' on the UN-setting. Firstly, it has been affirmed that all individuals "have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation" in the United Nations International Conference on Population and Development in 1994.[86] Secondly in the UN General Assembly Resolution on "The Right to Development" issued in 1999, it has been reaffirmed that "in the realization of the right to development, *inter alia*, the rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative both for national governments and for the international community" (Salman & McInerney-Lankford, 2004: 11). However, yet again, right to water has been deemed a 'derivate right' rather than an independent right as derived from the

[85] United Nations Conference on Environment & Development, Rio de Janerio, Brazil, 3 to 14 June 1992, AGENDA 21, https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf, (retrieved on 1 March 2012).

[86] The Human Right to Water and Sanitation: Milestones, http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_milestones.pdf , (retrieved on 26 March 2017).

right to an adequate standard of living as in the United Nations International Conference on Population and Development dated 1994 and from the right to development as in the UN General Assembly Resolution dated 1999.

Subsequent to the UN Millennium Declaration, the World Summit on Sustainable Development has been commenced in Johannesburg, South Africa in 2002. However, the right to water has not been enunciated in the Plan of Implementation, a document prepared as a result of the Summit, though the millennium development goals related to water, have been reiterated with the decisions taken on the protection, management and efficient use of water resources (Topçu, 2011: 23).

However, herein, it should be underlined that the legally binding status of these documents such as resolutions and declarations are of controversy. It is alleged that such documents are statements of policy that do not possess formal legal enforceability. However, they may provide the impetus for other instruments and further the definition of policy and principle in a given area (Salman & McInerney-Lankford, 2004: 12).

The document indicating the right to water in the clearest and most far-reaching way is the General Comment No. 15 issued by the Committee on Economic, Social and Cultural Rights in November 2002 (Topçu, 2009: 210-211 – translation added). The Committee on Economic, Social and Cultural Rights issues comments for clarifying the various aspects of the realization of the economic, social and cultural rights, and thus, guiding states in preparing the reports which they are obliged about the measures taken for the realization of the economic, social and cultural rights.87 General Comment No. 15 is one of such comments. It holds the title of 'right to water' and describes the scope of right to water in an extensive way in terms of amount, quality and accessibility, that is

[87] Committee on Economic, Social and Cultural Rights, *Rules of Procedure of the Committee*, rule 65, (1989) http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1990%2f4%2fRev.1&Lang=en (retrieved on 01 August 2012).

the most significant aspect of the General Comment (Salman & McInerney-Lankford, 2004: 54-55).

The General Comment No. 15 commences with specifying that "water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights".[88] The General Comment No. 15 describes right to water in the Article 2 as;[89]

> The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

The General Comment No. 15 also explicates the normative content of the right to water. First of all, the Comment addresses the freedoms and entitlements regarding right to water:[90]

> Article 10.
>
> The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and

[88] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 1 http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[89] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2 http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[90] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 4 http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

management that provides equality of opportunity for people to enjoy the right to water.

The Comment emphasizes the adequacy of water, then identifies the elements of adequacy:[91]

> Article 11.
>
> The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.
>
> Article 12.
>
> While the adequacy of water required for the right to water may vary according to different conditions, the following factors apply in all circumstances:
>
> (a) Availability. The water supply for each person must be sufficient and continuous for personal and domestic uses. These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines.
>
> (b) Quality. The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological that constitute a threat to a person's health. Furthermore, water should be of an acceptable colour, odour and taste for each personal or domestic use.
>
> (c) Accessibility. Water and water facilities and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions:
>
> > (i) Physical accessibility: water, and adequate water facilities and services, must be within safe physical reach for all sections of the population. Sufficient, safe and acceptable water must be accessible within, or in the immediate vicinity, of each household, educational institution and workplace. All water facilities and services must be of sufficient quality, culturally appropriate and sensitive to gender,

[91] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 5-6 http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

lifecycle and privacy requirements. Physical security should not be threatened during access to water facilities and services;

(ii) Economic accessibility: Water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights;

(iii) Non-discrimination: Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds; and

(iv) Information accessibility: Accessibility includes the right to seek, receive and impart information concerning water issues.

Moreover, the General Comment No. 15 land states with several immediate core obligations:[92]

Core obligations

37. In General Comment No. 3 (1990), the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. In the Committee's view, at least a number of core obligations in relation to the right to water can be identified, which are of immediate effect:

(a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;

(b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;

(c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;

(d) To ensure personal security is not threatened when having to physically access to water;

(e) To ensure equitable distribution of all available water facilities and services;

[92] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 9-11, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

(f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;

(g) To monitor the extent of the realization, or the non-realization, of the right to water;

(h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;

(i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.

Besides, the General Comment No. 15 specifies types of obligations of the states, namely obligations to respect, obligations to protect and obligations to fulfill:[93]

(a) Obligations to respect

21. The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.

22. The Committee notes that during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law. This includes protection of objects indispensable for survival of the civilian population, including drinking water installations and supplies and irrigation works, protection of the natural environment against widespread, long-term and severe damage and ensuring that civilians, internees and prisoners have access to adequate water.

[93] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 12-13, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

(b) Obligations to protect

23. The obligation to protect requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.

24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment, which includes independent monitoring, genuine public participation and imposition of penalties for non-compliance.

(c) Obligations to fulfill

25. The obligation to fulfill can be disaggregated into the obligations to facilitate, promote and provide. The obligation to facilitate requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to fulfil (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.

26. The obligation to fulfill requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.

27. To ensure that water is affordable, States parties must adopt the necessary measures that may include, inter alia: (a) use of a range of appropriate low-cost techniques and technologies; (b) appropriate pricing policies such as free or low-cost water; and (c) income supplements. Any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households.

> 28. States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity; (f) increasing the efficient use of water by end-users; (g) reducing water wastage in its distribution; (h) response mechanisms for emergency situations; (i) and establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.
>
> 29. Ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.

Despite such a thorough and extensive clarification of the content/scope of the right to water, the General Comment No. 15 does not regard right to water as an 'independent right' but as a 'derivative right' (Cahill, 2005: 394, quoted in Topçu, 2011: 34). Such a characteristic of the right to water holds several problematic aspects. First, as mentioned above, right to water is regarded in a narrow vein, reduced to only specific aspects of water to be protected by the right to water. Cahill (2005: 396-397, quoted in Topçu, 2011: 34) expresses this point as that "if right to water is seen as a derivative right, first, only some aspects of it are protected and implemented". Secondly, the regarding of right to water as a derivative right, "hampers the justifiability and the realization of the right from which it is derived (life, health, food, shelter, education) by expanding its limits" (Cahill, 2005: 396-397, quoted in Topçu, 2011: 34) Last but not least, "it blurs the border of the right to water to other rights. In the case of a violation, it becomes hard to determine which right is violated, the original right or the right to water" (Cahill, 2005: 396-397, quoted in Topçu, 2011: 34).

Having stated the deficiency of the conceptualization of the right to water as a derivative right in the General Comment No. 15, herein, one can elucidate the specific rights from which the right to water is derived. The preference for the method of derivation/inference results from the fact that the right to water is absent both in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (as well as in the Universal Declaration of Rights).[94] Moreover, it is also caused by the fact that the General Comment neither does alter the explicit provisions of the International Covenant on Economic, Social and Cultural Rights nor it does create a new right beyond the parameters of the content of the Covenant (Salman & McInerney-Lankford, 2004: 55-56).

The General Comment No. 15 refers to the Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights. The first right from which the right to water is inferred is the 'right to an adequate standard of living' which is contained in the Article 11 of the International Covenant on Economic, Social and Cultural Rights.[95] The General Comment refers to the Article 11 in such a way that[96];

> The Legal Bases of the Right to Water
>
> 3. Article 11, paragraph 1, of the Covenant specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living "including adequate food, clothing and housing". The use of the word "including" indicates that this catalogue of rights was not intended to be exhaustive. The right to water clearly falls within the category of

[94] The Universal Declaration of Human Rights, http://www.un.org/en/universal-declaration-human-srights/index.html , (retrieved on 11 June 2017).

[95] International Covenant on Economic, Social and Cultural Rights, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx, (retrieved on 13 June 2017).

[96] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

> guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival.

The General Comment No. 15 has gone further beyond correlating right to water with right to adequate standard of living. It has moreover associated the right to water with the right to health contained in the Article 12 of the International Covenant on Economic, Social and Cultural Rights[97] in the same paragraph by indicating that "the right to water is also inextricably related to the right to the highest attainable standard of health".[98] Furthermore, the Comment has also mentioned the 'rights to adequate housing and adequate food' – founded also in the Article 11 of the Covenant[99] –separately from the scope/content of the right to adequate standard of living as in the beginning of the Article specifying that "the right to water is also inextricably related to the right to the… rights to adequate housing and adequate food".[100] Last but not least, the Comment has related the right to water with the right to life and human dignity formulated in the Universal Declaration of Human Rights[101] indicating that "the right (to water) should also be seen in conjunction with other rights enshrined in the

[97] International Covenant on Economic, Social and Cultural Rights, http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx, (retrieved on 13 June 2017).

[98] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[99] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[100] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[101] The Universal Declaration of Human Rights, http://www.un.org/en/universal-declaration-human-srights/index.html , (retrieved on 11 June 2017).

International Bill of Human Rights, foremost amongst them the right to life and human dignity".[102]

In addition to the deficiency of the character of the 'derivative right', the right to water as formulated in the General Comment No 15. bears one more deficiency. It is devoid of being legally binding upon States though it encumbers several obligations upon States as mentioned above. As Salman & McInerney-Lankford (2004: 49) state, General Comments are not legally binding *per se* because the Committee on International Covenant on Economic, Social and Cultural Rights does not hold the authority to create new rights, in other words, it is not entitled to form new obligations for the States parties to the Covenant.

Briefly, the General Comment No. 15 together with the United Nations General Assembly Resolution dated 28 July 2010 and the Human Rights Council Resolution dated 30 September 2010 can be deemed the most significant UN regulations on the right to water. The General Comment as well as the United Nations General Assembly Resolution have been discussed above. Herein, one can elaborate on the Resolution of the Human Rights Council[103]. The Resolution has been adopted "without a vote, with only the United Kingdom dissociating itself from the consensus".[104]

The Resolution acknowledges the right to water and sanitation reaffirming all previous resolutions of the Human Rights Council on human rights and access to

[102] General Comment No. 15 (2002) The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), p. 2, http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf (retrieved on 1 August 2012).

[103] Resolution adopted by the Human Rights Council, 15/9, Human rights and access to safe drinking water and sanitation, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/33/PDF/G1016633.pdf?OpenElement, (retrieved on 14 June 2017).

[104] UN General Assembly Resolution 64/292 (July 2010), http://www.wash-united.org/files/wash-united/resources/States'%20recognition_HRWS_WEB_2015.pdf, p. 10-11, (retrieved on 13 June 2017).

safe drinking water and sanitation.[105] The Resolution recalls "the General Assembly resolution 64/292 of 28 July 2010, in which the Assembly recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights". It also "affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity".[106]

The most crucial feature of the Human Rights Council Resolution is that, for the first time, the right to water has been acknowledged as *legally binding* with a legal adjudication for it has been stated that the right to water and sanitation is contained in existing human rights treaties.[107] However, one should keep in mind that the subject of being legally binding is contradictive owing to the different characters of the Resolutions compared with the Treaties. One should bear in mind Salman & McInerney-Lankford's (2004: 12) warning that;

> The resolutions, declarations and action plans… are statements of policy that do not possess formal legal enforceability. In this respect, they should be distinguished from the conventions and treaties that are subject to signature and ratification, and that, once in force, are legally binding on the states that have ratified them. Resolutions and declarations are not subject to signature and ratification, and as such do not create binding effects, though they may provide the impetus for later binding instruments and further the definition of policy and principle in a given area.

[105] Resolution adopted by the Human Rights Council, 15/9, Human rights and access to safe drinking water and sanitation, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/33/PDF/G1016633.pdf?OpenElement, (retrieved on 14 June 2017).

[106] Resolution adopted by the Human Rights Council, 15/9, Human rights and access to safe drinking water and sanitation, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/33/PDF/G1016633.pdf?OpenElement, (retrieved on 14 June 2017).

[107] A landmark decision to make the right to water and sanitation legally binding, http://www.ohchr.org/EN/NewsEvents/Pages/RightToWaterAndSanitation.aspx, (retrieved on 14 June 2017).

In a similar vein, the UN Human Rights Council has adopted a new Resolution on 28 September 2011 called 'The Human Right to Safe Drinking Water and Sanitation'.[108] With this Resolution, States have been called on to ensure enough financing for sustainable delivery of water and sanitation services[109] albeit the absence of the pinning down of the type of financing, namely public financing, or financing via the private sector.

Several other significant developments have taken place subsequent to the Human Rights Council Resolution. For instance, the outcome document of the 2012 United Nations Conference on Sustainable Development, entitled *The Future We Want*, constitutes the first UN document in which all UN member countries have recognized the right to water and sanitation.[110] In the document, the countries reaffirmed their "commitments regarding the human right to safe drinking water and sanitation, to be progressively realized for our populations".[111]

Another crucial development has taken place in December 2013 with the Resolution of the UN General Assembly. This Resolution, "adopted without a vote, is the first resolution in which all UN Member States affirm that the human right to safe drinking water and sanitation is legally binding in international

[108] 18/1. The human right to safe drinking water and sanitation, http://www.un.org/es/comun/docs/?symbol=A/HRC/RES/18/1&lang=E, (retrieved on 1 October 2017).

[109] International Decade for Action, 'Water for Life', 2005-2015, http://www.un.org/waterforlifedecade/human_right_to_water.shtml, (retrieved on 1 October 2017).

[110] Barlow, M. *Our Right to Water, Assessing progress five years after the UN recognition of the Human Rights to Water and Sanitation*, p. 5, https://canadians.org/sites/default/files/publications/report-rtw-5yr-1115.pdf, (retrieved on 12 June 2017).

[111] The Future We Want, Outcome Document of the United Nations Conference on Sustainable Development, https://sustainabledevelopment.un.org/content/documents/733FutureWeWant.pdf, p. 32-33, (retrieved on 14 June 2017).

law".[112] The Resolution declares that "the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and is inextricably related to the right to the highest attainable standard of physical and mental health, as well as to the right to life and human dignity". It also acknowledges "the importance of equal access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights" reaffirming "the recognition of the right to safe drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights".[113], However, despite such rigorous acknowledgment of the right to water and sanitation, it should be borne in mind that the legally binding status of the Resolutions are of controversial subject for they lack formal legal enforceability being not subject to signature and ratification as underscored by Salman & McInerney-Lankford (2004: 12).

Besides, the right to water and sanitation has been included in the sustainable development goals (SDGs) of the post-2015 development agenda.[114] The SDGs have been determined in September 2015 at the UN Sustainable Development Summit.[115] One of the SDG's adopted is to "ensure access to water and sanitation for all" by 2030.[116]

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[112] UN General Assembly resolution 68/157, (18 December 2013) http://www.wash-united.org/files/wash-united/resources/States'%20recognition_HRWS_WEB_2015.pdf, p. 21, (retrieved on 13 June 2017).

[113] Resolution adopted by the General Assembly on 18 December 2013, 68/157. The human right to safe drinking water and sanitation, http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/68/157, (retrieved on 14 June 2017).

[114] Barlow, M. *Our Right to Water, Assessing progress five years after the UN recognition of the Human Rights to Water and Sanitation*, p. 5, https://canadians.org/sites/default/files/publications/report-rtw-5yr-1115.pdf, (retrieved on 12 June 2017).

[115] The Sustainable Development Agenda, http://www.un.org/sustainabledevelopment/development-agenda/, (retrieved on 14 June 2017).

[116] The Sustainable Development Agenda, http://www.un.org/sustainabledevelopment/summit/, (retrieved on 14 June 2017).

Another substantive development regarding right to water is the adoption of right to water and sanitation by the UN General Assembly on 17 December 2015 through a Resolution.[117] The significance of this Resolution lies not only in its adoption by the UN General Assembly by consensus but also in the adoption of the rights to water and to sanitation as two distinct rights, which provides a stronger conceptualization of the right to water in a way linked to but distinct from other rights.[118] Such distinctiveness of the two rights is also apparent from the name of the Resolution, that is 'the human rights to safe drinking water and sanitation', rather than 'the human *right* to safe drinking water and sanitation'.

The latest significant UN legal text pertaining to right to water is the UN Human Rights Council Resolution dated 29 September 2016 that underscores the distinctiveness of the right to water and to sanitation.[119] This Resolution "affirms that distinct treatment of the two closely related rights is warranted in order to address specific challenges in their implementation".[120]

Having executed the turning points within the legal story of right to water, it can be conveniently commented that the right to water has covered a long and rippled ground within its legal trajectory. This sub-chapter does not cover all the

[117] 70/169. The human rights to safe drinking water and sanitation, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/169, (retrieved 1 October 2017).

[118] United Nations General Assembly affirms that water and sanitation are distinct rights and confirms a strong definition of these rights, http://www.wash-united.org/files/resources/UNGA70%20 %20Res%20on%20WASH%20-%20Joint%20NGO%20statement%2017%20Dec%202015.pdf, (retrieved 1 October 2017).

[119] 33/10. The human rights to safe drinking water and sanitation, https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/225/27/PDF/G1622527.pdf?OpenElement, (retrieved 1 October 2017).

[120] The human rights to water and sanitation, Overview of the December 2015 and September 2016 Resolutions by the UN General Assembly and the UN Human Rights Council, p. 4, http://www.wash-united.org/files/resources/Overview_Resolutions_GA70_169_HRC33_10.pdf, (retrieved 1 October 2017).

stages of this journey. Rather, it comprises the so-called milestones in terms of the novelties and profound impacts on the legal status of the right to water. Nor does it cover the contentions and conflicting parties in this journey. For such conflicts shall be handled in the third chapter of the dissertation tackling with the separating dynamics of the different approaches to right to water. At this point, the dissertation proceeds with tackling with the underlying dynamics of the right to water with respect to the political-economy of right to water. In such an elaboration, it shall firstly present an overview of the general theory of primitive accumulation. Last but not least, it shall tackle with the water-based primitive accumulation.

CHAPTER 3

THE POLITICAL ECONOMY OF RIGHT TO WATER

3.1. Mutato Nomine de te Fabula Narratur[121]: Primitive Accumulation and the Commons



Figure 1: Advertisement campaign of the HSBC Bank

The picture above is from a placard that is part of one of the advertisement campaigns of the *HSBC* Bank. As seen, the slogan is as follows: "In the future the food chain and the supply chain will merge". The slogan stresses the claim of the bank to be "one of the world's leading supply chain organizations" as written on the placard.[122,123] However, the interesting point on the placard in terms of the

[121] This is a Latin phrase the English translation of which is "with the name changed, the story applies to you" http://www.merriam-webster.com/dictionary/mutato%20nomine%20de%20te%20fabula%20narrat, (retrieved on 20 December 2014).

[122] "What is this future?", https://datacide-magazine.com/what-is-this-future/, (retrieved on 18 October 2017).

[123] Since the placard has been removed from the official website of HSBC, it cannot be referred to the original source. The photo has been taken in the Gatwick Airport, United Kingdom in July

dissertation is not the emphasis on the significance of logistics but, rather differently, the way the fish is depicted. The barcode on the skin of the fish on the placard implies a capitalist commodity relationship, namely *commodification*, that is the conversion of an asset into a *commodity* to be sold in the market.

This sub-chapter begins with the analysis of the concepts of commodity and *commodification* for these two phenemona are key to the practices and processes of primitive accumulation of commons, the two basic explananda of the chapter on 'the political economy of right to water' in question. The chapter – divided into two-subchapters, *primitive accumulation of commons* and the *water-based primitive accumulatio*n – continues with the examination of the phenomenon of *commons* in terms of its description and substance. Subsequently, it analyses the concept of primitive accumulation with regard to theories, processes and instances of primitive accumulation. In the sequel of this first sub-chapter, the dissertation handles water-based primitive accumulation on the second sub-chapter. The topics discussed in this second sub-chapter are the variants, problems, as well as the institutional and historical setting of water-based primitive accumulation respectively. Having put in brief the structure of the chapter on 'the political economy of right to water', herein one can turn to the scrutinization of the concepts of *commodity* and *commodification* as an inception to the chapter.

To understand *commodity* and *commodification,* one needs to turn to Karl Marx, the greatest critique of capitalism. Marx commences his renowned work, *Capital,* with the analysis of the 'commodity'. In the first volume of *Capital*, he defines commodity as "first of all, an external object, a thing which through its qualities satisfies human needs of whatever kind" (Marx, 1982: 125). He then states that commodities have a two-fold character. They bear two factors, *use*

2014. You can also see Friedrich & Höhne, 2014: 39, http://www.hsbc.com/~/media/HSBCcom/about-hsbc/in-the-future/pdfs/supply-chain-advert.ashx., (retrieved on 18 October 2017).

value and exchange value. While *use value* is about the utility of an asset, exchange value is the value-form emerging when commodities are exchanged with each other. However, it should be noted that *use-value* precedes *exchange value* (Marx, 1982: 125-177) being the "material bearer of exchange value" (Marx, 1982: 126). An asset first needs to bear *use-value* to be turned into a commodity: "Nothing can be a value (exchange-value) without being an object of utility" (Marx, 1982: 131 – parenthesis added).

However, in the capitalist mode of production, exchange-value dominates over use-value since the aim of production is not only to produce use value but to produce commodities (Yılmaz, 2013: 43 – translation added). Capital accumulation cannot be realized without commodity production and exchange (Yılmaz, 2013: 35 – translation added). On the basis of their certain *exchange values,* commodities are sold in the market and converted into the 'money-form', that is they are exchanged for a certain amount of money (Marx, 1982: 162-163). In this sense, while use-value is realized in use or consumption (Marx, 1982: 126), exchange value is realized in the market. To put it in more detail, the relation of exchange value bears a relation in which "use-values of one kind exchange for use-values of another kind (in the market)" (Marx, 1982: 126 – parenthesis added). Moreover, it should be underlined that such a relation is a *quantitative* relation of commodities. Conversely, use-value appears in a relationship of quality. To put it in Marx's own words, "as use-values, commodities differ all in quality, while as exchange-values, they can only differ in quantity" (Marx, 1982: 128). With commodification, "commodities… (enter a) relation of exchange, their exchange-value manifests itself as something totally independent of their use-value" (Marx, 1982: 128). In other words, "exchange relation of commodities is precisely characterized by its abstraction from their use-values" (Marx, 1982: 127).

Having explored briefly the concept of commodity, it can at this point be drawn attention to a prime characteristic of capitalism with relation to the phenomenon of commodity. Capitalist mode of production is characterized by generalized

commodity production (Mandel, 1982: 13-14, quoted in Marx, 1982). In Marx's words, "the capitalist mode of production… appears as an immense collection of commodities" (Marx, 1982: 125). Although commodity production and exchange have existed in the previous modes of production in which only surplus-product is exchanged, only in the capitalist mode of production commodity becomes the "universally-necessary social form of the product" (Marx, 1982: 949). To put it differently, "the production and circulation of commodities constitute the historical premiss of the capitalist mode of production… Capital necessarily produces its product as a commodity" (Marx, 1982: 949-950). With generalized commodity production, production for one's own needs through one's own-labor happens to be an exception while *production for production* (of commodities rather than the means for subsistence) becomes the norm.

As a consequence of such tendencies, even nature is produced in the commodity-form. For the sake of the flow of the chapter, a substantive property of commodity has been ignored on purpose in the previous paragraphs. Commodity is the product of *human labor*. The use-value of a commodity is the product of human labor that forges the products of nature in line with her purpose. However, several assets can be useful and bear use-value even if they are not the products of human labor. Such assets do not bear use-value for they are not the products of labor (Çoban, 2018: 210 – translation added; Marx, 1982: 131). Marx (1982: 131) exemplifies such natural assets as "air, virgin soil, natural meadows, unplanted forests". Such point distinguishes natural assets from other objects of commodity and constitutes the first point to be underlined in the understanding the commodification of nature.

From another point of view, Karl Polanyi points to another distinctive feature of nature with regard to commodification. Polanyi calls commodified natural assets as *fictitious commodities.* Polanyi (1957: 72) first describes commodity as a thing that is produced for sale in the market. He then asserts that since the elements of industry – labor, money and land – are not produced for sale, they

cannot be reckoned as commodities, but only as *fictitious commodities.* Polanyi lists the obstacles in the acceptance of these elements as commodities in the way below:

> Labor is only another name for a human activity which goes with life itself, which in its turn is not produced for sale but for entirely different reasons… Actual money… is merely a token of purchasing power which, as a rule, is not produced at all, but comes into being through the mechanism of banking or state finance… Land is only another name for nature, which is not produced by man… (Hence) the commodity description of labor, land and money is entirely fictitious" (Polanyi, 1957: 72 – parenthesis added).

However, though Polanyi describes the commodity-form of such elements as fictitious, it should be underlined that he does not deem such commodities as useless or redundant in terms of the market economy. For Polanyi, the markets for labor, land (read as nature) and money are organized on the grounds of such fictitious commodities which are actually bought and sold in the market (Polanyi, 1957: 72).[124]

Despite such limitations of the commodification of nature, nature is not exempt from commodification. In this sense, Jessop (2007: 123) mentions five forms of nature: non-commodity, fictitious commodity, quasi commodity, real commodity and the basis of fictive capital. Firstly, the *non-commodity form of nature* which can be exemplified by virgin land and raw materials denotes the form of nature prior to its appropriation and transformation through labor. Secondly, the form of *fictitious commodity* implies the form when nature has been appropriated and transformed by human labor and sold in the market. Thirdly, the form of *quasi commodity* refers to the way in which the exchange value – the price – of the

[124] As seen, in Polanyi's terms, the fictitious character of labor, money and land (read as nature) does not contradict with the 'actual character' of these commodities with regard to being purchased and sold in the market. Such point resembles the 'real-cum-fetishistic' character of rights for they are practiced, experienced and reproduced in daily life despite the juridic fetishism that reproduces real human-beings as abstract individuals who are equal before law. Rights are illusionary forms as the fetishized forms of the social relations of production (Clarke: 2001, Bonefeld, 2011). However, despite in such a fetishized form, people experience rights within praxis, in their daily social practices, which makes rights also *real* (Clarke, 2001, Bonefeld, 2011, Fine: 2002).

fictitious commodities is increased through investment by economic actors as exemplified by profit-oriented improvements in land. Fourthly, the *real-commodity form of nature* appears by the integration of non-commodities or fictitious commodities into the circuits of capital that leads to their treatment as real commodities as in the cases of land reclamation, biofuels and genetically engineered organisms. Lastly, nature turns to be *the basis of fictive capital* when land (nature) is securitized as future flows of absolute and differential rents (Jessop, 2007: 123-125).

Regardless from the form of nature, it can readily be said that the commodification of nature has markedly intensified in the age of neoliberalism. Smith (2007) even claims that nature itself has become an accumulation strategy. He harnesses the concepts of 'formal and real subsumption of nature' to develop his argument.

The subsumption of nature in terms of formal and/or real subsumption dwells on Marx's concept of 'formal or real subsumption of labor'. The formal subsumption of labor to capital appears with the foundation of wage-labor relationship with capital (Marx, 1982: 645, 1021; Smith, 2007: 28). It entails the usurpation of absolute surplus value via the prolongation of the working day (Marx, 1982: 645). Nonetheless, the working class "still maintains some immediate, creative control over the daily labor process" (Smith, 2007: 28). This can be accounted for by the fact that the formal subsumption of labor to capital succeeds "the takeover by capital a mode of labor developed before the emergence of capitalist relations" (Marx, 1982: 1021). By the same token, it can be put that Marx's calling of such form of subsumption of labor as *formal* owes to the fact that it is not peculiar to capitalism but appears in earlier modes of production as well (Çoban, 2018: 225; Marx, 1982: 1019-1023). On the contrary, real subsumption of labor is peculiar solely to the capitalist mode of production, namely, as Marx envisions, the emergence of the large-scale industry (Marx, 1982: 1021, 1034, 1035). While formal subsumption of labor to capital enables production of absolute surplus value via the lengthening of working hours, real

subsumption of labor enables the production of relative surplus value through increasing productivity of labor via technological, scientific innovation which Marks calls as “revolutionalizing the technical process of labor… by changes in the methods of production” (Çoban, 2018: 225 – translation added; Marx, 1982: 645, 646, 1021, 1024, 1025, 1034, 1035, 1037). With the subsumption of labor to capital in the real sense, labor loses its control over the production process: “not only they (workers are) … subsumed as a result of the direct wage relation, they… (are) now subsumed within the multidimensional web of capitalist technology and social organization” (Smith, 2017: 28 – parentheses added).

Marx’s concepts of “formal and real subsumption of labor to capital’ can be drawn on as analytical tools to understand the commodification of nature as done by Smith (2017) and Çoban (2018 – translation added). As regards the adaptation of the formal subsumption of labor to capital, one can describe the ‘formal subsumption of nature to capital’ by the extraction of raw materials from nature and their conversion into products, in other words, appropriation of use values and their conversion into exchange values as exemplified by the colonialist practices (Smith, 2017: 28) as well as the mining industry, traditional fishing and forestry (Çoban, 2018: 225-232 – translation added). On the other hand, in the real subsumption of nature, the so-called productivity of nature is increased via interventions in the biological systems of natural assets which transform and manipulate the systems in question for the sake of commodification (Çoban, 2018: 225-226 – translation added). In this sense, the real subsumption of nature to capital intensifies the “circulation of capital through nature” (Smith, 2007: 28-29). More importantly, such circulation of capital through nature turns out to be an intended strategy rather than an intended strategy. Furthermore, not only the circulation of capital through nature is transformed, but also the circulation of nature through capital is transformed from an incidental to a strategic process as exemplified by the commodification of produced nature via technological innovation, i.e. biotechnology,

financialization of nature through the emergence of carbon markets[125] etc. (Smith, 2007: 19, 28-29, 33). In such senses, the relation of capital to nature is transformed to the way that nature happens to be an accumulation strategy.

As seen, the commodification of nature has increasingly deepened in the current moment of capitalism. Yet, it can be put that "capital cannot come into being except on the foundation of the circulation of commodities" (Marx, 1982: 949) which are produced for the sake of production rather than for the personal subsistence of the producer. The general tendency of the capitalist mode of production is then to transform all spheres of production into commodity-production (Evrensel, 2017: 91 – translation added). Within this context, owing to the need for capital accumulation, capitalism tends toward commodification of assets characterized by *use-value.* In other words, it leans to commodify assets that have hitherto been open to common-usage. With commodification, assets that have hitherto belonged to each and every of us defined through collective rights of use rather than to a certain holder of exclusive property-rights are penetrated into the dictates of the capitalist market being characterized by exchange value. Such assets are briefly called *commons.*

Commons are lexically assets "that belong to every one of us and none of us" (Fırat, 2012: 23 – translation added). To put a more detailed definition, "commons are social systems in which resources are shared by a community of

[125] For the definition of carbon markets, see Carbon Markets, "Carbon markets aim to reduce greenhouse gas (GHG, or "carbon") emissions cost-effectively by setting limits on emissions and enabling the trading of emission units, which are instruments representing emission reductions. Trading enables entities that can reduce emissions at lower cost to be paid to do so by higher-cost emitters, thus lowering the economic cost of reducing emissions.", http://www.undp.org/content/sdfinance/en/home/solutions/carbon-markets.html, (retrieved on 15 April 2018). See also, Carbon Markets, "Putting a price on carbon is essential to drive the technological and behavioural innovation necessary to limit climate change. Market-based instruments, such as cap-and-trade emission trading schemes, are crucial to price carbon emissions and keep the costs of climate action low. A cap-and-trade scheme enables emitters to trade allowances for the right to emit up to their allowed limit or "cap".", http://www.oecd.org/env/cc/carbonmarkets.htm, (retrieved on 15 April 2018).

users/producers[126], who also define the modes of use and production, distribution and circulation of these resources…" (de Angelis & Harvie, 2014: 280). The concept of commons also implies other concepts such as cooperation and solidarity. In that respect, the idea of commons transcends the idea of the 'public':

> Lodged halfway between the "public" and the "private" but irreducible to either category, the idea of the commons expresses a broader conception of property, referring to social goods—lands, territories, forests, meadows and streams, or communicative spaces—which a community, not the state or any individual, collectively owns, manages, and controls. In contrast to the "public," which presuppose the existence of market economy and private property and is "typically administered by the state" (Anton 2000, 4), the idea of the commons evokes images of intense social cooperation (Federici, 2011: 41).

The concept of *commons* as a system, an asset and an idea is not a novel entity. Rather, common practices, communal systems and common assets have always existed since the emergence of the human species. Commoning has become the principle by which human societies have organized their existence for thousands of years (Caffentzis & Federici, 2014: i93). However, what makes the talk of the commons a commonplace in the current age of capitalism is caused by the contradiction between the logic of commons and of capitalism (Caffentzis & Federici, 2014: i92). First of all, in the face of the capitalism's voracious desire for commodification, one can say that commons are different from commodities. As remarked by de Angelis (2014: i75 – italics added), "the commons are not 'things' as commodities are, but social systems, comprising of communities, resources and practices, i. e. *commoning*". Moreover, since, commons are different from commodities, they are defined on the grounds of usage (Fırat, 2012: 23 – translation added) rather than exchange and accumulation. Last but not least, commons are characterized with collective rights since they are affiliated with collectivity/collectivities as well as common practice(s) rather

[126] The community of users/producers who experience and reproduce commons in several practices as a collectivity, in brief the agent of the commoning practice, is called *commoners* (Fırat, 2014 – translation added).

than exclusive capitalistic property rights.[127] Indeed, such collective character of commons with specific reference to common property and common usage has been heavily under attack of several writers notably Garrett Hardin. Hardin's renowned 1968 article, *The Tragedy of the Commons,* has been the prominent spokesman of the arguments about the privatization of commons for the sake of efficient use. Relying on the assumption of interest-maximization-oriented, selfish *homo-economicus*, Hardin alleges that the collective usage of common resources inevitably leads to overuse and overconsumption decaying and exhausting commons themselves. In the face of such an undesirable consequence, Hardin suggests the setting up of exclusive private property rights on the commons.[128] Such a threat to the commons popularized by such scholarly work is actually engineered by the capital's motive for accumulation and commodification. And it has been realized by the strategy of the 'enclosure of commons', a component of the method of 'primitive accumulation'. In a word, it can even be commented that primitive accumulation constitutes the logic of capitalism.

[127] The concept of exclusive property connotes to the capitalistic private property rather than communal property as well as "individual private property, as founded on the labour of its proprietor" or "scattered private property resting on the personal labour of the individuals themselves" (Marx, 1982: 929).

[128] Hardin's thesis has been faced with a considerable challenge from Elinor Ostrom, the co-winner of the 2009 Nobel-Prize in economics with Oliver Williamson, being also the first female receiver of the Nobel Prize in economics (Gümüşcan, 2010: 56 – translation added). Ostrom (2008) confronts Hardin in that "he did not envision that users (of commons) could self-organize and devise institutions to extract themselves from tragic overuse" suggesting organizing and creating rules to specify the authorized users and their rights and duties which in turn can create a public good. However, she does not propose that the organizers and creators of the rules be the market or the states but the affiliated communities themselves (Gümüşcan, 2010: 49, 55). Indeed, she claims that "neither the state nor the market is uniformly successful in enabling individuals to sustain long-term, productive use of natural resources. …. Communities of individuals have relied on institutions resembling neither the state nor the market to govern some resource systems…." (Ostrom, 1990: 1). In a similar manner, Ian Angus (2008) asserts that Hardin ignores the phenomenon of the *self-regulation* by the communities in commoning. Furthermore, Angus (2008) criticizes Hardin in that he neither provided evidence for his argument that the common use of the commons will inevitably destroy the environment nor justification for his argument that privatization is the solution. Last but not least, for Angus (2008), Hardin implies the behavior of the capitalists in a capitalist economy rather than that of the commoners engaged in commoning.

To analyze ‘primitive accumulation’, one can start with the genealogy of the concept. To do so, one needs to refer to Marx who dwells on the concept of primitive accumulation to explicate the emergence of capitalism. For Marx, primitive accumulation constitutes the *original sin* (Marx, 1982: 873) that has given rise to the birth of capitalism. In this sense, for Marx, primitive accumulation is also the original accumulation in the sense of precedency rather than authenticity. Indeed, Marx refers to the concept of *ursprüngliche Akkumulation* to describe the process of primitive accumulation (Marx, 1982: 714). The word, *ursprünglich*, means *original, initial* in English.[129] However, the concept of *ursprüngliche Akkumulation* has been preferred to be translated as ‘primitive accumulation’ in the English translation of *Capital, Volume 1*, referred in this dissertation, for the phrase of ‘primitive accumulation’ has become established by now as part of the English language (Marx, 1982: 714).

In this vein, primitive accumulation can be regarded as the starting point of capitalistic accumulation. That is to say, primitive accumulation precedes capitalistic accumulation. It is the point of departure of the capitalist mode of production rather than its result (Marx, 1982: 873). In other words, primitive accumulation “forms the pre-history of capital, and of the mode of production corresponding to capital” (Marx, 1982: 875).

Actually, the term of primitive accumulation was firstly harnessed with regard to the content of the term by the prominent scholar of classical political economy, Adam Smith, who has not enunciated the term itself but implied its meaning in his analysis of political economy. Smith has claimed that “accumulation of stock must, in the nature of things, be previous to the division of labor (Marx, 1982: 873). Thus, he has implied that the accumulation of stock (of capital) is a precondition for the “improvement of the productive power of labor” (de Angelis, 2000: 7). At this point, appears the kernel of the difference of Marx’s

[129] https://dictionary.cambridge.org/tr/s%C3%B6zl%C3%BCk/almanca-ingilizce/ursprunglich?q=urspr%C3%BCnglich, (retrieved on 18 May 2019).

understanding of 'primitive accumulation' from that of classical political economists with regard to Smith. Contrary to the conceptualization of capital in a non-relational way as 'stock' in Smith's analysis, Marx conceptualizes capital as a class relation (de Angelis, 2000: 7). Marx perceives 'capital' as a social and historical relation of production (Marx, 1982: 932). It is a relation between two commodity-owners, capital and labor, in which labor is the vendor of her labor-power and capital as the owner of the means of production and money is the buyer of the labor-power[130] (Marx, 1982: 1020). More importantly, the foundation of the capital relation through the process of primitive accumulation requires the separation of the labor from her means of subsistence[131] and production:

> The capital relation presupposes a complete separation between the workers and the ownership of the conditions for the realization of their labour. As soon as capitalist production stands on its own feet, it not only maintains this separation, but reproduces it on a constantly extending scale. The process, therefore, which creates the capital-relation can be nothing other than the process which divorces the worker from the ownership of the conditions of his own labour; it is a process which operates two transformations, whereby the social means of subsistence and production are turned into capital, and the immediate producers are turned into wage-labourers. So-called primitive accumulation, therefore, is nothing else than the historical process of divorcing the producer from the means of production (Marx, 1982: 874-875).

As manifested in the quotation above, according to Marx, separation of the producer from her means of subsistence and production occupies a central role in the process of primitive accumulation. The concrete appearance of this phenomenon is the "the expropriation of the agricultural producer, of the peasant from the soil" which is for Marx, "the basis of the whole process" (Marx, 1982: 876).

[130] For further reading, see Chapter 6, *The Sale and Purchase of Labour-Power*, Marx, 1982: 270-282.

[131] See Chapter 1, footnote 19.

Several developments accompanied the expulsion of the peasantry from land in varying succession and aspects in different countries. However, Marx takes the case of England to illustrate the historical developments of primitive accumulation (Marx, 1982: 876). Such developments are called as *enclosure of commons*, briefly enclosure of the land. While the enclosure of land is the main driving force of the process of primitive accumulation, there are several other phases of the process of primitive accumulation described by Marx. Such phases of Marx's primitive accumulation can be listed under four headings on the grounds of the ordering in *Capital, Vol. 1*:

- Enclosure of the Land:
  With the enclosure of the land, the self-sustaining peasantry was forcibly driven from land from the end of the 15th century to 16th century (Marx, 1982: 85). The feudal lords forcibly expropriated the peasantry from the land for the sake of turning arable land into pasture owing to the appeal of the rise of wool manufacture and wool prices in England (Marx, 1982: 878-879). As seen, the conversion of arable land into pasture lands accompanied the expulsion of peasantry as another instance of primitive accumulation (Marx, 1982: 879, 885-889).

Processes of primitive accumulation have also altered the regime of private property. Several forms of property – common, collective, state property etc. – have turned into exclusive private property. The usurpation of the common land by the feudal lords (Marx, 1982: 878) is an example of such shift. Indeed, communal property has been a traditionally-rooted type of property in England. It was usurped and enclosed by extra-legal means via individual acts of violence, by the use of force in the late 15th century extending to the beginning of the 16th century (Marx, 1982: 885). In this way, the traditional regime in which agricultural peasants were allotted arable land with the usufruct of the common land through common access to means of production and subsistence (Marx, 1982: 877) gave way to the regime of private property.

In addition to such a shift that augmented the concentration of property in the hands of one class in minority, the situation of the lower classes also worsened with the practices of primitive accumulation. The expropriation of church

property with the reform movement in the 16th century led to the abolishment of guarantees, namely traditional rights, given to the poor residing in the monasteries. The dissolution of monasteries forced the poor residents to join to the newly emerging proletariat. Furthermore, the legally guaranteed property of the poor in a part of the Church's tithes were confiscated (Marx, 1982: 881-882). In this way, capital accumulation dramatically accelerated through primitive accumulation.

Another development that accelerated capital accumulation was the expropriation of state-owned lands under the power of the landlords. With the Glorious Revolution, state estates were given away, sold at quite cheap prices, or even annexed to private estates by direct seizure (Marx, 1982: 884). In this sense, the state property was converted into exclusive private property of the propertied classes.

Such shift in the property-regime with the conversion of communal, state and Church property into exclusive private property also amounts to a shift in the rights-scheme. The change in the property-regime is accompanied with a certain rights-displacement. Various forms of property rights – common, collective, state property etc. – were replaced with exclusive private property rights (Harvey, 2003: 145). Church's property rights were undermined with the Reform movement while State's property rights were spoliated with the Glorious Revolution. As regards collective rights, the break of the bonds of the peasantry with the land can be noted as a crucial development. While the agricultural producer ceased to be attached to the soil, she also lost the guarantees bestowed upon her in the feudal system. At this point, it can be noted that the phenomenon explicated in Marx's analysis of the German Enlightenment – that is the undermining of the customary rights of the poor by the exclusive institution of private property due to being considered as a collective trump – took place also in the process of primitive accumulation (Angelidis, 1995: 120-121).

- Application of State Force and Legal Instruments:
  Practices of primitive accumulation were not only realized through individual acts, state as the legal authority was also involved. State intervention in the so-called 'free market' was necessary for the annihilation of the self-employed peasantry and for their conversion into wage-laborers.

Actually, Adam Smith, the leading ideologue of 'free market' with the so-called motto of *laissez faire* also stood for state intervention. Indeed, *law and order* are requisites to protect the wealth of the rich against the poor for Smith:

> They (law and government) maintain the rich in the possession of their wealth against the violence and rapacity of the poor, and by that means preserve that useful inequality in the fortunes of mankind which naturally and necessarily arises from the various degrees of capacity, industry, and diligence in the different individuals (Smith, 1762-1766, pp. 338, quoted in Perelman: 2010).

Indeed, the practices of primitive accumulation dramatically augmented the so-called 'useful inequality'. In that case, it is not on shaky ground to comment that "in reality, the dispossession of the majority of small-scale producers and the construction of laissez-faire are closely connected, so much so that Marx, or at least his translators, labeled this expropriation of the masses as "primitive accumulation" (Perelman, 2000: 2).

The state also had an inalienable role in implementing and expediting the process of primitive accumulation, hence in preserving and triggering the so-called 'useful inequality'. The state with its monopoly of violence and definition of legality indeed acted as a crucial actor in the process of primitive accumulation (Harvey, 2003: 145). The state-led, forcible clearings of the estates as well as the people living and producing there with the usurpation of clan property that succeeded the usurpation of feudal property epitomizes this phenomenon. (Marx, 1982: 889-895).

The state also harnessed the legal instruments in addition to force. Recall the remarks in the previous first sub-chapter that discusses the question of rights.

Rights and the law constitute the main setting that codifies and designs the bourgeois rule. Indeed, the legal arrangements became a crucial instrument for realizing and embedding primitive accumulation. For the most part, law happened to be an important instrument for the conversion of communal property into private property which has been a traditionally-rooted type of property in England devoid of any legal base as mentioned in the paragraphs above. Whereas communal property was usurped by extra-legal means, by force in the late 15th century extending to the beginning of the 16th century, by the 18th century, the legal means entered the stage more intensively such as in the case of the 'Bills for Enclosure of Commons', "decrees by which the landowners grant(ed) themselves the people's land as private property" (Marx, 1982: 885 – parenthesis added). In this way, self-sustaining peasantry's separation from means of subsistence and production acquired a legal base.

Another instance of the deployment of legal instruments in the process of primitive accumulation is the implementation of the *Game Laws.* These laws targeted the cutting off the rural population from their traditional means of subsistence, namely hunting, by prohibiting hunting on the part of the large section of the population except the nobility (Perelman, 1983: 456-458). Actually, *Game Laws* had a feudal origin serving the interests of the gentry on land in the face of the rural classes. The feudal *Game Laws* lost their significance by the end of the 16th century with the waning of feudalism in England. However, they were replaced with the modern *Game Laws* in the process of primitive accumulation in 1671. Still, the Laws had a feudal content but the interests of the bourgeoisie and of the gentry coincided. The gentry enjoyed the exclusive rights over the land while the bourgeoisie could enjoy the labor of the large segments of the society driven into the proletariat masses. In this sense, *Game Laws* played a substantive role in accelerating primitive accumulation in terms of the influences it created within the society (Perelman, 2000: 38-45).

The system of law harnessed disciplinary mechanisms as seen in the punishments entailed by the *Game Laws*. However, *Game Laws* was not the sole

implementation of discipline related to the propertyless classes. The exile of the rural classes from the land and expropriation of their means of subsistence and production together with the eradication of their traditional rights were not counted as enough measures to drive people into the class of wage-labor. Several strict measures were also brought into the agenda to keep the propertyless and rightless classes from finding alternative survival strategies apart from the system of wage labor (Perelman, 2000: 14). The English laws against vagrancy are one of the examples of such measures. As conveyed by Perelman (2000: 14),

> According to a 1572 statute, beggars over the age of fourteen were to be severely flogged and branded with a red-hot iron on the left ear unless someone was willing to take them into service for two years. Repeat offenders over eighteen were to be executed unless someone would take them into service. Third offenses automatically resulted in execution.[132]

Marx calls such laws which were enforced at the end of the 15th and during the whole of the 16th centuries throughout Western Europe as the *bloody legislation against vagabondage* (Marx, 1982: 896-904). Such bloody legislation forced people devoid of any property and right to accept working as a wage-labor under severest conditions with wages at something close to subsistence level

[132] Touching briefly upon Foucault's analysis of *biopower* and *disciplinary technologies* where he probes the functioning of power over body can be helpful to capture the practices of primitive accumulation concerning the human body itself thoroughly. According to Foucault, in the 17th century, "… bio-power centered on the body (in addition to concern with the human species) not so much as the means for human reproduction, but as an object to be manipulated. A new science, or more accurately a technology of the body as an object of power, gradually formed in disparate, peripheral localizations. The basic goal of disciplinary power – the key to which is the construction of a 'micropower', starting from the body as object to be manipulated - was to produce a human being who could be treated as a 'docile body'. This docile body also had to be a productive body. The disciplinary technology developed and was perfected in workshops, barracks, prisons, and hospitals where the general aim was a 'parallel increase in the usefulness and docility' of individuals and populations. The techniques for disciplining bodies were applied mainly to the working classes and the subproleteriat, although not exclusively, as they also operated in universities and schools" (Dreyfus & Rabinow: 1982: 134-135, 153). In a similar vein, Perelman quotes Foucault as follows: "… the development and generalization of disciplinary mechanisms constituted the other, dark side of these processes... supported by these tiny, everyday, physical mechanisms, by all those systems of micro-power that are essentially non-egalitarian" (Foucault, 1979: 222, quoted in Perelman, 2000: 15). Within this context, Foucault's such analysis of the body and power can contribute to the understanding of the operations on the body during the process of primitive accumulation.

(Perelman, 2000: 14). Furthermore, child labor was also drawn on to expedite primitive accumulation. The compelled child-labor which was acquired by the capital's recruitment of children from the poorhouses in the famous nail factory – described by Adam Smith in his famous book, *Wealth of Nations*, – is a striking example of the compulsory rather than consent-based character of *primitive accumulation* (Perelman: 2010). It is noteworthy that Adam Smith, the ideologue of liberalism, did not notice the phenomenon of child-labor in this newly rising factory with the ascending practices of primitive accumulation. However, Adam Smith is not the sole thinker who affirms the deployment of child-labor though he approved it implicitly by not mentioning the use of child-force in his book. John Locke, another renowned ideologue of liberalism together with freedom and rights called for the commencement of work at the age of three at the time (Perelman, 2000: 19). What's more, Jeremy Bentham, the thinker of classical political economy and the spokesman of *laissez faire* and freedom, advocated the inception of child labor at the age of four even proposing the control of the reproduction of the poor to enable the birth of as many children as possible (Perelman, 2000: 20-22).

- Slave Trade and Colonization

The phenomenon of slave trade and colonization bears significance with respect to showing that "primitive accumulation may occur through the interaction between North and South, an international division of labor, the destruction of African communities, and enslavement" (de Angelis, 2000: 14). Thus, Marx remarks that

> The discovery of gold and silver in America, the extirpation, enslavement and entombment in mines of the indigenous population of that continent, the beginnings of the conquest and plunder of India, and the conversion of Africa into a preserve for the commercial hunting of blackskins, are all things which characterize the dawn of the era of capitalist production. These idyllic proceedings are the chief moments of primitive accumulation (Marx, 1982: 915).

As a result of such developments, capitalist relations of production were exported to the colonies formed by the migrants of the colonizer country. The example of United States is striking at this point. The government imposed artificial prices on land which the laborer cannot afford aimed at the dependence of the laborer on the capitalist by preventing him/her turning into an independent farmer (Marx, 1982: 938-939). Hence, wage-labor relation was also reproduced with the exportation of capitalist mode of production. Also forms of slavery was also echoed in the United States. At this point, an example given by Perelman from Pennsylvania can be recalled. Perelman indicates that indentured servants was a considerable part of the labor force in Pennsylvania. (Perelman, 2000: 248). However, indentured service was a form of quasi-slavery apparent from the harsh reaction to a suggestion to free the indentured servants of Pennsylvania on the part of the legislation. The reaction asserted that "all apprentices and servants are the *property* of their masters and mistresses, and every mode of depriving such masters and mistresses of their *Property* is a *Violation of the Rights of Mankind*" (T. Hughes, 1976: III, quoted in Perelman, 2000: 248 – italics added). This example is significant for it demonstrates the ideological essence of human rights in the bourgeois sense. As underlined by Fine (2002) and Marx (1963, 1973) and discussed in the previous chapter, the notion of right is a part and parcel of the preservation of the regime of private property.

- Public Debt & Finance-Capital:

Owing to such developments, capital accumulation has dramatically augmented. However, public debt, which is contemporaneous with colonialism, was an inevitable consequence as well. As Marx (1982: 919 – italics original) states,

> The system of public credit, i.e. of national debts,… took possession of Europe as a whole during the period of manufacture. The colonial system, with its maritime trade and its commercial wars, served as a forcing-house for the credit system… The national debt… marked the capitalist era with its stamp. The only part of the so-called national weath that actually enters into the collective possession of a modern nation is – the national debt. Hence, quite consistently with this, the modern doctrine that a nation becomes the richer the more deeply

> it is in debt. Public credit becomes the *credo* of capital… The public debt becomes one of the most powerful levers of primitive accumulation. As with the stroke of an enchanter's wand, it endows unproductive money with the power of creation and thus turns it into capital, without forcing it to expose itself to the troubles and risks inseparable from its employment in industry or even in usury.

Thus, the manipulation of money by the state (de Angelis, 2000: 15) has been another form of primitive accumulation. In this way, capital fed on public resources through the intermediary of the state. As quoted from Marx (1982: 919), "…the national debt has given rise to joint-stock companies, to dealings in negotiable effects of all kinds, and to speculation: in a word, it has given rise to stock-exchange gambling and the modern bankocracy."

Complementary to the public debt, the modern fiscal system, with specific reference to taxes, also triggered primitive accumulation:

> The modern fiscal system, whose pivot is formed by taxes on the most necessary means of subsistence (and therefore by increases in their price), thus contains within itself the germ of automatic progression. Over-taxation is not an accidental occurrence, but rather a principle. In Holland, therefore, where this system was first inaugurated, the great patriot, De Witt, extolled it in his *Maxims* as the best system for making the wagelabourer submissive, frugal, industrious… and overburdened with work (Marx, 1982: 921).

Alongside with the public debt, bankocracy and the tax-system, the international credit system has also embosomed primitive accumulation on the part of both the creditor and the borrower:

> (International credit system) often conceals one of the sources of primitive accumulation in this or that people. … A great deal of capital, which appears today in the United States without any birthcertificate, was yesterday, in England, the capitalised blood of children (Marx, 1982: 920).

As noticed by de Angelis (2000: 15-16), "all these examples point at the fact that primitive accumulation for Marx does not assume only the form of direct land enclosure as in the process of English primitive accumulation, but it also occurs through other means". Actually, developments affiliated with primitive accumulation recur in different configurations and ways in the current moment

of capitalism in different geographies not restricted with England. For instance, the debt-servicing regime, a consequence of the structural adjustment programs pioneered by IMF, as well as the sub-prime mortgage crises can be seen as the instances of the deepening of advanced capitalism aimed at the destruction of more traditional forms of capitalism for the sake of opening up financial markets as well as the need for natural resources. Such developments are equivalent to the practices of primitive accumulation in which pre-capitalist forms of production were replaced with the capitalist mode of production that, as a result, expand the basis of advanced capitalism (Sassen, 2010). Overall, the existence of such phenomena at the current stage of capitalism has ignited a scholarly interest in the theory of primitive accumulation.

The theoretical thinking on the primitive accumulation can broadly and roughly be classified in three groups, the last one being divided into four sub-branches[133]. First, Marx's classical theorizing in *Capital* (Marx, 1982) can be remarked where primitive accumulation as the historical departure point from feudalism is emphasized. Since this approach has been discussed in the paragraphs above, Marx's own theorizing is not to be scrutinized at this point again. de Angelis' division between the approaches of 'historical primitive accumulation' and 'inherent-continuous primitive accumulation' are borrowed for the second and third groups (de Angelis, 2000, 2008). Lenin's (de Angelis, 2000; McMichael, 1977), Dobb's (1963) and Zarembka's (2008) approaches fall into the second group that sees primitive accumulation essentially as a historical, one-off phenomenon. On the other hand, the third group, the approach of 'inherent-continuous primitive accumulation', treats the phenomenon of primitive accumulation not only as a historical but also as a continuous phenomenon being an inherent part and parcel of capitalist accumulation. This group, however, does not constitute a homogeneous whole. Rather, it can be divided into four branches. The first sub-branch comprises of the studies that focus on the *logic of*

[133] Due to the space and time limits, approaches to primitive accumulation – which are of great variety - are to be classified only *broadly and roughly* in this section of the dissertation. Hence, only several archetypal/epitomic names are exemplified as proper scholars within each category necessarily omitting several other valuable names.

separation; separation of the producer from her means of existence, (de Angelis, 2000, 2004, 2007, 2008; Bonefeld, 2008a, 2008b, 2011). Secondly, the works that stress the continuity and inherence of primitive accumulation albeit regardless from an exclusive focus on the separation of labor from her means of existence form another group. Amin's (1974, 2000), Sassen's (2010) and Glassman's (2006) studies exemplify this group. Thirdly, the approach that dwells on the concept of 'accumulation by dispossession' (Harvey, 2003) to analyze the inherence and permanence of primitive accumulation can be addressed. Last but not least, the approach that features the 'spheres of reproduction' or 'social reproduction' that are at the target of primitive accumulation (Federici, 2004, 2010, 2012; Mies, 1994; Perelman, 2000) constitutes the fourth sub-branch of the group of 'inherent-continuous primitive accumulation'.

As mentioned in the passage above, since, Marx's theory of primitive accumulation has been handled thoroughly in the paragraphs above, it is preferable to start with Vladimir Ilyich Lenin's classical theory of primitive accumulation to the elaboration of the second group of 'historical primitive accumulation'. Lenin handles the subject of primitive accumulation in his analysis of transition to capitalism in Russia. Concretely speaking, hence the name, Lenin elaborates on the development of capitalist social relations within the agrarian socio-economic structure of Russia in his work, *The Development of Capitalism in Russia*. Rather than concentrating on the numerical weight of the proletariat in Russia, Lenin focuses on the creation of a home market for industrial capitalism in Russia in this study (McMichael, 1977). As put by McMichael (1977: 16 – paragraphs added), "instead of conducting a purely empirical study of the extent of formation of a wage-labour force, Lenin revealed, through his focus on social relations of production, primitive accumulation (was) in process (in Russia)". Within this context, as de Angelis (2000: 5) opines, Lenin's interpretation can be labelled as 'historical primitive accumulation', which indicates a historically and temporally defined age characterized by practices of primitive accumulation.

Another variant of 'historical primitive accumulation', to borrow de Angelis' (2000, 2008) definition, can be found in Maurice Dobb's renown book, *Studies in the Development of Capitalism* (Dobb, 1963, de Angelis, 2000: 5-6). Dobb (1963: 178) stands for the existence of "some prior accumulation as a prerequisite of capitalist industry". In this vein, he differentiates between primitive accumulation and capitalistic accumulation, the former being a historical and mandatory stage for the formation of the latter. However, the originality of Dobb's theorization of primitive accumulation appears in his claim that primitive accumulation refers to accumulation of capital claims in the sense of titles to existing assets or the ownership of those assets rather than the quantity of tangible instruments of production (Dobb, 1963: 178). To put differently, Dobb speaks of the accumulation of property rights rather than of tangible means of production when he refers to primitive accumulation (de Angelis, 2000: 5).

To borrow again de Angelis' (2000, 2008) definition, one can also speak of Paul Zarembka as another example of the approach of 'historical primitive accumulation'. Zarembka argues that the concept of primitive accumulation is not applicable to all stages of capitalism. Assuming its applicability would denote to a "trans-historical usage of primitive accumulation" (Zarembka, 2008: 74). It refers solely to "the process of initial transition from the feudal to the capitalist mode of production" (Zarembka, 2008: 67). For Zarembka (2008: 67), "accumulation of capital proper, without need for an adjective 'primitive', includes force and violence in achieving capitalist aims of separation of laborers from their means of production; there is no need to invoke 'primitive' to recognize this fact". In other words, Zarembka (2008) suggests that to the extent that enclosures through force and violence aimed at separation of laborers from their means of production is characteristic of accumulation of capital proper, it is futile to relate primitive accumulation to all stages of capitalism other than the initial transition from the feudal to the capitalist mode of production.

Contrary to the approach of 'historical primitive accumulation', one can discern the approach of the 'inherent-continuous primitive accumulation' if applied de Angelis' classification of the theories of primitive accumulation (de Angelis, 2000, 2008). The first sub-group of this variant is constituted by the studies that highlight the 'logic of separation'. For instance, Werner Bonefeld (2008a, 2008b, 2011) argues that the 'logic of separation', the separation of laborers from their means of existence, is an inherent/organic feature of primitive accumulation and accumulation proper. To put it in more detail, he claims, primitive accumulation refers, on the one hand, to the historical processes from which capital was born. On the other hand, it focuses on the foundation of a certain mode of social labor – a labor divorced from the soil, its means of subsistence, product, and existence; a labor separated from its object, its results, and its conditions of social being. Labor in the capitalistically organized form of social reproduction is labor divorced from its conditions. Indeed, the conceptuality of capital is founded on this labor. In this sense, primitive accumulation is not just the historical starting point of capitalism, but, *qua* coercive *proleterianization*, central to its essence. Capitalist reproduction rests on the separation of the labourer from all property in the means by which they can realize their labour. Primitive accumulation is therefore not just a historical past from which capitalist social relations emerged, but also, and importantly, constitutive of these relations, once established. The logic of the "original" separation of the mass of the population from the means of existence is the constitutive presupposition of capitalist social relations (Bonefeld, 2011: 379-381).

As can be understood from the previous paragraph on Zarembka, Bonefeld is criticized by Zarembka (2008) for developing a 'trans-historical' understanding of primitive accumulation. Zarembka handles Bonefeld's article dated 2001, *The Permanence of Primitive Accumulation: Commodity Fetishism and Social Constitution* as an example to be analyzed and challenges Bonefeld that he makes no distinction between primitive accumulation and accumulation proper. On the other hand, Bonefeld challenges such criticism in that he attempts to draw an inversion between the historical presupposition of separation and its

transformation into the constitutive presupposition of capital rather than the sharp distinction made by Zarembka between primitive accumulation and accumulation proper which amounts to a schematic distinction that does not reveal the social constitution of capital divorcing the established relations of accumulation from their constitutive presupposition in the divorce of labor from her means (Bonefeld, 2008a: 80-82). In brief, contrary to Zarembka, Bonefeld (2008b) sees the originality of primitive accumulation not in that it gave birth to the capitalist mode of production but in its social content being the constitutive presupposition of capitalist social relations, that is the separation of the laborer from her means of existence.

As another variant of the approach that stresses the so-called 'logic of separation', de Angelis can be noted. de Angelis (2000, 2004, 2007, 2008) features the 'continuous' character of primitive accumulation. According to de Angelis (2004: 61-62 – italic original), "enclosures are characteristic of capital's strategies at *all* levels of capitalist development". For, to the extent that social contestation is a contunious element of capitalist relations of production, capital must continuously engage in strategies of primitive accumulation to recreate the 'basis' of accumulation itself (de Angelis, 2004: 70). And given that the so-called basis of accumulation predicates upon the separation of producers from means of production, it can be said that such so-called 'separation' is the secret of primitive accumulation and accumulation itself. As seen, the so-called separation applies both to primitive accumulation and accumulation of capital. However, the former implies the *ex-novo* production of the separation while the latter implies the reproduction of such separation on a greater scale. As seen, accumulation and primitive accumulation differ in conditions of existence while sharing the same principle, *separation* (de Angelis, 2008: 28-35). In other words, "the difference between accumulation and primitive accumulation is not a substantive one; rather, it is a difference in the conditions and forms in which this *separation* is implemented" (de Angelis, 2004: 63). In this vein, an absolute distinction between the primitive accumulation and the so-called 'capital logic'

is futile. The ‘logic of separation’ is permanent, enclosures being the continuous characteristic of such capital logic (de Angelis, 2007: 134-135).

de Angelis is challenged by two opposite wings, Bonefeld (2011) and Zarembka (2008). As interpreted by Bonefeld, de Angelis raises the idea that primitive accumulation is a permanent feaure of capitalism because it is a capitalist means of subjugating labour. So, its aim is expanded proleterianization (Bonefeld, 2011: 380). In other words, primitive accumulation, a basic ontological condition of capitalist production, is a capitalist means to impose *market rule* on new populations as seen by de Angelis. However, primitive accumulation is beyond a weapon that capital can employ (Bonefeld, 2011: 383-385) being the constitutive principle of the separation of laborers from their means of production and existence.

Zarembka challenges de Angelis from a different standpoint. While acknowledging the significance of the emphasis on separation from means of production made by de Angelis and Bonefeld, (Zarembka, 2008: 71), Zarembka yet argues that

> de Angelis and Bonefeld skirt the problem by arguing that the essence of accumulation of capital, as well as of primitive accumulation, is separation from means of production. At one level, they are to be commended, for it is rare to understand accumulation of capital itself as separation. But, on the other hand, their position is reductionist. A stronger theoretical position is to stay with Marx’s definition of primitive accumulation (as historical, one-off phenomenon), and to probe more deeply the concept of accumulation of capital as used by Marx” (Zarembka, 2008: 72).

Having briefly expounded the approach that focuses on the ‘logic of separation’ as a branch of the approach of ‘inherent-continuous primitive accumulation’, one can turn at this point to another branch of the ‘inherent-continuous primitive accumulation’, that is the approach that advocates for the inherence and permanence of primitive accumulation albeit regardless from an exclusive focus on the logic of separation. One can first begin with Amin (2000; de Angelis, 2000: 6-7) who utters an explicit defense of permanent primitive accumulation:

"Primitive accumulation is not specific to the prehistory of capitalism alone; on the contrary, it constitutes a permanent aspect of it… "Normal" reproduction of capital and the so-called forms of primitive accumulation (which imply political and social violence) are always linked" (Amin, 2000: 618, 621). To expound in more detail, he suggests in the analysis of the world capitalism through the lenses of the center-periphery approach:

> Relations between the formations of the "developed" or advanced world (the center), and those of the "underdeveloped" world (the periphery) are affected by transfers of value, and these constitute the essence of the problem of accumulation on a world scale. Whenever the capitalist mode of production enters into relations with precapitalist modes of production, and subjects these to itself, transfers of value take place from the precapitalist to the capitalist formations, as a result of the mechanisms of *primitive accumulation*. These mechanisms do not belong only to the prehistory of capitalism; they are contemporary as well. It is these forms of primitive accumulation, modified but persistent, to the advantage of the center, that form the domain of the theory of accumulation on a world scale (Amin, 1974: 3).

Similar to Amin's analysis of the transfer of value from the advanced to the underdeveloped world, Sassen (2010) draws on the concept of 'primitive accumulation' as an analytical tool in her analysis of the penetration of advanced capitalism to the more traditional forms of capitalism. She claims that "capitalism is today undergoing the systemic equivalent to Marx's notion of primitive accumulation, only now as a deepening of advanced capitalism predicated on the destruction of more traditional forms of capitalism" (Sassen, 2010: 24). In this sense, contemporary primitive accumulation goes beyond the logics of extraction (of natural resources, i.e. land) and target the systemic deepening of advanced capitalism. (Sassen, 2010: 25).

Jim Glassman (2006) can also be noted as another scholar who theorizes the contemporary salience of primitive accumulation. Glassman features the 'accumulation by extra-economic means' to grasp the forms of accumulation by means other than expanded reproduction, that is the accumulation by dispossession and the forms of accumulation within social reproduction (Glassman, 2006: 617). Moreover, for Glassman (2006: 622), primitive

accumulation, or accumulation by extra-economic means, is not confined to the Global South but reveals its existence also in the Global North for it is inherent to accumulation proper and integral to global capitalist development regardless of a geographical confinement.

The third group on the theory of primitive accumulation is constituted by the adaptation of Marx's concept of 'primitive accumulation' as accumulation by dispossession. Indeed, the concept of 'accumulation by dispossession' is coined by David Harvey (2003) who traces the contemporary trajectory of capitalist accumulation in varied geopraphies. According to Harvey, capital resorts to 'accumulation by dispossession' in order to overcome overaccumulation crises. To define 'overaccumulation', it can be said that it is a condition where surpluses of capital (perhaps accompanied by surpluses of labor) lie idle with no profitable outlets in sight. To overcome overaccumulation, accumulation by dispossession releases a set of assets - including labor power - at very low (and in some instances zero) cost so that overaccumulated capital can seize hold of such assets and turn them to profitable use (Harvey, 2003: 149).

Within this context, Harvey alleges that processes of primitive accumulation are present in the contemporary capitalism and name such as 'accumulation by dispossession'. Such processes described by Marx, as compiled by Harvey (2003: 145) are:

- the commodification and privatization of land and the forceful expulsion of peasant populations
- the conversion of various forms of property rights (common, collective, state, etc.) into exclusive private property rights
- the suppression of rights to the commons
- the commodification of labor power and the suppression of alternative (indigenous) forms of production and consumption

- colonial, neo-colonial, and imperial processes of appropriation of assets (including natural resources)
- the monetization of exchange and taxation, particularly of land
- the slave trade
- the national debt
- the credit system

Harvey asserts that such features of primitive accumulation - or accumulation by dispossession, as Harvey calls it - "have remained powerfully present within capitalism's historical geography up until now" variants of which are as follows (Harvey, 2003: 145-148; 2007: 35 – paragraph added):

- acceleration of the displacement of peasant populations and the formation of a landless proletariat that has accelerated in countries such as Mexico and India.
- suppression of alternative (indigenous and even, in the case of United States, petty commodity) forms of production and consumption
- codification of intellectual property rights as seen in the patenting and licensing of genetic material, seed plasma etc.
- biopiracy as the pillaging of the world's stockpile of genetic resources to the advantage of pharmaceutical companies
- commodification of nature which brings about the escalating depletion of global environmental commons (land, air, water) and proliferating habitat degradations that preclude anything but capital-intensive modes of agricultural production
- taking over of the family farming by agribusiness
- permanence of slavery (particularly in the sex trade)
- credit system and finance capital as major levers of predation, fraud, and thievery
- commodification of cultural forms, histories, and intellectual creativity

- the diminution or erasure of various forms of communal property rights (collective rights134) – such as welfare, state pensions, paid vacations, access to education, and health care – won through a generation or more of social democratic struggles
- the corporatization and privatization of hitherto public assets such as universities, nationalized industries, water and other public utilities as a new wave of 'enclosing the commons'

Another striking contribution to the theory of primitive accumulation belongs to the group of works the common characteristic of which is the focus on the relation between 'spheres of reproduction' or 'social reproduction'. Michael Perelman is one of those scholars whose studies on primitive accumulation not only contributed to the relation between classical political economy and primitive accumulation - as discussed in the previous paragraphs - but also between social reproduction and primitive accumulation. He puts that primitive accumulation attests to a shift from the household economy/production to the commodity economy/production. With this shift, several reproductive works have been transferred to the market from the household such as child care and laundry since, due to the requisite to earn more wages, people begun to have less time to meet the necessities of material life which were once met within the household outside the market (Perelman, 2000: 15, 35-36, 83). Indeed, the relatively autarkic economic structure of the independent household was broken down so that it became dependent from two aspects. First, it became dependent on commodities that were, in general, produced with wage labor. Second, to afford these commodities, members of the household had to supply the market with wage labor (Perelman, 2000: 76). In brief, primitive accumulation restricted the efficiency of the household depriving it of its means of production to promote the development of capitalism (Perelman, 2000: 80).

[134] Such instance of the retreat from labor-based collective rights can be read as 'deconstitutionalization of labor', in Hardt & Negri's words in that "labor or – even production in general – no longer appears as the pillar that defines and sustains capitalist social organization" (Hardt & Negri, 2003: 225), as discussed in the first chapter.

Alongside Perelman's analysis of the transformation of the household and social reproduction, it can be noted that Federici (2012: 83) associates the dismantling of the welfare state which led to the retreat of the state from investment in the 'reproduction of the workforce' that led to workers' taking on the cost of reproduction themselves with primitive accumulation.

In addition to the studies on the transformation of the household and reproduction in terms of primitive accumulation, several feminist studies contribute to the literature on primitive accumulation by adding the so-called 'gender' dimension with specific reference to the reproduction (Federici, 2004, 2010; Mies, 1994). Federici's book, *Caliban and the Witch: Women, The Body and Primitive Accumulation*, is among those studies with its analysis of the so-called social history of primitive accumulation from the lenses of the women. In this book, Federici puts that women's unpaid labor has been an essential part of the accumulation of capital. Without it, the reproduction of the male labor would be impossible. Hence, the story of primitive accumulation, which is a universal and permanent process, has to be retold from the angle of the women with a feminist perspective for it brought about a new sexual division of labor and a new sort of patriarchy (Federici, 2004). In this so-called re-narrating of primitive accumulation, Federici (2004: 12) addresses several historical developments pertaining to primitive accumulation:

i. the development of a new sexual division of labor subjugating women's labor and women's reproductive function to the reproduction of the work-force
ii. the construction of a new patriarchal order, based upon the exclusion of women from waged-work and their subordination to men
iii. the mechanization of the proletarian body and its transformation, in the case of women, into a machine for the production of new workers

The phenomenon of witch-hunt is a historically vital moment in the history of primitive accumulation according to Federici (2004). It is historically coeval, and even simultaneous with the English enclosures, colonization, the beginning of the slave trade as well as the enactment of the bloody laws against vagabonds and beggars in the process of primitive accumulation. It is deemed as the so-called 'original sin' by Federici (2004: 164) reminiscent of Marx's calling of primitive accumulation as the 'original sin' in the transition from feudalism to capitalism (Marx, 1982: 873). The witch-hunt has been enormously influential in disciplining the female body with specific reference to its reproductive capacity. Federici (2004: 16, 87) even states that the female body has been appropriated by the state and men to turn into a reproductive machine in the face of the declination of the population. The witch-hunt has also served as a leverage on the expulsion of women from production and their retreat into unwaged reproductive workers. Indeed, dramatic numbers of women, the majority of which are peasants, have been expelled from their hitherto productive work on land. Such a development can be better grasped given that enclosures, a coeval phenomenon with the witch-hunt as mentioned above, aim at the expulsion of the peasantry from land and transformation into wage-labor. As the 'male' peasant transforms into the wage-labor, the task of reproducing labor-power is placed on the shoulders of women (Federici, 2004)[135].

Overall, deeming primitive accumulation as a continuous phenomenon as mentioned beforehand, Federici (2004: 12-13) states that

> a return of the most violent aspects of primitive accumulation has accompanied every phase of capitalist globalization, including the present one, demonstrating that the continuous expulsion of farmers from the land, war and plunder on a

[135] Federici draws on Foucault's analysis of *biopower* and *disciplinary technologies* (see footnote 11 for such Foucauldian concepts) in her book, *Caliban and the Witch: Women, The Body and Primitive Accumulation* albeit with a critical eye. Indeed, she criticizes Foucault for overlooking the gender dimension of the disciplining of the body with specific reference to the phenemenon of the witch-hunt. Furthermore, she animadverts Foucault for ignoring the dimension of the process of 'reproduction' (Federici, 2004: 8, 15-16).

> world scale, and the degradation of women are necessary conditions for the existence of capitalism in all times.

By the same token, Federici claims that the contemporary witch-hunting in Africa and India is caused by the current primitive accumulation manifested in land privatization imposed by the neoliberal programs of the international financial institutions such as the World Bank and IMF. The breakdown of communal land ownership and the land privatization have led to harsh competition for diminishing resources. Such crisis has brought along the violence of witch-hunting as an instrument of enclosure of land. (Federici, 2010: 11, 14-17).

In a similar vein, Mies (1994) puts forward that violence against women – which has historically been revealed in the witch-hunts in Europe and contemporarily manifests itself in instances such as murders, rape and several kinds of physical torment – is an epitome of ongoing primitive accumulation. Such instances of violence not only facilitate accumulation of wealth but also extends patriarchal control of men over women.

Having briefly raked through the outlines of the theories of primitive accumulation, it has been revealed that primitive accumulation extends into every sphere of life, including production and reproduction. In other words, the practices and processes of primitive accumulation have pervaded into both means of production and reproduction. As a matter of course, water assets have not been evaded from such pervasion. Water is both a means of production as in agricultural irrigation and of reproduction/subsistence as in drinking, bathing and cleaning water. Thus, enclosure of water commons denotes to separation from means of subsistence and means of reproduction/production. Such a phenomenon leads to the replacement of collective water rights with exclusive property rights of the capital. Within this context, in the second part of this chapter, the water-based primitive accumulation is to be probed in terms of

various forms of enclosures located in an institutional and historical context as well as their consequences with respect to access to water commons.

3.2. Water-Based Primitive Accumulation

As discussed in the sub-chapter above on the primitive accumulation and the commons, primitive accumulation adds up to, in a nutshell, "enclosing the commons" (Harvey, 2003: 148). To repeat again, commons are asssets "that belong to every one of us and none of us" (Fırat, 2012: 123 – translation added). Indeed, water actually bears no possessor for it has its own flow the boundary of which is only set by itself. Such a property of water makes it one of the natural, global commons. In this vein, it is crucial to analyse the change in the water policies and organization of water in terms of the processes of enclosures of water through the practices of primitive accumulation which result in the expropriation of the water assets as means of production and reproduction. Within this context, the water-based primitive accumulation is to be scrutinized in this sub-chapter. To do this, first, the variants of water-based primitive accumulation are to be scrutinized. Second, problems with water-based primitive accumulation are to be examined. Last but not least, institutional and historical setting of water-based primitive accumulation is to be analyzed.

To begin with the analysis of the water-based primitive accumulation, one can begin with the scrutinization of its variants. The variants of water-based primitive accumulation can be listed as follows:

- Marketization: refers to the construction of markets for trading and selling, e.g. for water rights, or market-simulating decision-making techniques. It is worthy to note that marketization could occur under the auspices of a public entity, e.g. through using pricing instruments, the establishment of markets or similar mechanisms (Harris, 2013: 112, Bakker: 2003, 36).

- Privatization: entails “a change of ownership, or a handover of management, from the public to the private sector… In brief, it entails organizational change” (Bakker, 2005: 544). Moreover, it calls for the foundation of the relation of private property. In this sense, privatization can be defined as the setting of the relation of private property on the water assets which have hitherto been not appropriated as property, or possessed by a community, owned by the state or been at the disposal of the state, or appropriated by nobody but utilized collectively (Çoban et. al., 2015: 403 – translation added). In this vein, privatization requires the creation of an exclusive right to private property. It implies “the assignation of legal title to a named individual, group or institution (which) gives more-or-less exclusive rights of the owner to dispose of that which is named by the title as they wish” (Castree, 2003: 279). In this vein, privatization precludes access to water assets on the part of the living things, individuals or collectivities who do not possess an exclusive right to the water asset in question (Çoban et. al., 2005: 403). However, it should be noted that privatization is not only about ownership in the technical, legalistic sense. It is about control over commodities, prior to, during and after exchange. Hence, it is a precondition for commodification for the exchange of things either via or for money cannot be realized unless the things in question belong to different parties who are free to alienate them (Castree, 2003: 279).

- Commercialization: Unlike privatization, commercialization entails institutional change in the sense of norms, rules and customs rather than organizational change. That is to say, it necessitates changes in resource management practices that introduce commercial principles such as efficiency, methods such as cost-benefit assessment, and objectives such as profit-maximization (Bakker, 2005: 544).

As seen, privatization and commercialization, though often inter-related, are distinct processes. Privatization can occur without full commercialization as in the case with many private water companies in developing countries which operate tariff structures that price water on a below-marginal cost basis to poorer customers. Commercialization can also be initiated prior to privatization, or while ownership is retained in the public sector. For instance, in many OECD countries, public utilities employ rising bloc tariffs and universal metering to price water at full cost (Jones, 1998, quoted in Bakker, 2005: 544).

- Commodification: Commodification is the conversion of an asset into a commodity through the transfer from use-value to exchange value. To describe *commodification* in a more detailed and concrete fashion, it can be said that it involves "the creation of an economic good through the application of mechanisms intended to appropriate and standardize a class of goods or services, enabling these goods or services to be sold at a price determined through market exchange" (Bakker, 2005: 544). Hence, commodification is a process whereby goods formerly outside marketized spheres of existence enter the world of money. Such process bears also a multi-dimensional character. It is a *socio-economic* process entailing changes in pricing (pricing and the creation of price-signaling mechanisms), charging methods, and allocation and exchange mechanisms. It is *discursive*, requiring transformations in the identities of and values ascribed to natural objects such that they can be abstracted from their biophysical context, valued, and displaced. It is also *material*, necessitating physical interventions and adaptations such that, with specific reference to nature, desired nature(s) can be alienated from their ecological context as standardized goods, amenable to exchange (Kaika and Sywngedouw, 2000; Robertson, 2000; Castree, 2003, quoted in Bakker, 2005: 545).

In this way, non-commodities produced for its use-value are converted into a commodity produced for its exchange-value (Bakker, 2005: 545). However, there are several constraints on the 'full commodification' of nature, and as a

matter of course, water. Such constraints are to be handled in the following paragraphs on the constraints on the water-based primitive accumulation.

The first constraint occurring in the water-based primitive accumulation pertains to the subject of *fictitious commodity* explained in the pages above. As part of the nature, water can be deemed as a fictitious commodity if the consideration of nature as a fictitious commodity is adapted to water (Polanyi, 1957: 72; Jessop, 2007: 123). According to Polanyi, commodity is a thing that is produced for sale. To the extent that water is not something that is produced for sale, it can only be reckoned as a *fictitious commodity*. As another adaptation of *fictitious commodity* to water, Jessop's description can be called for. For Jessop, the form of fictitious commodity is the form occurring with the appropriation and transformation of water (nature) by human labor that results with the sale of water in the market (Jessop, 2017: 123). However, it should be noted that the fictitious commodity form of nature does not erase the fact that water is *actually* bought and sold in the market (Polanyi, 1957: 72). Indeed, water enters into the market through such fiction. Even the water market is founded and made operable through such fiction (Çoban, 2018: 212).

Another constraint on the water-based primitive accumulation pertains to the forms/instances when water turns to be an *uncooperative commodity*. Bakker coins the concept of 'uncooperative commodity' in her article, *Neoliberalizing Nature? Market Environmentalism in Water Supply in England and Wales*, in which she elaborates upon the introduction of market mechanism into the water supply in England and Wales. She analyzes the obstacles including the internal ones stemming from the nature of water faced in the full commodification of water supply in this article. She puts that, as she calls it, the *state hydraulic paradigm/model,* was valid till the passing of water supply services from the nationalized monopolies to the private companies. The *state hydraulic paradigm/model* is the name of the model in which the water management is exercised as a public service by the nationalized monopolies. It is characterized by

> planning for growth and supply-led solutions, with an emphasis on hydraulic development as a means of satisfying water demands; a focus on social equity and universal provision; command-and-control regulation; a discursive representation of nature as a resource; and state ownership and/or strict regulation of water resources development and water supply provision, based on a desire to provide sufficient quantities of water, where and when needed, such that economic growth could proceed unconstrained (Goubert, 1986; Hassan, 1998; Coutard, 1999; del Moral and Sauri, 2000; Bakker, 2004, quoted in Bakker, 2005: 546).

With the marketization of water supply, such monopoly of the public terminates. The water supply services are privatized which in turn consolidates the commercialization of the water-supply industry through the introduction of market-simulating regulatory mechanisms such as cost-benefit analysis into both economic and environmental regulation (Bakker, 2005: 549). In England and Wales, this project has been only partly successful with successful privatization, broad-based commercialization, and failed commodification (Bakker, 2005: 559). Bakker accounts for this partial success as below which can be summarized as water being an *uncooperative commodity*:

> … this failure to commodify water is, in large part, due to water's geography: a life-giving, continually circulating, scale-linking resource whose biophysical, spatial, and socio-cultural characteristics render it particularly resistant to commodification. The ecological and possible public health consequences of network integration of a flow resource effectively prevented the introduction of direct competition; the introduction of accurate prices was stymied by political resistance to metering and price increases due to water poverty and the difficulty of incorporating robust environmental economic valuation techniques… Moreover, intense political debate about water's identity – as entitlement for citizens - destabilized the market environmetalist project (Bakker, 2005: 559).

The 'uncooperative commodity' character of water can be defined as an *objective constraint* as called by Çoban (2018: 237 – translation added). Objective constraints are, in other words, inherent constraints arising from the immanent character of nature. Given that water is part of the nature, the concept of 'objective constraint' can be adapted to the water. According to Çoban, the appropriation of nature by the capital to the fullest extent is impossible owing to the 'objective constraints'. The difficulty in taking unintentional consequences in hand emergent in the commodification of nature (and water) such as the decline

in output, the loss of species, pollution and climate change constitute some of such objective constraints. Another type of objective constraints is formed by the fact that the market can only partially realize the economic coordination of the numerous functions and benefits of biological living beings. Consequently, the entire/utter subordination of nature to the market is faced with several objective constraints which makes such project unfeasible (Çoban, 2018: 237 – translation added). Indeed, the water sector as a whole inhibits long-term profitability for costs of operation and maintenance far exceed potential profit (Ahlers, 2010: 213-214).

Another constraint that should be mentioned concerning the water-based primitive accumulation are the so-called 'subjective constraints' as named by Çoban (2018: 237 – translation added). The political resistance as well as the social struggles faced in the attempts of water-based primitive accumulation can be deemed such 'subjective constraints' (Prudham, 2009: 128, quoted in Çoban, 2018: 237 – translation added).

Despite such constraints, the capital has not given up its attempts at the water-based primitive accumulation, namely its project of *market environmentalism*. Bakker calls such a phenemenon as a shift from the state hydraulic paradigm to the market environmentalism. Market environmentalism is "the introduction of market institutions to natural resource management as a means of reconciling goals of efficiency and environmental conservation... It is a mode of resource regulation that promises both economic and environmental ends (such as economic growth, efficiency and environmental conversation) via market means" (Bakker, 2005: 542-543 – paranthesis added). Market environmentalism asserts that markets are the solution of environmental degradation rather than the cause of environmental problems. Such paradigm highlights the market as the allocation mechanism. It stands for the market pricing mechanism. It also proposes the establishment of private property rights (Bakker, 2005: 543). It can even be commented that the system of well-specified property rights lies at the core of (free) market environmentalism (Anderson & Leal, 1991: 3, 101 –

paranthesis original). Within the context of such a paradigm, market environmentalism proposes that environmental goods (assets) are more efficiently allocated if treated as economic goods (Bakker, 2005: 543). In other words, this project features the significance of market processes in determining optimal amounts of resource use (Anderson & Leal, 1991: 22).

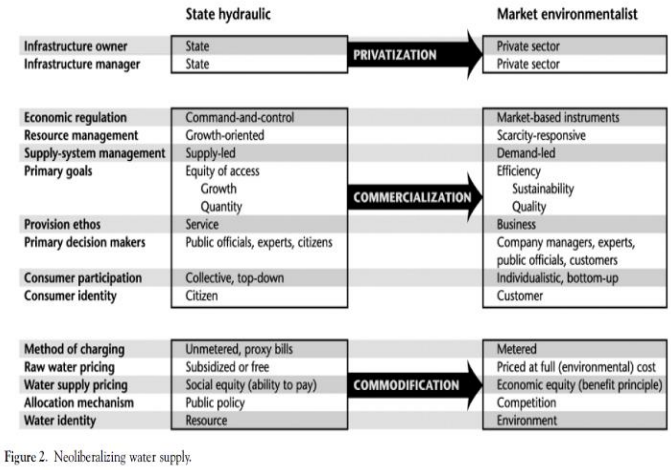


Figure 2. Neoliberalizing water supply.

Figure 2: Comparison of state-hydraulic paradigm/model and market environmentalism (Bakker, 2005: 547)

As seen in the last line of the figure which compares the conceptualization of the identity of water of the market environmentalism and state-hydraulic paradigm/model, market environmentalism also addresses concerns over environmental degradation and inefficient use of resources in the crafting of its discourse (Bakker, 2005: 543). It suggests that efficient water markets could reduce budget deficits, the role of the government as well as environmental degradation (Anderson & Leal, 1991: 118). As seen, it introduces a positive correlation between the market and the environment (Anderson & Leal, 1991: 3). Markets are proposed as the solution rather than the cause of environmental problems. In this discourse, the vitality and criticality of the problems are featured to highlight the emergency of the solution. As a result, markets are called for help to remediate the burning water crisis of the world. In a nutshell, it can be put that the discourse of ‘water crisis/scarcity’ has been instrumentalized for the penetration of the market mechanisms into the water services supply

provision. Even, it can be said that the discourse of 'water crisis' has been hegemonic in the international arena.

There are several dimensions of the so-called water-crisis – access to water and water scarcity/stress – and these are all operationalized in the water discourse of the leading international institutions. Below are several examples to indicate how the discourse of water-crisis is treated by the prominent international institutions: In the official blog of the World Bank, the problem of access to water is pointed out: "Although drinking water is essential to life, across the world today 2.1 billion people lack reliable access to safely managed drinking water services and 4.5 billion lack safely managed sanitation services. In Sub-Saharan Africa alone, 42 percent of people lack improved water sources within a 30-minute roundtrip".[136] In addition, the United Nations figures indicate the inequality in access to water and sanitation: "Only 62 per cent of people in LDCs (least developed countries) have access to a basic drinking water service compared to 89 per cent of the global population. The disparity in basic sanitation services is even greater, where coverage in LDCs (32 per cent) is less than half the global average (68 per cent)" (United Nations, 2018: 16).

It is put that access to water emerges as a challenging problem given the so-called *water scarcity* in the face of rising water demand which is estimated to increase by 55% by 2050.[137] This problem is pointed out by Guangzhe Chen, Senior Director for the World Bank Water Global Practice: "Some one-fifth of the world's population, or 1.2 billion people, now live in an area of water scarcity, where demand cannot or will not continue to meet supply."[138] Fighting

[136] The Water Blog, http://blogs.worldbank.org/water/category/tags/water-flows?CID=WAT_TT_Water_EN_EXT, (retrieved on 21 July 2018).

[137] Nurturing Our Water Empire, *OECD Observer*, No. 302, April 2015, p. 8.

[138] Global Water Security & Sanitation Partnership Celebrates One Year of Deepening Knowledge, Shaping Debates and Amplifying Action on Water,

water scarcity has also been included in the 'Ministerial Declaration' called *An Urgent Call for Decisive Action on Water* of the 8th World Water Forum in 2018, the sponsors of which is one of the greatest water and food companies, *Nestle*.[139]

Water crises also occupy the fifth rank in the 2018 global risks landscape in terms of impact. Water crisis is defined in relation to 'water scarcity' in terms of "a significant decline in the available quality and quantity of fresh water, resulting in harmful effects on human health and/or economic activity".[140] Indeed, water scarcity occupies a significant space in the UN water agenda. In a UN High Level Panel on Water, it is stated that 40% of the world's population is affected by water scarcity.[141] Water scarcity is defined as "scarcity in availability due to physical shortage, or scarcity in access due to the failure of institutions to ensure a regular supply or due to a lack of adequate infrastructure".[142] It is included as a problem area the solution of which is addressed as to increasing water use-efficiency and ensuring freshwater supplies. To put it in more detail, the target numbered 6.4. of the Sustainable Development Goals to be realized by 2030 is to substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water

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http://www.worldbank.org/en/news/feature/2018/07/05/gwsp-one-year?CID=WAT_TT_Water_EN_EXT, (retrieved on 5 July 2018).

[139] 8th Word Water Forum Highlights, http://www.worldwaterforum8.org/en, (retrieved on 1 March 2018).

[140] The Global Risks Report 2018, 13th Edition, http://www3.weforum.org/docs/WEF_GRR18_Report.pdf, (retrieved on 26 August 2018).

[141] Sustainable Development Knowledge Platform, https://sustainabledevelopment.un.org/HLPWater, (retrieved on 22 July 2018).

[142] Water Scarcity, http://www.unwater.org/water-facts/scarcity/, (retrieved on 26 August 2018).

scarcity and substantially reduce the number of people suffering from water scarcity.[143]

As seen, water crisis – problems of access to water and sanitation as well as water scarcity/stress – constitutes a considerable theme of the agenda and discourse of various leading international institutions. As seen from the statistics above, it is apparent that water crisis is a fact rather than a produced problem. However, the hegemonic discourse of water scarcity turns water scarcity into a natural and given/ascribed property of water (Robert, 2003: 92-93 – translation added). However, scarcity is an appendage of a specific type of relation to water rather than an intrinsic feature of nature (Robert, 2003: 26 – translation added). As Robert states, the finiteness and scarcity of water resources are confused. The water discourse produced in this way implies that since water is a scarce resource, it should be managed by the iron laws of the (market) economy (Robert, 2003 – translation and parenthesis added).[144] To reword it, it is circulated that if water is an increasingly scarce resource, it requires efficient management which only the private sector can provide given the existence of state failure (Bakker, 2003: 43). In other words, the hegemonic idea of water crisis connotes that water crisis is a *water management crisis*.

Such theses have reached a hegemonic weight in the main international platforms and institutions.[145] While water scarcity/stress is interpreted as a

[143] Sustainable Development Goal 6, Synthesis Report on Water and Sanitation 2018, http://www.unwater.org/publications/highlights-sdg-6-synthesis-report-2018-on-water-and-sanitation-2/, (retrieved on 5 July 2018).

[144] The idea that relates water scarcity to the management by the market resembles the market-oriented discourse of right to water which is to be scrutinized in the last chapter of the dissertation in the section titled *Right to Water as a Market Solution or a Response to Water Crisis*. For such discourse implies that since water is a human right access to which is to be provided for all, the realization of this right cannot be consigned to the state or communities alone.

[145] The thesis of 'water management crisis' is also asserted by several capital groups such as the giant packaged water company, *Nestlé*. The company claims to the existence of a water management crisis in that water is not consumed sustainably but wastefully as well as a growing

doomsday scenario, it is commentated that "the current and historic administrative allocation of water has proven to be far from adequate" (Holden and Thobani, 1996; World Bank, 1993, quoted in Ahlers, 2010: 219). For instance, the capital-led *World Water Council* - the institution that organizes the *World Water Forum*, the platform in which world-wide water policies are molded - puts forward that the water crisis the world faces with is not about the availability of few amount of water that does not suffice to meet our needs but about a water management crisis which takes a heavy toll on billions of people and the environment (Yılmaz, 2008: 20 – translation added).

The prominent international financial institution, the *World Bank* is also a member of the World Water Council[146]. The main thesis of the World Bank can be put as that water scarcity is induced by the widespread mismanagenement of water resources, with provision of large quantities of water at low or no-cost for low-value agricultural uses (Briscoe, 1995: 11).[147] Moreover, OECD (The Organisation for Economic Co-Operation and Development) can be counted as another institution which claims that water crisis is mainly a governance crisis. The OECD puts forward that water governance can greatly contribute to the design and implementation of water policies, in a shared responsibility across levels of government, civil society, business and the broader range of stakeholders. It is also stated that the governance principles embraced by the OECD are rooted in broader principles of good governance: legitimacy, transparency, accountability, human rights, rule of law and inclusiveness. OECD's governance principles are also espoused at the 7th World Water Forum

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investment gap in water. The https://www.cnbc.com/2015/03/24/nestle-chairman-time-to-turn-off-the-water-taps.html, (retrieved on 25 March 2018).

146 http://www.worldwatercouncil.org/sites/default/files/Members/List_Members_August_2018.pdf, (retrieved on 28 August 2018).

147 The so-called neoliberal 'water reforms' also target the replacement of small-scale farming with agrobusiness and the big agricultural monopolies. Such point constitutes one of the reasons for the harsh criticisms of the conventional agricultural sector by the 'water reform' discourse (Yılmaz, 2009: 16, Üstün, 2014: 386 – translation added).

in the *Daegu's Multi-stakeholder Declaration on the OECD Principles on Water Governance* the signatories of which are *Suez* and *Veolia*, one of the world's greatest water companies.[148,149] As seen, the governance rhetoric is iterated as in UN's current hegemonic approach to rights which has been handled in the first chapter of the dissertation. UN's governance-oriented appoach to rights has manifested itself in its approach to the water crisis as well. The UN World Water Development Report 2, *Water: A Shared Responsibility*, purports that water crisis is a crisis of governance. In the report, it is remarked that mismanagement, corruption, lack of appropriate institutions, bureaucratic inertia and a shortage of new investments in building human capacity as well as physical infrastructure is largely responsible for the water crises. As a solution, *good governance* is proposed by the UNESCO which is deemed essential for managing increasingly-stretched supplies of freshwater and indispensable for tackling poverty. Good governance, it is ventilated, requires strong, effective legal frameworks, sufficient human and financial resources and essential freedoms, like the freedom of speech and the right to organize.[150]

Such seemingly innocent and plausible remarks reach significance if one bears in mind that "water has been accepted as a public resource conventionally" (Barlow, 2008: 53 – translation added) in addition to the increasing dominance of the state over water supply services in much of the 20th century (Bakker, 2003: 36). The response/solution to such a conceptualization of the *mismanagement* of water by the public as alleged hegemonically by several international organizations appears as the water-based primitive accumulation

[148] OECD Principles on Water Governance, http://www.oecd.org/environment/watergovernanceprogramme.htm, (retrieved on 20 November 2017).

[149] https://www.suez.com/en, https://www.veolia.com/en/veolia-group/profile, (retrieved on 20 November 2017).

[150] http://portal.unesco.org/en/ev.php-URL_ID=32057&URL_DO=DO_TOPIC&URL_SECTION=201.html, (retrieved on 28 August 2018).

through various ways which have been described in the paragraphs above. It is argued that the public sector lacks the necessary incentives to allocate resources efficiently (i.e. to their highest market value) and hinders it by controlling and regulating distribution which leads to the mismanagement and waste of water resources. Indeed, the states have faced several problems which have been instrumentalized for the shift to market environmentalism. These problems hindered the goal of providing sufficient quantities of clean water to all citizens on the part of the *state-hydraulic paradigm/model*, the conventional model of the provision of water supply services by the public (Bakker, 2010: 87):

- the failure to adequately address environmental externalities
- the failure to extend water supply universally (particularly in developing countries)
- the failure to invest adequately

In the face of such problems, the relocation of water resources in the private sector where the competition for them is assumed to determine their corresponding economic value as well as the creation of water markets (the marketization of water) are put as policy proposals by the defendants of *market environmentalism*. In this way, it is assumed that economic efficiency be increased, marketing water induce its titleholders to realize the full opportunity cost of their asset, and more prudent use and the sale of supply to the highest bidder be encouraged (Ahlers, 2010: 219). In brief, as Ahlers (2010: 225) put it, "the economic language of efficiency and rationality serves to naturalize" the process of the water-based primitive accumulation.

Furthermore, the defendants of neoliberal water-based primitive accumulation or of market environmentalism allege that public finance appears inadequate to develop the water resources that wear off by degrees and leads to the increase in the loss and leakage rate in the water distribution. It is also claimed that the available environmental technologies fall short of finding proper markets due to

the provision of water and waste water services with subsidized prices[151] (Cuzen, 1979: 326; Renzetti, 1999: 689, quoted in Yılmaz, 2013: 155 – translation added).

In addition, an integrated approach to water that does not distinguish between the surface water and ground water is deemed also vital in the approaches embraced in the process of the water-based primitive accumulation. This approach amounts to the approach of "integrated water basins management" which amounts to the realization of resource management on the basis of water basins integrated with the other natural resources with the aim of the identification of the basis not only on the grounds of the amount of water but of all dimensions and resources (Harmancıoğlu, Gül & Fıstıkoğlu, 2002: 29 – translation added). Nonetheless, such approach actually brings about not only the commodification of water but also the suppression of water basins integrally under the dictates of capital accumulation (Üstün, 2014: 372 – translation added). Such approach stresses that all the water-related units of the state and all the stakeholders should decide on the water management in coordination. It is even stated that the most crucial point in the integrated water basins management is the balancing and integrating of the ideas, aims and expectations of all the water-related sectors (Harmancıoğlu, Gül & Fıstıkoğlu, 2002: 32 – translation added). Such remarks are apparently inspired by the governance paradigm which suggests the participation of all stakeholders. However, inasmuch as the market actors constitute one party of the stakeholders in question, it can be commented that the approach of integrated water basins management faciliatates the penetration of the capital groups into water management also obscuring the power inequalities among such stakeholders/parties.

As mentioned in the paragraphs above in the discussion of market environmentalism, such market-oriented response/solution to the water crisis also stipulates the existence of well-defined, trustable and alienable property

[151] In this sense, the capital's alternative to the subsidized prices of water and waste water services by the public is *pricing/recovery of water at full cost*.

rights on water (Cuzen, 1979: 326, quoted in Yılmaz, 2013: 155 – translation added). In a sense, water marketing depends on well-specified water rights, rights which are clearly defined, enforceable, and transferable (Anderson & Leal, 1991: 3, 101 – paranthesis original). Clear and *individual* rights on water are deemed necessary to avoid market externalities. The rights of property subsume all other rights, all rights are defined vis a vis property (Ahlers, 2010: 224). At this point, it should be stressed that the rights of property in question are individual rights. The water reforms geared actually towards the water-based primitive accumulation leave no room for any collective right on water. Indeed, the neoliberal water-based primitive accumulation amounts to the "de-collectivization" of water, in Swyngedouw's words (Swyngedouw, 2005: 81), which highly accommodates with the dominant liberal approach to rights that ascribes a secondary status to the collective rights in the face of individual rights due to its individualist ontology as debated in the previous chapter.

In the previous chapter, it had been also argued that the bourgeois society is regulated on the grounds of rights and the law. This is valid for every phase of global capitalism, the socio-economic system upon which the bourgeois society advances. Within this context, rights are of prime importance in the neoliberal phase of global capitalism as seen in the focus on private property rights in the so-called neoliberal water reforms. Such focus on rights also indicates that the state is not in retreat being the regulator of the neoliberal reforms. In this sense, Bakker asserts that the neoliberal water reforms or market environmentalism epitomizes a *re-regulation* process rather than a *de-regulation* process. As stated by Swyngedouw (2005: 89 – parenthesis added),

> The water privatization business foregrounds also one of the central myths of the neoliberal model, i.e. that privatization means getting the state off the back of the economy and rolling back regulatory red tape. In contrast to this often repeated refrain, in the water sector, the state or other governing arrangements (from multilateral organizations like The World Bank, IMF, or the EU, to national, state or local governments) are centrally involved in "regulating" and "organizing" privatization and dispossession. They change laws, rules, and conventions and produce new legal and institutional frameworks (as in the introduction of private property rights on water) that permit and "regulate"

> privatization, often imposing all manner of conditions that force privatization through. In addition, governments provide numerous financial and other incentives to lure private companies and foster private sector involvement. After privatization, a state controlled regulatory institutional framework invariably has to be implemented just to make sure that companies enjoying a "natural" monopoly condition "behave in competitive ways." Without the various state levels paving the way and imposing conditions that guarantee privatization and then secure profitable operation afterwards, this accumulation by dispossession could not possibly take place. The state is, in other words, a central actor in establishing and maintaining "market principles".

The privatization of water supply provision in Yorkshire and Wales in the United Kingdom in 1989 epitomizes such *re-regulation* of water. A top-heavy institutional regulatory-body has been established in the United Kingdom in the post-privatization process (Bakker, 1999; Bakker, 2000, quoted in Swyngedouw, 2005: 90). A separate, well funded environmental regulatory body as well as a regulatory body responsible for consumers operating under the aegis of the economic regulator, *Office of Water Services* (Ofwat), have acted as the regulators of the post-privatization process (Bakker, 2005: 550-551). However, the discrepancy between these bodies indicates the shifting power geometry. While the environmental externalities have risen to a privileged status backed up in most instances by legal frameworks, the social externalities have been excluded from the water policy framework exemplified by the highly constrained role of the regulatory body responsible for consumers in contrast to the well-funded and separate status of the environmental regulator (Bakker, 2005: 551). Another symptom of the shift in the geometry of social power is the influence gained by private actors and companies in the design of water policies (Swyngedouw, 2005: 93). Several transnational mega corporations which are among the Fortune Global 500 companites have been considerably influential in the trend of the privatization of water. Such privatization is so proritable that the annual growth rate of the top three companies has outpaced many of the economies of the countries in which they operate (Roberts, 2008: 548).

Morever, as another development related to the shift in the geometry of social power, economic equity trumps over social equity in that efficiency and cost-

reflectiveness are prioritized over social equity in water pricing (Bakker, 2005: 542) To reword differently, "economic equity (the ''benefit'' or ''willingness-to-pay'' principle) displaces social equity (the ''ability-to-pay'' principle) in water pricing. Consumer access is legitimated not by a citizen's entitlement to water as a service, but by a customer's purchase of water as a quasicommodity" (Bakker, 2005: 548). Retreat from 'social citizenship' is also in place. As noted by Roberts (2008: 546 – italics added), "ideas about the right to water based on *social citizenship* have given way to a situation where the fundamental axis around which the water nexus is organized is the availability of and access to capital".

Such developments have made governments become faced with several contradictions. That is, governments undertake the social cost, health risk, problem of legitimacy etc. as in the contradiction of neoliberalism proper. In other words, the contradictions of the neoliberal ater-based primitive accumulation are tried to be mediated at the local and/or national scales. However, the neoliberal water governance occurs at a transnational scale (Roberts, 2008: 548).The major players in the neoliberal water-based primitive accumulation are as follows: Global governance institutions such as the *World Bank*, *International Monetary Fund* (IMF), *Organisation for Economic Co-operation and Development* (OECD), *World Trade Organization*, *European Union* (EU), and *United Nations* (UN); several global institutions specifically concerned with water - many of which have close ties with the aforementioned organizations as well as with national governments and development agencies - including the *Global Water Partnership*, the *World Water Council*, the *World Commission on Water for the 21st Century* or with its other name, *World Commission for Water for the 21st Century* (or with the short name, better known as, *World Commission on Water*, which is to be used in this text) and the *International Water Resources Association* (IWRA); as well as a network of private water industry associations such as *World Business Council for Sustainable Development* and *AquaFed* (Roberts, 2008; Barlow, 2007; Barlow & Clarke, 2005; Yılmaz, 2013).

At this point, one can respectively scrutinize the organizations mentioned in the previous paragraph. To begin with the World Bank, it can be said that the World Bank is the financial source of the neoliberal water policies. It can provide credit at low-interest to countries in economic depression. Such credits have facilitated the implementation of neoliberal structural adjustment policies for such neoliberal reforms have been the stipulation of the receiving of the World Bank credits. The World Bank demands from the borrower states that they guarantee profit to the water companies operating in their country. An example of such guarantee is the Chilean government guaranteeing 33% profit share per year to the French company, *Lyonnaise des Eaux* as per the loan agreement signed with the World Bank (Yılmaz, 2013: 116 – translation added). In this way, the World Bank has undertaken the role of 'risk-protector umbrella organization' for the international markets (Yılmaz, 2008: 20 – translation added).[152]

Lately, The World Bank has coined the concept of *blue economy* which means the "sustainable use of ocean resources for economic growth, improved livelihoods and jobs, and ocean ecosystem health" encompassing the fields of renewable energy, tourism, climate change, fisheries, maritime transport and waste management.[153] In the report co-prepared by the United Nations and the World Bank, "a greater degree of collaboration between the public and the private sectors" is suggested stating that "the private sector can and must play a key role in the blue economy (and that) business is the engine for trade, economic growth and jobs, which are critical to poverty reduction" (World Bank & United Nations Department of Economic and Social Affairs, 2017: 8 – parenthesis added). Within this context, Mansfield's point that creating market

[152] The field of water occupies the highest space in the World Bank projects by the year 2018 with 587 water resource managements projects classified on the basis of the themes of the projects. *Projects & Operations*, http://projects.worldbank.org/search?lang=en&searchTerm=water%20, (retrieved on 24 August 2018).

[153] What is the Blue Economy?, http://www.worldbank.org/en/news/infographic/2017/06/06/blue economy, (retrieved on 24 August 2018).

incentives have been on the top agenda in the process of the neoliberalization of the oceans is worthy to note. In the analysis of the neoliberalization of the fisheries of the US portion of the North Pacific by means of privatization, Mansfield remarks that several property rights have been designated for the sake of market incentives. In this way, oceans, which were previously common property, have been enclosed by means of property rights with the argument that the status of common property leads to environmental and economic crises such as overfishing and overexploitation (Mansfield, 2004). Revisiting Hardin's rekown article of *The Tragedy of the Commons* (Hardin, 1968) which suggests private property rights as the solution for the problems of open-access, such argument has bolstered the assumptions that

> market incentives decrease capacity and increase efficiency as individuals or groups lease and sell privatized rights to fish; (and that) market incentives encourage conversation because each individual or group knows they can profit from the fish as much tomorrow as today, and thus they will fish more slowly and more carefully (Mansfield, 2004: 324).

Similar to the correlation between efficiency and market incentives, it is alleged by the World Bank that the entry of the private sector provides decrease in the water prices as well as the collection of the water prices sheerly and in time. However, the provision of such conditions is dependent on two imperatives: The water prices ought not be determined by the state and be clear of subvansion on behalf of the users. Secondly, the water operators ought to hold the right to cut off the water of the customers who cannot pay the water prices. It is also asserted that demanding from the water companies to provide water costlessly to such poor customers turns to be dissuasive in terms of the market incentives and capital investments. Such way of water-pricing, in a nutshell, opposes subsidized water-pricing and demands water pricing at full-cost dependent on the principle of "the user-pays" (Yılmaz, 2013: 112, 122-123- translation added). Such aspect has been iterated in the *Water Resources Management Report* prepared by the World Bank in 1993. This report is of substantive significance for the World Bank has put forward a new commercial and marketist model for water management with this report (Çınar, 2006: 58 – translation added). In this report,

it is alleged that underpricing of water causes misuse of water (World Bank, 1993: 47). In this sense supply-led, subsidized model of water management (of the state-hydraulic model) is opposed (Çınar, 2006: 58 – translation and parenthesis added). Moreover, with the emphasis on the misuse of water, a high concern is attached to increasing water efficiency. For the sake of water efficiency, several policy reforms such as pricing of water, decentralization of water management, participation of water-users based on accountability and performance, financial autonomy of water administrative bodies and privatization of water systems are proposed (Çınar, 2006: 58-60 – translation added).

Within such a framework, it can be said that the World Bank produces global consensus on the privatization of water (Barlow, 2009: 61). Indeed, the water policy of the World Bank designed on such a framework has turned to be 'incentive' for the capital. As *Monsanto*, the giant agricultural capital, states (Shiva, 2001):

> We are particularly enthusiastic about the potential of partnering with the International Finance Corporation (IFC) of the World Bank to joint venture projects in developing markets. The IFC is eager to work with Monsanto to commercialize sustainability opportunities and would bring both investment capital and on-the-ground capabilities to our efforts.

Monsanto is a member of the *UN Global Compact CEO Water Mandate*, a public-private initiative designed to assist organizations in the development, implementation, and disclosure of water sustainability policies and practices, and has served on the Mandate's steering committee.[154] The *CEO Water Mandate* is, in other words, a *UN Global Compact* initiative that mobilizes business leaders on water, sanitation, and the Sustainable Development Goals.[155] As indicated by

[154] Monsanto, https://monsanto.com/company/sustainability/water-conservation/, (retrieved on 20 September 2018).

[155] *Business leaders advancing water stewardship*, https://ceowatermandate.org/, (retrieved on 20 September 2018).

Barlow (2007: 44), akin to Monsanto, two water giants, *Suez*[156] and *Veolia*[157] are charter members of the UN Global Compact, which defines itself as the world's largest corporate sustainability initiative calling companies to align strategies and operations with universal principles on human rights, labour, environment and anti-corruption, and take actions that advance social goals.[158] UN Global Compact has been highly criticized for *blue-washing* in the sense of giving UN approval to companies with public relations problems in case of serious violations in human rights and environmental standards as exemplified by Shell Oil and Nike. Even, at the July 2000 launch of the Compact, UN Secretary-General of the time, Kofi Annan recommitted the UN to support free trade and open global markets (Barlow, 2007: 44).

As apparently seen, UN is a party to the neoliberal water-based primitive accumulation partnering with the capital on the implementation of neoliberal water policies. Indeed, "to be successful in promoting water privatization in the Global South, "the World Bank and the big water companies had to enlist the support of the UN" (Barlow, 2007: 43). As Yılmaz (2013: 101 – translation added) draws attention, although the UN is the major institution referred frequently in the defense of water as a human right, the UN works on water show that the UN aims the acceptance of the commodification of water on the part of the societies. UN has mobilized the water-based primitive accumulation through various conferences and meetings, which are to be dealt with in the following paragraphs below subsequent to the analyses of the role of the other leading institutions in the water-based primitive accumulation.

[156] See footnote 27.

[157] See footnote 27.

[158] UN Global Compact, https://www.unglobalcompact.org/what-is-gc, (retrieved on 20 September 2018).

In addition to the World Bank and the UN, the *International Monetary Fund* is a major player in the financing of water privatization in the Global South (Barlow & Clarke, 2005: 163). As Yılmaz (2013: 111 – translation added) remarks, in the 12 of the 40 credit agreements made by international finance institutions since the 2000's, the partial or complete privatization of water provision has been included as a condition. It has also been discerned that the financial institutions have been insistent on the abolition of water subvansions (Ulusoy, 2007: 130; Çınar, 2008: 16, quoted in Yılmaz, 2013: 111- translation added). To put it differently, the marketization of water has accelerated as a result of the credit loan agreements and the vicious circles occurring in the stand-by agreements. The privatization of water has generally been backed by the stand-by agreements made in the axis of the IMF and the World Bank as in the example of the water privatization commitment in the letter of intent subscribed to the IMF by the Uruguay government in 2002 (Yılmaz, 2013: 113 – translation added).

Unlike the World Bank and the IMF, the *Organisation for Economic Co-operation and Development* (OECD) favors state-provided water subvansions for the poor sectors of the society though it advocates the determination of the water prices on the market. However, it should be noted that such defense of water subvansions amounts to the payment of the difference between the price occurring in the market and the water price that is collected deficiently from the poor by the state or the poor sectors to the water firms. For this reason, OECD demands increase in the rate spared to the water services in the state budget (Yılmaz, 2013: 129 – translation added). Such points should not lead one to assume that the OECD is public-friendly. To the extent that the OECD stands for the occurrence of the water prices on the market, it can be thought that it also stands for the commercialization of water (Yılmaz, 2013: 129 – translation added). To put it differently, the OECD supports the shift from the public mechanisms to the price mechanisms in the water management. Seeing water as an 'economic good', the OECD stands for the 'demand-led' rather than 'supply-led' water management (Acar, 2018: 89 – translation added) as seen in the shift to the market-environmentalism from the state-hydraulic paradigm indicated in

the Figure 2. In line with the defense of market environmentalism, the OECD also advocates the involvement of the private sector in water management. To quote from the official OECD journal, *Observer* (2015: 10-12 – parentheses added),

> as for financing, there is no generic model, and though the public sector plays the lead role in funding water services in most countries, … (this model) is a model that is under increasing pressure, with government budgets stretched and banks still prudent about issuing credit. (Thereby) other sources can be tapped, ranging from major long-term institutional investors down to household investments in water-saving equipment.

The *World Trade Organization* (WTO) is another prominent figure in the neoliberal water-based primitive accumulation. It facilitates the neoliberalization of water via two agreements: *GATT* (General Aggrement on Tariffs and Trade) and *GATS* (General Aggreement on Trade in Services. *GATT* counts water as a 'good' which is subject to the stipulation that prohibits the use of export controls and eliminates the quantitative restrictions on imports and exports. As a result of such stipulation, a country cannot change its mind based on environmental controls and restrict the flow of water out of its territory once it has launched commercial water exports, which is very facilitating for the industries in the water export and pipeline-building business (Barlow, 2007: 45).

The objective of the other agreement, *GATS*, is to liberalize the provision of services in all WTO countries to allow for private competition in various sectors including water-related services such as environmental services, wastewater treatment, purification systems, construction of water pipes, groundwater assessment, irrigation and water transport services. Such areas included in the agreement can no longer be held under public control. Even, non-profit delivery of such services cannot be embarked on. Corporations operating in such sectors are also aided by the WTO's *Smart Regulation* (Specific, Measurable, Attainable, Realistic and Timely Regulation) process to constitute one set of global regulatory standards for all trade transactions. In this way, fewest

regulatory barriers and the lowest set of common standards are provided for the water corporations (Barlow, 2007: 45-46).

European Union (EU) as an outstanding regional, supranational union, has also been effective in the neoliberal water-based primitive accumulation. EU's role in this process has become evident particulary from the 2000's onwards in parallel with the deepening of neoliberalism worldwide. Until the 2000's, the EU water policy has focused on the protection of the water quality for the human uses such as potable water, fishery, swimming as well as the control of the certain main pollutants. Particulary with the *EU Water Framework Directive*¸ which has been signed in 2000, the current EU policy has verged towards uniting the protection of the water quality with the management of the the clean water resources themselves and their supply. In line with this objective, several targets that are to be met by the year 2010 have been set (Özdinç, 2006: 154 – translation added). Within these targets, the one that is particularly related to the neoliberalization of water beyond the protection of water quality and conservation of clean water resources is as follows: "It is to be ensured that the member states reflect the *original cost* of the water prices that are necessary for providing and sustaining qualified, trustable water resources" (Özdinç, 2006: 155 – translation and italics added). In this sense, pricing of water at full cost is proposed by underlining the reflection of the original costs of water provision to the prices. Indeed, the recent EU water policy features the hitches of the public institutions as well as of the approach of comprehensive planning. It also suggests the pricing and privatization of water as a *sine qua non* of water management (Güler, 1999: 7, quoted in Özdinç, 2006: 155-156 – translation and italics added).

The EU Water Framework Directive is the basic regulatory text that has become influential in the design and realization of such shift in the rudiments of the water policy of the EU. Signed and enured in 2000, it is the one that expresses the water-approach of the EU in the most concrete way among the EU's water-related texts (Acar, 2018: 90 – translation added).

The Directive has brought along a shift from *government* to *governance*. With such a shift, water politics, economics and management have been recolated from the sphere of the local to the global. As environmental concerns have come into increasing prominence at the global level, environmental protection has begun to feature centrally in debates about water supply and management at the EU level as well (Kaika, 2003: 302).

As an expected consequence of such a reconfiguration of the levels of decision-making, multiple actors which have brought about multiple power-centers have entered the field where decisions about water policies are made. The private sector is one of the most powerful of these actors whose role has expanded with the liberalization and internationalization of the water markets. Although the Directive defines water as Europe's heritage rather than a commercial product, it has brought about the liberalization of water markets as well. As a parallel development, the Directive has also stipulated that full-cost recovery should be taken into account (Kaika, 2003: 299-311) in the water supply. Indeed, as the *Water Note 5* prepared by the European Commission to explicate the implementation of the Directive specifies,

> the Water Framework Directive introduces economic principles and methods for the management of Europe's waters. Indeed, it is the first piece of EU water legislation to explicitly integrate economics into its measures… The Water Framework Directive introduces two key economic principles. First, it calls on water users – such as industries, farmers and households – to pay for the full costs of the water services they receive. Second, the Directive calls on Member States to use economic analysis in the management of their water recources and to assess both the cost-effectiveness and overall costs of alternatives when making key decisions… One of the key innovations of the directive is its call for water services – such as supplying clean drinking water, irrigation for agriculture, reservoirs for hydropower and wastewater treatment facilities – to be charged at a price which fully reflects the services provided. Under the directive the recovery of costs refers to several elements. The prices users pay for water should cover the operational and maintenance costs of its supply and treatment and the costs invested in infrastructure. The directive goes further and requires that prices paid by users also cover environmental and resource costs. This is a key step towards implementing the economic principle that polluters

> and users should pay for the natural resources they use and the damage they create.[159]

In brief, with the Directive, "political actors have been substituted by stakeholders, the citizen by the consumer, (in addition to the conflict) between a widely accepted social role (of water) as a public good and a heritage and its newly inflated economic role as a market commodity" (Kaika, 2003: 303 – paranteses added).

As for the other global institutions which have a role in the design of the neoliberal water-based primitive accumulation, *Global Water Partnership* can be mentioned. It has been founded in 1996 as a consequence of the joint efforts of the World Bank with various UN agencies such as United Nations Development Program, state institutions such as Swedish International Development Agency and private corporations such as Suez-Lyonnaise des eaux. Its aim is to get public bodies and private companies to collobare on a water-saving resource policy (Petrella, 2001: 23, Barlow, 2007: 49). As stated by Barlow (2007: 49 – parenthesis added), it "operates as a clering house and alliance-building instrument to promote (neoliberal) global water management". As put by Barlow & Clarke (2005: 157), its operating principle is the affirmation that water is an "economic good" and "has an economic value in all its competing uses" rather than a common asset. The basic principle lying at the core of the basic programmes of the institution is to reform water utility systems and water resource management worldwide, needless to say, in line with the requisites of the neoliberal agenda. Indeed, the *Global Water Partnership* has been "instrumental in launching the controversial 2003 report *Financing Water for All*, which recommended using public funds to guarantee profits to private water companies in areas where they were meeting local resistance" (Barlow, 2007:

[159] Water Notes on the Implementation of the Water Framework Directive Produced by © European Commission (DG Environment) March 2008 Water Note 5 Economics in Water Policy: The value of Europe's waters, http://ec.europa.eu/environment/water/participation/pdf/waternotes/water_note5_economics.pdf, (retrieved on 25 October 2018).

49). Not surprisingly, it is funded by government aid agencies of Canada, Denmark, Finland, Germany, Luxembourg, the Netherlands, Norway, Sweden, Switzerland, and the United Kingdom as well as international finance agencies such as the World Bank, the United Nations Development Programme, and the Ford Foundation (Barlow & Clarke, 2005: 157). Furthermore, representatives of the global water corporations are strategically placed at the top levels of global water institutions. For instance, by 1999, René Coulomb, former director of Suez, one of the greatest water corporations of the world, was an influential member of the Steering Committee of the Global Water Partnership. In addition, Ivan Cherét, Senior Advisor to the Chairman of Suez then, served on the Technical Advisory Committee of the Global Water Partnership (Barlow & Clarke, 2005: 158).

The *World Commission on Water* is another institution at the top levels of which the representatives of global water corporations are placed. Former chair of Suez's Supervisory Board, Jérome Monod, has been a member of the World Commission on Water (Barlow & Clarke, 2005: 158). Such an alliance is not a surprising phenomenon for, founded in 1998 by the capital-oriented World Water Council (Yılmaz, 2013: 138), the World Commission on Water was led by Ishmail Serageldin from August 1998 to March 2000 who was the Vice-President of the World Bank from 1993 to 2000 and the former chair of the Global Water Partnership from 1996 to 2000.[160] Within the framework of such a network, along with the governments of Canada and the Netherlands, the World Commission on Water is officially supported by the major UN agencies related to water – the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), the United Nations Food and Agricultural Organization (FAO), the United Nations Environmental Programme (UNEP), the World Health Organization (WHO), and the United Nations Children's Fund (UNICEF) (Barlow & Clarke, 2005: 158). Backed by such a broad network, the mission of the World Commision on Water

[160] http://www.serageldin.com/Attachment/files/Biography_Serageldin_final(5).pdf, (retrieved on 9 October 2018).

is to accelerate and legitimize the water-based primitive accumulation by providing the necessary social support for this process (Yılmaz, 2013: 138 – translation added).

In accordance with the purpose summarized above, the Commission has prepared a report called the "Long-term Vision for World Water, Life and Environment in the Twenty-first Century" (for short, World Water Vision), needless to say, on the basis of the work carried out by the *World Water Council* (Petrella, 2001: 26). The broad framework of the world water policy should rely on the tenets mentioned below according to the report (Petrella, 2001: 26, World Commission for Water for the 21st Century, 2000):

- Water is a scarce economic good. It needs to be managed on the basis of the principle of 'user-pays, polluter pays", and other market-friendly instruments.
- Rational and efficient management of water resources requires that water service providers, whether public or private, set themselves performance targets to be measured by the criterion of consumer satisfaction.
- More and more infrastructural and maintenance investment is necessary for the sake of the provision of best-quality water, which can only be guaranteed via capital markets. Water markets provide incentives for water to be voluntarily transferred from low-value uses to high-value uses.
- Pricing of water use and services at full-cost should be adopted for the sake of promoting conservation, reducing waste, and mobilizing resources.
- The primary responsibilities of governments are to be the legislative and regulative framework that governs water, from the creation of national and basin-level authorities, to providing the enabling framework for community action that empowers the poor, minorities, and women's groups to participate fully. The governmental macro-economic policies

should encourage domestic saving and private entrepreneurship providing the fiscal incentives for private investments.

The *World Water Council*, the institution on the basis of whose work the preparation of the Report has been carried out, is another outstanding institution in the global design of the neoliberal water management. It works in collaboration with the *Global Water Partnership*. Indeed, the scope of the mandate of the *Global Water Partnership* is complementary to that of the *World Water Council.* Whereas the *Global Water Partnership* focuses on implementation of water policies, the *World Water Council* features the production of water policies and strategies (Acar, 2018: 99 – translation added). Its task is "to develop, propose and promote a common world vision on water-related issues" (Petrella, 2001: 23). Established in 1996 alike the Global Water Partnership upon the suggestion of capital-oriented organization of IWRA (International Water Resources Association), it considers itself as a policy think-tank providing decision-makers with advice and assistance on global water issues (Barlow & Clarke, 2005: 157-158; Yılmaz, 2013: 138 – translation added). Sponsored by the World Bank and several UN organizations such as FAO, UNEP, UNDP, UNESCO, UNICEF and WHO, the World Water Council uses its power and prestige to promote private water delivery to governments around the world (Barlow, 2007:50; Yılmaz, 2013: 138 – translation added).

The membership list of the *World Water Council* is occupied by various government agencies, academic institutions, professional associations, inter-governmental institions, water-user associations and non-governmental organizations as well as corporations and industry associations from many sectors: private water operators, engineering, construction, hydropower, dams, irrigation, infrastructure and wastewater treatment, desalination, investment banks and public affairs consultants (Barlow, 2007: 50).[161] Members comprise 300 organizations in more than 500 countries the highest ratio of which is in

[161] Members, A worldwide network for change, http://www.worldwatercouncil.org/en/members, (retrieved on 13 October 2018).

Asia with the percentage of 39%[162]. Several institutions from Turkey such as General Directorate of State Hydraulic Affairs (DSİ), İstanbul Water and Sewerage Administration (İSKİ), Southeastern Anatolia Project Regional Development Administration (GAP) and Turkish Water Institute (SUEN) are members of the World Water Council[163]. Big international corporations including water corporations such as Suez and Veolia are members of the Council as well. Members also comprise several international institutions such International Water Resources Association (IWRA), Global Water Partnership, Aquafed, the World Bank and several UN organizations including FAO, UNESCO and UN-Habitat.[164]

Organized on the grounds of such a broad platform, the World Water Council produces theses on global water issues and organizes a particular global event called *World Water Forum* every three-year in a different country on the purpose of legitimizating its capital-oriented theses. The Forums are to be scrutinized in the subsequent passages on the milestones in the water-based primitive accumulation while the main theses of the Council are summarized below (Minibaş, 2007: 635, Soğancı, 2008: 30, quoted in Yılmaz, 2013: 138 – translation added):

- The high population increase in the Global South creates an extreme pressure on water resources leading to scarcity in water provision.
- Artificial pricing of water under the costs brings forth wasteful consumption of water.

[162] Members, A worldwide network for change, http://www.worldwatercouncil.org/en/members, (retrieved on 13 October 2018).

[163] World Water Council, List of Members, October 2018, http://www.worldwatercouncil.org/sites/default/files/Members/List_of_Members.pdf, (retrieved on 5 January 2019).

[164] World Water Council, List of Members, http://www.worldwatercouncil.org/sites/default/files/Members/List_Members_August_2018.pdf, p. 30, 65, (retrieved on 13 October 2018).

- The state and local governments fall short of successful water management due to low investment, populism and corruption.
- It is necessary for the private sector to undertake the tasks of water production and delivery via rapid privatization for the sake of secure production and delivery of water.

One of the organizations engaged in the production and reproduction of collinear theses on water within the framework described above is *IWRA* (International Water Resources Association). IWRA is one of the founders of the World Water Council. Founded in 1972, 1400 corporations from 110 countries have been involved in its establishment (Özsoy, 2009: 145 – translation added). On its website, its purpose is stated as improving and expanding the understanding of water issues through education, research and information exchange among countries and across disciplines. It realizes this purpose through providing a global, knowledge-based forum for bridging disciplines and geographies by connecting professionals, students, individuals, corporations and institutions who are concerned with the sustainable use of the world's water resources.[165] It is also worthy to note that Turkey has also close ties with IWRA. Prof. Dr. Doğan Altınbilek, who was the President of General Directorate of State Hydraulic Affairs between the years, 1996-2001[166], assumed the task of former Presidency of IWRA.[167] Similar to the objection to the artificial (read as subsidized) pricing of water by the state on the part of the World Water Council, IWRA produces theses that advance the water-based primitive accumulation under the guise of academic and scientific research. In the researches conducted by its members, it challenges the conventional water pricing policies of the state-hydraulic

[165] Who We Are, https://www.iwra.org/about-us/, (retrieved on 20 October 2018).

[166] Dünyanın suyuna Türk başkan, *Hürriyet Daily Newspaper*, http://www.hurriyet.com.tr/ekonomi/dunyanin-suyuna-turk-baskan-22240457, (retrieved on 5 January 2019).

[167] Executive Board, https://www.iwra.org/executive-board/, (retrieved on 16 October 2018).

paradigm as called by Bakker (2005: 546-547). The *IWRA* member, one of the outstanding writers on the defense of the neoliberal water management, Peter H. Gleick puts forth that "inappropriate pricing policies and economic subsidies encourage wasteful use of water and inhibit efficiency and conservation programs" (Gleick, 2000:133). He defenses water-metering, which amounts to the subsumption of water into economic principles, in that "in many cities, water use is not measured or 'metered', which leads to overuse of water provides no incentives for efficient use" (Gleick, 2000: 134). In accordance with such arguments, he brings forward that "treating water as an economic good can eliminate wasteful practices and encourage increased efficiency and conservation" (Gleick, 2000: 134).

IWRA produces and legitimizes its theses before the public opinion differently from the other related organizations. It works as a think-tank the members of which are renowned scholars on water issues. It produces and circulates its theses via the publications of these scholars published in behalf of the scholars themselves rather than IWRA itself. Nonetheless, the theses do not differ in essence from those of the other organizations engaged in the water-based primitive accumulation (Yılmaz, 2013: 108 – translation added). To give an example, Konuralp Pamukçu, an IWRA member, puts forward that the market brings about the real value of water and efficient water usage through ensuring a realistic price of water and actuating opportunity costs (Pamukçu, 2000: 116-117, quoted in Yılmaz, 2013: 108 – translation added).

Having elaborated on the institutions that produce and reproduce capital-oriented theses on water, herein, one can deal with the water-institutions of capital itself. *World Business Council for Sustainable Development* (WBCSD) is a CEO-led, corporate lobby network of more than 200 corporations as well as 70 national business councils.[168] The giant water companies, *Suez* and *Veolia*, which are also

[168] Overview, https://www.wbcsd.org/Overview/About-us, (retrieved on 25 October 2018).

members of the World Water Council, are members of the WBCSD as well.[169] Formed in 1992, it set up a formal 'water working group', bringing together corporations from mining and metals, oil and gas, food and beverage, finance and equipment, and water services in 1997. This group played a major role at the 2002 World Summit on Sustainable Development, where it released a report called *Water for the Poor*, which calls for the accelerated privatization of the water services and full-cost recovery to the capital for water provision (Barlow, 2007: 46). Indeed, the Report openly states that "providing water services to the poor is a business opportunity" (Barlow, 2007: 46). The report also remarks that the business community has a vested interest in providing water for the poor. It also calls for the acceleration of the introduction of public-private partnerships to improve and expand water service to the poor through an open and democratic process as well as the improvement of the basic framework conditions at local and national levels to encourage greater private sector investment in water services. Moreover, it also harnasses the governance rhetoric suggesting the creation of the regulatory mechanisms and good governance systems to protect the public interest from excessive charges and ensure that water service providers recover the full cost of providing the services and that service levels promised are delivered.[170]

The International Federation of Private Water Operators, *Aquafed*, is another global lobby group of the capital initiated by big European water corporations. It has been established in 2005 to connect international organizations such as the United Nations, the World Bank and the European Union with private sector providers of water and wastewater services (Barlow, 2007: 51). It also aims to connect private water operators with public authorities and civil society including researchers, academics, experts, NGOs, journalists, etc. Public-private parnerships constitute another field to which the Aquafed attaches high

[169] Our members, member companies, https://www.wbcsd.org/Overview/Our-members, (retrieved on 25 October 2018).

[170] Water for the poor, https://docs.wbcsd.org/2002/08/WaterForThePoor.pdf, (retrieved on 25 October 2018).

importance. The organization advocates for the benefits of public-private partnerships as an option in managing water and sanitation services for public authorities and consumers. [171] It also promotes the role of water and sanitation in the 2030 Sustainable Development Agenda and the realisation of human rights. It also works to improve the water industry and solve water-related issues by sharing the expertise of the private operators and working with the international community to identify solutions to address world's water issues. Furthermore, it provides information and counsel aiming at being a reliable source of information on private operators' contributions for all stakeholders interested in water and sanitation services.

Currently, Aquafed represents more than 400 private water operators in more than 40 countries.[172] Giant water corporations such as *Suez* and *Veolia* are members of the Aquafed as well.[173] Its expansive network with the international community has become successful in that the organization has achieved to become an NGO with special Consultative status at the United Nations Economic and Social Council since July 2011, become registered in the joint voluntary transparency register of the European Commission and the European Parliament making its representatives accredited to the European Parliament.[174]

As seen, the neoliberal water-based primitive accumulation takes place in a broad terrain where various actors, networks and interests are existent in the playing field. The previous debate has tried to display such terrain in broad

[171] Missions, http://www.aquafed.org/AboutUs/Page/item/missions-2.sls, (retrieved on 25 October 2018).

[172] Missions, http://www.aquafed.org/AboutUs/Page/item/missions-2.sls, (retrieved on 25 October 2018).

[173] Our Members, http://www.aquafed.org/AboutUs/Members.sls, (retrieved on 25 October 2018).

[174] Missions, http://www.aquafed.org/AboutUs/Page/item/missions-2.sls, (retrieved on 25 October 2018).

strokes. It has attemped to enumerate and explain the role of the leading global institutions and organizations in the process. Herein, the cornertones in the water-based primitive accumulation can be displayed with a historical perspective in the passages below:

The neoliberal water-based primitive accumulation can be dated back to the early 1990's. The International Conference on Water and the Environment (ICWE) convened in 1992 in Dublin can be reckoned as the milestone of such neoliberal transformation. Water has been classified as a commodity for the first time in this conference which has been conducted by the UN. According to the output of the conference; water is a commodity, should be priced, and a participatory (the participation of stakeholders with specific reference to women in planning, operating, maintenance, decision-making and implementation), local (subsidiarity), integral basin-management should be established (Yılmaz, 2009: 5, 25 – translation added). To put it in more detail, the Dublin outcomes of the conference, or the so-called *Dublin Principles* can be enumerated as below:[175]

> **Principle No. 1:**
>
> Fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment.
>
> Since water sustains life, effective management of water resources demands a holistic approach, linking social and economic development with protection of natural ecosystems. Effective management links land and water uses across the whole of a catchment area or ground water aquifer.
>
> **Principle No. 2:**
>
> Water development and management should be based on a participatory approach, involving users, planners and policy-makers at all levels.
>
> The participatory approach involves raising awareness of the importance of water among policy-makers and the general public. It means that decisions are taken at the lowest appropriate level, with full public consultation and involvement of users in the planning and implementation of water projects.

[175] The Dublin Statement on Water and Sustainable Development, http://www.un-documents.net/h2o-dub.htm, (retrieved on 1 November 2018).

Principle No. 3:

Women play a central part in the provision, management and safeguarding of water.

This pivotal role of women as providers and users of water and guardians of the living environment has seldom been reflected in institutional arrangements for the development and management of water resources. Acceptance and implementation of this principle requires positive policies to address women's specific needs and to equip and empower women to participate at all levels in water resources programmes, including decision-making and implementation, in ways defined by them.

Principle No. 4:

Water has an economic value in all its competing uses and should be recognized as an economic good.

Within this principle, it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price. Past failure to recognize the economic value of water has led to wasteful and environmentally damaging uses of the resource. Managing water as an economic good is an important way of achieving efficient and equitable use, and of encouraging conservation and protection of water resources.

As argued by Bakker (2010: 91), the Dublin Statement captures the essence of the approach of 'market environmentalism', the approach that proposes markets as the solution for environmental problems by combining efficiency and environmental conversation (Bakker, 2005: 542-543). It harmonizes the governance rhetoric (in terms of the problematic of participation and gender) with the commodification of water. In being such a momentous text, the Dublin Principles of the Statement have been adopted by various international, multinational and bilateral agencies including the World Bank (Bakker, 2005: 561). Moreover, the Principles have been embraced in the UN Conference on Environment and Development organized in the same year of 1992 in Rio de Janerio (Çınar, 2006: 57 – translation added). While the theme of "sustainable development" has been stressed in the document called *Agenda 21* prepared in this conference, similar to the Dublin Statement, it has been specified that water should be handled as a 'social and economic good' (Yılmaz, 2009b: 138-139,

quoted in Kurt, 2012: 399 – translation and italics added). Such aspect has been specified in the 8th article of the Chapter 18 of the Agenda 21 as in below:[176]

> Integrated water resources management is based on the perception of water as an integral part of the ecosystem, a natural resource and a social and economic good, whose quantity and quality determine the nature of its utilization. To this end, water resources have to be protected, taking into account the functioning of aquatic ecosystems and the perenniality of the resource, in order to satisfy and reconcile needs for water in human activities. In developing and using water resources, priority has to be given to the satisfaction of basic needs and the safeguarding of ecosystems. Beyond these requirements, however, water users should be charged appropriately.

The implementation of the so-called *Dublin* and *Rio Principles* summarized above are concretized in the World Water Forums organized by the World Water Council every three-year in a different country on the purpose of not only materializing neoliberal water theses in detail through a broad network but also of equipping them with social legitimacy. The first World Water Forum organized for this purpose has taken place in Marrakech, Morocco in 1997. The selection of Morocco for the arrangement of this Forum is not a coincidence for Morocco is one of the countries presented as a model for water privatization which has initiated in a quite early period in the rural and urban regions of this country with the attraction of considerable investment by the water corporations (Yılmaz, 2013: 139 – translation added).

As for the major subjects indicated in the Final Declaration of the Forum, the management of shared waters, the efficient use of water and the encouragement of partnerships between the civil society organizations and the governments can be adverted (Acar, 2018: 100-101 – translation added). The formation of the World Water Vision discussed in the paragraphs above is also one of the significant subjects decided in this Forum. The World Water Commission has been founded and held responsible for the preparation of such report by the

[176] Agenda 21 Chapter 1 Protection Of The Quality And Supply Of Freshwater Resources: Application Of Integrated Approaches To The Development, Management And Use Of Water Resources, http://www.un-documents.net/a21-18.htm, (retrieved on 2 November 2018).

World Water Council. The Vision Report has been completed in 1998 and published in 2000 by the Commission. To iterate, the full-cost pricing of water services has been specified as an action program for the first time in an official UN-related document (Barlow, 2007: 53; Özsoy, 2009: 137-139 – translation added). Such defense of full-cost pricing of water shows that water has been deemed as an economic good in the document for, as remarked by Kartal (2009: 67 – translation added), it denotes to the free-market competition with respect to the water services. Alike the Dublin Principles and the World Water Vision Report, the conversion of water into an economic good has been affirmed in the Hague Declaration of the 2nd World Water Forum (Bakker, 2005: 545). The Forum has been convened in Hague, Netherlands in 2000. The World Water Vision Report mentioned above has been presented and discussed in this Forum (Petrella, 2001: 26). Furthermore, in the Ministerial Declaration of the Hague Forum called with its long name, *Ministerial Declaration of The Hague on Water Security in the 21st Century*, full-cost pricing of water has been advocated which implies that water is an economic good[177]:

> Valuing water: to manage water in a way that reflects its economic, social, environmental and cultural values for all its uses, and to move towards pricing water services to reflect the cost of their provision. This approach should take account of the need for equity and the basic needs of the poor and the vulnerable.

Moreover, the subject of integrated water resources management has also been defended in the Declaration which amounts to the advancing of the neoliberalization of water with its all aspects as discussed in the paragraphs above:[178] "The actions advocated here are based on integrated water resources

[177] Ministerial Declaration of The Hague on Water Security in the 21st Century, p. 1, http://www.worldwatercouncil.org/fileadmin/world_water_council/documents/world_water_forum_2/The_Hague_Declaration.pdf, (retrieved on 13 November 2018).

[178] Ministerial Declaration of The Hague on Water Security in the 21st Century, p. 2, http://www.worldwatercouncil.org/fileadmin/world_water_council/documents/world_water_forum_2/The_Hague_Declaration.pdf, (retrieved on 13 November 2018).

management, that includes the planning and management of water resources, both conventional and non-conventional, and land".

Last but not least, public-private partnerships are also embraced in the Declaration within the framework of the paradigm of good governance as follows:[179]

> We will further advance the process of collaboration in order to turn agreed principles into action, based on partnerships and synergies among the government, citizens and other stakeholders… Governing water wisely: to ensure good governance, so that the involvement of the public and the interests of all stakeholders are included in the management of water resources.

To put it more concretely, the mobilisation of new investments by the private sector as well as the local development banks and micro-credit mechanisms constitute one of the primary messages of the Forum (Çınar, 2006: 62 – translation added). In brief, the acceleration of water privatization has been suggested in the Hague Forum by not only the World Bank and international water corporations but also by the United Nations (Minibaş, 2007: 628, quoted in Yılmaz, 2013: 139 – translation added).

The momentum of the water-based primitive accumulation has accelerated by the strong emphasis on public-private partnerships with regard to the water and treatment services in the 3rd World Water Forum in Kyoto, Japan in 2003 (Acar, 2018: 101, Yılmaz, 2013: 140 – translation added). Furthermore, it has been indicated that some sort of strong assurance systems are necessary so that the risk in the private sector investments in the water services can be minimized in face of the strong resistance and the currency crises in the developing World on the Camdessus Report drawn up during this Forum (Çınar, 2006: 62-63; Barlow, 2007: 56-57 – translation added). The Camdessus Panel as a result of which the Report was drawn up also called for the full-cost recovery for water projects as

[179] Ministerial Declaration of The Hague on Water Security in the 21st Century, p. 1-2, http://www.worldwatercouncil.org/fileadmin/world_water_council/documents/world_water_forum_2/The_Hague_Declaration.pdf, (retrieved on 13 November 2018).

well as the use of public funds to pay for the preparation of private contracts and tenders. Moreover, the finance markets as well as the multilateral financial institutions are recommended as instruments to finance the water infrastructure (Yılmaz, 2013: 139 – translation added).

The 4th World Water Forum in Mexico, in the year of 2006 has conveyed a clear, neoliberal message alike with the other Forums through the Gurria Report published during this Forum. The Report has explicitly set forth that the financement of water services is to be obtained from the customers and the tax-payers. Moreover, the entry of local actors to the water services has been underlined whereas the reluctance of the central governments to delegate authority to the local governments has been criticized (Yılmaz, 2013: 141-142 – translation added).

The 5th World Water Forum has been convened in Istanbul in 2009 under the home ownership of General Directorate of State Hydraulic Works, Istanbul Metropolitan Municipality, Istanbul Water and Sewerage Administration, Ministry of Foreign Affairs, as well as other related institutions and several NGO's (Güzelsarı & Tuluay, 2011: 65 – translation added). One of the outcomes of the Forum is cooperation with regard to access of all to clean and adequate amount of water through taking advantage of the private sector and the international institutions (Acar, 2018: 101 – translation added). The other agendas put on the table in the Forum are the relations between energy and water as well as between food and water (Yılmaz, 2013: 143 – translation added). Moreover, a national think tank, *SUEN* (Turkish Water Institute) has been established under the auspices of the Ministry of Environment and Water Affairs (with its currrent name, Ministry of Agriculture and Forestry) by the Secretariat of the 5th World Water Forum in 2011. It aims for developing sustainable water policies and strategies, conducting interdisciplinary scientific research and water projects as well as supporting global water cooperation.[180] As part of the so-

[180] Hakkımızda, https://suen.gov.tr/hakkimizda/, (retrieved on 5 January 2019).

called global water cooperation, *SUEN* cooperates with various organizations that play part in the neoliberal water-based primitive accumulation including World Water Council, UN, IWRA and OECD.181

As for the 6th World Water Forum, it has been hosted by the French state in Marseille in the year of 2012. It has gathered with the title of 'access to water for all – supporting local communities' access to drinking water and sanitation' similar to the 5th Forum. Right to water and sanitation which has been officially recognized by the UN in 2010 has been affirmed in this Forum[182,183]. In this way, the World Water Council and its broad partners have proved to be actors in the production of the discourse of right to water.

The UN regulations on the human right to water have been confirmed in the 7th World Water Forum in Gyeongju, Korea, in the year of 2015 alike with the 6th Forum. What's more, the role of international aid agencies and financial institutions as well as of the partnersip between the public and private sectors have been accentuated with the following phrases[184]:

> We underscore the importance of international cooperation and partnership between developed and developing countries, among international aid agencies, financial institutions and related intergovernmental organizations and other stakeholders. We highlight the partnership between public and private sectors, as appropriate, in tackling water-related global challenges…

[181] İşbirlikleri, https://suen.gov.tr/faaliyetlerimiz/isbirlikleri/, (retrieved on 25 August 2018).

[182] 6th World Water Forum, 'Access to Water for All', Supporting Local Communties' Access to Drinking Water and Sanitation, http://www.worldwatercouncil.org/sites/default/files/Forum_docs/WWC_AccesstoWaterforAll_Report_June2014.pdf, (retrieved on 18 November 2018).

[183] World Water Forum 6: Time for solutions, http://www.who.int/water_sanitation_health/events/wwf6/en/, (retrieved on 18 November 2018).

[184] 7th World Water Forum, Ministerial Process, Ministerial Declaration, http://www.worldwatercouncil.org/sites/default/files/2017-09/Ministerial_Declaration_7th_World_Water_Forum_1304_Final.pdf, (retrieved on 18 November 2018).

Alike with the 6th and 7th Forums, the human right to water and sanitation has been affirmed in the 8th World Water Forum assembled in Brasil, Brasilia in 2018, which is the last forum convened to date. Additionally, through a discourse of cooperation and participation within the rhetoric of governance, "the engagement of the private sector and public owned companies to continue or improve the adoption of efficient water and sanitation related to the sustainability measures…" has been welcomed in the Forum.[185] Having exposed the developments in the outstanding international, neoliberal water platforms as well as the broad neoliberal water networks with broad strokes, it can be put that the current picture in the water supply and sanitation sector is that it is funded by a mix of public and private sources. Service providers still receive revenue from three main sources: tariffs, domestic tax revenues, and voluntary transfers from external sources such as international donors (official development assistance), foundations, NGOs, remittances. Other financing sources are constituted by concessional finance provided by development agencies, with a grant element, (e.g. soft loans) and private finance provided by private sector financiers at market rate such as vendor finance, microfinance, loans, bonds and equity (Goksu et al., 2017: 10).

As public forms of financing constitute a substantive propotion of the funding of the water and sanitation services compared to private and concessional finance, it is also worthy to note that private sector investment in water services is in decline. Private sector investment increased significantly during the 1990s being concentrated in cities. However, by the late 1990s, private sector activity declined owing to a series of financial crises and high-tech bubble that took their toll on foreign direct investment flows. Moreover, it has been realized by private corporations that water sector investments had lower rates of return despite high capital investment. Higher economic risks as well as political risks in the face of water struggles that led to contract cancellations have constituted the other

[185] Ministerial Declaration of the 8th World Water Forum – "Sharing Water", http://unesdoc.unesco.org/images/0026/002618/261898e.pdf, (retrieved on 18 November 2018).

factors. What's more, high proportions of poor customers with low ability to pay have turned out to be another factor. As a result of these factors, from the mid-1990s onwards, water supply services attracted the lowest investment of any utility sector (Bakker, 2013: 253-255). As narrated in the renown newspaper of *Guardian*,

> Research shows that the tide of water privatisation has now turned. Many cities that rushed to sign 20-year or longer concessions with water companies in expectation of clean water at a socially acceptable cost have chosen to terminate agreements and return urban water provision to public control. A report by the Transnational Institute (TNI), Public Services International Research Unit and the Multinational Observatory suggests that 180 cities and communities in 35 countries, including Buenos Aires, Johannesburg, Paris, Accra, Berlin, La Paz, Maputo and Kuala Lumpur, have all "re-municipalised" their water systems in the past decade. More than 100 of the "returnees" were in the US and France, 14 in Africa and 12 in Latin America. Those in developing countries tended to be bigger cities than those in richer countries… "Direct experience with common problems of private water management – from lack of infrastructure investments, to tariff hikes to environmental hazards – has persuaded communities and policymakers that the public sector is better placed to provide quality services to citizens and promote the human right to water," said the report's author, Satoko Kishimoto, water coordinator with the Transnational Institute in Brussels.[186]

To enrich the picture depicted in the paragraphs above, one can refer to figures on the private sector involvement in the water and sanitation services. First of all, one can say that while the number of private sector invested-projects in water and sanitation services was 0 in 1990, the number of active projects has risen to 967 between 1990-2016 (Kurt, 2017: 182 – translation added). However, while private sector investment has increased dramatically during the 1990's, this trend has begun to decline by the late 1990's, particularly after the mid-2000s as seen in the figures below:

[186] Water privatisation: A worldwide failure?, https://www.theguardian.com/global-development/2015/jan/30/water-privatisation-worldwide-failure-lagos-world-bank, (retrieved on 25 March 2018).

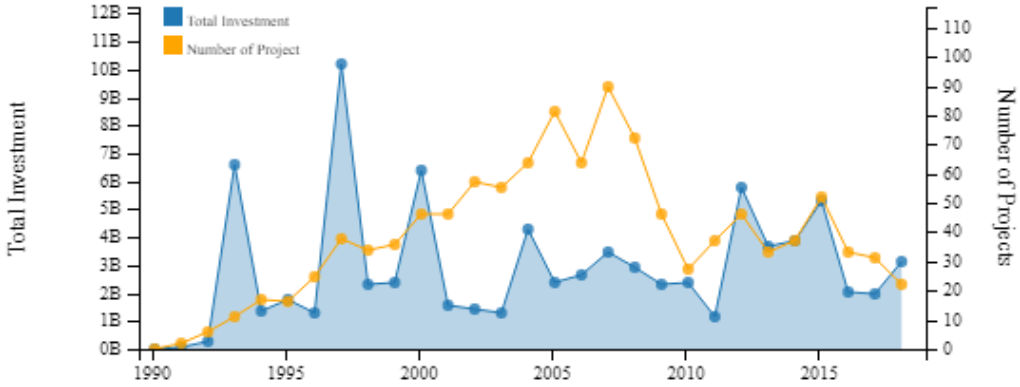


Figure 3: Total number and amount of investments and projects in water and sewerage services[187]

To provide more specific details, one can take a glance at the leading corporations on the investment in water and sanitation by the year, 2018. To have a look at the corporation-level, it can be put that the global water corporation, *Suez*, has been the top corporation on water and sewerage services between 1990-2018 with 16,562 million US£ and 77 projects. The French company of *Suez* has been followed with the Brazilian company of *Odebrecht SA* (7,957 US£ amount of investment and 30 projects) and the French company, *Veolia* (4,096 US£ amount of investment and 63 projects) respectively. The successors of these companies, *Construtora Queiroz Galvao* and *Puncak Niaga Holdings Berhad* have conducted 16 and 5 projects and invested 3,954 US£ 3,311 US£ respectively.[188] These figures denote to a monopolization in the water market. As Swyngedouw points out, an oligopolistic, non-competitive market form of organization occurs in the water market in contrast to the neoliberal discourse of market competition (Swyngedouw, 2005: 94-95).

[187] Private Participation in Infrastructure Database, http://ppi.worldbank.org/visualization/ppi.html#sector=Water+and+sewerage&status=&ppi=&investment=&region=&ida=&income=&ppp=&mdb=&year=&excel=false&map=&header=true, (retrieved on 20 November 2018).

[188] Private Participation in Infrastructure Database, https://ppi.worldbank.org/snapshots/sector/water-and-sewerage, (retrieved on 20 November 2018).

The neoliberal discourse of water-based primitive accumulation has failed in its promises both in terms of the creation of a competitive water market and in the provision of ‘water for all’ with regard to equal access to water. The enclosures of water in the neoliberal era have debarred the human individuals and collectivities as well as other living beings from attainment to water as means of production and reproduction exemplified by the hardships with access to affordable urban water supply in contrast to the rise of ‘right to water’ controversies which has been discussed in the first chapter. The water-based primitive accumulation at the global level – in terms of networks, milestones and the current scene etc. has been examined in this sub-chapter subsequent to the investigation of the concepts of ‘primitive accumulation’ and ‘commons’ in terms of their definition and substance in the first sub-chapter on ‘primitive accumulation and the commons’. Herein, there follows the analysis of the picture of the neoliberal water-based primitive accumulation in Turkey in the following chapter.

CHAPTER 4

WATER-BASED PRIMITIVE ACCUMULATION IN TURKEY

The Turkish case of the neoliberal water-based primitive accumulation manifests both similarities with and differences from the global practices of the neoliberal water-based primitive accumulation analyzed in the previous sub-chapter. In this subchapter, the current situation in Turkey in terms of the neoliberal water-based primitive accumulation is to be analyzed with a historical perspective.

Indeed, the public sector is overwhelming in the drinking water and sewerage services in Turkey in the general sense (Kurt, 2017: 182 – translation added). However, it cannot be claimed that Turkey is immune to the neoliberal trend of the water-based primitive accumulation. The variants of the neoliberalization of the water and sewerage systems in Turkey can be observed under three groups:

A) The direct privatization of the urban water and sewerage systems
B) Privatization through local government associations
C) Fragmentary privatization

A) <u>The Direct Privatization of the Urban Water and Sewerage Systems</u>

The privatization of the water and wastewater services in Antalya and of drinking water services in İzmit can be given as examples for the direct and *en masse* privatization of the water and sewerage systems in Turkey. The Antalya project, currently cancelled, is an attempt at privatization at the local government level initiated by *ENKA Corporation* from Turkey and the global corporation of *Suez*. The İzmit project, on the other hand, aims at the supply of drinking water at the local government level through the model of build-operate-and transfer. It is active contrary to the Antalya Project (Kurt, 2017: 182 – translation added).

As a preliminary step for the privatization of water and wastewater systems, Antalya Administration of Water and Wastewater (ASAT) has signed a loan agreement valued at 100 million US£ with the International Bank for Reconstruction and Development (IBRD), a World Bank establishment, for the financing of the Antalya Project of Water and Environmental Health in 1995. As a requirement of this agreement, the water and wastewater services have been privatized in 1997 for 10 years (Güler, 1999: 161-162 – translation added). With this case, the urban water and wastewater systems have been privatized for the first time in Turkey. However, the dramatic rise in the water tariffs subsequent to privatization led to a disagreement between the corporation and the local government. As a result, the water privatization in Antalya has ended up with failure (Çınar, 2009: 138 – translation added).

The İzmit case of the privatization of drinking water services has been realized through the model of build-operate-transfer. In this case, the Yuvacık Dam of İzmit was built and operated by a consortium of which the multinational corporation of *Thames Water* is a part as a result of an agreement signed in 1995 between the local government of İzmit and the consortium in question (Çınar, 2009: 139-140 – translation added). The urban drinking water was procured from this dam and sold to the local government of İzmit as an only example in Turkey (Güler, 1999: 160 – translation added). However, albeit intended in the project, the İzmit Water and Sewerage Administration refused to buy the subsequent unit of water stipulated in the commitment from the consortium on grounds of the highness of the unit prices of water, a development that bore severe costs on the Treasury for it guaranteed to compensate for the losses of the corporation (Topçu, 2006a: 309-310 – translation added).

İzmit and Antalya cases are the examples of the direct and *en masse* privatization in the water sector in Turkey. However, they are not the only cases for privatization in the water sector. Several other cases of foreign financing of water services can be regarded for instance. Indeed, the İstanbul Water and Sewerage Administration (İSKİ) has been established with the World Bank loan

in 1981 subsequent to the 1980 military coup d'état, a moliminous milestone in the neoliberal transformation of Turkey (Çınar, 2009: 137 – translation added). Nonetheless, World Bank is not the only lender as per the foreign financing of water services. Indeed, particularly European Investment Bank and the German loan institution Kfw (Kreditanstalt für wiederaufbau – German Technical Cooperation) are the other major creditors in the Turkish water sector. And as for the main corporations, Suez, Thames and Serco take the first place. It is also worthy to note that the main model in the water projects is the model of build-operate-transfer (Yılmaz & Çelik, 2016: 8; Çınar, 2006b: 241 – translation added) which is "a form of project financing, in which a private company gets a concession from private or public sector in order to design, contract, finance and also operate for the time agreed in the concession contract" (Yılmaz & Çelik, 2016: 9).

As regards the water administrations whose projects have been financed by foreign creditors, a series of other water administrations can be regarded. For instance, Bursa Water and Sewerage Administration (BUSKİ) signed a loan agreement with the European Investment Bank for the financing of Bursa Wastewater Project in 2000. Moreover, the Adana Water and Sewerage Administration (ASKİ) signed a loan agreement with the European Investment Bank for the financing of the wastewater treatment facilities in 1997. The Wastewater Treatment Facility and Drinking Water Rehabilitation Project of the Sivas Municipality as well as the Van Province Water Procurement and Wastewater Storage Urgent Measures Programme financed by KfW can also be counted as other examples (Çınar, 2006b: 241, 243-244 – translation added).

B) Privatization through Local Government Associations

The ÇALBİR (Çeşme-Alaçatı Association of Environmental Conservation and Establishment and Operation of Infrastructural Facilities) case in the districts of Çeşme and Alaçatı, İzmir exemplifies privatization via local government associations. ÇALBİR is founded by the association of the local governments of

Çeşme and Alaçatı counties of İzmir in 1997. Short after its foundation, it signed a loan agreement with the World Bank in 1998 with the stipulation of the devolution of the managership of the water and sewerage services, namely the privatization of such services. Accordingly, in 2003, it made an agreement with the associateship of the corporations of General Des Eaux, Veolia and Tekser for the running of the infrastructural water and sewerage services. However, the problem of high water tariffs appeared in this case as well (Çınar, 2009: 138-139; Çınar, 2006b: 242; Topçu, 2006b: 381, 383, 389 – translation added).

C) Fragmentary Privatization

Apart from entire privatization of water and related services, fragmentary privatization of water and related services is also seen in the case of Turkey. For instance, several services such as the cleaning of the sewerage and rain pipes as well as the repair of the breakdown of the potable water system have been subcontracted in the case of the Mersin Water and Sewerage Administration (MESKİ). The water and sewerage administrations of Ankara and Diyarbakır also epitomize the fragmentary privatization of some parts of the water and sewerage services (Güler, 1999: 153-157 – translation added).

Having briefly categorized the variants of the neoliberalization of the water and sewerage systems in Turkey, herein, several related figures can be introduced as follows to enhance the picture of the water-based primitive accumulation in Turkey depicted in the paragraphs above:

942 million US£ have been invested in the water and sewerage sector by the private sector in Turkey by the first half of 2018. The water and sewerage sector, however, ranks the 7th sector by the amount of investment after respectively the sectors of airports, electricity, information and communications technology,

natural gas, ports and roads.[189] To compare, whereas the private sector participation in the water and sewerage sector was 942.000M in terms of total investment in 1996, the amount of investment in this this sector is 0 in the year of 2018[190]. Such facts are in concordance with the worldwide trend in that the private sector investment in the water sector has begun to decrease by the late 1990's and 2000's as mentioned in the previous chapter on water-based primitive accumulation in general (see Figure 3).

Having examined the water and sewerage sector in Turkey categorically and numerically, one can herein elaborate briefly on the historical and institutional development of this sector. The historical developments in the Turkish water sector can be traced in two different periods:

1) Pre-1980's: Pre-Neoliberalism

As stated by Yılmaz & Çelik (2016: 6), "the provision of clean drinking water came under the power of municipalities in 1926, with 'The law on the waters' (Law No: 381)". With this law, local governments became

> the main state bodies in provision of water... (They remained) the main state bodies in provision of water until 1933. Since then water provision was centralised with the foundation of different institutions (i.e., DSİ, İSKİ and Bank of Provinces) that have undertaken water provision and management" (Yılmaz & Çelik, 2016: 5).

The concentration of water provision and management in the hands of the central state can be accounted for the repercussions of the Great Depression of the 1930s which gave way to etatist policies in Turkey. As a result, new institutions have

[189] Private Participation in Infrastructure Database, http://ppi.worldbank.org/snapshots/country/turkey, (retrieved on 25 March 2018).

[190] Private Participation in Infrastructure Database, http://ppi.worldbank.org/visualization/ppi.html#sector=Water+and+sewerage&status=&ppi=&investment=&region=&ida=&income=&ppp=&mdb=&year=&excel=false&map=TR&header=true, (retrieved on 25 March 2018).

been established to facilitate the financing, planning and investment for drinking water (Yılmaz & Çelik, 2016: 6). *Bank of Municipalities* (Belediyeler Bankası), the first fiscal aid institution for the municipalities, was founded in 1933 with the Law No. 2301 to fix the financing problems of the municipalities through the loans provided by this Bank (Güler, 1999: 56 – translation added). However, it was realized that public loans provided by the central government fell short of eliminating financial difficulties. Thus, *Development Board of Municipalities* (Belediyeler İmar Heyeti) was founded in 1935 so that a series of services including provision of drinking water services for the municipalities with a population of more than 10.000 inhabitants are run under the auspices of the Ministry of Interior (Yılmaz & Çelik, 2016: 6; Çınar, 2006b: 228 – translation and italics added).

Some sort of further institutional restructuring succeeded the post-war era. The *Bank of Provinces* was established in 1945 with the Law No. 4759 through the merging of the Bank of Municipalities and the Development Board of Municipalities. This new institution was formed so as to comprise not only the municipalities but also the villages and the provincial private administrations. The Bank has been authorized to provide drinking water to all municipalities irrespective of their population. The Bank also assumed not only the responsibility of the provision of drinking water services and finance to municipalities for infrastructural investments including water and sewerage systems, but also provision of technical support for such projects. The foundation of the Bank was followed two years later in 1947 with the establishment of the *Municipalities Fund* so that the financing capability of the Bank can be enhanced which remained as the main source of financing of the water systems by the municipalities (Yılmaz & Çelik, 2016: 6; Çınar, 2006b: 228-229 – translation and italics added). In fact, as remarked by Yılmaz & Çelik (2016: 6-7), "investments for water and sewage systems constituted the major portion of the allocations made by the Bank in the following years". Furthermore, *Water Administration Units* (Sular İdaresi) were formed in 1947 within the bodies of the municipal administrations of the three major cities of

İstanbul, Ankara and İzmir (Yılmaz & Çelik, 2016: 7; Çınar, 2006b: 229 – translation and italics added).

General Directorate of State Hydraulic Affairs (Devlet Su İşleri Genel Müdürlüğü – DSİ) is another main institution in the water governance in Turkey at the national level alongside with the Bank of Provinces and General Directorate of Rural Services (Köy Hizmetleri Genel Müdürlüğü)[191] (Güler, 1999: 57 – translation added).[192] The main character of the *General Directorate of State Hydraulic Affairs* can be briefly put as the director of the water at the national level (Yılmaz, 2013: 223 – translation added). Founded in 1953 with Law No. 6200, *General Directorate of State Hydraulic Affairs* is the institution holding the principal authority in the management of the entire underground and surface waters (Güler, 1999: 58). Nevertheless, the delegation of the task of the establishment and financing of water systems from municipalities and all villages to the *General Directorate of State Hydraulic Affairs* was realized in 1960 with Law No. 7478. With this law, the General Directorate has assumed the task of the operation of drinking water services in villages and municipalities with a population under 3000 inhabitants (Çınar, 2006b: 229 – translation added). In this way, General Directorate "became the central institution that could use the financial sources directly from the Treasury" (Yılmaz & Çelik, 2016: 7). However, local financing has not been abolished in that municipalities were made supposed to contribute in terms of cash, equipment or labor force supply so that it can gain priority in the investment programme in water systems

[191] *General Directorate of Rural Services* (Köy Hizmetleri Genel Müdürlüğü) was founded in 1985 under the Ministry of Agriculture, Forestry and Rural Affairs. It is responsible for the establishment of drinking water and sewerage systems, water provision and conducting small-scale irrigation projects (Çınar, 2006b: 231 – translation and italics added). Nonetheless, with the new round of institutional reorganization in the 2000's, it has been abrogated in 2005 with the Law No. 5286, http://www.resmigazete.gov.tr/eskiler/2005/01/20050128-1.htm, (retrieved on 4 January 2019).

[192] As for the institutions in water governance in Turkey at the sub-national/local level, they can be enumerated as follows: Water and Raceway Administrations (Su ve Kanal İdareleri), Municipalities, Provincial Private Administrations (İl Özel İdareleri) and Local Administrative Unions (Mahalli İdare Birlikleri) (Yüksel, 2009: 87, quoted in Yılmaz, 2013: 223-224 – translation added).

of the General Directorate. However, the General Directorate handed over such tasks of the development of the water systems to the newly established Ministry of Village Affairs in 1964 (Yılmaz & Çelik, 2016: 7; Çınar, 2006b: 229 – translation added).

The increasing population and the intensive migration from the rural areas to the urban areas has been another factor that has necessitated another state intervention. Such developments created dramatic problems in the condition of the drinking and domestic water in metropolitan areas given the inadequate capacity of the municipalities to tackle with such problems. Hence, with the Law No. 1053, the General Directorate reassumed the task of the provision of water to the cities with population of more than 100.000 inhabitants (Çınar, 2006b: 230 – translation added). Such development amounted to the "centralisation of power as DSİ (General Directorate of State Hydraulic Affairs) also assumed the responsibility for the planning and construction of water and purification systems for households as well as for the industry" (Yılmaz & Çelik, 2016: 7 – parenthesis added). The General Directorate was authorized to provide loans to the municipalities with a population of more than 100.000 inhabitants for 30 years-maturity at no interest for the establishment of the facilities about water services. Nonetheless, the Law No. 1053 also stipulated the delegation of the management of the water and purification systems – with the exception of the dams – to the municipalities once their establishment was completed by the General Directorate (Yılmaz & Çelik, 2016: 7; Çınar, 2006b: 230 – translation added).

2) Neoliberalism Era: 1980's onwards

As the world capitalism has begun to pass to a new moment named neoliberalism by the 1970's, Turkey has also received its share by the 1980's. The 1980 military coup has marked such a transformation at all levels of social, political and economic organization. As a matter of course, the organization of water systems has not become an exception in such a ubiquitous transformation.

2.1) 1980's – 1990's: Another Round of Institutional Restructuring

As underlined by Yılmaz & Çelik (2016: 7),

> With the transition to neoliberalism from 1980 onwards, another round of institutional restructuring was initiated. This entailed a new division of labour among the concerned institutions, namely, Ministry of Village Affairs, the Bank of Provinces, DSİ and municipal administrations. The restructuring would bring in due course qualitative changes in the financing of water and sewage systems and price mechanisms based on the market set prices rather than state subsidised rates.
>
> The first sign of such institutional restructuring was the diminishment of the role of the Bank of Provinces. With the establishment of Greater City Municipalities for big cities in 1984, the scope of authority of the Bank of Provinces with respect to big-scale settlements shrank and the operation of the water systems were delegated to the municipalities. In this way, the İSKİ Model Water Management begun in big cities instead of Water Administrations. The İSKİ model was first initiated in İstanbul and pervaded to other Greater City Municipalities in the following years (Yılmaz & Çelik, 2016: 7-8; Çınar, 2006b: 231 – translation added).

As mentioned in the section in which the features and examples of the direct privatization of the urban water and sewerage services in Turkey had been analyzed, the İstanbul Water and Sewerage Administration (İSKİ) has been founded with the World Bank loan in 1981 (Çınar, 2009: 137 – translation added). Though it was initially founded as a separate institution, it became an institution under the İstanbul Greater City Municipality in 1984 (Yılmaz & Çelik, 2016: 8). As concerns the main features of the İSKİ model, they can be enumerated as follows (Yılmaz & Çelik, 2016: 8; Güler, 1999: 134-135 – translation added):

- The administration is licensed to get into debt from the national and international financial institutions.
- İSKİ model can be regarded as a 'commercial, market-led model' based on the principle of the 'user pays'. In contrast with the old model of İSU (Istanbul Directorate of Waters) in which water pricing had been undertaken by the local councils without any profit seeking, it is set forth

in the İSKİ model that the profit share be not below 10% in the fixing of the water tariffs.

- The model facilitates the privatization of the water services. It is set forth that the tasks of the administration are either performed or made performed by the private enterprises. Moreover, public-private partnerships are permitted in that İSKİ is licensed to establish partnerships with the private entities without any limitation for the running of the services.

As seen, while the roles of the General Directorate of State Hydraulic Affairs (DSİ) and Bank of Provinces had diminished in the 1980's, those of local governments had increased (Yılmaz & Çelik, 2016: 8). However, shifts in the institutional organization of water services and form of finance have been experienced with the 1990's onwards.

2.2.) 1990's onwards: Period of Foreign Finance & A New Round of Institutional Reorganization

As stated by Yılmaz & Çelik (2016: 8), "the involvement of private sector in water provision has started in the middle of the 1990's through foreign finance". By the 2000's, the state institutions and the municipal authorities begun to resort to borrowing from the international financial markets for the financing of their investment in water provision in contrast to the pre-2000's when state subsidies were used to fund water provision (Yılmaz & Çelik, 2016: 8).

In addition to the shift in the form of finance, another shift has been realized in the institutional power symmetry of the water institutions. As mentioned beforehand, the power of the local governments had increased to the detriment of the DSİ and Bank of Provinces in the 1980's. Nonetheless, by the 2000's, the power was recentralized in the DSİ and Bank of Provinces (Yılmaz & Çelik, 2016: 8). However, both the local governments and the forenamed institutions

resorted to foreign finance to fund their investments. As expressed by Yılmaz & Çelik (2016: 9),

> Between 1998 and 2000, the investments of local governments in drinking water were as high as the investments of DSİ and Bank of Provinces. However, almost half of the rising capacity of local government spending was gained from foreign finance. It was evident in DSI's finance sources as well, that almost quarter of its investment were foreign finance and in 2003 it has risen to the half of the investments. However, the investments of Bank of Provinces remained in its equities. While the local government investments declined after 2000, central state institutions' investments rose. Bank of Provinces, similar to the DSİ, started to increase its investment by getting foreign borrowing. For example, the Bank has signed a 213 million Euros-worth project with the World Bank in 2006.

In addition to the infrastructure development by foreign finance, concession agreements with private sector as well as World Bank and the EU credit grants are other ways of the involvement of private sector and foreign investment in the water sector (Yılmaz & Çelik, 2016: 9) as examined in the section on the instances of the neoliberalization of urban water and sewerage services. It is worthy at this point to note that the European Union (EU) has been another actor in the neoliberalization of the water sector in Turkey in terms of the entry of foreign finance via the credit grants. Nonetheless, the credit grants are not the only way of the EU's role in the neoliberalization of the water sector in Turkey. The harmonization efforts with the EU Water Framework Directive in Turkey's EU harmonization process have triggered the neoliberalization of the water sector as well.

Adopted in 2000 by the European Parliament, the EU Water Framework Directive has three main aims (Çınar, 2006b: 244 – translation added):

- Ensuring the full-cost recovery of the water investments by collecting the costs from the water users in accordance with an efficient economic policy
- Rehabilitation of the quality of the water environment and its protection within the following 15 years

- Throwing open the water policies to the knowledge and participation of the public opinion by making them more transparent

As explicit in such aims, the EU water policies are oriented towards the commercialization of water, privatization of water services and the realization of accordant legal and administrative changes. In line with such orientation, as expressed above, the water users bear the costs. In addition to the principle of the 'user-pays', the paradigm of governance is adopted as well. It is set forth that the water resources are managed by the governance organizations comprising the private sector and the NGOs rather than the conventional institutions of the public sector. The water resources, moreover, should be managed at the scale of river basins that requires 'basin governance' (Özdinç, 2006: 177 – translation added).

To have a look at the shifts in the water governance in Turkey brought along with the EU Water Framework Directive more closely, one can first enumerate the activities conducted in Turkey in line with the Directive: The MATRA Project (The Project of Pre-Accession Programme for the Implementation of the Water Framework Directive in Turkey), the ENVEST Research (Environmental Heavy Cost Investment Planning of Turkey) and the 'Research for the Restructuring of the Turkish Water Sector for Harmonization with the EU Water Directive' (Özdinç, 2006: 173; Taşkın, 2006: 262 – translation added).

The MATRA Project depends on the agreement signed between the Netherlands Government and Turkey in 2000. Indeed, the MATRA Project depends on the MATRA Programme which is an assistance programme of Netherlands. In accordance with this Project, a *National Platform* has been founded with the participation of various institutions aimed at the determination of the border fractionation of the river basins and the application of the Water Framework Directive to the Turkish water and environmental administrative structure and regulations. As concerns the ENVEST Research, it comprises the subjects of water quality with respect to integral pollution management, waste management

including wastewater management, the necessary infrastructure for the air quality as well as infrastructural investments. The need for benefiting from the private sector more in the water services in Turkey is another point emphasized in the Research. Last but not least, the considerable points emphasized in the 'Research for the Restructuring of the Turkish Water Sector for Harmonization with the EU Water Directive' can be put as the creation of the river basin plans and the determination of water tariffs in line with the principle of the 'polluter pays'. Prepared by the Ministry of Environment of the United Kingdom for the Ministry of Environment and Forestry, the Research also criticizes the setting of water tariffs away from economic rationality (Taşkın, 2006: 262-263, 265, 267, 276-278 – translation and italics added).

Within such an institutional and historical context, the variants/influences of the water-based primitive accumulation apart from primitive accumulation in the case of water and sewerage services that has been discussed in the paragraphs above can be grouped as follows under three headings:

1. Influences of the Water-Based Primitive Accumulation in the Turkish Agriculture
2.

Since this dissertation considers 'right to water' as the object of the study, it tackles with the so-called 'water issue' rather than the question of agriculture. Hence, the primitive accumulation with regard to agriculture or the Turkish agriculture per se is out of the scope of this study. In this sense, the study restricts itself with the influences/repercussions of the neoliberal water-based primitive accumulation in the Turkish agriculture rather than the reflections of the neoliberal primitive accumulation in the Turkish agriculture.

Within such a framework, it can firstly be put that the neoliberal water-based primitive accumulation has also repercussions in the Turkish agriculture. Firstly, the intensive usage of water for agricultural irrigation is harshly criticized for the

sake of switch to neoliberal policy shifts. Indeed, currently, the agricultural sector makes use of the large part of the existing water resources in Turkey.

According to the figures found in the *National Water Plan* prepared by the General Directorate of Water Management of Turkey, a branch of the Ministry of Agriculture and Forestry, the 74% of water resources are utilized for agricultural irrigation amounting to 40 billion m3 according to the 2017 figures. On the other hand, the usage ratio of the industrial sector amounts to 13% (7 billion m3 in numbers) with the textiles and food sectors making up the largest part. The remaining ratio of 13% amounting to 7 billion m3 constitutes the proportion of the domestic use. (Su Yönetimi Genel Müdürlüğü, ?: 16, 43 – translation added). In the face of such picture, it is alleged by the critics that such intensive use of water is not efficient due to the application of inefficient irrigation techniques that cause several inconveniences such as soil salinity induced by the excessive water-use (Yılmaz, 2009: 16, 2013: 257-259 – translation added). Within this context, for instance, TÜSİAD (Turkish Industry and Business Association) weighs in the replacement of the conventional technique of surface irrigation with pressurized irrigation techniques such as drip irrigation and sprinkler irrigation (Yılmaz, 2013: 259 – translation and paranthesis added). In addition, in an interview conducted by the two high-ranking bureaucrats in the General Directorate of Agricultural Reform and that of Meteorology, it is marked that Turkey aspires to scale down the ratio of water usage in agricultural irrigation to 64% by 2023 while the application ratios of the pressurized irrigation methods are aimed to be increased to 50-60% through financial grants given away to the users.[193] Yet, similar remarks take part in the *National Water Plan*. It is uttered in the Plan that the irrigation yield ought to be ramped up through methods such as pressurized irrigation. While such shifts are advocated in terms of water productivity, pre-paid water meters are also proposed in the plan for the sake of productivity as well (Su Yönetimi Genel

[193] Hedef basınçlı sulama sistemi kullanımını %60'a çıkartmak (The aim is to increase the usage of pressurized irrigation system by 60%), http://www.turktarim.gov.tr/Haber/44/hedef-basincli-sulama-sistemi-kullanimini-yuzde-60a-cikartmak, (retrieved on 6 May 2019 – translation added).

Müdürlüğü, ?: 33, 45 – translation added). Through such system changes, the irrigation yield which is 50% by 2018 is aimed to be ramped up to 55% by 2014 (Su Yönetimi Genel Müdürlüğü, ?: 53 – translation added). Moreover, water meters are targeted to be installed upon underground water wells (Su Yönetimi Genel Müdürlüğü, ?: 26 – translation added). Though seeming as a mere, simple technical change, water meters denote to the commercialization of water as part of the water-based neoliberal primitive accumulation in the sense of bringing about "changes in resource management practices that introduce commercial principles such as efficiency, methods such as cost-benefit assessment…" (Bakker, 2005: 544). Indeed, water-meters are strongly supported by Peter H. Gleick, the member of the pro-capital water think-tank, *IWRA*, and one of the prominent writers on the defense of the neoliberal water management, in that "in many cities, water use is not measured or 'metered', which leads to overuse of water provides no incentives for efficient use" (Gleick, 2000: 134). In accordance with such arguments, Gleick brings forward that "treating water as an economic good can eliminate wasteful practices and encourage increased efficiency and conservation" (Gleick, 2000: 134). In this sense, it can be remarked that the system of water-meter deems the subsumption of water into economic principles.

All in all, several outputs advantageous for capital accumulation can be expected by means of such seemingly rationalistic proposals,. Firstly, the share subtracted from water usage in the agricultural sector can be allocated for the water need of the industrial sector. Secondly, the new irrigation technologies can bring about new fields of commodity production in the industry. Thirdly, the efficiency increases in the agricultural sectors that produce inputs for the industry can cheapen the prices of the raw materials. Last but not least, the agricultural yield can accrue by the capitalizing of the agriculture in its entirety (Yılmaz, 2013: 259 – translation added).

The policy shift in the subvention of agricultural irrigation in Turkey constitutes another significant factor that reveals the reflection of the water-based primitive

accumulation in the Turkish agriculture. The cost of irrigation facilities is individualized – put on the individual producer's shoulder – through the reform of 'irrigation unions' and repeal of state irrigation subsidies, an outcome of World Bank policies (Yılmaz, 2013: 257-258; Çınar, 2009: 133-134; – translation added).

Up to the beginning of the 1990's, the agricultural irrigation facilities were largely conducted by the General Directorate of State Hydraulic Affairs (DSİ) in Turkey. From the 1993's on, in parallel with the weakening of the central structuring financially and institutionally, the role of the DSİ with respect to the fulfillment of this task has been largely diminished. An apparent example of decentralization policies, the irrigation facilities have been substantially delegated to the Irrigation Unions and farmers' establishments by the DSİ on the grounds that they are not run efficiently under the name of 'participatory irrigation method' (Çınar, 2009: 133 – translation added).

Indeed, such policy shifts are in parallel with the World Bank policy proposals put into words. The World Bank proposals are as follows: the withdrawal of the state from the administration of irrigation, thus the delegation of the irrigation services run by the DSİ to the Irrigation Unions and the prosecution of the irrigation facilities in line with the principle of participation and of the paying of the costs of the operation and maintenance by the user (Yılmaz, 2013: 258 – translation added). Such proposals with specific reference to the proposal of the 'user pays the costs' are reminiscent of the policy proposals of the several international institutions such as the World Bank, World Commission for Water and the EU that suggest water-pricing at full cost as discussed in the previous chapter.

As a result of the actualization of the World Bank's policy proposals, the transfer of the operating rights of the irrigation facilities has reached to the ratio of 96% (Ulusoy, 2007: 216, quoted in Yılmaz, 2013: 258 – translation added). Indeed, the Project of Participatory Privatization in the Irrigation Administration and

Investments (PPIMIP) has been consummated by the World Bank loan between the years of 1998-2004 (Çınar, 2009: 134 – translation added). Yet, this project has been called as "Turkey's one of the biggest undisclosed privatizations" by the then General Director of the DSİ, Doğan Altınbilek (İlhan, 2011: 103 – translation added).

3. Packaged Water

Packaged water consumption as drinking water is swiftly getting ahead of tap water consumption. Whereas the packaged water sales worldwide in 2007 was 91 billion£, the growth rate of the water sector reached to 5-10% within 10 years (Karakuş et.al, 2016: 105 – translation added). Turkey is not exempt from such an increasing interest in the packaged water. The share of packaged water in the total packaged industry has swiftly augmented since its introduction to Turkey in 1997 (Gül & Akpınar, 2012: 252, quoted in Karakuş et. al., 2016: 107 – translation added). For instance, the share of gallon water in the total packaged industry reached to 80% by the year 2008 (Yılmaz & Çelik, 2016: 12). As quoted from the official website of *SUDER*, Packaged Water Manufacturers Association, the association under which the packaged water manufacturers of Turkey are organized, the total production of packaged water is 11.3 billion liters while the total figure of the export of packaged water is 64.184.317$ in 2016. Furthermore, as for the market size of the packaged water industry, it is 5,4 billion TRY while the annual growth rate of the sector is 4.0% in terms of the 2016 figures.[194] The packaged water sector also grew by the year 2017: The total production of packaged water rose out to 11.6 billion liters while market size escalated to 5,7 billion TRY with the growth rate of 3%.[195]

[194] Sektör Hakkında, Genel Yapı ve Rakamsal Büyüklük [About the Sector, General Structure and Numeral Size], http://suder.org.tr/sektor-hakkinda/genel-yapi-ve-rakamsal-buyukluk/, (retrieved on 3 May 2019).

[195] Ambalajlı su pazarı 11,6 milyar litreye ulaştı [The packaged water market figured out at 11,6 billion liters], https://www.aa.com.tr/tr/ekonomi/ambalajli-su-pazari-11-6-milyar-litreye-ulasti/1225392#, (retrieved on 4 May 2019).

The figures related to the increase in the amount of exported packaged water has also soared year over year. The packaged water market exported water amounting to 70 million$ in 2017 compared to 64.184.317$ in 2016. By May 2018, the market has exported water to 70 countries.[196] Several of the firms operating in the export of packaged water are public enterprises. By 2016, the İstanbul Metropolitan Municipality exports water to 45 different countries with the brand, *Hamidiye Su* (Hamidiye Water).[197] Founded in 1979 as a joint-stock company, *Hamidiye Kaynak Suları A.Ş.* (Hamidiye Spring Waters) is currently an affiliate company of the İstanbul Metropolitan Municipality. It draws spring water from the Belgrad Forest and sells it in the domestic and foreign market (İlhan, 2014: 57-58 – translation and parenthesis added). However, the Hamidiye Spring Waters is not the only public corporation engaged in the packaged water sector. The Derince Municipality of Kocaeli sells packaged water with the brand, *Çene Suyu* (Çene Water) while the Niksar Municipality of Tokat sells packaged water with the brand *Ayvaz Su* (Ayvaz Water) (İlhan, 2017: 41 – translation and parenthesis added). Moreover, the Eskişehir Municipality is also engaged in the packaged water sale with the brand, *Kabalak Su* (Kabalak Water) (Narin, 2016: 747 – translation and parenthesis added).

By 2016, more than 250 domestic and foreign water companies operate in the packaged water sector in Turkey (Narin, 2016: 747 – translation added). It had been noted in the previous chapter on the water-based primitive accumulation that the concerns incurred by the 'water crisis' has been manipulated to pave the way for the neoliberal water-based primitive accumulation. In line with this phenomenon, the decrease in the quality of tap water and the troubles in the

[196] Ambalajlı su pazarı 11,6 milyar litreye ulaştı [The packaged water market figured out at 11,6 billion liters], https://www.aa.com.tr/tr/ekonomi/ambalajli-su-pazari-11-6-milyar-litreye-ulasti/1225392#, (retrieved on 4 May 2019).

[197] Uluslararası lezzet ödülü ikinci kez Hamidiye Suları'nın [Hamidiye Waters is awarded for the international taste award for the second time], https://www.sabah.com.tr/ekonomi/2016/11/10/uluslararasi-lezzet-odulu-ikinci-kez-hamidiye-sularinin, (retrieved on 7 May 2019 – translation and parenthesis added).

provision of tap water such as water cuts led to the undermining of the public confidence in the public authorities in the 1990's in Turkey. Firstly, the private water supply stations that procured water from various resources and distribute it benefited from such atmosphere and launched packaged water to the market. Though the Ministry of Health tried to audit such stations through temporary licenses, a part of such stations have been shut down with the by-law dated 1997 that warrants the sale of gallon water as an alternative to open water sold in such stations (İlhan, 2011: 94 – translation added).

Such a development can be read as turning the crisis into opportunity on the part of the water companies. However, the companies had to collect public consent to market packaged water as an alternative to tap water. Such consent-collecting strategies can be described as *bluewashing*, "marketing a product as water-friendly though it does harm to the surface and underground water" (Food&Water Watch, 2012: 44 – translation added). Declaring their commitment to the *World Water Day*, the 22th of March annually, announced by the United Nations, the giant water companies such as Coca Cola, Nestlé, Pepsi, Suez and Veolia have signed on the *CEO Water Mandate* demonstrating the voluntary partnership with the United Nations as part of the UN Global Compact. The CEO Water Mandate aims to ensure adherence to the universal principles on social responsibility, human rights and the environment on the part of the water corporations urging corporations to publicize their water-related records and striving to reduce their impact on water resources (Food&Water Watch, 2010: 6). As touched upon in the previous chapter on the water-based primitive accumulation, the UN Global Compact has been highly fustigated for *blue-washing* with respect to providing UN approval to companies with public relations problems in case of severe violations in human rights and environmental standards (Barlow, 2007: 44) boosting public legitimacy and consent on the part of the companies at stake.

In addition to the subscription to the CEO Water Mandate that acquires a positive, water-friendly self-representation to the companies, donations to water

charities in the developing countries also help companies to take on a water-friendly public image (Food&Water Watch, 2010: iv, 3, 5). Furthermore, the packaged water companies also highlight the significance they attach to water-efficiency in their production processes. They underline their efforts to reduce their *water footprinting*, the amount of water consumed in the production of a product, as a proof of the role they undertake in addressing world water crisis. In line with such bluewashing attempts, the packaged water companies also strive to combat criticisms toward them in the sense of, for instance, creating plastic pollution, through marketing plastic partially made from plants such as Coca Cola's so-called *PlantBottle* and supporting recycling projects (Food&Water Watch, 2010: iv, 3-5).

Collinear to the bluewashing efforts of the packaged water industry, the hydro-electric power sector appeals to *greenwashing* tactics via the narrative of 'green economy', or more specifically, 'renewable energy' in the case of hydro-electric power plants. Within this context, the neoliberal water-based primitive accumulation in the energy sector is to be dealt in the section below.

3. Water in the Energy Production: Hydroelectric Energy Power Plants (HEPPs)

The so-called greenwashing strategies of the capital are attempts for turning the ecological crisis to opportunities for new fields of capital accumulation in parallel with the manipulation of the water crisis on the part of the capital for the sake of the water-based primitive accumulation of commons as seen in the introduction of packaged water and/or the privatization of urban water and sewerage systems.

The serious environmental problems such as global climate change have revealed that not only the present condition of the planet but also capitalism itself is unsustainable. Such a picture has brought capitalism's not only first contradiction, the contradiction between labor and capital, but also its second contradiction, the contradiction between nature and capital, on the agenda (Hoşgör, 2017: 57-58 – translation added). By the same token, it has deepened

capitalism's *biocrisis*[198], namely, "contradiction between the requirements of collective human survival in relatively stable eco-social systems, and the requirements of capital accumulation…, infinite growth in a finite planet" (Mueller & Passadakis, 2010: 556-557). In addition to the *biocrisis*, Mueller and Passadakis define two more crises of capitalism, the *accumulation crisis* and the *legitimacy crisis* which altogether make up the *triple crisis of capitalism* with the *biocrisis* (Mueller & Passadakis, 2010: 554-556). The *accumulation crisis* is a crisis of overaccumulation which can be defined as the situation when "too much capital is chasing too few profitable investment opportunities… for any number of reasons (lack of demand for products, market saturation, workers' resistance pushing up production costs so far as to make production unprofitable" (Mueller & Passadakis, 2010: 556). When it comes to the *legitimation crisis*, it connotes the loss of legitimacy on the part of the ruling classes. As marked by Mueller & Passadakis (2010: 554-555), it is visible in several phenomena: the undermining of the social democracy's representative capability of the lower classes; the diminishing of public trust in public institutions, the protests organized by the counter-globalization movement against the global governance institutions of global capitalism such as the WTO, the World Bank and the IMF, which shows the strengthening of counter-hegemonic formations as a result of the fact that active consent cannot be provided in the face of the economic crisis (Candeias, 2012, quoted in Hoşgör, Ece & Konak, 2016: 29 – translation added).

The *green economy*, a part of the *greenwashing* strategies of the capital, can be read as the capitalism's reply to its triple crisis. It is the capitalistic way of overcoming the triple crisis and turning the crisis into opportunity. In this sense, Hoşgör (2017: 58-59 – translation added) calls it a green-painted accumulation regime or the synonym for *green capitalism*. By the same token, Mueller &

[198] Mueller and Passadaki's concept of *biocrisis* is translated as 'ecological crisis' (ekolojik kriz) into Turkish in several sources (see Hoşgör, Ece & Konak, 2016: 28, Hoşgör, 2017: 58) presumably for the literal translation of the concept of 'biocrisis', *biyokriz*, is unrequited in the Turkish academic literature as seen in the *google scholar* query. However, the original concept of 'biocrisis' has been preferred in this dissertation since the dissertation is written in English rather than Turkish.

Passadakis (2010: 558) argue that the crisis is instrumentalized in the cause of green accumulation:

> …biocrisis is the opportunity that *might* just allow capitals and governments to at least temporarily deal with the legitimation and accumulation crises… How? By internalizing the antagonism at the heart of the biocrisis – that between human life and capital – as a driver of a new round of supposedly green accumulation, and a legitimating device for the further extension of governmental authority into the nooks and crannies of everyday life. It is precisely in the political energy surrounding the biocrisis that the potential lies to open up significant new spaces of accumulation…

Within the framework of 'green capitalism', environment is approached as a new field of capital accumulation rather than a problem (Goldman, 2005, quoted in Hoşgör, Ece & Konak, 2016: 34 – translation added). In this sense, the coining of the term of *natural capital accounting* by the World Bank, which has been touched on in the first chapter, makes a perfect sense. Natural capital is made up of forests, wetlands and agricultural land and is an indispensable part of long-term development which is a process of accumulation and sound management of a portfolio of assets—manufactured capital, natural capital, and human and social capital.[199] In this sense, nature is seen as a field for the revaluation of the capital in order to overcome the accumulation crisis. The enclosure of the natural commons leads to economic recovery in various sectors. For instance, the development of the renewable energy sector revives the economy in a wide spectrum ranging from the manufacturing to the construction creating opportunities for the revaluation of the capital (Hoşgör, Ece & Konak, 2016: 29-30 – translation added). Herein, the *carbon markets* can be taken as an example. The carbon markets are in brief financial markets in which carbon credits are traded. As defined by the UNDP, carbon markets

> … aim to reduce greenhouse gas (GHG, or "carbon") emissions cost-effectively by setting limits on emissions and enabling the trading of emission units, which are instruments representing emission reductions. Trading enables entities that

[199] Natural Capital Accounting, World Bank Official Website, http://www.worldbank.org/en/topic/environment/brief/environmental-economics-natural-capital-accounting, (retrieved on 25 June 2011).

> can reduce emissions at lower cost to be paid to do so by higher-cost emitters, thus lowering the economic cost of reducing emissions.[200]

Carbon markets are also defended by another prominent international institution, OECD[201]:

> Putting a price on carbon is essential to drive the technological and behavioural innovation necessary to limit climate change. Market-based instruments, such as cap-and-trade emission trading schemes, are crucial to price carbon emissions and keep the costs of climate action low. A cap-and-trade scheme enables emitters to trade allowances for the right to emit up to their allowed limit or "cap".

The carbon trade has come to the fore particularly with the Kyoto Protocol signed in 1997 by several states to tackle with global climate change a significant reason of which is the problem of carbon emissions. Climate change connotes the increase of the temperature of the lands and oceans due to the rapid increase in the amount of greenhouse gases, some of which are carbondioxide and other carbons, in the atmosphere. Since the diminishing of greenhouse gas emissions is seen as the solution for coping with global climate change in the Protocol, it is stipulated that the early capitalized countries – the greenhouse gas emissions of which are the highest – diminish their emissions pursuant with a specific calendar and certain rates. In order to concretize this target, a specific carbon quota has been set for every country on the grounds of their level of development by the *United Nations Framework Convention on Climate Change* (UNFCCC) within the framework of the *Greenhouse Development Rights* (GDR). The carbon quotas of the early capitalized countries are in general above the total level of carbon emission whereas that of the late capitalized countries are in general below their level of carbon emissions which make the former countries debtors and the latter ones debtees. Within the framework of the

[200] Carbon Markets, Overview, http://www.undp.org/content/sdfinance/en/home/solutions/carbon-markets.html, (retrieved on 15 April 2018).

[201] Carbon Markets, http://www.oecd.org/env/cc/carbonmarkets.htm, (retrieved on 15 April 2018).

carbon market, hence, a debtor country may buy carbon credit (certified emission reduction – CER), in other words, from a debtee country while the debtee country acquires funds for its emission reduction projects and development targets (Yılmaz & Yılmaz, 2011: 119-120, 122-123, 125 – translation added).

As explicated in the paragraphs above, carbon credits are traded in the carbon market. However, one can interpret such market in a different way. Indeed, the carbon credits amount to the rights to pollute. Yet, the carbon trade is realized by way of trading, or more precisely, commodifying clean air. (Yılmaz & Yılmaz, 2011: 121-122 – translation added). Nonetheless, not only clean air is commodified as a consequence of the carbon market/trade. Water assets are also adversely affected from the operation of the carbon market/trade in the context of the rising interest in the renewable energy. The renewable energy technologies such as wind turbines, solar panels and hydropower plants are deemed 'clean technologies' and contrasted with the so-called conventional energy technologies procured from fossil fuels such as thermal power plants. Since the carbon emissions of the renewable energy are relatively lower than the nonrenewable, fossil fuel-based energy, the renewable energy sources are one of the favorite fields of the green economy. However, the renewable energy technologies do not owe their popularity to the environmentalist sensitivities of the green economy. Rather, they present a profitable field for the green economy. For instance, thanks to the *Clean Development Mechanism* backed by the Kyoto Protocol, the hydropower plant projects can be qualified for the carbon credit inasmuch as their carbon emissions are below that of fossil fuel plants. Not surprisingly, having become a party to the Kyoto Protocol in 2009, Turkey articulates to the carbon markets particularly through renewable/green energy projects such as hydroelectric, wind and solar energy projects (Yılmaz & Yılmaz, 2011: 131; Hoşgör, Ece & Konak, 2016: 28, 35 – translation added). Turkey develops projects in the *Voluntary Carbon Market*, the majority of which are renewable energy projects. By 2014, Turkey has set up 308 projects in the voluntary carbon market: 139 of these projects are hydropower plant, 106 of them are of wind plants, 27 of them biogas, 10 of them energy efficiency and 6 of them are

geothermal projects (Hoşgör, Ece & Konak, 2016: 43 – translation added). As seen, the hydroelectricity sector seems as the most advantageous sector to drive profit over the carbon market. Yet, as Turkey imparts that it shall decrease its greenhouse gas emissions by 21% until 2030 – for which carbon credits from international market mechanisms are to be used - in the document of *Intended Nationally Determined Contribution* (INDC) submitted to the UN, it also announces that it shall utilize its hydroelectric capacity entirely, while increasing its solar energy capacity to 10 gw and the wind energy capacity to 16 gw.[202,203]

Turkey's such efforts of the so-called greening of energy production are also backed by the World Bank, one of the foremost institutional actors of the reproduction and the propagation of the green capitalism. The World Bank supplies funds to Turkey under the name of *Clean Technology Fund* to be put to use in projects about the renewable energy and the raising of energy efficiency (Yılmaz & Yılmaz, 2011: 132 – translation added). Moreover, the *Private Sector Renewable Energy and Energy Efficiency Project* has been run between the World Bank and Turkey. The project has been initiated in 2009 and disclosed in 2016 with the objective to "help increase privately owned and operated energy production from indigenous renewable sources within the market-based framework of the Turkish Electricity Market Law, enhance energy efficiency and thereby help reduce greenhouse gas emissions" (IEG Review Team, 2017: 1).

Despite its apparent pro-capital character, Turkey's so-called green energy spurt presents itself as the rise of environment-friendly energy. At this point, one can give an eye to the hydroelectric energy boom, which is to be specifically and

[202] Türkiye 2030'da Sera Gazı Salınımını Yüzde 21 Azaltacağını Açıkladı, Peki Bu Doğru mu? [Turkey has Declared that It Shall Decrease Its Greenhouse Gas Emission By 21% Until 2030, Well Is It True?], https://m.bianet.org/bianet/toplum/167955-turkiye-2030-da-sera-gazi-salimini-yuzde-21-azaltacagini-acikladi-peki-bu-dogru-mu, (retrieved on 9 May 2019 – translation added).

[203] Republic of Turkey Intended Nationally Determined Contribution, https://www4.unfccc.int/sites/submissions/INDC/Published%20Documents/Turkey/1/The_INDC_of_TURKEY_v.15.19.30.pdf, (retrieved on 9 May 2019).

predominantly addressed in this water-themed dissertation among other sources of renewable energy. A glance at the document of the strategic plan of the Republic of Turkey, Ministry of Energy and Natural Resources exemplifies such so-called green discourse:

> Hydroelectric power facilities are an environmentally friendly, clean, renewable, lasting and efficient domestic resource with low operational costs and no fuel cost. By the year 2023, we aim to utilize all of the hydroelectric potential that is technically and economically viable for electricity generation (ENR 2010, quoted in Konak & Sungu-Eryılmaz, 2016: 2).

Another dimension of the Turkish state's rhetoric of hydropower energy in addition to the relating of hydropower energy to climate change mitigation, is constituted by several inter-related themes such as the country's energy need, energy independency and economic growth. The state rhetoric establishes a relationship between the country's need for energy and energy independency. In this regard, the idea that energy security is to be achieved by reducing energy dependence on costly foreign resources is circulated. The state rhetoric is also shaped by the economic utility of the water assets which correlates high levels of energy production with economic growth and development (Konak & Sungu-Eryılmaz, 2016: 5, 12). As narrated by Konak & Sungu-Eryılmaz (2016: 5), declaring that "Turkey's rivers must no longer run in the vain", the then Prime Minister of Turkey, Recep Tayyip Erdoğan, currently the President of Turkey, states at the opening ceremony of the Cevizlik SHP (small hydroelectric power plant) in Rize, located in the Black Sea Region that,

> CO2 emissions from the use of fossil fuels will increase from 27 billion to 42 billion tons…We have to meet our own energy needs by developing our own, God-given natural resources such as solar, wind and hydro sources. We currently rely on imported natural gas, which costs 25 billion dollars…Turkey exploits only 36% of its hydroelectric potential, and when all of the projects are completed, this rate will increase to 90%…Our goal is to meet the energy needs that economic growth demands while maximizing the use of domestic and renewable resources. (Erdoğan 2010, quoted in Konak & Sungu-Eryılmaz 2016: 5).

The discursive basis of Turkey's hydropower boom is molded in such a frame as explicit in the speech mentioned above. However, before advancing into the details of the Turkey's hydropower boom, one should herein introduce basic technical information on the hydropower plants to set up a basis for the following discussions. One can, in this sense, begin with narrating the information found on the report of the meeting organized by the *Suyun Ticarileştirilmesine Hayır Platformu* (Platform for No to the Commercialization of Water) – constituted by several civil-society organizations, platforms and professional organizations, trade unions and political parties - hydroelectric power plants (HEPP's) "are facilities which convert the motional/mechanical energy, arising by the processing of the potential energy by means of a certain fall altitude, into electrical energy" (Gökdemir, 2012: 15 – translation added). The hydroelectric power plants are classified into two categories based on their type of structure, the ones with large reservoirs which enable the storage of water in a reservoir, *dams* with their common name, and the ones that do not require a large reservoir, namely run-of-the river hydropower plants, or small HEPP's (Erensü, Evren & Aksu, 2016: 15; Erensü, 2017: 129 – translation added). As per the installed capacity, it can be said that the capacity of the power plants with large reservoirs (dams) amounts to 25 MW while the run-of-the river plants, on the other hand, have installed capacities lower than 25 MW, though such classification does not correspond to an official classification (Erensü, Evren & Aksu, 2016: 15 – translation added). Nonetheless, it should be noted that it is hard to find an official, commonly agreed classification between run-of-the-river plants/small HEPP's and large HEPP's (or dams) based on the installed capacity. The European Small Hydropower Association (ESHA) defines small HEPP's as "plant(s) with an installed capacity of up to 10 MW" (Erensü, 2017: 129). On the other hand, *Enerji İşleri Genel Müdürlüğü* (The General Directorate of Energy Affairs), a branch affiliated with the Turkish Ministry of Energy and Natural Resources, adopts a different classification of the hydroelectric power plants on the grounds of installed capacity. According to the General Directorate, the hydroelectric power plants are divided into four categories: the plants with a quite small (micro) capacity lower than 100 Kw (0,1 MW), the ones with a small

(mini) capacity between 100-1000 Kw (0,1–1 MW), the ones with a medium capacity between 1000-10000 Kw (1-10 MW), and the ones with a large capacity over 10000 Kw (10 MW).[204] Regardless from such technically varying classifications, it can be said that the hydropower plants over which Turkey's hydropower boom and related resistance proceeds are the small HEPP's (run-of-the river HEPP's) (Erensü, Evren & Aksu, 2016: 15-16; Erensü, 2017: 130 – translation added). Indeed, given the 2016 figures, almost half of the HEPP licenses belong to the projects with the installed capacity below 10 MW. Nonetheless, the contribution of such small HEPP's to Turkey's total hydropower capacity is only 6.5 %. Even, the total energy-generating capacity of the smallest 451 HEPP's does not equal to that of the Atatürk Dam, the largest HEPP in Turkey (Erensü, 2017: 130). It seems that Turkey's resolution of meeting the country's energy need by utilizing renewable energy sources to the maximum (Erdoğan, 2010, quoted in Konak & Sungu-Eryılmaz, 2016: 5) falls short of cogency on the grounds of such results. Such state is also verified by the 2017 figures of the annual activity report of the public corporation of the *Elektrik Üretim A.Ş.* (Electricity Generation CO.) as seen in the chart below (Electricity Generation CO., 2017: 22):

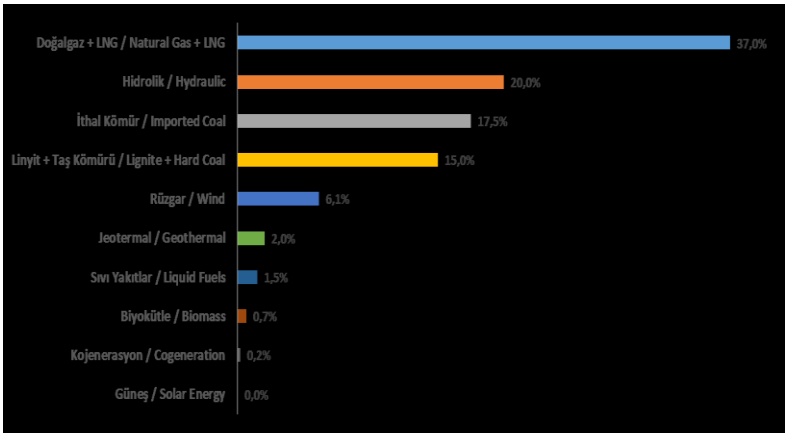


Figure 4: Turkey's Electricity Generation by Primary Resources.

Source: Adapted from the 2017 Annual Report of the Electricity Generation CO.

[204] Hidroelektrik Enerjisi Nedir? (What is Hydroelectric Power?), http://www.yegm.gov.tr/yenilenebilir/h_hidrolik_nedir.aspx#top, (retrieved on 10 May 2019 – translation and parantheses added).

As exhibited by the chart above, though the hydropower energy is on the first rank among renewable energy sources corresponding to 20%, it ranks lower than sources of nonrenewable energy. Furthermore, the graphic also reveals that natural gas, a nonrenewable source, is in the forefront among Turkey's energy sources. Moreover, given that natural gas is an imported energy source rather than a local one, the persuasiveness of Turkey's framing of the investing on the renewables through energy independency/security and green economy/climate change mitigation loses its credibility. Rather, it becomes crystal-clear that the motive behind the hydropower surge is the boosting of capital accumulation. Such situation is also revealed by the table below found in the official document of the General Directorate of State Hydraulic Works, (General Directorate of State Hydraulic Works, 2018: 40):

Table 4: Present Status of Installed Capacity in Turkey Status.

Present Status of Installed Capacity in Turkey		
In Operation DSİ Other Institutions Private Sector After Law No ***6446***	28,200 MW	(627 HEPPs) 12,560 MW 2,340 MW 11,000 MW
Under Construction DSİ Private Sector, as per Law No ***6446***	4,400 MW	(62 HEPPs) 1,760 MW 2,640 MW
On Development Private Sector (Law No ***6446*** or 3096) Private Sector (Law No ***6446*** or 5625)(Bileteral Cooperation)	22,400 MW	(1,106 HEPPs) 18,400 MW 4,000 MW
Economic Installed Capacity Potential	55,000 MW	(1,795 HEPPs)

Source: *Adapted from the General Directorate of State Hydraulic Works (2018), Water and DSI.*

As manifested in the table above, the total share of the private sector in hydroelectric energy production, 36,040 MW, exceeds far that of the General Directorate of State Hydraulic Affairs, which is 14,320 MW. Indeed, as indicated in the chart in the paragraph below, the private sector share in

hydroelectric power production compared has begun to exceed that of the public sector by the year, 2014 albeit with a slight difference. The difference between the share of the private sector and of the public sector has started to become wider from the year, 2015 on. It is anticipated that the private sector outscores the public sector in terms of hydropower investments by the year 2023, the centennial of the Turkish Republic, the year which is seen as a crucial target in terms of the Republic's development targets (General Directorate of State Hydraulic Works, 2018: 43):

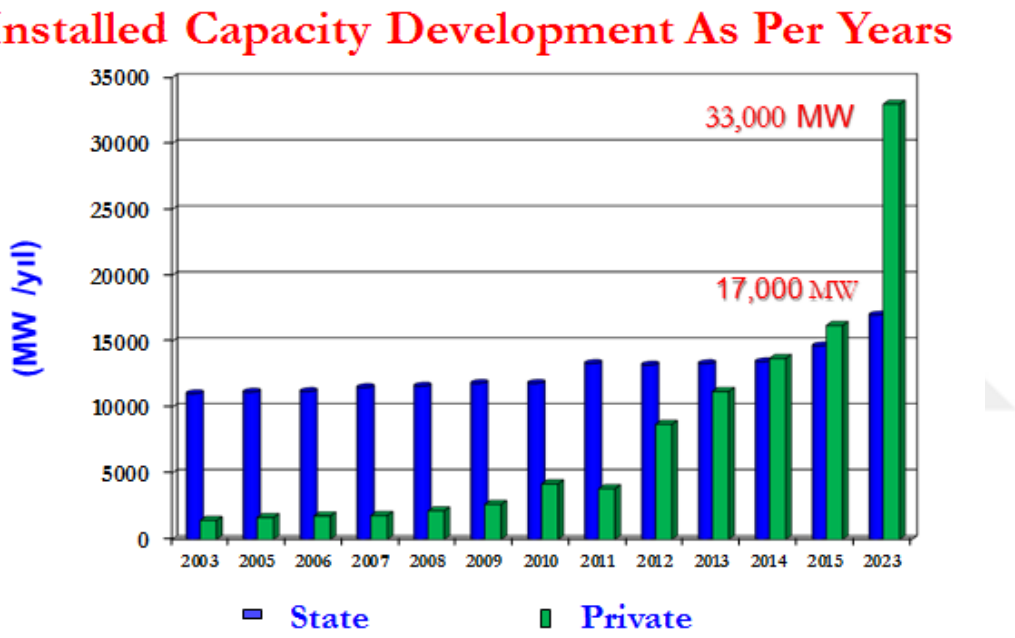


Figure 5: Installed Capacity Development As Per Years. **Source:** General Directorate of State Hydraulic Works (2018), Water and DSİ

Actually, the temporal overlapping of the privatization and marketization of the Turkish electricity market with the introduction of *Law No, 4628, Electricity Market Law* in 2001 (Kurt, 2012: 395) – which is to be analyzed in the passages below on the legal infrastructure of the HEPP boom - and the bursting of the economic crisis in 2001 constitutes a meaningful situation. As discussed in the paragraphs above, the rush to the renewable energy and, specifically to hydroelectric energy as per the framework/scope of interest of the dissertation, can be deemed a crisis-fixing strategy of capitalism. As asserted by Harvey in his

analysis of the trajectories of global capitalism, the capitalist system seeks for spatio-temporal fixes in order to overcome its overaccumulation crisis. The concept of 'spatial fix' connotes the geographical expansion/dissemination of capitalism to new areas of capital accumulation in terms of the spatial translocation of capital in seek for new markets in new fields, production capacities, sources, social possibilities, and labor possibilities. On the other hand, the concept of 'temporal fix' denotes to the long-tem, physical and societal infrastructural investments. (Harvey, 2004: 23-24, quoted in Kurt, 2012: 396 – translation added). By the same token, as mentioned in the passages above, Mueller & Passadakis (2010: 558) claim that the biocrisis of capitalism might serve as a crisis-solving means in that "as a driver of a new round of supposedly green accumulation,… (it might) open up significant new spaces of accumulation…"

Within this context, the inception of the HEPP surge in the world and in Turkey can be reckoned as a crisis-fixing strategy. While the HEPP projects provide new fields of infrastructural investment (temporal fix), they also enable the geographical penetration/dissemination of capital as in the case of the HEPP rush in several regions such as the Central Anatolian Region and the Black Sea Region - which have not previously become quite acquainted with the hydropower - and several provinces such as Muğla, Kahramanmaraş, Antalya, Erzincan and Erzurum, resulting in the creation of new geographies of hydropower (Erensü, Evren & Aksu, 2016: 17 – translation added). Even, the HEPP investments are accepted as a crisis-mitigating solution in the latest crisis of 2018 on the part of the state as exhibited by the written statement of Binali Yıldırım, the then prime minister, made in January 2018: "The HEPP's contribute positively to the closing of our current deficit. We shall reduce the current deficit by increasing our energy production to 110 billion kWh by 2019".[205]

[205] Başbakan Yıldırım: HES'lerle cari açığı azaltacağız (Prime Minister Yıldırım: We shall reduce the current deficit with the HEPP's), https://www.star.com.tr/politika/basbakan-yildirim-heslerle-cari-acigi-azaltacagiz-haber-1298353/, (retrieved on 12 May 2019 – translation added).

Another significant dimension of the HEPP's in terms of their crisis-mitigating effects is that the HEPP boom has introduced many new players into the market. The Turkish HEPP market presents a rather colorful picture with respect to the variety of the capital groups. The investors range from "denim companies, textile giants, appliance producers, engineer-cum-entrepreneurs, real estate developers and even soccer clubs (to) the leaders of infrastructure and construction businesses and a limited number of international players" (Erensü, 2017: 133 – parenthesis added). Among the textile giants in question, one can exemplify the *SANKO* Conglomerate. The words of the board chairman of *SANKO*, Abdülkadir Konukoğlu, declared at the groundbreaking ceremony of the 61 HEPP's organized at the conference hall of the *DSİ* in 2008 epitomize the HEPP enthusiasm of the capital:[206]

> We are the 5th generation in the textile, and the 1st in the electricity. As dams have been constructed for years, we have just looked, but now we have become shrewd. Let everybody know this… We pledge you; we shall bring the wind blowing on the mountains, (and) the streams to your houses.

The 2008 crisis of the textile sector underlies such resolution of the *SANKO* depicted by the words above. By the reason of such crisis, one can find several ex-textiles giants in the hydropower sector. By the same token, the provinces of Denizli and Gaziantep, two textiles powerhouses, come after Ankara and İstanbul in the number of HEPP companies they have although all the four provinces are poor with respect to the availability of rivers and streams. *SANKO*, a leading Gaziantep-based textiles company, holds eleven HEPP licences, the installed capacities of which range from 8 MW to 130 MW (Erensü, 2017: 133). Within such entire process of the HEPP rush, the Turkish capital has not only been discursively encouraged by the state in terms of the formation and dissemination of such themes such as energy independency/security, green/environment-friendly energy as well as the rapidly accruing energy need.

[206] Özel sektör HES devrimini başlattı (The private sector has initiated the HEPP revolution), https://www.yenisafak.com/politika/ozel-sektor-hes-devrimini-baslatti-127983, (retrieved on 3 July 2012 – translation and parenthesis added).

What's more, the state itself has set the infrastructure of such process. As referred by Ercan (2012: 75 – translation added), all the regulations have been made by means of the state authority, namely the public. Law-making has been a vital part and parcel of this process. In the following passages, the critical milestones of the legal infrastructure of the capital's rush to the hydropower in Turkey are to be propounded.

- Law No., 3096

This law has been enacted in 4 December 1984 with the title of *Authorization of Enterprises Other Than the Turkish Electricity Administration to Produce, Transmit, Distribute and Trade Electricity*.[207] As the name of the Law suggests, the Law aims to set up a framework in which private entities could build and/or operate power plants without entirely leaving the management of the energy field to the market. Though this Law is not hydropower-specific, it is worthy to be included within the legal infrastructure of the HEPP's for it has been the first attempt to invite private actors to partake in the energy industry including the hydropower sector. It has also paved the way for the introduction or fortification of several early privatization schemes by a series of other following legal regulations which brought about schemes such as transfer of operating rights (TOOR), Build-Operate-Transfer (BOT), Build-Operate (BO) and auto-production. However, these schemes were nullified by the higher courts on the grounds of making concessions to the private sector by the state over the service of a public good, electricity (Erensü, 2017:125-126), thus putting private interest ahead public interest.

[207] Türkiye Elektrik Kurumu Dışındaki Kuruluşların Elektrik Üretimi, İletimi, Dağıtımı Ve Ticareti İle Görevlendirilmesi Hakkında Kanun, https://www.eigm.gov.tr/File/?path=ROOT%2f4%2fDocuments%2fKanun%2f3096%20SAYILI%20KANUN.pdf, (retrieved on 12 May 2019).

- Law No., 4628

Law No., 4628, *Electricity Market Law*, approved in 20 February 2001 and promulgated in 3 March 2001,[208] is a vital step in the entire liberalization of the electricity market in the crisis atmosphere of 2001 (Erensü, Evren & Aksu, 2016: 13 – translation added). As a consequence of the fact that the privatization schemes mentioned above did not prove to be effective due to judicial obstacles, the Law has held such aspirations as in below:

> … creating a truly private market from scratch…(aiming) to unbound industry activities (state monopoly), privatise public assets (power plants) and establish a 'financially strong, competitive, efficient and transparent' market; one that is subject to private law (Erensü, 2017: 126).

One of the most important contributions of the Law to the deregulation of the Turkish Energy Sector is to establish the *Energy Market Regulatory Authority* (Enerji Piyasası Düzenleme Kurulu – EPDK)[209] as an autonomous body in charge of overseeing the energy market (Erensü, 2017: 126). In this way, the Law has set up the basis of the current licensing mechanism (Erensü, Evren & Aksu, 2016: 13 – translation added). That is, "private sector legal entities (have been held responsible for) obtain(ing) a license from Energy Market Regulatory Authority to be engaged in the market; to build a power plant and to operate it" (Kucukali & Baris, 2009: 3876 – parantheses added).

[208] Elektrik Piyasası Kanunu, http://www.resmigazete.gov.tr/eskiler/2001/03/20010303M1.htm#1, (retrieved on 13 May 2019).

[209] The name of the *Electricity Market Law* has been amended as the *Law on the Organization and Duties of the Energy Market Regulatory Authority* (Enerji Piyasası Düzenleme Kurumunun Teşkilat ve Görevleri Hakkında Kanun) with the Article No., 30 of the Law No., 6446, dated 14 March 2013. Indeed, the Law No., 6446, is the current, revised version of the Law No., 4628. Enerji Piyasası Düzenleme Kurumunun Teşkilat ve Görevleri Hakkında Kanun, http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4628.pdf, (retrieved on 13 May 2019).

- Bylaw of the Water Usage Right Agreement

The bylaw of the *Water Usage Right Agreement* dated 26 June 2003 with the long title of *Regulation About Methods and Bases of Signing Water Use Right Agreement to Carry Electricity Generation Activities in the Energy Market*[210] is reckoned as a milestone in the setting of the legal basis of the involvement of the private sector in the HEPP projects (General Directorate of State Hydraulic Works, 2018: 41). Such a phrase had been enunciated by the then Minister of the Environment and Forestry, Veysel Eroğlu, in a HEPP groundbreaking ceremony in 2008 with the exact words that "The Water Usage Right Agreement is a milestone for our country" (Ercan, 2012: 77 – translation added).

As the representatives of the state, both the General Directorate of State Hydraulic Works (DSİ) and the Minister are right to bear significance to the Bylaw. For the Bylaw not only fortifies the legal ground of the HEPP's constructed by the private sector but also paves the way for the delivering of not only the right to generate hydroelectric power but also of the right to use water to the private sector on the part of the public (Erensü, Evren & Aksu, 2016: 13 – translation added). The Bylaw regulates such a *rights-transfer*[211] as follows: It permits the *DSİ* to lease sections of rivers and streams (often for 49 years) to

[210] Elektrik Piyasasında Üretim Faaliyetinde Bulunmak Üzere Su Kullanım Hakkı Anlaşması İmzalanmasına İlişkin Usul ve Esaslar Hakkında Yönetmelik, http://www.resmigazete.gov.tr/eskiler/2003/06/20030626.htm#2, (retrieved on 13 May 2019).

[211] Such a 'rights-transfer' has met with reaction on the part of the public with allegations of the 'sale of water assets'. It can be said that such a reaction has been triggered by the constitutional statement included in the Article No. 168. To quote from the document of the General Directorate of State Hydraulic Works (2018: 42), the article stipulates that "the right to explore and exploit the natural resources including water resources belong to the state. In addition, it places natural wealth and resources at Turkish State's disposition. However, it enables the government to entitle its rights to legal and real persons for a certain time period". As a reply to such reactions, possibly strengthened by such constitutional status of water assets, the Prime Minister of the time, Recep Tayyip Erdoğan, stated in his speech at the the groundbreaking ceremony of İkizdere HEPP in Rize that "It is out of the question that rivers, streams are not sold. Only the usage rights are passed on.", Erdoğan: Akarsular Satılmıyor (Erdoğan: Streams are not Sold), https://www.ntv.com.tr/turkiye/erdogan-akarsular-satilmiyor,sDxB63krjEm6VMirY-lFmA, (retrieved on 4 April 2012 – translation added).

private entities embarking on constructing HEPP's via the signing of the *Water Usage Right Agreement* between the *DSİ* and the relevant legal persons (Erensü, 2017: 126-127; Eberliköse, 2013: 135-136 – translation and italics added).

- Law No., 5346

The *Renewable Energy Law*,[212] dated 18 May 2005, is another legal regulation deemed as a milestone. This Law aims at the encouraging of the production of renewable energy generation by granting "purchase guaranty" and "unit price guaranty" for the generated renewable energy. (General Directorate of State Hydraulic Works, 2018: 41).

- Law No., 5784

The Law No., 5784, dated 9 July 2008, regulates the generation of license-free electric energy.[213] Codified with the motivation of attracting companies to invest on mini-HEPP's and micro HEPP's, this Law immunizes legal entities generating electricity out of renewable energy resources up to a capacity of 500 kW from applying for a license (Kucukali & Baris, 2009: 3875-3876).

- Environmental Impact Assessment Bylaw

The *Environmental Impact Assessment Bylaw* has been enacted in 29 October 2014 with No. 29186. As specified in the Article No. 4 of the Bylaw, four types

[212] Yenilenebilir Enerji Kaynaklarının Elektrik Enerjisi Üretimi Amaçlı Kullanımına İlişkin Kanun, http://www.resmigazete.gov.tr/eskiler/2005/05/20050518-1.htm, (retrieved on 13 May 2019).

[213] Elektrik Piyasası Kanunu ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun (Law About the Amending of the Electricity Market Law and Certain Laws), https://www.enerji.gov.tr/File/?path=ROOT%2F1%2FDocuments%2FSayfalar%2FELEKTR%C4%B0K+P%C4%B0YASASI+KANUNU+VE+BAZI+KANUNLARDA+DE%C4%9E%C4%B0%C5%9E%C4%B0KL%C4%B0K+YAPILMASINA+DA%C4%B0R+KANUN.pdf, (retrieved on 13 May 2019).

of decisions are taken by the Ministry of Environment and Urban Planning based on the 'environmental impact assessment' (EIA). The decision of 'EIA Not Required' means that the project in question does not hold significant environmental impacts that makes the preparation of the EIA Report unnecessary whereas the decision of 'EIA Required' sets forth that an EIA Report is mandatory. On the other hand, the decision of 'EIA Positive' puts forth that the negative impacts of the project on the environment are at an acceptable level given that certain measures are to be taken as per the relevant regulations and the scientific fundamentals, indicating that the realization of the project is not unfavorable in terms of the environment. On the contrary, the decision of 'EIA Negative' sets out that the implementation of the project is objectionable due to the negative effects of the project on the environment.[214]

Actually, the first Bylaw on *Environmental Impact Assessment* (EIA) was enacted in 1993. However, the Bylaw was revised 14 times during the AKP power between the time interval of 2002 and 2016. The revisions widened the type of HEPP's that must be subject to regulation (Erensü, 2017: 127). Currently, the HEPP's with installed capacity of only 10 MW and over are deemed subject to the environmental impact assessment.[215] Yet, the 'EIA Positive' or 'EIA Not Required' decisions have been overwhelmingly taken since the inception of the EIA mechanism. The figures about the distribution of the EIA decisions between the years of 1993-2018 manifest this situation: The 'EIA Positive' decisions amount to 5288 while the 'EIA Negative' decisions amount to only 53. The total number of the 'EIA Not Required' decisions is

[214] Çevresel Etki Değerlendirmesi Yönetmeliği, http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.20235&MevzuatIliski=0&sourceXmlSearch=%C3%87evresel%20Etki, (retrieved on 13 May 2019).

[215] Çevresel Etki Değerlendirmesi Yönetmeliği, http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.20235&MevzuatIliski=0&sourceXmlSearch=%C3%87evresel%20Etki, (retrieved on 13 May 2019).

60694 whereas that of the 'EIA Required' decisions is only 1005.[216] As such figures reveal, it seems that the EIA does not pose a robust obstacle to the HEPP constructions.

- Urgent Expropriation Procedure

The urgent expropriation procedure has highly facilitated the private sector's partaking in the hydropower electricity generation in Turkey. However, it is not a new procedure despite its scope of implementation has highly changed over years. The urgent expropriation procedure has entered into the legal regulations with the Article No. 27 of the Law No. 6830, the *Expropriation Law*, on 31 August 1956, which was updated taking the form of Law No., 2942 on 8 November 1983 (Kaya, 2011: 199 – translation added). Actually, the *Expropriation Law* is a war-time regulation. Its motive is to provide the government of the time exceptional measures to confiscate land and property for strategic purposes in the face of possible foreign invasion. The urgent expropriation procedure included in the Law entitles the government to by-pass detailed confiscation procedures. As seen, the Law refers to an explicit state-of-war or state-of-emergency as a condition that defines urgency. The examples of the assets that can be confiscated on the grounds of this Law are bakeries, factories, medical tools and facilities which can all be utilized by military forces showing that the Law only targets services and properties needed for their technical features (Karaman, 2015, quoted in Erensü, 2017: 127, 144).

The rebirth of the procedure of urgent expropriation overlaps with the restructuring of Turkish capitalism subsequent to the 2001 economic crisis. Especially from 2004 on, this procedure replaces the ordinary expropriation practices in contrast to its previous exceptional status (Kaya, 2011: 206 – translation added). The cabinet resolutions of urgent expropriation have been

[216] İlk ÇED Yönetmeliği'nin yayımlandığı 1993 yılından 2018 yılı sonuna kadar verilen ÇED, https://webdosya.csb.gov.tr/db/ced/menu/ced-karar-1993-2018_28012019_20190128094201.pdf, (retrieved on 13 May 2019).

greatly helpful in energy-related land disputes by enabling the appropriation of the private land of particularly small-scale rural owners, and leasing them to energy infrastructure entrepreneurs for extended periods of time (Erensü, 2017: 127). As such, the number of urgent expropriation resolutions have begun to rise from the 2000s on. While the number of resolutions taken in the 1980s is only six, and only four in the 1990s, the resolutions skyrocketed under the AKP rule, raising to 104 resolutions only in the last six years of the 2000s (Kaya, 2011: 200, quoted in Erensü, 2017: 127). Particularly the time interval between 2004 and 2014 witnessed 1785 resolutions in total, some 1500 of them being directly related to energy production (Kaya, 2016: 57, quoted in Erensü, 2017: 127-128). The resolutions about the electricity market make up the 92% of all energy market resolutions. The resolutions about the HEPP constructions which amount to 212 resolutions hold the highest share in the entire electricity market resolutions (Kaya, 2016: 79 – translation added).

- Urgent Judicial Proceedings

The mechanism of the urgent judicial proceeding has actually been introduced by the amendment of the Law No., 2577, the former *Law on Urgent Judicial Proceedings*, by the Law No, 29044, dated 28 June 2014.[217] The motive behind the application of this mechanism is to circumvent the EIA scrutiny and to accelerate the investment pace. The urgent judicial proceeding has proved helpful in this respect. Litigating administrative actions pertaining to land-related disputes has become difficult as the judges' ability to suspend administrative decisions has been restricted (Yeşilyurt, 2015, quoted in Erensü, 2017: 128). For it has reduced the term of litigation to 30 days in acts subject to urgent proceeding while the general term of litigation is 60 days (Erensü, Evren & Aksu, 2016: 13 – translation added).

[217] Türk Ceza Kanunu ile Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun, http://www.resmigazete.gov.tr/eskiler/2014/06/20140628-9.htm, (retrieved on 13 May 2019).

When looked through this picture depicted in the passages above, it seems as if the capital wages war on the water commons being devastated by the expansive HEPP constructions. The damages of the HEPP's on the water commons and the environment as a whole are enumerated by Girgin's article included in the report of the meeting organized by the *Suyun Ticarileştirilmesine Hayır Platformu* (Platform for No to the Commercialization of Water) as follows (Girgin, 2012: 21-24 – translation added):

- Devastation of the forest land
- Pollution created by various types of waste
- Threat of loss of species due to the deterioration of the natural life spheres of plants and animals
- Water and land salinization which affects agricultural activity and means of existence negatively
- Drying of the wetlands as a consequence of the undernourishing of the groundwater induced by the incarcerating of the water within the pipe
- The endangering of the lives of aquatic living beings due to the reduction of the water quality
- Climatic changes
- The danger of the drying of the stream bed entirely
- The blocking of the migratory routes of the fishes
- The efficiency loss in the agricultural lands due to undernourishing, which is induced by the decrease in the nutriments carried by water
- Depopulation of the area due to immigration of the local people

In effect, to turn to the starting pages of the chapter, all such dynamics and processes of the HEPP surge exhibit a story of primitive accumulation. The streams, one of the water commons, are enclosed through the HEPP licenses cutting of the people (and other living beings) from their means of production and subsistence as well as their socio-cultural habitats. Moreover, the state with its legal instruments has been involved at the center of the process. As put by

Harvey (2003: 145), the state with its definition of legality plays a vital role in the process of primitive accumulation. In this vein, it can be commented that the actuation of the hydropower projects involves redefining what is legal (and therefore also what is illegal) such that state regulatory mechanisms favor private-sector interests by the easement of rights on property, government incentives and regulation of use rights on water (Islar, 2012: 376, 387-388).

Within this framework, Islar (2012: 376) remarks that the privatization of hydropower electricity generation in Turkey "can be understood as an instance of 'water grabbing', where powerful actors gain control over use and increase their own benefits by diverting water and profit away from local communities living along these rivers despite their resistance".[218] Moreover, what is grabbed or primitively accumulated by means of such neoliberal surge is not only the water assets such as rivers but all the water basin in its entirety. Such a basin-centered accumulation makes ground in the Turkish state's *National Water Plan* which designs the state's water projection for the years 2019-2023. It is specified in the Plan that the approach of water-based integrative water management needs to be embraced in the investment planning which also denotes to Turkey's national water policy for the sake of protecting, developing, controlling and utilizing the available water resources sustainably in terms of quantity, quality and ecosystems (Su Yönetimi Genel Müdürlüğü, ?: 39, 54 – translation added). Nevertheless, despite its rational and technically plausible appearance, Turkey's so-called approach of integrative, basin-centered water resources management is another extensive name for the approach of "integrated water basins management" which has been discussed in the previous chapter on the political economy of right to water. To remark again, as debated in the previous chapter, this approach indicates the realization of resource management on the basis of water basins integrated with the other natural resources with the aim of the

[218] Though the concept of 'water grabbing' is also explanatory of the HEPP phenemenon, the concept of 'water-based primitive accumulation' is preferred in this dissertation owing to its emphasis on historical processes and capitalistic relations of production linking the emergence of capitalism to its inherent character of 'primitive accumulation' continuing with several instances of enclosing the commons.

identification of the basis not only on the grounds of the amount of water but of all dimensions and resources (Harmancıoğlu, Gül & Fıstıkoğlu, 2002: 29 – translation added). Nonetheless, it actually brings in its wake not only the commodification of water but also the extinguishing of water basins integrally with all its assets in its entirety under the dictates of capital accumulation (Üstün, 2014: 372 – translation added). Furthermore, as discussed in the previous chapter, the approach of "integrated water basins management" embraces the governance paradigm with its emphasis on the *participation* of all the water-related units of the state and all the stakeholders in making decisions on the water management in coordination by balancing and integrating of the ideas, aims and expectations of all the water-related sectors (Harmancıoğlu, Gül & Fıstıkoğlu, 2002: 32 – translation and italics added). Indeed, as mentioned in the first chapter on "Right to Water and the United Nations International Human Rights System", the governance paradigm, in parallel with the approach of "integrated water basins management" implies that political power should be harnessed in collaboration with other stake holders including the civil society actors and the capital groups which are all deemed equal partners in governing/decision-making (Kooiman, 2003: 5-11, 130, quoted in Kurt, 2008: 12-13). Nonetheless, it should be underlined that, inasmuch as the capital groups in the water sector constitute one of the stakeholders, the approach of integrated water basins management or "integrative, basin-centered water resources management" as in Turkey's *National Water Plan* eases the penetration of the market into water management also beclouding the power inequalities among the societal groups. Yet, as pointed out by İlhan (2011: 102 – translation and paranthesis added) in practice, participation in water management turns out to be restricted with the actors of the economic sector (read it as 'market') and state bureaucracy deepening the disproportionality of representation between the citizens benefiting from water as vital necessity and such groups aforesaid.

As seen, Turkey is embedded in the neoliberal water-based primitive accumulation as part of a global trend. However, one should not take this trend as a linear, one-type, monolithic trend or process. Yet, neoliberalism does not

take place globally in a homogenous way. Hence, one should take into account "the variegated character of neoliberalization processes, their systemic production of geoinstitutional differentiation" (Brenner et. al., 2010: 184). As put by Brenner, Peck and Theodore (2010: 190), "neoliberal reform dynamics do not reflect the inexorable unfolding of a preconceived, preconstituted ideological blueprint, replicated in a 'pure' form in one jurisdiction after another". To turn to water, the same account can be deemed valid for the neoliberal water-based primitive accumulation as well. In a similar vein with the approach of *variegated neoliberalization* (Brenner et. al., 2010), the approach of *systems of provision* also takes variegations and contextualities into account. It treats the water sector

> … in terms of the way in which agents relate to each other and, as such, is based in the real world. Rather than seeing the delivery of water as a market that needs to be corrected, the sop (systems of provision) approach starts from the premise that outcomes emerge from settlements between agents which are themselves embedded in historically evolved social and economic structures and processes (Bayliss, 2014: 5 – parenthesis added).

Within this context, the *systems of provision* approach considers "the nature of provision (of water), and for the role of the state within it, to be constructed and construed on a case-by-case, country-by-country basis" (Bayliss et. al., 2016: 30 – parenthesis added). Hence, it allows for evincing both common and distinct issues with regard to water provision (Bayliss et. al., 2016: 30 – parenthesis added). In this sense, Turkey bears both similarities and differences in terms of neoliberal water-based primitive accumulation worldwide. To begin with similarities, one can first state that as part of a worldwide phenomenon, international institutions with specific reference to the World Bank has been located at the core of the neoliberal transformation of the Turkish water sector by means of policy proposals and loans ranging from the privatization of urban water and sewerage systems as in the Antalya (Güler, 1999: 161-162 – translation added) and Çeşme-Alaçatı projects (Çınar, 2009: 138-139; Çınar, 2006b: 242; Topçu, 2006b: 381, 383, 389 – translation added), the foundation of the İSKİ model, a commercial, market-led model based on the principle of the 'user pays'. (Yılmaz & Çelik, 2016: 7-8; Çınar, 2009: 137, 231; Güler, 1999:

134-135 – translation added), the delegation of agricultural irrigation facilities from the DSİ to the irrigation unions in line with the principle of participation and the 'user pays' (Yılmaz, 2013: 258 – translation added) to the encouraging of renewable energy production (Yılmaz & Yılmaz, 2011: 132 – translation added).[219] As regards the sector of packaged water, not the World Bank, but the United Nations has taken part in the mushrooming of this sector in Turkey albeit in an indirect manner. The packaged water sector has dramatically grown globally with sales amounting to 91 billion£ worldwide in 2007 in parallel with a growth rate that has reached to 5-10% within 10 years (Karakuş et.al, 2016: 105 – translation added). A similar growth tendency can be observed in Turkey as well with the ascending of the share of gallon water in the total packaged industry to 80% by 2008 (Yılmaz & Çelik, 2016: 12) with the rising of the total production of packaged water to 11.6 billion liters while market size escalated to 5,7 billion TRY with the growth rate of 3% by the year 2017.[220] Such an economic growth trajectory of the packaged water industry both globally and in Turkey draws on the legitimacy endowed to the packaged water companies by the *CEO Water Mandate*. Set up in 2007, the *CEO Water Mandate* aims to "mobilize business leaders to advance water stewardship, sanitation, and the Sustainable Development Goals in partnership with the United Nations, governments, peers, civil society, and others".[221] In this way, the Mandate functions as a consent-collecting strategy, a *bluewashing* initiative (Barlow,

[219] Herein, as mentioned in the paragraphs above, particularly European Investment Bank and the German loan institution Kfw (Kreditanstalt für wiederaufbau – German Technical Cooperation) can be counted as the other major creditors in the Turkish water sector apart from the World Bank (Yılmaz & Çelik, 2016: 8; Çınar, 2006b: 241 – translation added). What's more, the EU-IPA (Instrument for Pre-accession Assistance), Japan International Cooperation Agency (JICA) and the Islamic Development Bank can be enumerated among the foreign finance sources in the water quality sector in Turkey in addition to the World Bank (Su Yönetimi Genel Müdürlüğü, ?: 38 – translation added).

[220] Ambalajlı su pazarı 11,6 milyar litreye ulaştı [The packaged water market figured out at 11,6 billion liters], https://www.aa.com.tr/tr/ekonomi/ambalajli-su-pazari-11-6-milyar-litreye-ulasti/1225392#, (retrieved on 4 May 2019).

[221] UN Global Compact's CEO Water Mandate, https://www.unwater.org/institution/un-global-compacts-ceo-water-mandate/, (retrieved on 20 February 2021).

2007: 44; Food&Water Watch, 2012: 44 – translation added) on the part of the water companies. Indeed, the world's biggest water companies such as Coca Cola, Nestlé, Pepsi, Suez and Veolia have signed on the *CEO Water Mandate* demonstrating the voluntary partnership with the United Nations as part of the UN Global Compact (Food&Water Watch, 2010: 6). Thuswise, it can be put that the UN through the CEO Water Mandate has facilitated the entrance of the giant water companies to the packaged water sector in Turkey.

To turn to the differences, it can be remarked that Turkey *partly* draws apart from the global hegemonic discourse on the lack of efficiency of public provision of water and sewerage systems in terms of environmental and economic outputs. It is circulated in this discourse that efficient management of water can only be realized by the private sector given the existence of state failure (Bakker, 2003: 43). In line with such discourse, for instance, England and Wales have been among the first in the world privatizing water provision in face of inadequate investment and problems concerning environmental standards on the part of the public provision of water (Bakker, 2005: 548). Here, privatization has taken the form of divesture and financial sector has taken root with water companies being listed on the London Stock Exchange in 1989 (Fine et. al., 2016: 11, 29) leading to the fact that financial sector and financial practices playing a core role in the system of provision of water turning the water in into a speculative asset (Bayliss, 2014: 7, 55). Nonetheless, the privatization of water provision has concluded in high levels of increase in water bills and problems of affordability despite high levels of infrastructural investment and provision of high quality water (Bayliss, 2014: 56, 81, 83, 94; Bayliss et. al, 2016: 44).

To turn to Turkey again, indeed, the example of Antalya Project has led to similar results like in England and Wales in terms of considerable increases in water tariffs. As described in the paragraphs above, the Antalya project, an attempt at the privatization of water and wastewater systems at the local government scale, was jointly initiated by the *ENKA* Corporation from Turkey and the global water corporation *SUEZ* as a requirement of a World Bank loan.

However, the dramatic rise in the water tariffs led to the cancellation of the project. Thuswise, Turkey's first privatization experience of urban water and wastewater systems resulted in failure (Kurt, 2017: 182; Güler, 1999: 161-162; Çınar, 2009: 138 – translation added).[222] Currently, the public sector is substantially overwhelming in the drinking water and sewerage services in Turkey (Kurt, 2017: 182 – translation added). Moreover, "the financialisation of water provision is quite limited" in Turkey in that "the financialisation of water … is heavily under the control of different levels of the state and there is not much involvement of the agents of financialisation process (Yılmaz & Çelik, 2016: 3-4) unlike the example of England and Wales.

Within such a context, the extensive resistance has taken place against hydro-electrical energy power plants (HEPPs) in Turkey unlike, for instance, in Ireland[223] where the resistance has targeted the attempts at the installation of water meters or Italy against "the process of liberalization in water services management through a series of norms, which gradually transformed the former municipal corporations into companies with the presence of privates … starting from the early 1990's" (Mazzoni & Cicognani, 2013: 315) with a so-called change towards "an incremental adoption of a market-oriented mode of governance, based on competition and on local public regulation" (Carrozza & Fantini, 2016: 101). However, in Turkey, the objective of extensive water-based popular struggle has been HEPP constructions which are named as instances of water grabbing by Islar – as discussed in the paragraphs above which "represent an act of dispossession, changing the regimes of entitlements to the use and

[222] As a consequence of several problems ranging from the lack of infrastructural investments, high prices to environmental hazards, at least 180 incidents or re-municipalization in 35 countries located both in the North and the South in the last 15 years by means of either cancellation or non-renewal of privatization contracts (Lobina, et. al., 2015: 3 – translation added).

[223] Dublin'de 10 binlerce kişi su sayaçlarına karşı tekrar yürüdü, [10 thousands of people marched again against water meters in Dublin], https://www.suhakki.org/2015/03/dublinde-10-binlerce-kisi-su-sayaclarina-karsi-tekrar-yurudu/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+suhakki+%28Su+Hakk%C4%B1%29, (retrieved on 1 April 2015).

access to rivers" (Islar, 2012: 387-388). In fact, one thing that is unequivocally apparent in this entire process of the neoliberal water-based primitive accumulation with its all aspects varying from packaged water to the HEPP's is that the phenomenon of so-called *rights-displacement/rights-grabbing* is on the ground in which collective rights are exchanged with exclusive property rights. Such aspect of the neoliberal water-based primitive accumulation is to be analyzed with respect to the varying configurations of the concept of 'right to water' on the part of the capital, water justice activism and anti-HEPP activism based on the ensampled certain actors as per the problematic of the dissertation in order to operationalize and deepen the theoretical assumptions of the dissertation in the next chapter.

CHAPTER 5

APPROACHES TO RIGHT TO WATER

Having explored the concept of right as well as the United Nation's – the outstanding international organization in the codification of international human rights - approach to the phenomena of right and right to water specifically followed with the theory of primitive accumulation, that is the global political-economy context within which right to water has been molded - as well as water-based primitive accumulation globally and with specific reference to Turkey, this last chapter of the dissertation continues with the scrutinization of the different approaches to right to water.

First of all, the approach of right to water holding the hegemonic discourse on the recognition of right to water as a human right based on its acceptance as a public good is examined. This approach is headlined in the dissertation as the approach of 'Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy', namely the 'Water Justice Approach'. The analysis of this approach is conducted by means of theoretical elaboration as well as empirical data procured from the analyses of the interpretation of the texts of the *Blue-Planet Project,* and of Maude Barlow's theses, the most prominent figure of this approach worldwide. Last but not least, the praxis-based approach of right to water, the approach defended in the dissertation, is handled. This approach is called as the approach of 'Right to Water as a Matter of Politics' based on the perception of the phenomenon of right to water – as well as the phenomenon of right in general – as praxis-based rather than law-based. It is hence, in parallel with the understanding of right to water as a class-based collective right. Again, the scrutinization of this approach draws on both theoretical contemplation and empirical data obtained from the analysis of the anti-HEPP *Platform for the Protection of the Fındıklı Brooks,* the discourse, claims and strategies of which

are in accordance with the points underlined by the 'right to water as a matter of politics' approach.

5.1. Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy (Water Justice Approach)

In the sequel of the brief introduction above, this chapter begins with the approach of 'Right to Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy' or in a nutshell, 'Water Justice Approach'.

This approach, which can be deemed the hegemonic discourse on the discursive terrain of the right-to-water (Yılmaz, 2010 – translation added), primarily advocates for right to water as a basic human right and a public good. It is part of the *new rights advocacy* – advocacy of rights beyond the Twin Covenants, *International Convention of Civil and Political Rights* and the and *International Convention of Economic, Social and Cultural* Rights – which are evoked by the global justice movements (Wills, 2017). It apprehends the privatization of water as the basic appearance of water-based primitive accumulation. With its roots in the arguments of anti-privatization campaigners (Bakker, 2012: 25) who have fought against numerous instances of the privatization of commons, the water justice movement relies on a diverse network comprising "environmental, women's, antipoverty, and religious groups working together with trade unions in multisite, multiscale alliances—often articulated with alter-globalization struggles (particularly those calling for reform of international financial institutions, such as the World Bank, and tradeagreements and organizations, such as the General Agreement on Tariffs and Trade [GATT] and World Trade Organization [WTO]" (Laurie and Marvin 1999; Brecher, Costello, and Smith 2000; Petrella 2001; Shiva 2002; Assies 2003; Barlow and Clarke 2003; Hukka and Katko 2003; Hall, Lobina, and de la Motte 2005; McDonald and Ruiters 2005; Swyngedouw 2005; Barrett and Jaichand 2007; Bond and Dugard 2008; Harris 2009, quoted in Bakker, 2013: 256). It draws on the principles such as "water is a Commons that will teach us how to live if we will listen, a Public

Trust that must be protected for the common good, not put on the open market as a commodity" (Barlow, 2010: 184).

Despite its politically plausible appearance, the water justice approach bears several deficiencies by ignoring the primacy of the individual and consistency with the prominent character of private property in the dominant human rights paradigm which is ontologically liberal. Such deficiencies contrast with the common character of water bearing upon the political strength of the approach in question.

The major representative of this approach is Canadian water-activist and writer, *Maude Barlow*. She served as the honorary chairperson of the *Council of Canadians* from 1985 to 2020.[224] As quoted from the website of the Council of Canadians, "from 2008–2009, she served as Senior Advisor on Water to the 63rd President of the United Nations General Assembly and was a leader in the campaign to have water recognized as a human right by the UN (on 28 July 2010 through Resolution 64/292[225])."[226] It is stated in the Statement of the President of the 63rd Session of the United Nations General Assembly at the 5th World Water Forum convened in İstanbul in 2009 that the President's views have been deeply influenced by Maude Barlow's work to bring the global water crisis to the attention of the international community and that the President shares Barlow's views that water is a public trust, a common heritage of people

[224] "Maude Barlow stepping down from Council of Canadians as honorary chairperson", https://canadians.org/update/maude-barlow-stepping-down-as-honorary-chairperson, (retrieved on 31 August 2021).

[225] "The human right to water and sanitation", https://www.un.org/waterforlifedecade/human_right_to_water.shtml#:~:text=On%2028%20July%202010%2C%20through,realisation%20of%20all%20human%20rights., (retrieved on 31 August 2021).

[226] "Maude Barlow stepping down from Council of Canadians as honorary chairperson", https://canadians.org/update/maude-barlow-stepping-down-as-honorary-chairperson, (paranthesis added), (retrieved on 31 August 2021).

and nature that is not a commodity to be bought and sold on the open market.[227] Nonetheless, the private sector has been included as a partner in cooperation with regard to access of all to clean and adequate amount of water besides international institutions in the outcomes of the 5th World Water Forum (Acar, 2018: 101 – translation added)[228] despite the President's pro-public attitude towards water management.

Barlow defends access to clean water and right to water that is to be recognized legally as a human right (Barlow, 2007: xiv). She objects to the commodification and privatization of water which are obstacles to the realization of the right to water (Barlow & Clarke, 2002: xi-xv). Based on these ideas, Barlow is also the founder of the *Blue Planet Project*[229] that has been created specifically to coordinate global efforts to enshrine water as a human right, a public trust, and a part of the global commons" (Baer, 2017: 99). The actor of such global efforts is the "global water-justice movement made up of environmentalists, human rights activists, indigenous and women's groups, small farmers, peasants and thousands of grassroots communities fighting for control of their local water sources" as called by Barlow (2007: xiii), at the global level.[230] As described by itself on its webpage, the *Blue Planet Project*

> … strives for water justice based on the principles that water is a human right, a public trust, and part of the global commons (aiming to) protect water as a vital

[227] "Statement of Mr. Miguel d'Escoto Brockmann, President of the 63rd Session of the General Assembly, at the Fifth World Water Forum", https://www.un.org/en/ga/president/63/pdf/statements/20090319-water.pdf, (retrieved on 31 August 2021).

[228] For further information, see "Global Water Framework, Outcomes of the 5th World Water Forum", http://www.fao.org/3/aq442e/aq442e.pdf, (retrieved on 31 August 2021).

[229] "Our Team, Board of Directors," https://www.blueplanetproject.net/index.php/home/about/our-team-2/, retrieved on 31 August 2021.

[230] "About BBP", https://www.blueplanetproject.net/index.php/home/about/, retrieved on 30 August 2021.

> resource and ensure that it is publicly managed so that it is available to everyone at reasonable, public rates.[231]

Despite its progressive orientation, both Barlow's and the *Blue Planet Project*'s orientations bear several deficiencies and blind spots. As put by Bakker (2012: 28),

> … pursuing a 'human right to water' as an anti-privatization campaign makes three strategic errors: conflating human rights and property rights; failing to distinguish between different types of property rights and service delivery models; and thereby failing to foreclose the possibility of increasing private sector involvement in water supply.

Conflating human rights and property rights is due to the failure to recognize the ontological priority of property rights in the dominant liberal human rights paradigm. As stated by Bakker, (2012: 28) "… rooted in a liberal tradition that prioritizes private ownership and individual rights, the current international human rights regime is flexible enough to be fully compatible with private property rights, whether for water or other basic needs". Yet, "rights and the system of law regulate the relations of free and equal exchange (between property-owners)" (Fine, 2002: 113-114 – parenthesis added). As properly put by Mitchell (2012: 90, 86) "private property is the sine qua non of the capitalist system and principal social relation facilitated by the liberal democratic framework… the political expression of the capitalist mode of production". Within this context, since liberal democratic societies are founded on the paradigm of liberal human rights which rests upon the rights of the right to property, right to life and liberty as manifested in the Lockean thinking as much as Locke is the main ideologue of liberal human rights, private property has an indispensable place in the dominant human rights paradigm as well as the international human rights system.[232] Even, MacPherson (1990:3) alleges that

[231] "About BBP", https://www.blueplanetproject.net/index.php/home/about/, retrieved on 1 September 2021.

[232] As discussed in the second chapter, Locke's theory of rights delineates one of the substantive ideological grounds of the dominant liberal paradigm of human rights. As argued by Macpherson

the concept of possession lies at the heart of all the other liberal assets such as freedom, rights, justice and obligation.

As stated in the paragraph above, it is worth to reword that the dominant liberal conceptualization of rights bypasses the intrinsic relation between rights and private property (Angelidis: 1995). However, the order of rights and the law in a bourgeois society regulate the relations of capitalistic private property between the free contracting parties (Marx: 1963). Such an order ensures the maintenance of the separation between politics and economics which is requisite for the system of private property (Clarke: 2001, Bonefeld: 2011). The separation between politics and economics is peculiar to the capitalist relations of production different from feudal relations of production. The economic sphere and the political sphere have each been set up as different spheres in that the issues of domination and exploitation have been displaced to the economic sphere different from feudalism in which they were inextricably bound up with political power (Wood, 1995: 20). As stated by Hirsch (Clarke, 2001: 13), the exercise of force has been separated - spared to the state endowed with the monopoly of the legitimate exercise of force – from the immediate relations of capitalist exploitation which presupposes the free purchase and sale of labor power as a commodity. Such a presupposition rests historically upon the separation of the self-sustaining laborer from her means of subsistence and production which has established the so-called free-contract relation between the capital and the labor. To put it in a more detailed and elaborated way to reveal

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in the preface to Locke's renowned book, *Second Treatise of Government*, Locke has "written the title-deeds of the liberal bourgeois state providing an invaluable ideological support for that state and the market society on which it has been built" (Locke, 1980: xxi). In such title-deeds, right to property has a central place for Locke's assertion of a natural right to property is at the heart of his theory of civil society and government (Macpherson, 1990: 197). It can even be remarked that Locke's theory has "fixed property rights firmly in the center of all subsequent liberal theory" (Macpherson, quoted in Locke, 1980: xvi). Indeed, it can be propounded that "Locke… defined property as encompassing or subsuming life, liberty, and estate." (Abraham: 1996: 4). In this sense, "natural rights, property and the duties of government are internally linked. One's rights are one's own property, and government is their protector." (Freeman, 2006: 12).

the relation between such separation and private property, one can turn to Bonefeld (2011: 385, 396 – italics added):

> The violence entailed in the "separation of free labor from the objective conditions of its realization – from the means of production and the material of labor" (Marx, 1973, 471) appears now, at least for some, in the civilized form of contractual relations between equal legal subjects. For them direct coercion has been replaced by (silent) economic compulsion. The existence of sellers and buyers on the labor market presupposes the existence of the free worker as the seller of his own labor power… The existence of "object-less, free workers" (Marx, 1973, 507) is the "foundation of capitalist reproduction" (Marx, 1983, 585). *Capital property rights* rest on the divorce of labor from her means, compelling the doubly free laborer to submit to "the command of capital" (Marx, 1973, 508)… The rule of the law of value presupposes the force of the law of the private property that primitive accumulation[233] established in "antithesis to social, collective property" (Marx, 1983, 713).

As touched upon in the paragraphs above, the 'water justice approach' fails to recognize the law of the private property. The rule of the private property is in an antagonistic relation with collective property owing to the exclusionary nature/ontology of private property rights. Pointing out to the importance of handling property rights within the context of the person-to-person relationship rather than person-to-thing relationship, Dine (2006: 55-56) highlights that "… property rights are, in essence, rights against other people… conferring power over people… All property rights govern power relations between people. … Rights actually lie against other persons, a right to exclude and so on".

In this sense, private property rights are in contradiction with collective property rights, thus the rights on the commons including water rights. Although the *Water Justice Approach* stands for the principle that "water is the common heritage of all humans and other species, as well as a public trust that must not be appropriated for personal profit or denied to anyone because of inability to pay" (Sultana & Loftus, 2012: 5), it belittles such contradiction and falls short of

[233] As discussed in an elaborated form in the third chapter, primitive accumulation is an organic part of the capitalist mode of production that relies upon the separation of the laborer from her means of subsistence and production disrupting collective forms of property replacing them with private property. See chapter 3, for more detail.

portraying an adequately robust stance as regards private property and the market. For such an approach leaps over the phenomenon of the 'political economy' of right to water underestimating the unequal property relations and the corporate power in the global politics (Mitchell, 2012). Such underestimation in the analysis of global political economy can be seen in the fact that the global Water Justice Movement attends every World Water Forum as part of its strategy for it deems the Forums as a global arena where the discourse on water is shaped and reproduced. The multifold strategy of the Water Justice Movement in line with this thinking comprises of working both inside and outside the Forums by participating in the Forum as audience members and occasionally panelists on the official program, organizing side events that are included in the Forum schedule but held outside the official Forum, working with human right-to-water friendly government representatives to influence the discourse on the human right to water and sanitation inside the Forum in addition to organizing and collaborating with local activists to hold an Alternative Forum and publicly protesting against the Forum. The *Blue Planet Project* holds one of the prominent roles in these efforts (Baer, 2017: 105-106, 108). However, insomuch as the organizer of the World Water Forums is the capital-led World Water Council as discussed thoroughly in the second chapter, the participation of the global Water Justice Movement on the Forums, despite the Alternative Forums held and protests run, is worth to re-question since it can add to the legitimization of the Forums, and thus its organizer, World Water Council, that bears the risk of augmenting capital's role in the global design of water policies and water discourse.

Furthermore, the *Water Justice Approach* falls also short of apprehending the phenomenon of primitive accumulation adequately. As discussed in the third chapter, the phenomenon of primitive accumulation – that can be summed up as 'enclosing the commons' constitutes the determinant variant of the political economy of right to water. Again, as discussed in the third chapter on the subject of water-based primitive accumulation, there exist several variants of water-based primitive accumulation including marketization - construction of markets

for trading and selling - (Harris, 2013: 112, Bakker: 2003, 36), privatization - a change of ownership, or a handover of management, from the public to the private sector- (Bakker, 2005: 544), commercialization - institutional change in the sense of norms, rules and customs rather than organizational change – (Bakker, 2005: 544) as well as commodification – the creation of an economic good through the application of mechanisms intended to appropriate and standardize a class of goods or services, enabling these goods or services to be sold at a price determined through market exchange (Bakker, 2005: 544). Nevertheless, the *Water Justice Approach* does not sufficiently elaborate on the instances of water-based primitive accumulation on its defense for public ownership of water.

As touched on in the paragraphs above, the water justice approach is against the sale of water and the use and distribution of water determined by the principles of profit believing that water as a fundamental human right ought to remain in the public domain protected by law (Barlow & Clarke, 202: xii-xiv). As drawn up in the *Treaty Initiative to Share and Protect Global Water Commons*, written by Maude Barlow and Jeremy Rifkin unanimously endorsed by the 800 delegates from 35 countries at the summit *Water for People and Nature*, in Vancouver, on 8 July 2001, the approach of Water Justice Movement adopts such principles (Barlow & Clarke, 2002: xvii-xviii):

> … That the intrinsic value of the Earth's fresh water precedes its utility and commercial value, and therefore must be respected and safeguarded by all political, commercial, and social institutions,
>
> That the Earth's fresh water belongs to the Earth and all species, and therefore must not be treated as a private commodity to be bought, sold, and traded for profit,
>
> That the global fresh water supply is a shared legacy, a public trust, and a fundamental human right, and therefore, a collective responsibility,
>
> …
>
> Therefore, the nations of the world declare the Earth's fresh water supply to be a global commons, to be protected and nurtured by all peoples, communities, and

> governments of all levels and further declare that fresh water will not be allowed to be privatized, commodified, traded, or exported for commercial purposes and must immediately be exempted from all existing and future international and bilateral trade and investment agreements.
>
> The parties to this treaty – to include signatory nation-states and Indigenous peoples – further agree to administer the Earth's fresh water supply as a trust. The signatories acknowledge the sovereign right and responsibility of every nation and homeland to oversee the fresh water resources within their borders and determine how they are managed and shared. Governments all over the world must take immediate action to declare that the waters in their territories are a public good and enact strong regulatory structures to protect them. However, because the world's fresh water supply is a global commons, it cannot be sold by any institution, government, individual, or corporation for profit.

Such principles cannot be dismissed readily. Nonetheless, one should bear in mind that commercialization can be initiated while ownership is retained in the public sector as in many OECD countries where public utilities employ rising bloc tariffs and universal metering to price water at full cost or on the grounds of the principle of cost-recovery (Jones, 1998, quoted in Bakker, 2005: 544; Yılmaz, 2010: 28 – translation added) as debated in the third chapter on the issue of primitive accumulation. Hence, the advocacy of the human right to water on the grounds of the defense of public ownership of water assets can fail to adequately close the way towards the water-based primitive accumulation in the sense of the commercialization of water. Indeed, the statement by *Anil Naidoo*, the former chairperson of the *Blue Planet Project* on the Second Congress of Water Politics of the former chairperson of the *Blue Planet Project* on the Second Congress of Water Politics of 'Union of Chambers of Turkish Engineers and Architects' (TMMOB) is striking in that he expressed that the *Blue Planet Project* "does not believe that the private corporations does not have a role but they can only undertake an auxiliary role in the conveying of water to people. Nonetheless, they can't hold the control of water" (Yılmaz, 2010: 32-33 – translation added).

Herein, one can again pay attention to Bakker's words in that the current formulation (and the conceptualization) of right to water is flexible enough to be compatible with private property rights (Bakker, 2012: 28 – parenthesis added).

Within this context, it is not a surprise that several capital groups and capital organizations have embarked on the advocacy of the right to water. The logic is on the part of, for instance of the World Bank is that "water is a fundamental human right, hence it has to be privatized".[234] Such logic is apparent in the World Bank publication called *Achieving Universal Access to Water and Sanitation by 2030: The Role of Blended Finance*, written by James Leigland, Sophie Tremolet and John Ikeda published in 2016. It is recommended in the book that "private sector financing … would allow reallocating public funds to other areas where public subsidies are likely to be needed" (Leigland et al., 2016: 4). By the same token, the right-wing think-tank, *Cato Institute* issued reports claiming that "water socialism had failed the poor and that, market forces, properly regulated, were the best means of fulfilling the human right to water" (Bailey, 2005; Segerfeldt, 2005, quoted in Bakker, 2012: 28). To put it in more detail, one can turn to Bakker (Bailey, 2005; Segerfeldt, 2005; Dubreuil, 2005, 2006, quoted in Bakker, 2012: 28):

> … Indeed, the shortcomings of 'human right to water' anti-privatization campaigns became apparent following the Kyoto World Water Forum, as proponents of private sector water supply management began speaking in favour of water as a human right. Senior water industry representatives identified water as a human right on company websites, in the media, and at high-profile events such as the Davos World Economic Forum… Non-governmental organizations such as the World Water Council, regarded by anti-privatization campaigners as being allied with private companies also developed arguments in favour of water as a human right (Dubreuil, 2005, 2006). Shortly after the Kyoto meeting, the World Bank released a publication acknowledging the human right to water (Salman and McInerney-Lankford, 2004).

One of the water industry representatives identifying water as a human right is the organization of European water service providers, *Aquafed*, the International Federation of Private Water Operators. Several outstanding capital groups on the water sector such as *Suez* are members of the Aquafed (Barlow, 2007: 51).

[234] Interview with Gaye Yılmaz & Selim Yılmaz, foremost activists of the *Su Politik* (Water Politic), an anti-capitalist intellectual organization - that can be named as *knowledge builders* - which produce and disseminate scientific knowledge about the commodification of water and other aspects of the commercialization of nature, on 22 December 2014, Ankara.

Aquafed is itself also a member of the World Water Council.[235] Founded in 2005, Aquafed is a "new lobby group started by the big European water utilities" targeting connecting international organizations such as United Nations, World Bank and the European Union "with private sector providers of water and wastewater services" (Barlow, 2007: 51). Not strikingly, Aquafed regards "promoting the human right to safe drinking water and sanitation and the solutions for achieving these rights so no-one is left behind" among its missions on its website[236] also calling for the implementation of the right to water in Europe.[237] In fact, as cited from Bakker (2012: 28),

> (In 2006)… at the Fourth World Water Forum in Mexico City,... representatives of private water companies issued a statement recognizing the right to water and recalling that the private sector had officially endorsed the right to water in 2005 at the 13th session of the UN's Commission on Sustainable Development (Aquafed, 2006). At the Mexico City Forum, a somewhat contrived consensus across civil society, private sector and governments on the 'right to water' emerged (Smets, 2006).

To enlarge upon the narrations by Bakker above on the 4th World Water Forum, it can first be stated that the right to water has been recognized by the pro-capital World Water Council as explicit in the words of the participant of the Forum, Loïc Fauchon in that "the right to water is an indispensable element of human dignity" (Martinez & van Hofwegen, 2006: 87). In this vein, the civil society actors gathered under the umbrella of the 'water justice movement' and the capital itself turned to be united under the fabric of the 'right to water'. Hence, there appeared a broad consensus about the existence of a human right to water (Martinez & van Hofwegen, 2006: 89). Nonetheless, the right to water had not been inscribed on the *Ministerial Declaration* of the Forum as much as official recognition of the right to water would necessitate several legal amendments in the national judicial system as well as the creation of new legal instruments on

[235] https://www.worldwatercouncil.org/Board_Mandate_2019-2021_latest/index.php?op=view&idcandidat=26, retrieved on 29 October 2021.

[236] "Our Missions", https://www.aquafed.org/, (retrieved on 29 October 2021).

[237] Press Releases, http://www.aquafed.org/page-4-44.html, (retrieved on 18.06.2016).

the part of the international bodies (Martinez & van Hofwegen, 2006: 90). However, right to water was recognized by the governments of Bolivia, Uruguay, Cuba and Venezuela by the *Complementary Ministerial Declaration*,[238] which reveals that the terrain of right to water is a contested terrain rather than a homogeneous terrain.

The conflict-ridden terrain of right to water shows also that one should look at the implicit background of the so-called consensual picture. At first glance, it seems as if all actors – private sector, governments and civil society – agree on the right to water by accepting the vital importance of water in terms of human reproduction. Nonetheless, the background is different. The capital has deemed right to water as a strategy for expansion into new spheres of capital accumulation. As it has taken the advantage of the water crisis/scarcity creating the market response to the water crisis to enable the penetration of the market into spheres of water provision hitherto under the conduction of the state, it has again instrumentalized the discourse of right to water to facilitate the entrance of the market to the field of water provision and sanitation. As indicated by Segerfelt (2005: 23, quoted in Elver, 2012: 115),

> … water companies now package their business in human-rights- and environment-oriented language and they have become involved with various UN agencies and water-related projects. They argue that many governments in developing countries have failed to recognize their citizens' supposed rights to water and that water privatization can go a long way towards 'quenching the thirst of the poor'.

In line with such attempt of cooptation of right to water by the capital for the sake of capital accumulation, the World Water Council has released a report entitled *The Right to Water: From Concept to Implementation* at the 4th Water Forum held in Mexico City in 2006 in which it has underlined that

[238] Final Report of the 4th World Water Forum, Local Actions for a Global Challenge, https://www.worldwatercouncil.org/en/publications/final-report-4th-world-water-forum, (retrieved on 1 November 2021).

> the human right to water does not address the mode of service delivery, as long asthe standards set out in General Comment No.15 are upheld. It means only that the public authorities must exercise effective control over the water services after first choosing the most appropriate management method – public, private or semi-private –for those services (Dubreuil, 2006: 13).

In line with such statements, the pro-capital organization of *Global Water Intelligence*, "the leading publisher and events organiser serving the international water industry… (through the role of) a trusted interface between (water industry actors) and their markets, providing… (them) with high-level intelligence that enables them to make the most informed strategic decisions for their business"[239] as declared on their website, announced following the 2010 UN Resolution on the right to water that the Resolution represented a massive defeat for the Global Water Justice Movement" (Sultana & Loftus, 2015: 99). Nonetheless, such stances and cooptation endeavor of the right to water by the capital has been failed to be noticed adequately by the water justice approach. Maude Barlow, the prominent name of the global water justice movement in the international area, has welcomed the Resolution as a breakthrough stating that privatization of water services has now come under a great scrutiny unlike the past though they have not been banned (Barlow, 2013: 8, 30). However, the water justice approach undervalues the role of the capital in the design and implementation of water policies globally. Such a semi-optimistic attitude owes to the fact that the water justice approach perceives the terrain of right to water as a homogeneous and clear-cut terrain with two uncompromising parties, the water warriors at one end struggling for the right to water deeming water as a public good and the private corporations at the other end reckoning water as an economic good. Such picture fails to account for the adoption of right to water by the capital. The adoption of right to water by the capital organizations cannot be deemed a success of the water justice movement insofar as the capital aims to deepen its place in the water sector remains in place. Within this context, the discourse and strategy of *market environmentalism* – the employment of market institutions in

[239] About GWI, https://www.globalwaterintel.com/about-gwi, (parantheses added), (retrieved on 22 December 2021).

the management of natural assets – (Bakker, 2005: 542) aggregates with the *market approach to right to water* which both enable the deepening of capital accumulation in the water market. By slipping up on such a coalition, the strategy of water justice approach also loses sight of the so-called *struggle over the right to water* (Mitchell, 2012: 79). Pointing out to the unequal property relations shaping the global economy and capitalist mode of production, Mitchell (2012: 79) claims that there appears not only a *struggle for the right to water* but also, and more significantly, a *struggle over the right to water* which imply competing interests over the right to water in the terrain of civil society which is a conflict-ridden terrain rather than a terrain based on free contract among free individuals. Proposing a political-economy approach to right to water, Mitchell (2012: 89) underlines the unequal property relations that define the capitalist relations of production as well as the imbalanced influence and power corporations have over economic, political and legal resources and processes. By this way, it can be possible to contextualize the question of access to water as a struggle over rights, a subject of political economy, rather than the biophysical matter of water itself (Mitchell, 2012: 89).

As much as one fails to consider the *struggle to right to water* as a struggle *over right to water* by excluding the political economy of water, right to water turns out to be an *empty signifier* (Sultana & Loftus, 2012). When right to water is acknowledged by everybody, it loses its meaning and essence.[240] At this point, Sultana & Loftus (2012: 2 – italics added) indicate that "the right to water risks becoming an *empty signifier* used by both political progressives and conservatives who are brought together within a shallow post-political consensus that actually does little to effect real change in water governance". Resembling the concept of *floating signifier*,

[240] The problem of shift to an *empty/floating signifier* does not only pertain to the concept of 'right to water' but to the concept of 'human rights' in general. As put by Costas Douzinas (2007: 33), the human rights rhetoric has become the new *lingua franca* which "can be adopted by left and right, the north and the south, the state and the pulpit, the minister and the rebel".

> ... the right to water has such a shifting meaning that it allows for agreement between anyone, from large multinational water companies seeking to bid for concession contracts in cities of the global South to activists within those cities fighting the privatization of their municipal services. We are all for the right to water – from the vendor selling from his tanker to the thirsty activist seeking radical change. Lacking specificity, the right to water loses its conceptual weight: it becomes a *floating signifier* devoid of any political content. Like 'sustainable development' and many other fuzzy concepts that have gone before, the right to water is emptied of any real meaning. If all concur it is a good thing it loses its ability to disrupt contemporary water governance which has persistently reproduced inequities (Naidoo, 2010, quoted in Sultana & Loftus, 2012: 10 – italics added).

The discourse of the water justice approach fortifies the risk of the concept of 'right to water' turning out to be an *empty/floating signifier* devoid of a staunch meaning challenging the contemporary water governance. For instance, the slogan of 'water for all' carries a loose meaning despite its ostensible political strength. As put down by Barlow (2007: 102 – italics), "*water for all* … has been the rallying cry of local groups fighting for access to clean water and the life, health and dignity that it brings". The water warriors organized within the global water justice movement considering water as a public trust, a common heritage of people and nature and a fundamental human right fight the forces and institutions that perceive water as a commodity to be put on the open market and sold to the highest bidder (Barlow, 2007: 102). As seen, it seems as if the struggle for right to water runs between the ones seeing water as a commodity, thus denying the human right to water and those who regards water as a public good and a fundamental human right. Nevertheless, as much as the capital acknowledges the human right to water, this picture blurs and brings forth the question of who the 'all' is in the slogan of 'water for all'. If all ingredients of the civil society constitute the so-called 'all', then it becomes difficult to come to terms with the approval of the right to water on the part of the small or large-scale capital groups making the object, subject and targets of the struggle blurred and vague. In this sense, it becomes inevitable for the right to water turn out to be an *empty signifier* in the words of Sultana & Loftus (2012: 2) or a *floating signifier* in Naidoo's words (Naidoo, 2010, quoted in Sultana & Loftus, 2012: 10). However, rights-struggle is a part of class struggle. Even, Bürkev &

Özuğurlu (2011: 47 – translation added) assert that "rights-struggles are more than a moment of class struggle but the struggle-ground of the working-class movement". Such a shift as well as the organic unity of class struggles, and rights-struggles owe to the exposition of the spheres of reproduction of labor to the processes and practices of primitive accumulation replacing the collective, self-sustaining and public forms of property with the regime of private property. Nonetheless, the water justice approach fails to apprehend adequately the political-economy context and class base of the struggle for right-to-water contributing to the capture of the rights-discourse by the capital itself.

One of the reasons for the problems and deficiencies pertaining to the hegemonic conceptualization of right to water by the *water justice approach* is constituted by the conceptualization of the right to water on the part of the United Nations. The UN's recognition of right to water is viewed by Barlow, the outstanding spokesman of the *Water Justice Movement*, as an important moral statement that prioritizes water for life and serves to challenge the view of water as a commodity as well a purely economic good (Barlow, 2008, quoted in Sultana & Loftus, 2015: 99). However, there exist several problems in the conceptualization/codification of right to water on the part of the UN. Not only acknowledgment of water as a human right does not charge upon the states the provision of access to water and sanitation free of charge but also it does not exclude private provision (including privatization) by refraining from requiring a particular model of service provision.[241] The states are only obliged to create an environment conducive to the realization of human rights through adequate oversight and regulation, including effective monitoring and complaint procedures – that the actions of all actors, public and private, do not result in human rights violations except in conditions, such as extreme poverty or natural disasters, when people, for reasons beyond their control, are genuinely unable to access water and sanitation through their own means, when the State is obliged

[241] Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, *Frequently Asked Questions*, https://sr-watersanitation.ohchr.org/en/rightstowater_5.html, (retrieved on 10 November 2021).

to actually provide services.[242] Hereby, the right to water does not encompass a right to access water, directly enforceable by each person against the state except from requiring governments to progressively increase the number of people with safe, affordable and convenient access to drinkable water (Turk and Krajewski, 2003, quoted in Elver, 2012: 121). To expound on this subject, one can have a look at the two main United Nations documents on right to water; *General Comment No. 15* and *UN General Assembly Resolution* respectively which have been discussed in the first chapter. These two documents are the most significant UN regulations on the right to water. To begin with the *General Comment No. 15*, it has been enacted by the *Committee on Economic, Social and Cultural Rights* in November 2002.[243] It is the document indicating the right to water in the clearest and most far-reaching way (Topçu, 2009: 210-211 – translation added). It does not only acknowledge the right to water and sanitation but also defines the scope of right to water in an extensive way with respect to the amount and quality of water as well as accessibility of water.[244] As debated thoroughly in the second chapter, the General Comment No. 15 commences with specifying that "water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights".[245] The General Comment No. 15 describes right to water in the Article 2 as;[246]

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[242] Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, *Frequently Asked Questions*, https://sr-watersanitation.ohchr.org/en/rightstowater_5.html, (retrieved on 10 November 2021).

[243] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

[244] Since such principles have been handled in detail in the second chapter, they are to be touched upon as per their relevance to the public or private provision of water in this chapter.

[245] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

[246] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

> The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

The General Comment No. 15 also explains the normative content of the right to water by addressing the freedoms and entitlements regarding right to water:[247]

> Article 10.
>
> The right to water contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.

Nevertheless, the agent to realize the freedom and entitlements pertaining to right to water is not specified in the *Comment*. Hence, it is not clarified who is responsible from realizing right to water, the public or the private sector. Indeed, as mentioned by the *Special Rapporteur on the Human Right to Water and Sanitation*, the acknowledgment of water as a human right does not dismiss private provision (including privatization) by refraining from requiring a particular model of service provision as mentioned in the paragraphs above.[248]

Within this context, the *affordability* of water is dealt in the *Comment* rather than the public provision of water on the section on 'economic accessibility' in the Article No. 12 of the *Comment*:[249]

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[247] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

[248] Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, *Frequently Asked Questions*, https://sr-watersanitation.ohchr.org/en/rightstowater_5.html, (retrieved on 10 November 2021).

[249] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

> (ii) Economic accessibility: Water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights.

As seen, the states are only obliged to soothe the maladies of the private provision of water according to the *Comment* which is in parallel with *accumulation by subsidization* in the form of state transfer payments to the poor who cannot become 'normal customers' in recently privatized markets (Ruckert, 2006: 63, quoted in Wills, 2017: 204). Such point can also be observed in the section on the State obligations with respect to right to water in the Comment:[250]

> Article 37.
>
> In General Comment No. 3 (1990), the Committee confirms that States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. In the Committee's view, at least a number of core obligations in relation to the right to water can be identified, which are of immediate effect:
>
> (a) To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease
>
> (b) To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalized groups;
>
> (c) To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
>
> (d) To ensure personal security is not threatened when having to physically access to water;
>
> (e) To ensure equitable distribution of all available water facilities and services;
>
> (f) To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by

[250] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalized groups;

(g) To monitor the extent of the realization, or the non-realization, of the right to water;

(h) To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalized groups;

(i) To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.

…

Specific Legal Obligations

20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.

(a) Obligations to respect

21. The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; unlawfully diminishing or polluting water, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.

22. The Committee notes that during armed conflicts, emergency situations and natural disasters, the right to water embraces those obligations by which States parties are bound under international humanitarian law. This includes protection of objects indispensable for survival of the civilian population, including drinking water installations and supplies and irrigation works, protection of the natural environment against widespread, long-term and severe damage and ensuring that civilians, internees and prisoners have access to adequate water.
(b) Obligations to protect

23. The obligation to protect requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.

24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment, which includes independent monitoring, genuine public participation and imposition of penalties for non-compliance.

(c) Obligations to fulfill

25. The obligation to fulfill can be disaggregated into the obligations to facilitate, promote and provide. The obligation to facilitate requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to fulfil (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.

26. The obligation to fulfill requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.

27. To ensure that water is affordable, States parties must adopt the necessary measures that may include, inter alia: (a) use of a range of appropriate low-cost techniques and technologies; (b) appropriate pricing policies such as free or low-cost water; and (c) income supplements. Any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households.

28. States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity; (f) increasing the efficient use of water by end-users; (g) reducing water wastage in its distribution; (h)

> response mechanisms for emergency situations; (i) and establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.
>
> 29. Ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.

It is explicit in these articles that the State parties are mainly entitled to tone down several discriminations and inequalities arising from the provision of water and sanitation services by the market unlike the role ascribed to the codification of right to water by the UN that is expected to be oriented towards protecting the public character of water as envisaged by the water justice approach. However, far from protecting water commons as a public good, the States essentially take the responsibility of ensuring the provision of water on a non-discriminatory basis:[251]

> Special topics of broad application
>
> Non-discrimination and equality
>
> 13. The obligation of States parties to guarantee that the right to water is enjoyed without discrimination (art. 2, para. 2), and equally between men and women (art. 3), pervades all of the Covenant obligations. The Covenant thus proscribes any discrimination on the grounds of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to water. The Committee recalls paragraph 12 of General Comment No. 3 (1990), which states that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes.
>
> 14. States parties should take steps to remove de facto discrimination on prohibited grounds, where individuals and groups are deprived of the means or entitlements necessary for achieving the right to water. States parties should

[251] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

ensure that the allocation of water resources, and investments in water, facilitate access to water for all members of society. Inappropriate resource allocation can lead to discrimination that may not be overt. For example, investments should not disproportionately favour expensive water supply services and facilities that are often accessible only to a small, privileged fraction of the population, rather than investing in services and facilities that benefit a far larger part of the population.

15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to prevent any discrimination on internationally prohibited grounds in the provision of water and water services.

16. Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees.

In particular, States parties should take steps to ensure that:

(a) Women are not excluded from decision-making processes concerning water resources and entitlements. The disproportionate burden women bear in the collection of water should be alleviated;

(b) Children are not prevented from enjoying their human rights due to the lack of adequate water in educational institutions and households or through the burden of collecting water. Provision of adequate water to educational institutions currently without adequate drinking water should be addressed as a matter of urgency;

(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status;

(d) Indigenous peoples' access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;

(e) Nomadic and traveller communities have access to adequate water at traditional and designated halting sites;

(f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas. Refugees and asylum-seekers should be granted the right to water on the same conditions as granted to nationals;

(g) Prisoners and detainees are provided with sufficient and safe water for their daily individual requirements, taking note of the requirements of international humanitarian law and the United Nations Standard Minimum Rules for the Treatment of Prisoners;

(h) Groups facing difficulties with physical access to water, such as older persons, persons with disabilities, victims of natural disasters, persons living in disaster-prone areas, and those living in arid and semi-arid areas, or on small islands are provided with safe and sufficient water.

As seen, several individuals or cultural groups are obliged to be protected from discrimination by the State rather than guaranteeing the provision of water as a public good. Herein, one can turn to analyze the *UN General Assembly Resolution* on right to water as per its relation to the agency of the provision of water. Right to water has entered into the UN international system of human rights with its codification through a Resolution numbered 64/292 adopted by the United Nations General Assembly on 28 July 2010. In this resolution, for the first time, the right to water and sanitation has been formally recognized by the UN General Assembly.[252] The Resolution has been interpreted in the sense that "recognizing a right (to water) is simply the first step in making a reality for the millions who are living in the shadow of the greatest crisis of our era" (Barlow, 2013: 8 – parenthesis added) by the water justice approach. Such historical Resolution[253] specifies the points below:[254]

Acknowledging the importance of equitable access to safe and clean drinking water and sanitation as an integral component of the realization of all human rights,

[252] The Human Right to Water and Sanitation, https://www.un.org/waterforlifedecade/human_right_to_water.shtml, (retrieved on 18 November 2021).

[253] Maude Barlow, *Su Hakkımız: BM'nin Suya ve Hıfzıssıhhaya Dair İnsan Haklarını tanımasının beş yıl ardından gelişmelerin değerlendirilmesi*, https://www.suhakki.org/docs/MaudeBarlow-SuHakkimiz-tr.pdf, p. 4, translation added, (retrieved on 22 December 2021).

[254] 10th anniversary of the UNGA resolution on the human rights to water and sanitation, https://www.unwater.org/10th-anniversary-of-the-unga-resolution-on-the-human-rights-to-water-and-sanitation/, (retrieved on 19 November 2021).

…

1. *Recognizes* the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;

2. *Calls upon* States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all;

3. *Welcomes* the decision by the Human Rights Council to request that the independent expert on human rights obligations related to access to safe drinking water and sanitation submit an annual report to the General Assembly, and encourages her to continue working on all aspects of her mandate and, in consultation with all relevant United Nations agencies, funds and programmes, to include in her report to the Assembly, at its sixty-sixth session, the principal challenges related to the realization of the human right to safe and clean drinking water and sanitation and their impact on the achievement of the Millennium water and sanitation and their impact on the achievement of the Millennium Development Goals.

Alike the *General Comment*, the Article 2 of the *UN General Assembly Resolution* also refrains from stipulating the type of financing as in the subjects of the provision of financial resources, capacity-building and technology transfer. In this way, it avoids closing the doors to the private actors. Yet again, the water justice approach needs a more vigilant eye in the interpretation of the UN regulations on right to water. After all, the 'right to property' is among the fundamental human rights in the UN human rights-system codified in the Article 17 of the *Universal Declaration of Human Rights*,[255] which indicates the central place of the phenomenon of the property in the UN human rights-system. Moreover, as remarked by Teeple (2005: 153-159 – italics added), the UN had already been *corporatized* with the initiation of the *Global Compact.* Having been discussed in chapter 2, the *Global Compact* has been announced in 1999 by the then UN Secretary-General, *Kofi Annan* at the Davos World Economic Forum in order to enable the UN and the corporations to work together on areas of human rights, labor standards and the environmental practices creating a concordat amongst the global ruling elites of business, governments, the UN, and

[255] Universal Declaration of Human Rights, https://www.un.org/en/about-us/universal-declaration-of-human-rights, (retrieved on 19 November 2021).

certain non-governmental organizations such as the International Confederation of Free Trade Unions, Amnesty International, Lawyers Committee for Human Rights and Human Rights Watch having endorsed the Global Compact (Teeple, 2005: 154, 158). Indeed, a tendency within the UN is already visible in which "human rights standards… lend themselves to a whole variety of foreign power and global corporate uses and abuses under the cover of "international consensus"" (Baxi, 2002: 9, quoted in Wills, 2017: 86). Such corporate power is so strong that UN's own watchdog organization the *Joint Inspection Unit* has "warned that some large corporations are using the UN brand to benefit their business and expand public-private partnerships while not conforming to UN values and principles" (Barlow, 2013: 26).

In fact, the United Nations has long been a friend of the global private sector, but in the current moment of global capitalism, it offers more than ever its services for the establishment (and deepening) of a global market with the pre-eminence of global corporate rights and the increasing role of corporations and/or their organizations in the activities of the UN and all of its agencies (Teeple, 2005: 153-154 – parenthesis added). Within this context, the existence of the room for the capital entrance to the water sector in the UN's conceptualization and codification of right to water is not a surprise. However, it does not constitute the only problem emergent in the conceptualization and codification of the right to water by the United Nations. The limited/insufficient conceptualization of right to water constitutes another problematic side of the UN conceptualization of right to water. Right to water is mainly restricted with individual means of reproduction in the sense of personal and domestic uses, which are consumption (drinking), cooking, personal and domestic hygienic requirements - in other words, priority is given to water for personal and domestic use (Winkler, 2012: 148) - as in the *General Comment No. 15*[256]:

[256] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

> 6. Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life). Nevertheless, priority in the allocation of water must be given to the right to water for personal and domestic uses. Priority should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights.

A sort of similar prioritization for right to water related with personal and domestic use is also apparent in the UN General Assembly Resolution by only explicitly referring to the drinking water and sanitation as a human right:[257]

> 1. (The General Assembly) Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights

Such narrow conceptualizations of right to water are also explicit in the fact that the *General Comment No.* 15 does not regard right to water as an 'independent right' but as a 'derivative right' (Cahill, 2005: 394, quoted in Topçu, 2011: 34) as touched upon in the second chapter. Therefore, right to water is regarded in a narrow vein, basically reduced to only specific aspects of water to be protected by the human right to water. In other words, as long as right to water is considered as a derivative right, only some aspects of it are protected and implemented (Cahill, 2005: 396-397, quoted in Topçu, 2011: 34). Within this context, one should note that right to water pertaining to agricultural production is given a place in the Articles No. 6 of the *General Comment No. 15*:[258]

> 6. Water is required for a range of different purposes, besides personal and domestic uses, to realize many of the Covenant rights. For instance, water is necessary to produce food (right to adequate food) and ensure environmental

[257] 10th anniversary of the UNGA resolution on the human rights to water and sanitation, https://www.unwater.org/10th-anniversary-of-the-unga-resolution-on-the-human-rights-to-water-and-sanitation/, (retrieved on 19 November 2021).

[258] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 21 November 2021).

> hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life).

However, the right to water with regard to access to water for personal and domestic uses keeps its central and overwhelming place as seen in the Article No. 6 above. As for water for agricultural use, it is specified further in the Article No. 7 of the *General Comment No. 15* which mentions the access to water for agricultural uses. However, such access is not based on the concept of right. Moreover, the access to water specified herein is *culture-based* rather than *class-based*:[259]

> 7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (which pertains to both availability and to accessibility of the right to adequate food as per the General Comment No. 12 dated 1999). Attention should be given to ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not "be deprived of its means of subsistence", States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.

If one inspects the Article No. 7 quoted above, it can be seen that there appears no reference to the concept of right to water but to access to water when it comes to the water as a means of production. In other words, water as a means of production is deprived of being reliant on the concept of right in contrast to water with regard to personal and domestic uses. As remarked by Winkler (2012: 131), the *General Comment* "does not regard the human right to water as covering water for food production". It only acknowledges the significance of water requirements to produce food. Such references to access to water devoid of bestowal with the concept of 'right' makes it clear that class-based conceptualization of collective right to water – collective right of the producers – is missing in the UN's conceptualization of right to water.

[259] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 21 November 2021).

Such comment can seem vague when one reads the statement that "… States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples" in the Article No. 7 of the *General Comment No. 15*.[260] Nonetheless, yet again, what is at stake is an obligation of the state rather than the right of the producers which undermines the strength of this statement. Moreover, once more, the class-based collective right of the producers is replaced with the culture-based collective right of a certain cultural group, the indigenous people, since such State obligation is relied on article 1, paragraph 2, of the Covenant, which provides that a people may not "be deprived of its means of subsistence". Yet, such Article of the *International Covenant on Economic, Social and Cultural Rights* codifies a specific type of cultural rights the holder of which is *peoples*, a cultural group:[261]

> Article 1
>
> 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

To put it differently, as it comes to the cultural group of *indigenous peoples*, water for means of subsistence transforms to a right as it pertains to cultural rights in contrast to the case of the water needs of non-indigenous subsistence farmers which constitute a class-based collectivity rather than a cultural collectivity. As put by Winkler (2012: 207), in the case of water for subsistence activities of indigenous peoples, "direct access is required, and water can hardly be substituted". Yet, the draft Declaration on the Rights of Indigenous Peoples

[260] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 21 November 2021).

[261] International Covenant on Economic, Social and Cultural Rights, https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx, (retrieved on 21 November 2021).

adopted by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities (Elver, 2008: 420),

> …sets out to ensure, *inter alia*, indigenous peoples' right to maintain and strengthen their relationship with their land, territories, waters and other resources (Article 25), to own and manage these resources (Article 26), and to participate in decisions affecting these resources.

Furthermore, the Article No.5 of the final Declaration on the Rights of Indigenous Peoples adopted by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities mentions the rights to water of the indigenous peoples:

> Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.[262]

Within this context, denial of such protective measures and water rights on the part of the indigenous peoples amounts to the violation of the rights of the cultural group in question as far as the water-rights at stake are directly linked to cultural rights. However, as touched above, such protection by UN-codified right-to-water as delineated within the contours of the UN system is lacking when it comes to the collective water-rights of the class-based collectivities.

The water justice approach cannot recognize such deficiencies of the UN's conceptualization of right to water, namely essential place of the right to property, hence opening the doors to the market actors, narrow conceptualization of right to water with core space allocated for access to water for individual means of reproduction, as well as lack of class-based/non-cultural collective right to water inasmuch as it unduly reckons on the institution of law. In fact, the source of right, - the basis of the meeting of the demand of a legal subject

[262] United Nations Declaration on the Rights of Indigenous Peoples, https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html, (retrieved on 12 May 2022).

towards other(s) - is the consent of the other party, namely, the contract, in the juridical construct of the capitalist social formation (Karahanoğulları, 2011: 316 – translation added). Indeed, as mentioned in the paragraphs above, the order of rights and the law in a bourgeois society regulate the relations of capitalistic private property between the free contracting parties (Marx: 1963). Within the apprehension of the capitalist social formation, the contracting parties in the form of legal subjects are in fact the legal embodiment of the abstract individuals. While social relations are mediated by the exchange of commodities which appear as fetishized forms, that is taking place in forms which conceal their class nature, the individuals are created and maintained as *economic legal subjects*, the bearers of reified property rights, so that the capitalist state can establish and guarantee exchange as the mediation of production and consumption (Picciotto, 1979: 171). Owing to the centrality of such "individual legal subjectivity" (Picciotto, 1979: 171) in the capitalistic juridical formation, it is not a surprise that there exists ontologically no room for collective rights hence the abstract individual is conceived as the sole rights-holder. It is an unsurprising fact that owing to the pressures from the so-called 3rd World and the socialist countries in the post-2nd War international order, cultural and class-based collective rights could have only found a place in the international human rights system given that collective rights have been designed as to be demanded only by virtue of citizenship rather than belonging to a collectivity as discussed in the second chapter (Özdemir & Aykut, 2011: 307-308 – translation added). Nonetheless, lacking a political-economy vision, the *Water Justice Approach* fails to see such ontological limits of the international human rights system which certainly delimit the capacity and potential of a right-to-water movement as long as it essentially remains *law-oriented*, "increasingly framing its position in relation to international human rights law" (Elver, 2012: 118). However, as put by Karahanoğulları (2011: 317 – translation and parenthesis added), the influence of a rights-struggle conducted through legal forms is to be low within the conflict of (reciprocal) wills. What's more, the channeling of collective struggles into the form of claims of bourgeois legal rights bears the risk of breaking up the collective movement towards solidarity, through the operation of

legal procedures which recognize only the individual subject of rights and duties with the *extensive juridification* of the legal demands as that happened in the struggle of the British labor struggles in the 1970's (Picciotto, 1979: 171). Therefore, notwithstanding the possible progressive sides of the right to water, the global water justice movement needs to be aware that the current formulation of right to water has to be rehandled with a critical eye, which is vigilant in face of the threats of extensive juridification and penetration of the market conscious of the class nature of the bourgeois law despite its universalizing and naturalizing appearance (Picciotto, 1979; Fine, 1979).[263] Until now, nonetheless, in the absence of a critical eye in face of the phenomena of law, primitive accumulation and the concept of class-based collective right deprived of an adequately elaborated political-economy vision, the global water justice movement has not succeeded to foreclose market penetration into the water services in addition to falling short of creating a room for collective rights and rights beyond rights pertaining to individual means of reproduction in general despite its contribution to the codification of the right-to-water in the international UN human rights system. In other words, despite its successes in realizing change in many spheres of the world as well as at the level of the international human rights system, the global water justice movements still bear deficiencies in filling the *empty signifier* of right to water in the words of Sultana & Loftus (2012, 2015) with "real political content" (Sultana & Loftus, 2015: 101). The movement should be vigilant in face of the *legal technocratism* of the international human rights system and "reclaim 'the right to water' from the technocrats who are currently seeking to write their own script" (Sultana & Loftus, 2015: 101) inasmuch as the organizations within the global justice

[263] On the basis of Marx's critique of bourgeois legality, Fine (1979: 43-44) claims that legality cannot be deemed "a mere 'mask' for class exploitation,… it does remain the *form* through which social relations of production are mediated and it does remain as the necessary mediation in the perpetual movement of capital through its circuit from money to productive capital (means of production and labour power) to commodities to more money. (Hence) the limits of the (bourgeois legal) right under capitalism lie not only in the 'abstraction' of its real content (the 'real, sensuous human being'), but also in that these 'rights', however much extended and democratized, cannot *in themselves* erase the class relations between labour and capital. For this 'exchange' (between capital and labor), however much it is 'equalized' and however much the freedom of the 'contractors' is guaranteed by law, remains a 'mere semblance'."

movement often feel it necessary to demonstrate their professional credentials by articulating concerns and demands in the technical vocabulary of human rights law in order to be able to secure funding and gain a hearing at international forums (Wills, 2017: 90). Such technical language of human rights law is called as *narrow legalism* by Wills (2017: 88-90) which bears the potential risk of excluding both wider structural critique of neoliberalism and mass participation in transformative action as long as human rights challenges, particularly, in the form of litigation, often revolve around relatively narrow issues, underlying structural factors generally left being unaddressed (Wills, 2017: 88-89). Thereby, mere reliance on rights discourse (within the framework of their enshrinement in the human rights law) "could result in excluding more radical demands of social movements that lack a firm basis in international law, potentially draining… struggles of their subversive energy in the process" (Wills, 2017: 89). Overall, the global justice movement needs a cautious stance about the risk pertaining to all categories of human rights in that

> whilst human rights tend to begin their existence as subversive challenges to extant relations and structures of power, they are also likely to develop a more ambiguous relationship with dominant power structures as they become sedimented as sources of positive law (including public international law) (Stammers, 2009: 3; Douzinas, 2000: 7, quoted in Wills, 2017: 86).

As touched upon in the paragraphs below, the recognition of right to water within the positive law is not only hailed as a *breakthrough* but also as a *first step* in the realization of right to water (Barlow, 2013: 8) by the water justice approach. Hence, there still lays several tasks ahead of the global water justice movement following the legal recognition of the right to water in the international human rights system. Barlow addresses that the next step is to protect the rights of water itself (Barlow, 2010: 192-193) following the legal recognition of the right to water by the UN Resolution. The other tasks are defined by Barlow as follows: utilization of the legal recognition of right to water and sanitation within the UN system to urge the governments and the

courts, putting the rights of water and sanitation at the center of the ecological struggle to protect water as well as a struggle for a just economy.[264]

As seen, the water struggle has not come to an end with the enshrinement of the right to water within the UN international human rights system. The global water justice movement cannot be dismissed given their contributions both in the streets and in the international fora. However, the water justice approach underlying the global water justice movement suffers from several traps as delineated in these pages. The inadequate apprehension of the rule of private property, the insufficient elaboration of a political-economy approach and most importantly, within the contours of the leitmotif of this dissertation, the inadequate apprehension of a class-based collective right, that has the potential to grapple with the practices and processes of enclosing the commons, can be listed as such traps. Herein, one can move to the next sub-chapter called *Right to Water as a Matter of Politics* in which an approach to collective right to water based on praxis and class is to be dealt with specific reference to the anti-HEPP struggle in the Fındıklı/Rize Region of Turkey.

5.2. Right to Water as a Matter of Politics

As an inception to this sub-chapter, one can turn to the beginning of the dissertation, to the quote from the movie, *Dry Summer*. In the quote, the villager whose right of usufruct on the river is violated when another villager decides to build a dam on the river describes water as the blood of the earth.[265] In a parallel vein, Kazım Delal, one of the most prominent figures of the anti-HEPP struggle

[264] Maude Barlow, *Su Hakkımız: BM'nin Suya ve Hıfzıssıhhaya Dair İnsan Haklarını tanımasının beş yıl ardından gelişmelerin değerlendirilmesi*, https://www.suhakki.org/docs/MaudeBarlow-SuHakkimiz-tr.pdf, pp. 14-18, translation added, (retrieved on 22 December 2021).

[265] M. Erksan & D. Durston (1963) *Susuz Yaz* [Dry Summer, https://www.youtube.com/watch?v=BwBPQIaQG3M, (retrieved on 15 October 2021).

in the Black Sea Region[266], calls out to the company which is the owner of the HEPP project in the Andon Brook in the Salarha Valley of Rize, in that "You have inserted the syringe into my life-blood pulling out my blood. You are taking my life" in the anti-HEPP struggle documentary, *Sudaki Suretler*, [Semblances in the Water], directed by *Erkal Tülek* in 2011.[267] As seen, appropriation of water either by the rich villager in the movie, *Dry Summer,* or by the HEPP company in Rize, leads to the same reactions with implied identifications of water with life. In other words, one can herein aptly apply to a well-known, Latin phrase, *mutato nomine de te fabula narrator*, which means "with the name changed, the story applies to you" in English.[268]

The story applies to *Fındıklı*/*Rize*, a district in the Eastern Black Sea Region of Turkey, as well. Deeming water as life-giving, a local musician from *Fındıklı*, *Veysel Kutluata*, says that "the brook is like the blood in our blood" (Hamsici, 2012a: 126-127 – translation added)[269] just as the villager in the movie, *Dry Summer*, defines water as 'the blood of the earth'.[270] Moreover, to refer to another anti-HEPP struggle documentary for another example, *Akıntıya Karşı* [Against the Current], directed by *Özlem Işıl, Volkan Işıl, Ezgi Akyol* and *Umut Kocagöz* between the years, 2010 and 2011, an old villager woman cries out

[266] Kazım Delal is best known as having sold his cow to cover the court costs against the HEPP project in the Salarha Valley. See *Bir Direniş Hikayesi* [A Story of Resistance], https://www.cumhuriyet.com.tr/haber/bir-direnis-hikayesi-1755502, (retrieved on 4 April 2022).

[267] *Sudaki Suretler, [Semblances in the Water]*, https://archive.org/details/SudakiSuretler, retrieved on 25 February 2022. The original Turkish version of Kazım Delal's words are as follows: "Sen benim can damarıma şırıngayı takmışsın, kanımı çekiyorsun. Canımı alıyorsun."

[268] http://www.merriam-webster.com/dictionary/mutato%20nomine%20de%20te%20fabula%20narrat, (retrieved on 20 December 2014).

[269] The original Turkish version of *Veysel Kutluata*'s words are as follows: "Hayat veren sularımız HES'lenmez… Kala kala akan şu deremiz var. Veremeyeceğimiz kusura bakmasınlar çünkü o bizim kanımızdaki kan gibidir."

[270] M. Erksan & D. Durston (1963) *Susuz Yaz* [Dry Summer, https://www.youtube.com/watch?v=BwBPQIaQG3M, (retrieved on 15 October 2021).

against the HEPP project with the words, *"Can life exist without the brook?"*[271] To give another similar example from *Fındıklı*, one can apply to another documentary shot by *BBC Türkçe* [BBC Turkish], about the HEPP's in the Black Sea Region of Turkey. In the part 3 of the documentary shot in Fındıklı, a young woman identifies the brook with strength and health – which are indeed correlated with life energy - in that "We are strong as long as this green is at our back. We get stronger every minute we hear the voice of this brook… You know, we eat to remain healthy. We listen to the voice of this brook to remain healthy".[272] Another woman, who is one of the respondents interviewed during the dissertation study, *Semiha*[273], from the *Arslandere/Fındıklı* village, (activist of the anti-HEPP struggle in Fındıklı within the *Fındıklı Derelerini Koruma Platformu/Platform for the Protection of the Fındıklı Brooks*) says that "If there is no water, life does not exist. If life does not exist, we do not exist as well."[274]

The holders of such words are right to associate water with life, health, and strength. Water – embodied in the brook with respect to the *Fındıklı* district – is an inalienable means of production[275] in the district. Tea production is

[271] *Akıntıya Karşı/Against the Current*, https://www.youtube.com/watch?v=kmj_JPuJxik, retrieved on 11 November 2012. The Turkish translation of the old villager woman's words are as follows: "Deresiz yaşam olur mu?"

[272] *Karadeniz'de HES'ler: Cennet Vadiler Beton Cehennemine Döndü",* [HEPP's in the Black Sea: Heavenly Valleys Turned to the Hells of Concrete", https://www.youtube.com/watch?v=Zlyu7XYips4, retrieved on 16 October 2020. The original Turkish version of the young woman's words are as follows: "Bu yeşil arkamızda oldukça biz güçlüyüz. Bu derenin sesini duyduğumuz her dakika biz daha güçleniyoruz… Sağlıklı kalmak için yiyoruz ya; biz sağlıklı kalmak için şu derenin sesini dinliyoruz."

[273] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[274] Interview on 5 September 2013, *Fındıklı*. The original Turkish version of the quoted expressions are as follows: "Su yoksa yaşam yoktur. Yaşam yoksa da biz yokuz."

[275] The concept of *means of production* can be defined as the material instruments "raw material, instruments of labour, etc" needed to produce something as referred by Marx in the 6th chapter of

overwhelmingly the main means of existence of the *Fındıklı* people followed with hazelnut cultivation, kiwi and citrus fruits production respectively.[276] Indeed, the Eastern Black Sea Region, of which *Fındıklı* is a part, consists the entire area of tea production in Turkey with *Rize* province constituting 67,23% of the entire tea production areas in Turkey together with 63,38 % of tea producers followed with provinces of *Trabzon* (19,12 % of tea production areas and 23,45 % of tea producers), *Artvin* (11,56 % of tea production areas and 9,60 % of tea producers), *Giresun* (2,08% of tea production areas and 3,56 % of tea producers) and *Ordu* (0,01 % of tea production areas and 0,01 % of tea producers) pursuant to the 2019 figures.[277] As is seen from these figures, it can be said that the *Rize* province, in the 90 % percent of in whose agricultural areas tea production is made, is the homeland of the tea agriculture in Turkey (Biryol, 2012: 91 - translation added). Indeed, *Rize* is the first region where tea production is made in the Republican Turkey in 1924 at the *Central Plantation of Rize Tea Research Institute*, [Rize Çay Araştırma Enstitüsü Merkez Fidanlığı] followed with the formation of first tea production areas in Rize in 1937 and the inception of small-scale tea production in *Rize* with the 2nd *Tea Law*[278] numbered

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the first volume of *Capital* with the title, 'The Sale and Purchase of Labour-Power' (Marx, 1982: 272).

[276] Interview with *Mehmet Gürkan*, one of the founders of *Fındıklı Derelerini Koruma Platformu*, (Platform for the Protection of the Fındıklı Brooks) and *DEKAP* (Derelerin Kardeşliği Platformu), [Platform for the Fraternity of the Brooks] as well as the Chair of the *Fındıklı Organik Meyve Üreticileri Birliği,*[The Union of the Organic Fruit Producers of Fındıklı], on 19 August 2021, Fındıklı.

[277] *ÇAYKUR (Çay İşletmeleri Genel Müdürlüğü)*, [General Directorate of Tea Enterprises], "Çay Sektörü Raporu, 2019", [The Tea Sector Report], https://www.caykur.gov.tr/Pages/Yayinlar/YayinDetay.aspx?ItemType=5&ItemId=721, (retrieved on 7 April 2022).

[278] The first *Tea Law*, numbered 407, was enacted in 1924 to enable tea production in *Rize* and *Borçka* together with hazelnut, oranges, mandarin and lemon which was thought to be a solution for out-migration in the region by creating work-areas. Nevertheless, the interest of the locals in the tea production gradually lessened owing to inconvenient ecological conditions and lack of knowledge on cultivation methods (Biryol, 2012: 89-90 – translation added).

3788 in 1940 (Biryol, 2012: 89-90 – translation added).[279] Furthermore, the first tea factory was introduced in the *Fener* Region of *Rize* in 1947 (Genç, 2016: 265 – translation added).

To talk about *Fındıklı*, being the 4th largest district of the *Rize* province with a population of 16.850 as per 2020 figures with 22 villages and 8 neighborhoods,[280] its economy relies on tea production as is *Rize*. The tea agriculture in the district started in 1952[281], twelve years after the inception of small-scale tea agriculture in *Rize* in 1940 (Biryol, 2012: 90 – translation added). Actually, the tea production was permitted in 1952, the first tea harvest being realized in 1958 after 6 years of awaiting of the growing of the tea plant.[282] Not only the tea planting but also the tea industry is available in *Fındıklı* currently. Four tea factories exist in *Fındıklı*, one owned by *ÇAYKUR* with the capacity of the treatment of 220 tons of tea per day as well as three tea factories owned by the private sector.[283,284] Tea factories also create extensive employment for the district. One or a few members of the almost every household in the district are

[279] The first tea cultivation in Anatolia was made in 1889 in the Ottoman Tanzimat Reform Period. Nonetheless, it culminated with failure owing to being cultivated in a wrong area (Genç, 2016: 259 – translation added).

[280] *Rize Ticaret ve Sanayi Odası*, [Rize Chamber of Commerce and Industry], "Rize İktisadi Rapor – 2020", [Rize Economic Report – 2020], p. 18, 33, https://rizetso.org.tr/e-kitap/, (retrieved on 7 April 2022).

[281] *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022).

[282] *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022).

[283] *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022) – parenthesis added.

[284] Indeed, tea industry occupies a significant weight of the *Rize* industry. The business of the treatment of herbal and black tea constitutes the 47.9% of the agricultural industry business in *Rize*. https://www.dokap.gov.tr/yayinlar/Listele/8?sayfa=3, p. 125, (retrieved on 7 April 2022).

employed (or retired from) at the tea factories in the district[285] enabling the *differentiation of the household labor*[286] which makes survival in the rural area easier. However, the district economy relies on tea agriculture[287] rather than industrial employment as working class in the tea factories. As quoted from the interview with *Mehmet Gürkan* - one of the founders of *Fındıklı Derelerini Koruma Platformu, (Platform for the Protection of the Fındıklı Brooks)* and *DEKAP (Derelerin Kardeşliği Platformu), [Platform for the Fraternity of the Brooks]* as well as *the Chair of the Fındıklı Organik Meyve Üreticileri Birliği, [The Union of the Organic Fruit Producers of Fındıklı]* - tea production is overwhelmingly the main means of existence of the *Fındıklı* people followed with hazelnut cultivation, kiwi and citrus fruits production respectively.[288] Indeed, the class structure of the district is based on small-commodity production. Small family farming is conducted on the areas ranging from 3 decares to 5 decares.[289] Hence, large land ownership is absent in the district. The tea production by the household labor is conducted for the market. The 50% of the tea produce is bought by *ÇAYKUR*, (General Directorate of Tea Enterprises) while the rest 50% is bought by the private tea companies.[290] Nonetheless, several problems are available with the system of the marketing of the tea produce resulting mainly from the existence of the tea quota, which means that the state enterprise, *ÇAYKUR*, can only purchase from the producer a certain

[285] *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022).

[286] The concept of the 'differentiation of the household labor' is borrowed from Eren & Büke (2016) – translation added.

[287] *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022).

[288] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı*.

[289] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı.*

[290] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı.*

amount of the tea produce, which denotes to the making the producers available to the private sector, in *Mehmet Gürkan*'s words[291] for the private sector purchases the tea in a lower price compared to the public. As a respondent, a tea-producer, from the *Gürsu* village of *Fındıklı,* named *Orhan*[292], expresses: "The quota is 10 kilos per decare. I mean the decare. I have twenty decares, 200 kilos. We can sell 200 kilos per day. To the state, first. The rest to the private sector… But the private sector does not purchase as the *ÇAYKUR* does. The private sector purchases from cheap prices. It differs so much."[293]

The tea quota does not constitute the sole problem of the tea producers. The costs of tea production stands in front of the small tea-producers as all the agricultural producers. Basically, the high price of fertilizers denotes to a huge hardship for the tea-producers, including the ones in *Fındıklı*. The high increase of the price of the fertilizer from about 2500 TL per ton in 2021 to 8000 TL to 8500 TL per ton on the free market in 2022[294], a must for the productivity of tea production, confronts the producers with either lower levels of harvest due to the absence of fertilizer or renouncing a significant portion of the next gain by

[291] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı.* The original Turkish version of *Mehmet Gürkan's* words are as follows: "Bugün vatandaşın ürettiği çayın %50'sini devlet alıyor %50'sini özel şirketler alıyor ve devlet 1-ton çaya 4000 liraya yakın bir para veriyor, özeller bugün sanırım 2400 liradan çay alıyorlar… Çayın en önemli sorunu; kota kontenjanı uygulanması ve üreticiyi özellere peşkeş çektirilmesi durumu var."

[292] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[293] Interview with a tea-producer, *Orhan*, from *Gürsu* village, *Fındıklı*, on 22 July 2015 at *Fındıklı*. The original Turkish version of the respondent's words are as follows: "Kontenjan 10 kilo dönümüne... Dönüm yani... Yirmi dönüm var 200 kilo. Günde 200 kilo satabiliyoruz. Devlet… Gerisini özele… Ama özel de ÇAYKUR gibi almıyor… Özel ucuza alıyor. Bayağı fark ediyor." For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[294] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Yaş Çay Gübresi Var Ama Alan Yok", [Fresh Tea Fertilizer is Available, but Nobody Purchases], 5 April 2022.

incurring debt to afford fertilizer price, as states the *Chair of the Chamber of Agriculture of Fındıklı*, *Mehmet Ali Özsoy*.[295] Arguing for the increase in the amount of the fresh tea purchased by *ÇAYKUR*, Özsoy that demands that the price of fresh tea be minimum 10 TL.[296] As is seen, the low prices that does not meet the costs of tea production constitutes another problem area for the fresh tea producers not only in *Fındıklı*, but also in Turkey since the state subsidiary for fresh tea production has remained as 13 piastre for 6 years which needs to be urgently augmented. Otherwise, Turkey may turn to be a tea-importing country.[297]

As one can see from the above statements, the low level of support for fresh tea producers on the part of the state and state enterprise *ÇAYKUR*, creates dramatic disadvantages for tea producers.[298] Indeed, *ÇAYKUR* faces with the threat of privatization subsequent to its transfer to Wealth Fund in 2017. The institution has been making loss since this year with 503 million 840000 losses in the year of 2021. Actually, *ÇAYKUR* has lost its powers dramatically after the opening of the tea sector to the market in 1984. Until then, from 1973 onwards, *ÇAYKUR* had remained as a state monopoly on the purchasing, processing, and marketing of the tea. Nonetheless, with a law introduced in 1984, the private sector has gained the opportunity to found and run fresh-tea packing and processing factories as well as to purchase the required fresh tea leaf directly from the producer (Genç, 2016: 268 – translation added). Currently, whereas the producers demand a producer-friendly *Tea Law*, a market-friendly *Tea Law* the

[295] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Özel Sektörün Sömürü Düzenine Son", [End to the Exploitative System of the Private Sector], 12 April 2022.

[296] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Özel Sektörün Sömürü Düzenine Son", [End to the Exploitative System of the Private Sector], 12 April 2022

[297] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Yaş Çay Gübresi Var Ama Alan Yok", [Fresh Tea Fertilizer is Available, but Nobody Purchases], 5 April 2022.

[298] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "ÇAYKUR 2021 Yılını Rekor Borçla Kapattı", [ÇAYKUR has Closed the Year of 2021 with Record Debt", 12 April 2022.

draft of which has been prepared and sent to the *Ministry of Agriculture and Forestry* by the *Recep Tayyip Erdoğan University* in Rize without the consult and the participation of the producers is on the agenda.[299]

Nevertheless, the tea producers attempt to organize in the face of such disadvantageous conditions. In a statement by the producers from *Giresun, Trabzon, Rize, Of, Pazar, Hemşin, Fındıklı, Kemalpaşa, Hopa* and *Borçka,* the demands of the tea-producers are listed as the introduction of fresh tea floor price, subsidization of the tea-producer in the face of high fertilizer prices, the protection of the producer before the private sector through the ban on the purchase of fresh tea below the floor price, the withdrawal of the (aforementioned) private sector-friendly *Draft Tea Law* and the preparation of a *Tea Law* together with the producers, the abolishment of tea quota, the tenure of seasonal workers, and last but not least, the introduction of tea certificates for organic tea producers through the conduct of augmentation of soil health and productivity works.[300] Even, the tea-producers have attempted at a signature campaign for these demands.[301]

Having exhibited the political-economy background of the *Fındıklı* economy which mainly relies on tea production, one can herein deal with the relationship between the brooks and the tea, in other words, the significance of the brooks with respect to the tea production. The main prominence of the *Fındıklı* Brooks,[302] ensues from the climatic conditions, namely the moisture created by

[299] Hacıbektaşoğlu, S. "Çay Kanunu Kimin İçin?", [For Whom is the Tea Law?], *Viçe Newspaper*, (Weekly Local Newspaper of Rize), 29 March 2022.

[300] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Sadaka Değil, Alın Terinin Hakkını İstiyorlar", [They Do not Want Alms, but the Share of the Elbow Grease], 19 April 2022.

[301] Hacıbektaşoğlu, S., "Yola Çıkıldı", [The Road Has Been Taken], *Viçe Newspaper*, (Weekly Local Newspaper of Rize), 26 April 2022.

[302] The main *Fındıklı* brooks are *Sümer, Çağlayan, Arılı* and *Çınarlı* brooks; *Fındıklı Belediyesi* (Municipality of Fındıklı), "Faaliyet Raporu", [Activity Report], https://www.findikli.bel.tr/i/faaliyet-raporu/, (retrieved on 7 April 2022).

the existence of the brooks which is inalienable for tea production by bringing rain and humid weather. To turn to the interviews conducted by the *Fındıklı* people, for instance, *Kadirhan Kadıoğlu*, the former chair of the *Fındıklı Union of Chamber of Merchants and Craftsmen* and the current *Fındıklı District Head* of the *Republican People's Party* (CHP),[303] activist of the anti-HEPP struggle in Fındıklı, says that "Tea obtains its essence from the moisture. If there is no moisture, tea cannot exist."[304] Another respondent interviewed, *Saliha*,[305] activist of the anti-HEPP struggle in Fındıklı within the *Fındıklı Derelerini Koruma Platformu* (Platform for the Protection of the Fındıklı Brooks) as well as a housewife from the *Arslandere/Fındıklı* village, confirms *Kadıoğlu*'s speech by expressing that "If there is no rain, there is no tea! If brooks do not exist, there is no rain."[306] Moreover, a 78-year-old woman from the *Meyvalı* village of *Fındıklı*, *Hayriye*,[307] underlines the significance of the brook for not only tea agriculture but also the production of other agricultural products with the words, "That brook shall not be gone. When that brook is gone, the does not exist. Neither does tea, nor kiwi, nor hazelnut, nor corn… Nothing exists. Everything

[303] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[304] Interview on 5 September 2013, *Fındıklı*. The original Turkish version of the respondent's quoted words is as follows: "Çay nemden özünü alır. Nem olmazsa çayın olması mümkün değil!"

[305] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[306] Interview on 5 September 2013, *Fındıklı*. The original Turkish version of the respondent's quoted words is as follows: "Yağış olmazsa çay da olmaz! Dere olmazsa yağış olmaz."

[307] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

exists thanks to the brook. It gets moisture, moisture… It gets moisture. Hah, it gets moisture".[308]

The significance of moisture for tea agriculture is also underlined in the article published in 2011 by *Ahmet Atalık*, the then chair of the İstanbul Branch of the Chamber of Agriculture Engineers. According to the article, the conditions required for the normal development of the tea plant are as follows: The annual average temperature does not fall below 14 °C, the total annual precipitation is not less than 2,000 mm, the precipitation is regular by month, and lastly, the relative humidity is at least 70%.[309] However, by increasing vaporization, the HEPP's disrupt the water cycle and the microclimatic characteristics of the region.[310]

The brooks are of capital importance for *Fındıklı* not only for tea production but also as a means of drinking water, as a means of reproduction in the sense of fulfilling physical needs. As *Mehmet Gürkan* tells, "we benefit from the water of the rivers, of which the brooks take their source, at home for drinking, bathing, for cooking in the villages". [311] *Mehmet Gürkan* also conveys that the means of

[308] Interview on 23 July 2013, *Fındıklı*. The original Turkish version of the respondent's quoted words is as follows: "O dere galkmayacak bizim dereden. Çay da olmaz o dere gitti mi. Ne çay olur, ne kivi olur, ne finduk olur ne misir olur. Hiçbir şey olmaz. O derenun şeyiyle her şey oluyor. Nem aliyur nem. Nem aliyur. Hah, nem aliyor."

[309] Ahmet Atalık, *HES'ler ve Çay Tarımı*, [HEPP's and Tea Agriculture], https://sendika.org/2011/05/hesler-ve-cay-tarimi-ahmet-atalik-karasaban-net-54125/, (retrieved on 25 April 2022).

[310] Ahmet Atalık, *HES'ler ve Çay Tarımı*, [HEPP's and Tea Agriculture], https://sendika.org/2011/05/hesler-ve-cay-tarimi-ahmet-atalik-karasaban-net-54125/, (retrieved on 25 April 2022).

[311] Interview with *Mehmet Gürkan*, 22 June 2015, *Fındıklı*. The original version of the dialogue is as below:

Ömür Kurt: Peki sizdeki köylerde suyu normalde böyle bir boruyla falan içme suyu olarak derenin suyundan yararlanabiliyorlar mı? Eve mesela boruyla çekip?

Mehmet Gürkan: Tabii küçük küçük ırmaklardan alıyoruz suyu. O dere de küçük ırmakların suyudur.

drinking water for *Fındıklı* center is the *Çağlayan Brook.*[312] Similarly, another respondent, *Saliha,*[313] describes how people benefit from the brooks as a means of reproduction: "Everybody's land is tied to the brook. There are springs in everybody's land meeting the water needs of cow vs."[314] In parallel, *Mehmet,*[315] the village (*Yaylacılar* village) representative of the *Platform for the Protection of the Fındıklı Brooks,* says that the water for bathing, drinking, washing etc. comes from the springs of which brooks are a part with the bringing of water from 3 to 5 kilometers up through the collaboration of the village headman's office and the special provincial administration and they do not pay water bills.[316] However, there are several planned initiatives to establish water meters at the villages but the villagers are likely to object.[317] By 2022, water-meters have been established in some villages but water is not charged. If use of water is

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Ömür Kurt: Ne yapıyorsunuz? Boruyla eve çekiyorsunuz, evde banyo yapma suyu, içme suyu falan, yemek pişirme falan yararla...
Mehmet Gürkan: Tabii tabii…

[312] Interview with *Mehmet Gürkan*, 19 August 2021, *Fındıklı*.

[313] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[314] Interview on 5 September 2013, *Fındıklı*. The original Turkish version of the respondent's words is as follows: "Her kişinin arazisi dereye bağlanıyor. Her kişinin arazisinde ırmak var; inek vb.'nin su ihtiyacını karşılar."

[315] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[316] Interview on 23 July 2015, *Fındıklı.*

[317] Interview with *Mehmet,* on 23 July 2015, *Fındıklı.* For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

charged, the decision of the villagers is to break the water-meters. However, water-meters are available, and water is charged at the district center.[318]

The local government of *Fındıklı* has attempted at a drinking water project to bring water from the *Ardunç* local of *Fındıklı* to fulfill the district's raising drinking water needs.[319] However, the local government also plans to build a license-free micro-HEPP as part of this project on the brook already pipelined to transmit drinking water to *Fındıklı* in which the construction is to be done by the private firm whereas the running of and the benefiting from the plant belongs to the local government in order to meet the local government's own electricity needs.[320] Nevertheless, the *Platform for the Protection of the Fındıklı Brooks* oppose this project for it may undermine and/or weaken the anti-HEPP claims of the locality due to the risk of opening the way to other energy companies and divide/disintegrate the people.[321]

Last but not least, the brooks matter for the *Fındıklı* community, also as a means for the maintenance of the local culture and/or activities of daily living including leisure facilities as a customary, collective right to water besides the significance of the brooks in terms of tea production and drinking water. Before expounding on this subject, one can give ear to Castell's differentiation between

[318] Telephone call with *Mehmet Gürkan* on 30 March 2022 & Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı.*

[319] Interview with *Mehmet Gürkan*, 19 August 2021, *Fındıklı*.

[320] Interview with the Mayor of *Fındıklı*, *Ercüment Çervatoğlu*, 18 August 2021, *Fındıklı*. Ercüment Çervatoğlu is a significant name in Fındıklı for the mayorship has passed from the ruling party, *AKP* to the main opposition party, *CHP* with him. What is more important, he has an ecological movement past within *TMMOB* (Union of Chambers of Turkish Engineers and Architects) and he is against the damages on the nature and living-spaces of humans and non-humans by the electricity projects, Interview on 18 August 2021, *Fındıklı*.

[321] Interview with *Mehmet Gürkan*, 19 August 2021, *Fındıklı*.

environmentalism and *ecology* to understand the *Fındıklı* people's approach to nature better (Castells: 2004: 170):

> By *environmentalism* I refer to all forms of collective behavior that, in their discourse and in their practice, aim at correcting destructive forms of relationship between human action and its natural environment, in opposition to the prevailing structural and institutional logic. By *ecology*, in my sociological approach, I understand a set of beliefs, theories and projects that consider humankind as a component of a broader ecosystem and wish to maintain the system's balance in a dynamic, evolutionary perspective.

These sentences make sense mainly with respect to the consideration of the humankind as a component of a broader ecosystem, namely as an organic part of the nature for the *Fındıklı* anti-HEPP movement case. For instance, one of the reasons for the opposition to HEPP's in *Fındıklı* is the reverseless harm of the HEPP's to nature. To begin with one of the respondent's telling words, the representative of the *Yaylacılar* village of the *Platform for the Protection of the Fındıklı Brooks*, *Mehmet*, expresses what nature means to him in that "living and nature are the same law for me, or my serum".[322] *Mehmet* continues his words why brooks are vital for *Fındıklı* by saying that "(brooks) are crucial for tea, hazelnut, animals, nature, and life sphere".[323] As seen, the means of subsistence such as tea and hazelnut production are correlated with the rights of existence of the animals and nature with these words. Similarly, the HEPP projects are considered as a *natural massacre* in the focus group interview on 25 July 2015 in the *Arılı* village of *Fındıklı* with five men and four women respondents. Moreover, another similar idea belongs to *Kadirhan Kadıoğlu*, the former chair of the *Fındıklı Union of Chamber of Merchants and Craftsmen* and the current *Fındıklı District Head* of the *Republican People's Party* (CHP). He considers HEPP projects on the brooks as a *natural massacre* leading to the, for example, death of fishes with the drying up of the brooks which explains why they object

[322] Interview on 23 July 2015, *Fındıklı*. The original Turkish version of the respondent's words are as follows: "Yaşamak ve doğa benim için aynı kanun veyahut da serumum yani…"

[323] Interview on 23 July 2015, *Fındıklı*. The original Turkish version of the respondent's words are as follows: "Çay için, fındığ için önemli, hayvan için önemli, doğa, yaşam alanı için önemli..."

to even one of the HEPP's.[324] Another respondent, *Semiha*[325] from the *Arslandere* village of *Fındıklı* reckons also HEPP's as a *natural massacre* besides underlining the significance of *water* by saying that "water and nature are the same thing for me and lives of no species – humans, beetles, trees and all plants – are possible without water. And without nature, water has no meaning."[326] Within this context, the defense of the right to water of the local community are intertwined with the defense of the rights of the living creatures within the nature: *Semiha* again remarks that "when we unpen our voice, we also unpen their voice (non-human species)".[327] By the same token, *Mehmet Gürkan* remarks that "when you join the struggle, you become the voice of the water, life, nature, soil, air. You become the voice of the beetles, chestnut tree, bear, wolf, bird on the mountains".[328] Within the context of such holistic perception, *Orhan*[329], a small-agricultural producer from the *Gürsu* village of *Fındıklı*

[324] Interview on 5 September 2013, *Fındıklı.* The original Turkish version of Kadıoğlu's words are as follows: "Dereler kuruyacak. Doğa katliamı (HES'ler)… Balıkların ölümü… Bir tanesine bile karşıyız."

[325] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[326] Interview on 5 September 2013, *Fındıklı.* The original Turkish version of Semiha's words are as follows: "(HES'ler) doğanın katledilmesi… Su ve doğa birbirinin aynısı… Su olmadan canlıların yaşamı olmaz; insanlar, börtü böcek, ağaçlar, bütün bitkiler… Doğa yoksa suyun anlamı da yoktur."

[327] Interview on 5 September 2013, *Fındıklı.* The original Turkish version of Semiha's words are as follows: "Hem kendi sesimizi dışa vuruken, onların (doğadaki insan-dışı varlıklar) sesini de dışa vuruyoruz." – parantheses added.

[328] Interview with *Mehmet Gürkan*, 22 July 2015, *Fındıklı*. The original Turkish version of Gürkan's words are as follows: "… O mücadele içine girdiğinizde siz suyun, yaşamın, doğanın, toprağın, havanın sesi oluyorsunuz. Dağdaki börtü böceğin, kestane ağacının, bilmem, ayının, kurdun, kuşun sesi oluyorsunuz."

[329] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

emphasizes his will to fight for the nature and the non-deterioration of the ecological balance underlining his wish about the remaining of the nature untouched including by the HEPP projects which are harmful for the fishes, humans etc.[330] The will for the nature to be untouched also pertains to the principles of the *Platform for the Protection of the Fındıklı Brooks*. As remarked by Mehmet *Gürkan*, the founder of the *Platform for the Protection of Fındıklı Brooks*, the struggle for the life sphere in *Fındıklı* is against every kind of digging the nature either by the state or by the capital including mining, stream improvement, cage fish farming[331] and the so-called *green road*[332,333]. Within

[330] Interview on 22 July 2015, *Fındıklı.* The original Turkish version of Orhan's tellings, a small producer from the *Gürsü* village, is as follows: "Ölene kadar bu doğa için, çevre için, doğadaki hayvanlar için, ekolojik dengenin bozulmaması için savaşacağım. Öldürürlerse... Şimdi, bir doğanın, mesela bir dağın, doğanın, yaylanın bir de insanlar olduğu gibi kalmasını istiyor. Ben mesela kendimce, aynı olduğu gibi, hiç ellenmeden, hiç ağaç kesilmeden, olduğu gibi kalmasını istiyorum. Yani çok da seviyorum. Ha, ben sevdiğim gibi, millet, herkes de seviyor bunu. Öyle yerleri de bırakmak lazım. O (dere) bulanık görülüyorsa, demek ki bu (HES) her şeye zararlı. Balığa da zararlı, insanlara da zararlı... Oradan geçen hayvan da su içecek, kurt, çakal, ayı, ne bileyim doğada yaşayan... Doğa, insanlarındır da… Dağlar, doğa; hem de bir de hayvanların... Doğayı ve doğadaki hayvanları da korumamız lazım… Sadece biz insanlar kendimizi düşünmeyeceğiz. Kendimizi düşündükten sonra, düşündük mü bu yanlış olur." (parantheses added) For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[331] Indeed, a well-attended protest has been organized in *Fındıklı* by the *Fındıklı* locals against a planned cage fish farming project at *Yenikoy* local on January 2022, "Fındıklı'da Kafes Balıkçılığı İstemiyoruz", (We Do Not Want Cage Fisah Farming in Fındıklı), https://rizenabiz.com/findiklida-kkafes-balikciligi-istemiyoruz/, (retrieved on 22 May 2022).

[332] The *Green Road* is a Project by the *DOKAP* (Doğu Karadeniz Projesi Bölge Kalkınma İdaresi Başkanlığı/ The Chair of the Administration of the Regional Development of the Eastern Black Sea Project) that aims to create a tableland corridor in order to interlock tableland roads and encourage tourism, https://www.dokap.gov.tr/projeler/yesil-yol-projesi/1/Detay, retrieved on 22 May 2022. However, the project has been met with reaction from the local people in that it can take a heavy toll on the nature and local culture and cancelled by the Council of State in 2020., https://m.bianet.org/bianet/cevre/227331-danistay-yesil-yol-a-dur-dedi, retrieved on 22 May 2022. The *Platform for the Fraternity of the Brooks* has also opposed the Project calling the Project as a "Hell Road" Project aimed at plunder and rent on the part of the companies, *Viçe Newspaper*, 4 November 2014. Nevertheless, the project is on the way in Rize despite the court decision., https://www.sozcu.com.tr/2021/gundem/2-mahkemenin-iptal-ettigi-yesil-yol-projesi-rizede-devam-ediyor-6300852/, (retrieved on 22 May 2022).

[333] Interview with *Mehmet Gürkan* on 22 July 2015 and 19 August 2021 at *Fındıklı.*

such a framework, it is crucial to highlight that all the interviewed respondents have preferred to employ the concept, *nature* rather than *environment.* One of the respondent's, *Semiha's*[334] remark that "she does not find the term 'environment' sufficiently explanatory in addressing the nature" makes sense in this respect.[335] In this vein, the *Platform for the Protection of the Fındıklı Brooks* also rejects the terms of environmentalist movement or ecological movement and calls the movement as the defense of living-space to imply its holistic character moving beyond anti-HEPP stance.[336]

The original Turkish version of the part of dialogue during the interview on 22 July 2015 with Gürkan quoted herein is as below:
Mehmet Gürkan:… Yani bizim vadilerimize biz sermayenin, sermayeye alan açma anlamında her türlü yapılaşmaya karşı olduğumuzu deklare etmişiz.
Ömür Kurt: Peki mesela o kazmayı sermaye değil başka biri, vuran başkası olsa? Devlet olsa nasıl olur?
Mehmet Gürkan: Kim olursa olsun. Yani bu mücadele herhangi bir partinin ya da sermaye grubunun ya da devletin... Kim olursa olsun.
The original Turkish version of the quoted part of the interview with *Mehmet Gürkan* on 19 August 2021 is as follows: "Sonuç olarak Fındıklı Dereleri Koruma Platformu madene, HES'e dere ıslahlarına, yeşil yol gibi yollara balık çiftliklerine, yani kafes balıkçılığına… Bunlara karşı duruşunu gerçekleştiriyor."

[334] For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[335] Interview on 5 September 2013, *Fındıklı.* The original Turkish version of the respondent's words is as follows: "Çevre dediğimizde doğayı anlatamıyoruz".

[336] Interview with *Mehmet Gürkan* on 22 July 2015 at *Fındıklı.*
The original Turkish version of the part of dialogue during the interview quoted herein is as below:
Mehmet Gürkan: … Bi de şeye karşı çıkıyoruz yani bu çevreci kelimesine karşı çıkıyoruz. Çevre mücadelesi ya da çevrecilik bize bir şey katmıyor. Çünkü bugün doğayı yok eden HES'ler, doğayı yok eden maden çalışmaları, doğayı yok eden dere islahları, çimentolar bunlar hepsi sermayenin işinde ve bizim yaşamımızı doğrudan ilgilendiren etkenler olduğu için biz 'yaşam alanı savunması' diyoruz buna.
Ömür Kurt: Yani bu çevre mücadelesi değildir?
Mehmet Gürkan: Değildir, kesinlikle.
Ömür Kurt: Ekoloji mücadelesi, desek nasıl olur?
Mehmet Gürkan: O da değildir. O da biraz akademik oluyor. Biz halk dilinden konuşmak istiyoruz. Biraz bilimsel kaçıyor o, "ekolojik olarak", akademik şeyde kalıyor.

For the interpretation of such a relation with nature and such perception of threats to nature, one can turn to Castell's quoted paragraph in pages above where he differentiates between 'environment' and 'ecology' placing the latter in a broader and more holistic/integrated context in terms of the relation between humans and nature (Castells, 2004: 170). The perception of the nature with specific reference to the 'brooks' implies the term, *the feeling of ecologically being at home'* (ekolojist evindelik duygusu) used in a rather different article analyzing *Turkness* by *İlker Cörüt*.[337] The local people of *Fındıklı* feel at home in their district and within nature as a whole. With specific reference to the brooks, they are part of this home and this homely feeling. That is why they deem their movement as a struggle for/defense of living-space. Especially brooks constitute an important ingredient of the social life of the district. As narrated by *Mehmet Gürkan,* the founder of the *Platform for the Protection of Fındıklı Brooks*, "The brook is our love. There is no folk song composed about the brook. I saw my wife alongside the water. Namely, I was impressed alongside the water. I knew her alongside the brook. There are many happy families like me who fell in love alongside the brook and got married".[338] Other respondents say that they fish in the brooks[339] and/or go swimming[340] and/or

[337] "Türk Milliyetçiliğinin Apolitik ve Asosyolojik bir Eleştirisi Olarak Türklük Sözleşmesi", (Turkness Covenant as an Apolitic and Asociological Critique of Turkish Nationalism", https://www.gazeteduvar.com.tr/forum/2018/05/21/turk-milliyetciliginin-apolitik-ve-asosyolojik-bir-elestirisi-olarak-turkluk-sozlesmesi, (retrieved on2 January 2020).

[338] Interview on 22 July 2015, *Fındıklı*. The original Turkish version of the quoted words is as follows: "Dere bizim aşkımız. Dere üzerine yazılmamış türkü yok… Ben eşimi suda gördüm. Yani suda etkilendim. Derede tanıdım. Böyle benim gibi derede sevdalık çekip evlenen, mutlu olan bir sürü aile var".

[339] Interview with *Orhan,* a small-producer from the *Gürsu* village, on 22 July 2015, *Fındıklı*. For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[340] Focus-group interview on 25 July 2015 in a coffeehouse at the *Hara* village of *Fındıklı* with five men respondents; Interview with *Orhan* on 22 July 2015, *Fındıklı*; Interview with *Mehmet* on 23 July 2015, *Fındıklı*; Interview with *Hayriy* on 23 July 2015, *Fındıklı*; Focus group interview on 25 July 2015 at the *Arılı* village of *Fındıklı* with five men and four women

gather together and socialize[341]. Hence, brooks are a constitutive ingredient of the social life in *Fındıklı* including means of production and reproduction in a broad sense. In this regard, the *Fındıklı* people reject the idea that "all waters may be reduced to H_20" as the philosopher Ivan Illich (2011: 8) warns.

Up to here, the dissertation has tackled with what is defended, to what significance is attributed to the brooks in the *Fındıklı* anti-HEPP struggle. From now on, the dissertation continues by comparing how water is handled/apprehended in United Nation's formulation of right to water with how it is handled/apprehended in the *Fındıklı* anti-HEPP struggle with specific reference to the brooks. The dissertation argues that the basic differentiation with regard to what is defended and who defends reveals itself in terms of the unsatisfactory place given to the addressing of the concepts of 'commons', *object of right,* 'collective right', *form of right*, and 'collectivity', *subject of right*, by the UN.

The brooks constitute 'what is defended' against the HEPPs in the *Fındıklı* case. The brooks are one of the water commons in *Fındıklı*. As elaborated in the third chapter on primitive accumulation and the commons, the concept of 'commons' can in a word be defined as assets "that belong to every one of us and none of us" (Fırat, 2012: 23 – translation added). To put it more thoroughly in terms of social organization, "commons are social systems in which resources are shared by a community of users/producers[342], who also define the modes of use and

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respondents. For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[341] Interview with *Hayriye* on 23 July 2015, *Fındıklı*. For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[342] The community of users/producers who experience and reproduce commons in several practices as a collectivity, in brief the agent of the commoning practice, is called *commoners* (Fırat, 2014 – translation added).

production, distribution and circulation of these resources…" (de Angelis & Harvie, 2014: 280). In this respect, the *commons* bear upon on the *collectivity:*

> … the idea of the commons expresses a broader conception of property, referring to social goods—lands, territories, forests, meadows and streams, or communicative spaces—which a community, not the state or any individual, collectively owns, manages, and controls… the idea of the commons evokes images of intense social cooperation (Federici, 2011: 41).

Again as discussed in the third chapter on primitive accumulation and the commons, though commons have always existed as an inevitable part of social organization of humanity throughout years, what brings it to the fore again in the current moment of global capitalism grows out of the antagonistic contradiction between the logic of commons and of capitalism (Caffentzis & Federici, 2014: i92). First, in the face of the capitalism's permanent tendency to commodification, commons have a different characteristic from commodities. As stated by de Angelis (2014: i75 – italics added), "the commons are not 'things' as commodities are, but social systems, comprising of communities, resources and practices, i. e. *commoning*". Hence, since, commons are different from commodities, they are defined on the grounds of usage (Fırat, 2012: 23 – translation added) rather than exchange and accumulation. Within such a characteristic, commons are characterized with collective rights since they are affiliated with collectivity/collectivities as well as common practice(s) rather than exclusive capitalistic property rights.[343]

Commons, collective right, and collectivity are interwoven concepts. While the concept of 'commons' makes up the *object of right to water*, the concept of 'collective right' constitutes the *form of right to water*, as the concept of 'collectivity' comprises the *subject of right to water*. As analyzed in the second chapter on the UN human rights system and the right to water, the conception of

[343] The concept of exclusive property connotes to the capitalistic private property rather than communal property as well as "individual private property, as founded on the labour of its proprietor" or "scattered private property resting on the personal labour of the individuals themselves" (Marx, 1982: 929).

'collective rights' bears two dimensions: the subject of right, the *collectivity* or the object of right, the *collective interest*. Hence, they are comprised of the rights that human collectivities (classes, ethnic groups, peoples, religious-national minorities) hold by virtue of belonging to a *collectivity* that can be claimed individually or collectively against the state and other groups (Özdemir & Aykut, 2011: 307 –translation and italics added). Or more shortly, they add up to the "…rights based upon the rights of human beings in their various group and social roles… that require cooperation of a group" (Felice, 1996: 20; Felice, 2008: 324). As concerns the object of right, collective rights can be defined as the "rights pertaining to collectivities as such in order to protect some *collective interests*" (Galenkamp, 1994: 1 – italics added). On this basis, "a right will be called 'collective', not if it inheres in a group, but simply because its object or the interest served or its exercise is collective". (Hartney, 1991: 311) In other words, "right to a collective good or a right designed to serve the interest of members of a group (can be deemed as) collective right" (Hartney, 1991: 311).

Collective rights can be handled in two ways, on the basis of both the content of collective interest and collective identity: *cultural collective rights* or *non-cultural/class-based collective rights* (Özdemir & Aykut, 2010, 2011 – translation added). According to the hegemonic understanding both in the international human rights system and the milieu of social and political elites, collective rights are basically bestowed upon cultural groups such as ethnically, linguistically and/or religionally different minority groups rather than groups based upon class or gender[344] (Hartney, 1991: 295). Grounded on such hegemonic focus on cultural traits to conceptualize and apprehend collective rights, "collective rights are claims based not on shared human traits but on cultural distinctiveness and membership in a community defined by this distinctiveness." (Sanders, 1991: 369, 370, quoted in Juviler, 1993: 269). Despite its focus on group identity, it is believed that "the rights protecting the existence

[344] Currently, it can be stated that the women's groups struggle for gender equality and women's human rights around the world has carried women's rights as a collective right to the higher ranks of the field of human rights among as a part of the hegemonic catalogue of human rights.

of groups are better vested in the individual members of the group rather than in the group itself" (Hartney, 1991: 295) in asmuch as such hegemonic conception of human rights cannot, or to be honest, does not escape from the methodological individualism of the dominant liberal rights-paradigm. As enjoined by such paradigm, the rights of collectivities can only join the human rights repertoire only if the rights-language in question is individualized or converted into the language of individual rights (Özdemir, & Aykut, 2011: 307-308 – translation added). Such *individualization* can even be observed in the case of cultural collective rights, for example, with reference to minority rights. Rather than minority groups, persons (individuals) belonging to minorities are enunciated as the rights-subject in the international documents on minority rights (Ramcharan, 1993: 33). As clearly seen, the emphasis is still on the "individual's rights in collective situations… (rather than) on the rights of the collective as a whole" (Felice, 2008: 321). Hence, the dominant ideology of human rights is destitute of capturing the collectivity as such. Believing that claims to water are relevant only between individuals, it ignores empirical facts regarding both hydrological science and social institutions (Butler, 1986, 2000; quoted in Schmidt, 2012: 97) as well as social existence of human beings. When it comes to the collectivities based on *class*, such deprivations appear clearer since it reflects the class antagonism embedded within the bourgeois society in the capitalist social formation. Yet, the perception of human being within their sociability – which is a trait of the human species – is "the opposite of the one that forms the basis of Lockean liberal theory: the isolated, lone individual, afraid of other humans (Felice, 2008: 327). Hence, there exists no ontological room for class-based collective rights – collective rights based on class reality and class interest - within the liberal rights paradigm. In this line, for it is also based on the liberal paradigm of human rights, the UN's conception and formulation of right to water – which is the hegemonic conception of right-to-water penetrating into the global water justice approach constituting the basis of this approach as discussed in first section of this chapter - misses to grasp such social character of human beings that can gather within various collectivities and

cannot escape from holding various deficiencies with regard to the commons and the collectivity which are to be handled in the pages below.

First, as it has been discussed earlier, the UN's conception of right to water gives priority to needs for drinking water and domestic reproduction such as cooking and hygienic needs. Such point is explicit in the Article 6 of the *General Comment No. 15*[345]: "… priority in the allocation of water must be given to the right to water for personal and domestic uses". As is seen, the main rights-subject is the individual and the main content of the rights-object is water for reproduction needs in such formulation. Nonetheless, such individualistic and reproduction-oriented conception of right to water cannot sufficiently account for the phenomenon of the right-to-water struggle in *Fındıklı* embodied in the anti-HEPP struggle. Most importantly, although the prioritized rights-subject of the right to water is the individual in the UN's conception of right-to-water, the rights-subject is the *collectivity*[346] rather than the individuals separately in the *Fındıklı* case.

[345] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 18 November 2021).

[346] The rights-subject of the right to water is defined as the *collectivity* in the interviews by the respondents as well derived from the answers to the question "Whose is the water?" or "Who should benefit from water?": The answers are as follows defining the 'collectivity': "The nation" (*Hayriye*, interview on 23 July 2015, *Fındıklı*); peasants (*Mehmet*, interview on 23 July 2015, *Fındıklı*); "the ones who live and reside in here, the ones who use water" (Focus-group interview in *Arılı* village, *Fındıklı*, 25 July 2015); "the living beings" (*Saliha*, interview on 5 September 2013, *Fındıklı*); "all the living beings living in the local" (*Mehmet Gürkan*, interview on 22 July 2015, *Fındıklı*); "the citizen resident" (*Semiha*, interview on 5 September 2013, *Fındıklı*). (For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).
As is seen, the definition of the 'collectivity' is rooted upon 'locality'. To the extent that the locality's class identity is 'small family producers' and the defense of the means of subsistence, brooks for the sake of tea production constitutes the main cause of the reclaiming water through anti-HEPP resistance, it can be put that the rights phenemonen emerging in the *Fındıklı* water movement case is the reclaiming the collective right-to-water, a class-based collective right by the laboring locals, namely small family agricultural producers.
As for *Mehmet Gürkan*'s definition of the collectivity as "all the living beings living in the local", one can pay attention herein to *Semiha*'s, a young woman from *Fındıklı*, aforementioned words, "when we unpen our voice, we also unpen their voice (non-human species)", (interview on 5 September 2013, *Fındıklı*), as well as *Mehmet Gürkan*'s aforementioned words: "when you join the struggle, you become the voice of the water, life, nature, soil, air. You become the voice

Second, although water as a means of reproduction – with respect to fishing, leisure (swimming, socializing) and drinking water – as elaborated in the paragraphs above has a place in the *Fındıklı* struggle for right-to-water embodied in the anti-HEPP collective stance, this has a secondary weigh compared to the water as a means of production. As addressed in the paragraphs above, water – with specific reference to the brooks – is vital in the sense of the humidity it creates for tea production. In this vein, it can be put that water is a means of production albeit indirectly compared to the direct use of water for irrigation in agricultural production. Hence, the main rights-subject in the *Fındıklı* right-to-water struggle is the class of small-producers hence such class is what gives its color to the struggle and the socio-economic fabric of the district[347]. The small family producers in *Fındıklı* reclaiming water commons against the capital attempting at HEPP projects constitute a class. Hence, the main rights-subject in the *Fındıklı* right-to-water struggle is a class-based collectivity which makes the quality of right a *class-based collective right-to-water*. However, the UN's emphasis on individually-based right-to-water falls short of grasping such a right-to-water case. For as collective rights are in question, the UN's conception of right-to-water apprehends essentially cultural collective rights.

The Article no 7. Of the *General Comment no 15*, states that[348]

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of the beetles, chestnut tree, bear, wolf, bird on the mountains" (Interview with *Mehmet Gürkan*, 22 July 2015, *Fındıklı*).
Thereby, the *Fındıklı* people reclaim also the right-to-water of non-human living beings indirectly in their claim to right-to-water which is far from hegemonic anthropocentric stance in the liberal human rights discourse. Suc points are to be rehandled in the passages below.

[347] As *Mehmet Gürkan*, the founder of the *Platform for the Protection of the Fındıklı Brooks* addresses, "100% (of the people of the district) live on tea. Yet, 100% is engaged in tea agriculture… That is to say, tea agriculture is done in the upper areas from 3 decares to 5 decares. People live firstly on tea. There is small family production here." Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı*. The Turkish original version of Gürkan's words is as follows: "(Bölge halkının) Yüzde yüzü çayla geçiniyor. Yüzde yüz zaten çay tarımı yapıyor… Yani 3 dönümden 5 dönümden yukarıya bu bölgede çay tarımı yapılıyor. İnsanlar geçimlerini başta 1. Derece olarak çayla sağlıyorlar… Küçük aile çiftçiliği var burada".

[348] United Nations Digital Library, https://digitallibrary.un.org/record/486454, (retrieved on 21 November 2021).

> … Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not "be deprived of its means of subsistence", States parties should ensure that there is adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.

As elaborated in the first section of this chapter, if one examines this article thoroughly, (s)he can notice that the water-rights of indigenous peoples, a cultural collectivity, are referred to the *International Covenant on Economic, Social and Cultural Rights* while there is no such reference as the water-rights of agricultural producers are at stake. The Paragraph 2, Article no. 1 of the Covenant[349] equips the means of subsistence of the peoples, which are defined on the grounds of shared common cultural traits, with the concept of 'right' by allowing for it within the Covenant, one of the basic UN documents:

> 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Furthermore, the water uses of indigenous peoples, to mention again, a cultural collectivity, are blazoned with the concept of right-to-water in the the Article No.5 of the final Declaration on the Rights of Indigenous Peoples adopted by the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities mentions the rights to water of the indigenous peoples as addressed within the first section of this chapter:

> Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.[350]

[349] International Covenant on Economic, Social and Cultural Rights, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights, (retrieved on 26 May 2022).

[350] United Nations Declaration on the Rights of Indigenous Peoples, https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html, (retrieved on 12 May 2022).

As seen, water-rights of cultural collectivities with reference to indigeneous people are equipped with legal right to water in contrast to the right-to-water on the part of the class-based collectivities which illuminates that collective right-to-water of agricultural producers in *Fındıklı* does not bear upon the UN's right-to-water paradigm that is based on the dominant liberal rights-paradigm.

Last but not least, if one goes back to the pages above, it had been put through several interviews that the *Fındıklı* people have an organic relation to the nature, especially the brooks. They defend life in its complete entirety comprising all the elements of nature; brooks, animals, plants, humans…, in their defense of living-space struggle as called by the *Platform for the Protection of the Fındıklı Brooks*.[351] Hence, they do not hold an anthropocentric stance locating human at the center of the object of defense. Rather they hold a conception of interdependent community comprised of humans, nonhumans and biophysical systems rather than a conception of community as the aggregated utility of discretely ordered individuals (Schmidt, 2012: 105). Nonetheless, the UN's approach to right-to-water cannot grasp such holistic relation with water itself as well as such sort of rights-struggle owing to its individualistic, hence anthropocentric vantage point as exemplified by priority given to the drinking water needs and domestic reproduction needs of the human-individual as the prime rights-subject.

Having explained the social structure of *Fındıklı,* the reasons for the anti-HEPP movement and compared the reasons, object and agent of the right-to-water movement in *Fındıklı* with the UN's conception of right-to-water, one can turn herein to the threat, namely *HEPP*'s and start with giving a brief information about HEPP's as they have been thoroughly described in chapter 4 on water-based primitive accumulation in Turkey.

[351] Interview with *Mehmet Gürkan* on 22 July 2015 at *Fındıklı.*

As explicated in chapter 4 on 'water-based primitive accumulation', hydroelectric power plants (HEPP's) "are facilities which convert the motional/mechanical energy, arising by the processing of the potential energy by means of a certain fall altitude, into electrical energy" (Gökdemir, 2012: 15 – translation added). The hydroelectric power plants are classified into two categories based on their type of structure, the ones with large reservoirs which enable the storage of water in a reservoir, *dams* with their common name, and the ones that do not require a large reservoir, namely run-of-the river hydropower plants, or small HEPP's (Erensü, Evren & Aksu, 2016: 15; Erensü, 2017: 129 – translation added).

The HEPP boom has initiated in the aftermath of the 2008 economic crisis as a crisis fixing strategy aimed at capital accumulation and deepening of capitalistic commodity relations in various spheres. To talk with figures, Turkey's hydraulic energy production has reached out to 68.452 GWh by the end of August, 2019.[352] While operated 653 HEPP's with installed power of 28.291 MW comprise 31.9% of the total installed power by the end of the year, 2018, the hydroelectric installed power has figured out at 28.437 MW.[353] By September 2021, HEPP's constitute the largest part in the installed power of renewable energy sources with the 60% share in Turkey.[354] The Eastern Black Sea Region occupies a prominent place in such HEPP surge, an amount of 24.2% within the production capacity of HEPP's in Turkey belonging to the HEPP's in the Eastern Black Sea Region. Thereby, HEPP's are placed at the top with the amount of

[352] *Hidrolik*, https://enerji.gov.tr/bilgi-merkezi-enerji-hidrolik, (retrieved on 27 May 2022).

[353] *Hidrolik*, https://enerji.gov.tr/bilgi-merkezi-enerji-hidrolik, (retrieved on 27 May 2022).

[354] Türkiye Sınai ve Kalkınma Bankası [Turkish Bank of Industry and Development] (2021), *Enerji Görünümü 2021*, [Energy Outlook 2021], https://www.tskb.com.tr/tr/yatirim-bankaciligi/ekonomik-arastirmalar/ekonomi-ve-piyasalar/tskb-enerji-bulteni, p. 31, (retrieved on 8 February 2022).

92.2% in the renewable energy sources in the region.[355] Yet, 370 HEPP projects exist in the Eastern Black Sea Basin (Süme & Fırat, 2020: 7 – translation added). Even, 10 to 17 HEPP's are available consecutively in the rivers in Trabzon and Rize districts of the region (Süme & Fırat, 2020: 7 – translation added).

As a result to water-based primitive accumulation embodied in the HEPP surge, mass resistance has taken a step in the *Rize* province with the *Fırtına Valley* resistance. The local people has reacted to the HEPP project in the *Fırtına Valley* in the mid-1990's. After a long process of struggle, the *6th Chamber of the Council of the State* has verified the judgment of the *Trabzon District Administrative Court* about the cancellation of the Environmental Impact Report in 1999 (Atvur, 2014: 290-291 – translation added). The struggle has ended with victory.

With the 2000's, the torch has been lighted with the foundation of the *Platform for the Fraternity of Brooks* (DEKAP) with the pushing of the formation of the *Platform for the Protection of Fındıklı Brooks*. DEKAP, a locally organized and regionally coordinated platform, holds a local branch in every valley from Zonguldak to Artvin in 16 provinces, 26 valleys and 98 organizations (Eryılmaz, 2017: 274, 280 – parenthesis added). DEKAP aims to share solidarity, local achievements as well as local and scientific knowledge about assaults on living-spaces with specific reference to the brooks. Hence, it prefers the term 'living space' to imply the total struggle against the entirety of living-spaces such as mining, quarry, HEPP's and the so-called 'green road'. Its other principles are as follows: Opposing the commodification of water as a commodity; that all the living-beings have equal right to take advantage of water, independence from funds and economic revenues as well as political organizations and other institutions and being a mass, local movement with representatives from

[355] Doğu Karadeniz Projesi Bölge Kalkınma İdaresi Başkanlığ, [The Department of Regional Development Board of Eastern Black Sea Region], *Doğu Karadeniz Projesi Bölge Kalkınma Programı (DOKAP), 2021-2023*, [Regional Development Programme of Eastern Black Sea Region (DOKAP)], p. 84, https://www.dokap.gov.tr/, (retrieved on 8 February 2022).

localities.[356] Indeed, mass resistance in the Black Sea Region has downgraded the image of fascist Black Sea creating a new image of the 'Black Sea resisting for the sake of its rights' (Hamsici, 2012b: 290 – translation added).

What creates such resistance is the assaults of the capital directed at water-based primitive accumulation creating a rights-confrontation between the exclusive property rights of the capital and the water-rights of the labor. Such rights-confrontation has been embodied in the anti-HEPP struggle in Anatolian landscape especially by the 2000's. However, *Fındıklı* has a specific place within this struggle. It is the capital city of the HEPP resistance owing to basically to the fact that *Fındıklı* has lighted the blue touch paper of the struggle in the 2000's (Hamsici, 2012a: 117 – translation added).

The assaults of water-based primitive accumulation with specific reference to the HEPP projects started in *Fındıklı* with the *Paşalar HEPP* project in the *Çağlayan Valley* in 2007.[357] When the project came to the fore, the village and neighbor headmen have been called for getting together. A meeting comprised with non-governmental organizations and democratic mass organizations was held in 2007 immediately after the noticing of the HEPP project. The *Platform for the Protection of the Fındıklı Brooks* was launched at the panel on 22 March 2007, *World Water Day*, with the attendance of 300 people to be run through an assembly and executive council. Opposition against HEPP's at the valleys and all other projects destroying the nature was declared with the foundation of the *Platform*. Hence, alike *DEKAP*, *Platform for the Protection of the Fındıklı Brooks* is against HEPP's, stream improvement, the so-called 'green road',

[356] Interview with *Ömer Şan*, Executive Board of DEKAP, 24 July 2015, *Rize*.

[357] Interview with *Mehmet Gürkan*, 22 July 2015, *Fındıklı*.

mining, cage fishing and all the other initiatives that can dig the nature either run by the state or the private actors.[358]

The *Platform for the Protection of the Fındıklı Brooks* is a grassroots mass organization. The movement is developed autochthonously with common participation that gets support from everybody.[359] There is no supporter of HEPP's in the district.[360] *Mehmet Gürkan*, the founder of the *Platform for the Protection of the Fındıklı Brooks* mentions hereof that "some people who have been engaged in trucking at first supported HEPP's. But when they saw the destruction at the neighboring districts by the HEPP's, they withdrew their support". [361] The mass base of the movement is so widespread that even, there is no such category as the most active participants.[362] Similarly, *Semiha*, from the *Arslandere* village, *Fındıklı,* underlines that all the people living at the locality is

[358] Summarized from the interviews with *Mehmet Gürkan*, 22 July 2015 and 19 August 2021 in *Fındıklı*

[359] Interview with *Kadirhan Kadıoğlu*, the former chair of the *Fındıklı Union of Chamber of Merchants and Craftsmen* and the current *Fındıklı District Head* of the *Republican People's Party* (CHP), on 5 September 2013, *Fındıklı*. The original Turkish version of Kadıoğlu's words are as follows: "Herkesten destek almaktayız. Ortak katılımla kendiliğinden gelişen mücadele…"

[360] Interview with *Orhan*, from the *Gürsu* village of *Fındıklı*, on 22 July 2015. The original, Turkish version of Orhan's quoted remark is as follows: "Dere olduğu gibi akacak... Burada nasıl yaptıksa köyde de aynı. Öyle protesto edildi. Yani halk istemiyor hiçbiri. İstiyorum diyen yok."
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[361] Interview on 19 August 2021, *Fındıklı*. The Turkish, original version of the quoted sentences is as follows: "Geçmişte savunlar vardı, işte kamyonu olan vs. bu işten nemalanacak insanlar vardı. Onlar HES'lere evet, diyorlardı ama ne zamanki bu adamlar komşu ilçelerde HES'lerin yaptığı tahribatı görünce onlar da vazgeçtiler HES şeyi olmakla".

[362] Interview with *Saliha*, a young woman from *Fındıklı* on 5 September 2013, *Fındıklı*. The original, Turkish version of *Saliha*'s words are as follows: "En çok katılan diye kimse yok. Herkes ortak."
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

on the front."[363] However, the women activists make a difference in that they are in the front rank. As *Kadirhan Kadıoğlu*, the former chair of the *Fındıklı Union of Chamber of Merchants and Craftsmen* and the current *Fındıklı District Head* of the *Republican People's Party* (CHP), enounces, "the women are up front".[364] By the same token, *Semiha*, from the *Arslandere* village of *Fındıklı,* expresses that "although everybody is the same, the ones showing most awareness are the women for they commune with water. While men work at the factories, women harvest the tea".[365] Therefore, it can be argued that the women's outstanding role as a propulsive force in the resistance stems from the indirect relationship they establish with water in terms of means of production and means of reproduction, i.e. domestic labor which makes them feel the impossibility of life without water more directly. *Fındıklı* deserves its title of being the 'capital city' of HEPP resistance. Although there are 24 projects targeting the brooks, none of them has been actualized.[366] How did this small district achieve this? This success first of all owes to the creation of a mass base and grassroots organization. One of the reasons that has made this possible is the strategy on the part of the *Platform for the Protection of the Fındıklı Brooks* called keeping the movement 'beyond party politics'. To put it differently, the Platform remained attentive to "no

[363] Interview on 5 September 2013, *Fındıklı*. The original, Turkish version of Semiha's quoted words is as follows: "Yerinde yaşayan herkes önde".
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[364] Interview on 5 September 2013, *Fındıklı*. The original, Turkish version of Kadıoğlu's expressions is as follows: "Kadınlar en ön safta".

[365] Interview on 5 September 2013, *Fındıklı*. The original, Turkish version of Semiha's quoted words is as follows: "Hepsi aynı olmasına rağmen en duyarlılık gösteren kesim kadınlar… Suyla iç içeler. Erkekler fabrikada çalışır; çayı toplayan kadınlar…"
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[366] Interview with *Mehmet Gürkan*, the founder of the *Platform for the Protection of the Fındıklı Brooks*, on 19 August 2021, *Fındıklı*. The original, Turkish version of Gürkan's quoted remarks is as follows: "24 tane HES Projesi'nden hiçbir tanesine kazma vurdurmadık".

involvement in party politics", (Bieler, 2021: 75), namely "remaining strictly outside the traditional party system's modus operandi" (Marotta, 2014: 41, quoted in Bieler, 2021: 59). Though the Platform accepts that the movement is political in essence, it is over the political parties and political organizations letting no party, organization or person impose their own political opinions on the Platform. In this way, the Platform achieves to be open to all and form a mass base.[367,368] Herein, *Kadirhan Kadıoğlu*, the former chair of the *Fındıklı Union of Chamber of Merchants and Craftsmen* and the current *Fındıklı District Head* of the *Republican People's Party* (CHP) words that "no flag of any organization is available at protests". [369] In this way, the Platform has succeed in forming "broad alliances across the social factory" (Bieler, 2021: 152).

Having dealt with the characteristics of the movement, herein one can turn to the movement repertoire. The repertoire can be classified into three categories: *science, law, people*, namely the self-defense of the people. The Platform calls these three categories as the trivets of the movement.[370] By science, it is meant

[367] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. Gürkan's original, Turkish paraphrised statements is as follows: "Siyaset üstü bi mücadele. AKP'li MHP'li, CHP'li, ÖDP'li şulu bulu olabilirsiniz; ama o mücadele içine girdiğinizde siz suyun, yaşamın, doğanın, toprağın, havanın sesi oluyorsunuz. Dağdaki börtü böceğin, kestane ağacının, bilmem ayının, kurdun, kuşun sesi oluyorsunuz… Siyaset üstü derken yani şudur: Atıyorum, "ben AKP'liyim ben işte HES'lere şöyle bakıyorum" deme şansımız yoktur. Yani, siz AKP'nin siyasetini orda yapamazsınız. Ya da herhangi bir partinin ya da herhangi bir görüşün siyasetini yapamazsınız… Siyasi partiler üstü. Siyaset dışı demeyelim de partiler üstü bir yapılanma…"

[368] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı* (paranthesis added). Gürkan's original, Turkish paraphrised statements is as follows: "… Ama Fındıklı'da HES konusunda herkes, her yapı üzerine düşen görevi siyasi partisini, ideolojisini oraya katmadan suyun siyasetini, yaşam alanının siyasetini ki bütün siyasetlerden üstündür bence, çünkü yaşam hakkıdır o. Kendisini öne çıkarmadan yapabildi onu. . Bir de şey yaptırmadık biz; farklı siyasi yapılara kendi siyasi görüşlerini empoze edecek şeyler yaptırmadık. (Mücadele) korkunç siyasi…

[369] Interview with *Kadirhan Kadıoğlu* on 5 September 2013, *Fındıklı*. The original, Turkish version of Kadıoğlu's words is as follows: "Eylemlerde hiçbir örgüt bayrağı yok."

[370] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's quoted words is as follows: "Fındıklı'daki mücadele üçlü sacayak üzerine yürüdü. Bunlardan bir tanesi bilim ayağı idi. Bir diğeri hukuk ayağı… Diğer en önemlisi ise halk ayağı… Halkın meşru müdafaası diyelim ona. Fındıklı'da bu temelde gelişti mücadele. Yani üçlü sacayağı Fındıklı çok güzel kullandı."

the dissemination of scientific knowledge about HEPP's through the panels on which scientists shared the so-called HEPP truths with the people. The *Platform of No to the Commercialization of Water*, (*Suyun Ticarileştirilmesine Hayır Platformu)*, a platform made up of anti-capitalist intellectuals, labor organizations, professional associations etc. producing and disseminating knowledge about the commercialization of nature and of water, though currently inactive, as well as *Water-Politic* (Su Politik), a platform made up of anti-capitalist intellectuals engaged in producing and disseminating knowledge about the commodification of nature and of water, have been influential in meeting the scientific knowledge about HEPP's with the *Fındıklı* people. Hence, they have empowered the movement in this respect. As *Orhan*, from the *Gürsü* village of *Fındıklı* tells, the Platform has organized a meeting with the local people with the attendance of the scientists in order to inform the people about the characteristics and harms of HEPP's at the beginning of the struggle.[371]

As respects the place of law within the movement, it can be said that legal mechanisms have been utilized efficiently during the struggle. First, people are informed about the legal developments pertaining to the nature, namely HEPP's, forages, uplands, the 'green road' etc. through meetings.[372] Second, file has been suited against only one HEPP project, *Paşalar HEPP* and won with the cancellation of the 'Right to Water Usage Agreement', which is the first in Turkey.[373] Another application of law is the achievement of the declaration of

[371] Interview on 22 July 2015, *Fındıklı*. The original, Turkish version of Orhan's tellings is as follows: "Bize anlatıyorlar. "Bizim başkanlar, bilgi toplantısı. … Bizim balıklarımız ölecek, derenin suyu bozulacak dediler. Deyince tabii biz böyle şey olmaz, yanlıştır dedik. Ben de öyle dedim. Getirdikleri vardı İstanbul'dan, onlar da gelmişler buraya."

[372] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's quoted words is as follows: "Mesela biz hani o toplantılar yapıyoruz diyoruz ya, o toplantıları yapmamızın nedeni, Türkiye'de gerek ÇED Yönetmeliği'nde olsun gerekse mera, yayla, işte yeşil yol vs., bu yasaları takip ediyoruz. Bu yasalar çıktığında halkla, muhtarlarla toplantılar yapıyoruz."

[373] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*.

the *Çağlayan* and *Arılı* valleys as 'protected areas' (SİT alanı) in 2010.[374] Nonetheless, the HEPP companies embarked on amending the status of 'protected areas' of the two valleys subsequent to a presidential decree about the reevaluation of the statutes of the protected areas in 2021. Grounded on such a decree, the companies of *Ayen Energy* and *Başkent Energy* have suited a file about the cancellation of the statues of the protected areas of these valleys. However, district administrative court of Rize dismissed this file, a judgement later approved by the Chamber 6 and Chamber 14 of the Supreme Court.[375] Thereby, the statutes of the protected area of these valleys have been registered officially.

The Platform prefers to suit no file anymore owing to distrust in law, namely legal mechanisms in Turkey, believing that all enacted legal regulations are capital-friendly as well as seeing that new environmental impact evaluations are brought to the fore again with the companies following legal achievements of the movement.[376] In this context, *Orhan*, a small-producer from the *Gürsü* village, words that the laws are enacted by the state in favor of the HEPP companies adding that he doesn't expect any law in their favor.[377] Similarly, *Hayriye*, an old

[374] Interview with *Saliha* from the *Arslandere* village on 5 September 2013, *Fındıklı*. For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[375] Interview with *Mehmet Gürkan* on 19 August 2021, *Fındıklı.*

[376] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's remarks are as follows: "Mahkemelerle bir yere kadar gidiyorsun çünkü mahkemeler, yasalar, şeyler hep sermayenin lehine çıkıyor bugün ülkemizde… Ama mahkemeye gitmiyoruz. Çünkü biliyoruz ki mahkemeye gitsek tamamını durduracak ama tekrar ÇED değişecek, bir sürü maddi külfet getirecek. Bu şeyler külfet getiriyor. Her mahkemeye verişte 8-10 milyondan başlıyor mahkemelere avukat ücretleri vs. Artık mahkemeye vermiyoruz."

[377] Interview with *Orhan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Orhan's statements are as follows: "Devlet halktan, halkla olmuyor. Devlet, HES'çilerle beraber oluyor. Çünkü devlet yaptırıyor zaten bunu. HES'çilerle beraber oldu mu, onun, HES'çiler için kanun çıkarıyor yani. HES yapabilecekleri gibi bir kanunlar çıkarıyor. Kanun değiştiriyor ve kanun çıkarıyorlar… (Devlet kanunları) HES'çilerin lehine çıkarıyor. HES'çiler için çıkarıyor. HES'çiler

woman from the *Meyveli* village, words that they have not benefited from the laws at all.[378] By the same token, *Mehmet*, the village (*Yaylacılar* village) representative of the Platform, expresses that they have not enjoyed the advantage of the laws, which are indeed for the rich.[379] In the same vein, it is stated that the judiciary does not function properly in Turkey in the focus group interview in the *Arılı* village of *Fındıklı* with five men and four women respondents.[380] Likewise, it is worded that the laws are not together with the *Fındıklı* people but the people learn the laws in the focus-group interview in a coffeehouse at the *Hara* village of *Fındıklı* with five men respondents.[381]

Within such an atmosphere of distrust in law, the people's movement, the so-called *people trivet*, is featured within the movement rather than application to

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HES yapabilsin diye çıkarıyor. Şirketler HES yapabilsin diye çıkarıyor… Olumlu bir kanun beklentisi.. Bende yok sahiden. Niye? Devlet de para gelsin diyor, şirketler de par kazanalım diyor. Yasalar çözmeyecek gibi gözüküyor yani. Şimdiye kadar çözmedikse bundan sonra çözmezler zannedersem."
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[378] Interview on 23 July 2015, *Fındıklı*. For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[379] Interview on 23 July 2015, *Fındıklı*. The original, Turkish version of *Mehmet*'s words is as follows: "Yasaların bi hayrını görmedik ki... Yasalar tabii, yasalar kim içindir, zenginler içindir." For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[380] Interview on 25 July 2015, *Fındıklı*. The original, Turkish version of the quoted remarks is as follows: "Yargı işlemiyor ki! Ha, yargı mı var, böyle yargı mı olur ya!"

[381] Interview on 25 July 2015, *Fındıklı*. The original, Turkish version of the quoted statements is as follows: "(Kanunlar) Yanımızda değil ama Öğreniyoruz. Öğreniyoruz. Mesela kanunlar nasıl çıkıyor, ne oluyor, onları... SİT alanı mesela nasıl çıktı, biliyoruz. Öğrendik, sonradan. Onu da bilmiyorduk.

legal instruments.[382] The movement knows that once the HEPP companies enter the valley with even one bulldozer, it is very difficult to get them out.[383] Hence, they hinder the HEPP companies from the beginning with actual struggle.

What are the methods of *actual struggle*? How is it concretized within the struggle? The struggle repertoire can be listed as follows: protests, demonstrations, guard duties, informing-oriented meetings and face-to-face disceptations, banners, placards, picket signs… Of these struggle instruments, guard duties hold a significant place within the struggle to prevent the entrance of the HEPP company attendants to the valleys. As explained by *Orhan* from the *Gürsu* village, "We are on guard duty everyday. That is to say, we, the villagers, wait alongside the brooks, in the villages and check the cars coming and going out of the village. The HEPP attendants manifest themselves. When they come, we catch them. They come with the gendarme. We call the chairs of the Platform, gather, stop the gendarme, catch and fire the HEPP attendants. We never brawled with the gendarme. But some HEPP attendants got injured".[384]

[382] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's remarks is as follows: "Mahkeme yerine halkın mücadelesi ön plana çıkıyor. Böyle gidiyor".

[383] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's qupted words is as follows: "Bu vadiye bi dozer girdiğinde, HES için, maden için, onları geri çıkartmak çok zor. Onun için baştan sokmama kararı alıyor."

[384] Interview on 22 July 2015, *Fındıklı*. The original, Turkish version of *Orhan*'s summarized words is as follows: "Ya biz şimdi her gün nöbet tutuyoruz. Yani, nöbet dediğim, köye gelen arabalara, çıkan arabalara, bizim millet, halk, köylüler bekliyor bu derede. İşte (21.03) deresi var, (21.04), daha yukarıki köyler var... Köyler, herkes, o HES'çilerin arabaları zaten belli oluyor. Jandarmayla beraber gelebilir. Yalnız... Geldikleri zaman yakalıyoruz onları. HES'çi olduğunu, uçakla geliyorlar ekseri. Trabzon'dan 61 plakalı kiralıyorlar. Köye, muhtara haber vermeden gelemez. Bir de jandarmaya haber vermeden gelemez, yasak. Bir çalışmaya yapmaya geliyorsun sen. HES'ler için çalışma yapmaya geliyorsun. Çalışma yapmaya geliyorsun. Onlar da tabii jandarmayla beraber geldikleri için jandarmayı durduruyoruz, HES'çileri de durduruyoruz ve de ne için geldilerse köylü, millet toplanıyor. Beş yüz kişi, bin kişi, ne varsa köylülerden, çarşıdan, her köyden adamlar geliyor, onları kovuyoruz, gönderiyoruz. Jandarmayla arbede yaşamadık, hatırlamıyorum. Benim olduğum zaman yaşamadık. Ama tabii bu HES'çilere saldırdılar, yaralanan oldu. Köylüler saldırdı HES'çilere. Telefonla bizim başkanlara haber veriyoruz."
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

Similar statements are put by *Mehmet*, the *Yaylacılar* village representative of the *Platform*, as "As we do not allow the HEPP's, the HEPP companies started to come with different groups, under false pretences such as meteorology attendants, tea experts, Ministry of Agriculture attendants, district governorship attendants or to check the protected areas. When they could not present their alleged documents, they had to present the feasibility maps for the HEPP's. We said that we do not want even one HEPP altohough they offered us fiscal donation to the villages or repairmen of mosques, primary health care centers or roads. We even stop the cars, expect the ones with the numberplate, 53, (Rize's numberplate) or the ones we know, to understand the reason of coming".[385] By the same token, respondents at the focus-group interview at the *Arılı* village of *Fındıklı* narrate similar expressions: "We have been on guard duty on day and night when these tents were set up. (Because) The company sends its men

[385] Interview on 23 July 2015, *Fındıklı*. The original, Turkish version of *Mehmet*'s summarized expressions is as follows: "Yani biz yaptırmadık müddetçe HES şirketler, gruplar, ayrı ayrı gruplarla gelmeye başladılar…. Mesela diyelim meteoroloji geldi, çay eksperleri geldi çayın suyu... Hâlbuki kendileri şeyden, zaten ekibiylen baraber soruşturduğumuzda bize bu şeyleri göster, dokümanlarını göster yani hangi, diyelim Tarım Bakanlığı'ndan geliyorsun, Tarım Bakanlığı'ndan geldiğine resmi bi yazın? Kaymakamlıktan veyahut da bizde böyle bir dökümanın yok. Bunları bize bi göster. Gösteremeyince bu sefer tıpış tıpış geri çekildi gitti. Bu sefer geldiler, meteroloji geldi. Yine örneklerini göster, yok. Çay üretimcisi olarak göster, Fındikli çay fabrikasından bize bi resmi belgeni getir? O yok. Bu sefer geldiler şey için, çevrecilikten veya da doğadan, bu SİT alanlarıyla ilgili şeylere girmeye başladı. Yani SİT alanına bakacağız şeylerine diye o vaziyetten… O şirketten, o şirketten geldiler ama bize dökümanını göster dediğimiz zaman bize onu gösteremediler. Ondan sonra kalktılar. Bu sefer tekrar bi grupla gelincez, mesela komşum Arılı veyahut başka bi yerden, Rize'den bi arkadaş, burdan da bi arkadaş, onlan yola devam. Gittiler. Biz köy olarak, vatandaş olarak bunu duyduk. Duyduk ve arkalarından gittik. Gittik, üç saat, dört saat yoldan bunları yakaladık. Yakaladık ve haritaları çıkarttılar. Yani burda HES yapılır mı yapılmaz mı diye bizden şey istiyolar. Yani, biz bakıyoruz diye geldiler. Dedim, ona bakmaya gerek yok. Biz burda hiç yapılmaz, şey yapılmaz dedim. Siz iyisi mi dosyanızı, şeyinizi kapatın, bizlen beraber dönün gerisin geri gelin. "Ya işte siz niye karşı çıkıyorsunuz?" Ya biz karşı niye çıkacağız! "Bi tane yaptırın." Biz elimizi verdik mi kol da gider vücut da gider, dedik. Biz kesinlikle buna karşıyız. "Ya size şu kadar meblağ verecekler. 25 bin dolar her sene köye verecekler"? E "caminizi yaptıralım..". Ee, dedim? "Sağlık ocağını yaptıralım..." Ee, dedim? "Yolunuzu yaptıralım." Ee, dedim? E, işte biz dedi... Ee, dedm? "Kış yaz yolun açık kalacak..." Yağmur çamur... Bi taneye müsaade edin. Dedim biz hiç bi tanesine müsaade etmiyoruz. Hepsine karşıyız. 53'ün dışındaki arabaları, çoğu, tanıdıklar ayri da tanımadıklarımızın çoğunu durduruyoruz. Amaç ne, kimsin, hoşgeldin sefa geldin, niye geldin, nesin... Bunlar..."
For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

secretly. But when they (the company men) are caught, they go away".[386] In parallel, *Müslüm*, one of the activists of the Platform puts that the expert figures have risen recently owing mostly to the HEPP projects and other sorts of natural massacre.[387]

Apart from the guard duties, the movement has the capacity to organize immediately subsequent to the information on the availability of the company attendants at the valleys or villages: "At the recent days, they come under other guises, rather than directly as the company, as the mappers or cadastre attendants. A few months ago, we gathered at the neighbourhoods. We crossed their path. We held them alongside the brook for hours. They said that they are *ÇAYKUR* attendants. One day later, they came as other attendants. But they did not have any documents with them. They said that they forgot the documents at the hotel."[388]

To realize such a resistance, the Platform organizes the people through face-to-face meetings on the harms of and reasons for HEPP's, signature campaigns, festivals at the villages and hanging banners.[389]

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[386] Interview on 25 July 2015. The original, Turkish version of quoted statements is as follows: "Gece gündüz nöbet tuttuk bu çadırlar kurulduğunda. Adam gönderiyor gizli gizli. Ama yakalandılar mı, defolup gidiyorlar".

[387] Interview on 6 September 2013, *Fındıklı*. The original, Turkish version of quoted words is as follows: "Son zamanlarda bilirkişi rakamları arttı. En büyük nedeni HES ve doğa katliamı". For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[388] Focus-group interview with two men and one woman respondents in *Fındıklı* on 5 September 2013. The original, Turkish version of quoted expressions is as follows: "Son dönemde haritacı, kadastrocu gibi başka kılıklarda geliyorlar direkt şirket yerine. Birkaç ay önce, mahallelerde toplandık. Yolunu kestik. Saatlercre tuttuk dere kenarında. ÇAYKUR görevlisiyiz dediler. Bir gün sonra başka memur diyerek geldiler. Ellerinde belgeleri yok. Belgeyi "otelde unuttuk" diyorlar.

[389] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's quoted words is as follows: "Platform imza kampanyaları düzenledi, köylerde şenlikler

As a conclusion of utilizing such varied struggle repertoire, the *Fındıklı* anti-HEPP movement hinders the realization of the information meetings of the HEPP companies through direct, actual protest. As narrated by *Orhan*, a small-agricultural producer from the *Gürsu* village of *Fındıklı*, "Meeting for informing people has been organized. We did not accept (HEPP's) at this meeting. Our chairs (of the Platform) said, we, the people, protested. We held a public demonstration. Talks on that we do not want (HEPP's). We said "The brooks are free, they will run freely".[390] As a result of such protests, the information meetings by the HEPP companies cannot be realized: "They (HEPP companies) tried to organize meeting to inform people. But the people reacted to it and send them away."[391]

yaptı, insanlara HES'lerin ne götürüp ne getireceğini, ekonomik yapıya, sosyal yapıya, adetlerimize, geleneklerimize, göreneklerimize ne kaybettireceği ne kazanacağı tartışıldı. Ve böylelikle HES mücadelesi başlamış oldu. 2007'de bütün vadilere büyük pankartlar asıldı."

[390] Interview on 22 July 2015, *Fındıklı*. The original, Turkish version of Orhan's expositions is as follows: "Halkı bilgilendirme toplantısı yapıldı. Halkı bilgilendirme toplantısında kabul etmedik yani. Toplantıda, biz HES istemiyoruz, dedik yani onlara. Bizim başkanlar söyledi, biz de millet de halk da protesto etti yani. Miting yaptı, konuşmalar, istemiyoruz, "Dereler özgürdür, özgür akacak." Dedik". For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[391] Interview with *Mehmet Gürkan* on 22 July 2015, *Fındıklı*. The original, Turkish version of Gürkan's statements is as follows: "Halkı bilgilendirme toplantısı yapmaya çalıştılar. Ama halk bugünkü gibi tepki gösterdi, gönderdiler."



Figure 6: The Banner still on the Fındıklı streets by 2022.

To exemplify protests further, one can note the public demonstration in *Fındıklı* on 22 July 2015 against another HEPP attempt, Taşdibi HEPP. Moreover, the Platform has attened the country-wide public demonstration against all environmental threats in 8 November 2014 by *DEKAP* in Trabzon.[392]

Within the context of such a vigilant resistance using legal and relatively illegal, or *translegal* (Karahanoğulları, 2017: 243 – translation added) instruments, the *Fındıklı* people are determined to not allow even one HEPP and defend their own customary, water law in face of the legal order in effect. To exemplify such determination, one can turn to quotations from respondents: *Hayriye* from the *Meyveli* village of *Fındıklı* states that the brook will not be gone and they will not give the brook struggling all the way.[393] In the same vein, respondents in the

[392] *Viçe Newspaper*, (Weekly Local Newspaper of Rize), "Yaşam Mücadelesini Bir Kez Daha Tarihe Yazdılar", [They Once More Chronicled Life-Struggle], 11 November 2014.

[393] Interview on 23 July 2015, *Fındıklı*. The original, Turkish version of Hayriye's quoted words is as follows: "O dere galkmayacak. Bakalum ama biz vermeyeceğuz. Sonine kadar uğraşacağiz." For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no

focus-group interview in a coffeehouse at the *Hara* village of *Fındıklı* express that the HEPP Company earns 3 trillion but they do not allow whoever it is. They add that as the people, they will struggle even few people are martryed."[394] By the same token, *Saliha* from the *Arslandere* village of *Fındıklı*, says that they have built a wall of flesh and they get a hand everywhere.[395]

Having described the struggle, it is worthy herein to note that there is no reference to the concept of 'right to water' within the movement repertoire owing mostly to the perceived anthropocentric implications of the 'right to water' by the movement participants who also defend the rights of nature and non-human living beings in addition to their rights. However, the movement summons the 'right to water' albeit not explicitly pronounced. For the anti-HEPP struggle theoretically proceeds over the water-use rights of the labor and exclusive right to property of the capital. Hence, there exists in essence a rights-contestation between the collective right-to-water of labor and the property right of the capital. Hence, the concept of collective right-to-water is an intrinsic part of the *Fındıklı* anti-HEPP struggle albeit not in form but in essence. Indeed, as brought up by Çoban (2020: 320 – translation added), "the right exists as a demand bearing rightfulness even when it is not put into words". Rights do not exist only if there is a rights-claim. They signify more than rights-claims (Balfour & Cadava, 2004).

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problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

[394] Interview on 25 July 2015, *Fındıklı*. The original, Turkish version of the quoted sentences is as follows: "3 trilyon kazanıyo HES yapan. Kimse müsaade, burda musaade etmiyoruz. Ama biz izin vermeyeceğiz bu işe! Onu bilin yani… İzin yok. Geçit yok geçit!... O zaman ne yapacağız? Halk olarak mucadele edeceğiz. Bikaç şehit versek dahi mucadele edeceğiz. Olay bu. Yani bikaç kişi ölse bile, askere gidiyoruz, kimun adına savaştuğumuz belli değil, çocuklarımız ölüyor da... Burda da birkaç kişi olur! Olay bu… Evet. Lamı cimi yok."

[395] Interview on 5 September 2013, *Fındıklı*. The original, Turkish version of the quoted words is as follows: "Etten duvar örmüşüz. Her yerde elimiz var." For the sake of protecting privacy, the names of the respondents are changed except the ones who are direct representatives of the organizations or a public figure where no problem exists in their names being known in public (Ömer Şan & Kazım Delal & Mehmet Gürkan & Kadirhan Kadıoğlu & Ercüment Çervatoğlu).

To understand the ongoing right-to-water struggles with specific reference to the *Fındıklı* anti-HEPP struggle, the dissertation puts forward a *praxis-based approach to right to water*. Such approach has two pillars, first the political-economy basis of the right to water; second actual, *de facto* struggle rather than legal struggle. To begin with the first pillar; the dissertation argues that an approach to right to water that can explicate the ongoing right-to-water struggles, should establish the ties between the current water-based primitive accumulation and the production and reproduction of right-to-water. For since the people are dispossesed of their means of production and reproduction in the form of water, they are also dispossed of their water rights. Hence, the linkages between political-economy and rights are not accidental, but inherent. Such a political-economy base also proves that (class-based collective) rights can only be realized as much as the market is retreated (Karahanoğulları, 2017: 255 – translation and paranthesis added). Hence, class-based collective rights-struggles has the power to stand in front of the market forces as a barrier as in the example of the success of the *Fındıklı* anti-HEPP struggle.

As for the second pillar, the actual, *de facto* struggle needs to be the main means of struggle within not only the right-to-water struggles but also the rights-struggles in general. Legal means of course have a place within the rights-struggles but this place is secondary if the struggle is to make good. Then, what is the place of legal instruments within the rights-struggles? One of the lawyers of environmental movements explicates the answer to this question plausibly:[396]

> Think about the fact that the Prime Minister of a country inaugurates the Cevizlik HEPP in İkizdere, where the court decision was stay of execution. Then who will obey the laws elsewhere? Which province governor or district governor can control whether they follow the court decisions or not? Court decision is not that important. The struggle becomes successful where people stand behind the court decision. If the people living in that area do not, it is meaningless, they don't obey it anyway. They only obey it if the people stand behind…Then they are frightened, they stop. Thus, we always claim that court

[396] *Akıntıya Karşı/Against the Current*, https://www.youtube.com/watch?v=kmj_JPuJxik, retrieved on 11 November 2012.

> decisions are for people to organize, stand up and fight the opportunity to struggle… It is the sole aim of the court decision… If not, as I said, even if you get a cancellation, they prepare a new Environmental Impact Statement. Court decisions cannot solve the problem."

Similar remarks are also enunciated by *Yakup Okumuşoğlu*, the lawyer of the *Fındıklı* anti-HEPP movement[397] and one of the lawyers of *The Lawyers of the Environment and Ecological Movement* (Çevre ve Ekoloji Hareketi Avukatları, ÇEHAV):

> All my lawsuits bear a pillar of societal opposition. I say in all my lawsuits that if you say, "we retained a lawyer, OK", it doesn't work. Both the pillars of societal opposition and law should be available… Law should follow non-governmental organizations. If law is ahead of the NGO, the struggle becomes subject to the boundaries of law and law means power; the struggle proceeds until where the power allows… NGO should struggle without considering the boundaries of law. It should force the law by demanding the things unrecognized, uncodified by law and such things should be legalized… But filing a suit, and collecting signatures for this aim conduces the inception of a movement… Moreover, the gathering of such a crowded mass (which has come together for suing) turns out to be a precaution against the traps of the company on the part of the citizens. What's more, being 300 people also protects the lawyer (Erensü, 2016b: 448 – 449 – translation and paranthesis added).

By the same token, one of the lawyers of the *The Lawyers of the Environment and Ecological Movement* (Çevre ve Ekoloji Hareketi Avukatları, ÇEHAV), *Fevzi Özlüer*, brings forward similar ideas:

> The essential thing is the socialization of the case. The one to socialize the case is not the "lawyer". But what is significant is the embracing of that case by the society, making up the proper instruments for this, having the equipment sufficient to follow up the case on the part of the people… If there is a movement, you too are a lawyer, a sociologist is too a lawyer, villageman producing on his/her land is a lawyer as well (Erensü, 2016a: 456- translation added).

Such a secondary, auxiliary status of legal means within the rights-strugggles brings one to the sphere of politics. To put the thing to be last said first, rights are political and cannot be confined to the sphere of law. If so, it carries one to

[397] Interview with *Mehmet Gürkan*, on 19 August 2021, *Fındıklı*.

the sphere of power as stated by Yakup Okumuşoğlu (Erensü, 2016b: 448 – 449 – translation and paranthesis added) rather than political struggle in the name of rights. As touched upon in the second chapter on 'Right to Water and the UN International Human Rights System', rights are even constitutive of politics (Lefort, 1986: 243-244). Rights-based struggles bestow social power with the capability to make a change on the part of the excluded (Lefort, 1986: 262-263). Hence, they open the doors to *subjectivization*. For this reason, language of rights should be embedded within the sphere of politics rather than law. Moreover, rights are not fixed, they are dynamic and open-ended, produced and reproduced within struggle due to the indeterminacy of history and society. Rights do not freeze at their birth. They can transgress the meaning available at their emergence being interpreted in different ways within praxis. They go beyond their specific, particular content and original meanings as well as their codification within the law in terms of their social effect owing to their *symbolic power* (Lefort, 1986). As argued by Lefort (1986: 260), "the symbolic dimension of right is manifested… in the irreducibility of the awareness of rights to all legal objectification". Rights-struggles cannot be only freezed within the sphere of law but they can also be not incarcerated with the merely literal meaning of human rights owing to their open-ended character. They can comprise freedom, justice, equality and rights (Balfour & Cadava, 2004: 293). That's why the *Fındıklı* anti-HEPP right-to-water struggle also refers to freedom and equal water-use rights on the part of humans and non-human living beings. Hence, the slogan on the banner[398] of *Fındıklı Brooks Will Run Freely* is not accidental. In this way, the *Fındıklı* right-to-water struggle reinterprets and redefines the meaning of right to water by reproducing it within praxis. It reformulates the human right to water "resting on and giving strength to identities of humanity and water that are collective, processual and interrelated" (Linton: 2012: 45) Holding a *relational definition of the right to water*, they shift the meaning of right to water as a definite quantity of water (drinking water and water for domestic use) (Linton, 2012: 46-48) to the capacity of collectivities to be the main actor in water

[398] See Figure 4.

governance. Hence, such a shift of right-to-water "dissolves individuality and refigures the rights-bearing entity as a collective whose interests can only be met through collective action" (Linton, 2012: 52). In sum, within such a relational approach based on praxis, politicized right-to-water claims can enable a shift from *rights-dispossession* to "rightful repossession" (Linton, 2012: 55). Hence, rights-claims means also a call for justice meaning more than their content within the sphere of law, but located within the sphere of politics.

CHAPTER 6

CONCLUSION

This dissertation is indeed a venture to tell the story of the right-to-water with specific reference to collective rights. The dissertation begins with an introductory chapter with the aim of presenting a setting for the debate in the dissertation. This first chapter, moroever, has given place to the research method handled, qualitative research method comprising mainly instrumental case study and documentary analysis, in the dissertation as well as the structure of the dissertation by introducing the discussions in each chapter respectively.

The following second chapter, namely the 'rights-chapter' is named "Right to Water and the United Nations International Human Rights System". It has been divided into three sub-chapters. The first sub-chapter called "Right to Water and the Question of Rights" has grappled with the question of rights including discussions on the elements of the notion of rights, its difference from the notion of 'interest' as well as the genealogy and characteristics of the dominant, liberal paradigm of rights with specific reference to the Lockean thought. The sub-chapter has carried out the debate on the liberal paradigm of rights within a historical context from the 'natural rights' theory to liberalism-oriented form of rights that shape the current bourgeois societies in which we live.

The so-called 'rights-chapter' continues with a second sub-chapter called "United Nations and the Question of Rights" in order to come to grips with the question of rights within the UN context, which is the main institution in the codification of the international human rights and the design of the international human rights system. It has exhibited the main paradigm molding the UN approach to human rights and argued that the UN's vantage point on human rights is grounded on the dominant, liberal human rights paradigm. Moreover, as

another argument, it has been put that UN is the main international institution producing and reproducing this paradigm globally.

The last sub-chapter of the so-called 'rights-chapter' is named 'The Legal Story of Right to Water'. As the name implies, this sub-chapter has revealed the legal trajectory of the right-to-water. It has shown how and through what kind of processes the concept of right-to-water has entered the international human rights system with specific reference to the UN system and what kind of status it has attained within that system. Furthermore, it has embedded the legal trajectory of the right-to-water within the UN's paradigm on human rights and established the link between the liberal approach to human rights and UN's approach to human right to water.

In the following third chapter, the dissertation has presented the political-economy setting of the right-to-water within which right-to-water is produced. Hence, the name of this chapter is 'The Political-Economy of Right to Water'. This chapter has propounded that the phenemenon of the right-to-water is spawn by practices and instances of primitive accumulation which enclose natural commons, including water commons. To carry out the debate on primitive accumulation and water commons, this chapter is sectioned to two sub-chapters. The first sub-chapter is called "Mutato Nomine de te Fabula Narratur: Pritimive Accumulation and the Commons". The Latin phrase in the name of this sub-chapter means "with the name changed, the story applies to you".[399] The instances, practices and processes of primitive accumulation targets the enclosure of the water commons and disrupting collective rights on these commons by establishing regimes of exclusive property rights. Hence, this sub-chapter has interwoven the debates on the commons and primitive accumulation. It has given a place to the meaning and current significance of the 'commons'. As per the concept of 'primitive accumulation', it has first dealt with the

[399] http://www.merriam-webster.com/dictionary/mutato%20nomine%20de%20te%20fabula%20narrat, (retrieved on 20 December 2014).

genealogy of the concept and continuted with the current uses of the concept. It has then classified various approaches to the concept to present the varied and rich content of the concept.

The concept of primitive accumulation is used by various scholars as categorized in the chapter three. Of these scholars, David Harvey (2003) employs the concept of 'accumulation by dispossession' to analyze various instances of contemporary primitive accumulation. However, the concept of 'primitive accumulation' *per se* is employed in this dissertation rather than the concept of 'accumulation by dispossession'. Such preference is caused by the idea that the employment of the concept of 'primitive accumulation' implies better the historical roots of the enclosing processes related to the emergence of capitalism as well as their relation with the capitalist mode of production based on the separation of the labor from her means of production and subsistence.

As for the following sub-chapter of the third chapter, it is called "Water-Based Primitive Accumulation". As the name suggests, this sub-chapter has handled the practices, instances and processes of primitive accumulation with regard to the water commons. It has first dealt with the variants of water-based primitive accumulation, namely marketization, privatization, commercialization and commodification of water commons. It has then turned to the problems and constraints ermergent in the 'full commodification of water'. Lastly, it has put the institutional and historical setting of water-based primitive accumulation in terms of the main actors and historical developments.

The fourth chapter is devoted to the water-based primitive accumulation within the Turkish setting. Thus, it has taken the name of "Water-Based Primitive Accumulation in Turkey". It has analyzed water-based primitive accumulation with regard to the Turkish context under three titles. The first section is called "The Variants of the Neoliberalization of the Water and Sewerage Systems in Turkey". Since the right-to-water within the UN context is formulated basically with regard to access to drinking water and sanitation, the provision of water and

sewerage services has been handled under a specific title. Such variants of the neoliberalization of the water and sewerage services have been grouped as the direct privatization of the urban water and sewerage systems, privatization through local government associations, and lastly, fragmentary privatization.

Subsequent to the analysis of such different forms of the neoliberalization of the water and sewerage systems through privatization, the historical developments in the Turkish water sector have been handled. In this way, a historical timeline has been drawn splitted between pre-neoliberalism era and neo-liberalism era. Significant developments shaping the two eras have been discussed in this section.

Lastly, the variants/influences of water-based primitive accumulation apart from the case of water and sewerage systems have been discussed. Three major sectors have been handled in this discussion: agricultural sector, packaged water sector and water-use in the energy sector. Water use in the energy production has been treated with regard to hydroelectic energy production, since resistance against hydroelectric energy power plants (HEPP's) constitutes one of the major case studies of the dissertation with specific reference to the resistance in the *Fındıklı/Rize* district. In this way, the reason of the resistance has been depicted.

The next chapter is named "Approaches to Right to Water". As the name implies, it deals with the various approaches to right to water. It classifies the approaches to right-to-water on the grounds of three yardsticks, namely the way they come to terms with the question of private property, collectivities as rights-bearer, and social praxis. On such base, the first approach is the approach of "Right-to-Water as a Human Right for Access to Water and/or as an Anti-Privatization Strategy". This approach can be called the 'Water Justice Approach' as well since it is the hegemonic approach on the part of the global water justice movement. It defends the right-to-water as to be a barrier against the privatization of water services. It comprehends the right-to-water mainly as access to drinking water. Hence, it is in line with UN's conception of right.

Moreover, the global water justice movement has for decades fought for the codification of the right-to-water on the UN system as a human right. Though it cannot be said that it does not bear upon social praxis at all, this approach can be deemed *law-oriented*. Another significant point on the part of this approach is that it cannot recognize the gap points within the UN approach to right-to-water sufficiently, namely the prime place of the right-to-property and the lacking place for class-based collective rights.

The water justice approach has been compared to the approach of 'Right to Water as a Matter of Politics' in the subsequent sub-chapter. This approach sees the right-to-water, and the phenemenon of rights in general, as a matter of politics, produced and reproduced by collectivities within social praxis. Hence, it does not fall under the same group with the UN approach to rights. Relying on the rights-struggle of the collectivities, it considers rights as open-ended rather than frozen within judicial texts. Hence, the *Fındıklı* anti-HEPP resistance has been handled as an exemplary case of such a collective right-to-water based on social praxis rather than a struggle for constitutional call for the right-to-water.

UN's codification of right-to-water is a significant but insufficient advancement. It needs to be filled with space for class-based collective right-to-water so that the concept of right-to-water can embrace ongoing collective right-to-water struggles not only in Turkey but at the global sphere. This dissertation has endevaoured to fill this gap not only in the literature on right-to-water but also in the rights-catalogue and rights-language.

As Harvey asks in his famous article 'Right to the City' as "dare we call it (collective struggles for right to the city) a class struggle?" (Harvey, 2008: 39 – parenthesis added). The answer of the dissertation is 'yes'. The collective right-to-water struggles constitute a moment of class struggle through forming roadblocks against instances of water-based primitive accumulation, that dipossess masses both from their rights and means of subsistence and reproduction, repossessing not only the water-rights of the masses but awaken

hopes for new democratic and equal modes of water governance in the face of the ascending market forces. As a matter of fact, Bürkev & Özuğurlu (2011: 35 – translation added) assert that rights-struggles are the current concretized and embodied form of class-struggles owing to their potential of politicizing the class and their constitutent role in the reformation of the global working class and collective revololutionary subjects. The success of the right-to-water struggle in Ecuador against the exorbinant rise in the water charges that has culminated with the taking of the power by the indigeneous peoples and the new working class can be given as an example for such constitutent role of the rights-struggles (Bürkev & Özuğurlu, 2011: 36 – translation added). Indeed, as stated by Copello (2021: 314) "human rights cannot be reduced to an ahistorical essence: they are a label whose social meaning is the product of interpretive struggles that connect it to other fields—in this case, the field of politics". Politics means 'hegemony' versus 'counter-hegemony'. As Kıvılcım underlines (2009: 220 – translation added),

> The field of human rights has happened to be a sphere of hegemonic struggle both discursively and historically. Human rights has been socially produced as a universal discourse developed and transformed beyond class interests in the sense of hegemony and counter-hegemony in the process of the struggle for political resense-making for the employment of "common sense" adopted by broad sectors… The employment of the human rights discourse amounts to the expression of political, economic and social demands as rights-claims and it is not only instrumental but bears a sort of operational significance, namely counter-hegemonic feature with the Gramscian terminology for the legitimization of the alternative values, norms and life-styles belonging to the opressed. Because human rights enable the universal expression of new social norms within the struggle for counter-hegemony by employing, transforming and broadening the concepts the majority of which is employed by the existent hegemony. Expression in the form of rights-claims provide a socially convenient and persuasive framework as well as a legitimation base.

Yet, the discourse of rights is also a matter of strategy in the sphere of political struggle. As noted by Hunt (1990: 309-310), rights-strategies have a positive place within progressive politics for social change. Even, achieving the project of counter-hegemonic political strategy requires the transition from the 'discourse of interests' (which belongs to the sphere of the state power as Lefort

(1986: 264-265) argues) to the 'discourse of rights' (Hunt, 1990: 310, 325 – parenthesis added) since rights-in-practice involve an articulation and mobilization of forms of collective identities. Furthermore, "many of the key innovations in the socio-historical development of human rights were constructed and articulated, in the first instance, in the context of social movements seeking to challenge extant relations and structures of power" (Stammer, 1999: 986).

Both the theoretical scrutinization and analysis of empirical cases have opened up rich visions and new horizons in terms of the auld question of rights and relatively new question of right-to-water. Such visions and horizons also pave the way for furher insights and new research questions that could not be handled in this dissertation due to matter of time and the scope of the topic. For instance, having compared the water justice approach, adopted by the global water justice movement, with the approach of 'right to water as a matter of politics' approach with specific reference to the *Fındıklı* anti-HEPP movement, such a question can be raised in the following studies that to what extent solidarity bridges can be established between the movements for access to drinking water, which are mainly urban, and movements on reclaiming water commons in the rural space. Such question can also provide insights for the relations or commanalities between the urban and rural spaces for students of political science, political geography and sociology.

The right-to-water movements that reclaim water commons in the rural spaces like the *Fındıklı* anti-HEPP movement consitutes also an example of labor struggles beyond workplace, namely factories or the service sector. Thereby, a question tackling with the linkages and opportunities for solidarity, or even a united movement between the workplace struggles and struggles beyond the workplace both in the urban space and rural space is worth to be asked. This question bears significance particularly in that new rights-struggles take place mainly in the spheres of reproduction related to for instance, housing and water. They run against the commodification surge of the capital of the hitherto non-

commoditized life-spheres such as the Fındıklı Brooks by the HEPP's. Hence, their success leads to retreat from commodification, namely practices of primitive accumulation. Given that they bear a sort of anti-neoliberal character in this respect, they can both politicize the working class and unite the struggles for economic rights in the sphere of reproduction and sphere of reproduction. Hence, they can constitute an answer to the age-old question of *alliances* (Bürkev & Özuğurlu, 2011: 38- italics and translation added). Moreover, the anti-neoliberal attitude of rights-struggles carry the struggles *objectively* to an anti-capitalist line inviting them a potential constitutent role for another socio-economic order bearing in mind that the realization of such constituent role is again a matter of struggle (Bürkev & Özuğurlu, 2011: 35-36 – translation added).

Despite movements which reclaim natural commons in face of the primitive accumulation of commons is on the rise both nationally and globally, it is not that easy to talk about a national, yet global, united ecological movement. Hence, this dissertation can bring out a question on the contours and possibilites of a united national and/or global ecological movement. Given that the resistance against the enclosure of natural commons bears an anti-neoliberal character, such commonality augments the potential of a united and potentially anti-capitalist global ecological movement.

Though a discussion on the 'rights of nature'[400] and 'rights of rivers'[401] has not been handled in the dissertation due to matter of time and scope of topic, the dissertation is hoped to open up spaces for posing questions on this matter with specific reference to their relation to right-to-water.

Besides, owing to matter of time and scope of subject, the gender dimension of right-to-water has not been treated seperately in the dissertation though it has been partly touched upon on the discussion of the reasons for the front place of

[400] c.f. Şirin, 2016; Atay, 2016.

[401] c.f. O'Donnell & Talbot-Jones, 2018; Morris & Ruru, 2010.

women in the *Fındıklı* anti-HEPP struggle. The women's outstanding role not only in the Fındıklı anti-HEPP resistance, but in anti-HEPP resistances in other regions is caused by the indirect relationship they establish with water in terms of means of production like harvesting tea and means of reproduction, i.e. domestic labor which makes them feel the impossibility of survival without water more directly. Moreover, rights-struggles add up to the subjectivization of women incarcerated at home with the burden of domestic means of reproduction by the gender relations. Hence, the gender dimension of the rights-struggles deserves more attention and this dissertation can hopefully provide new insights on this topic.

Last but not least, this dissertation can open up a horizon for a discussion between the conceptions of 'rights' and 'citizenship'. The bourgeois meaning of the conception of right is embodied in the conception of 'citizenship'. (Bürkev & Özuğurlu, 2011: 20 – translation added). The bourgeois order reconstructs individuals as legal subjects which are indeed citizens. It dissolves the working class first as atomized individuals and then reunitess as members of the nation (Bürkev & Özuğurlu, 2011: 21 – translation addded), which are rights and duty-bearing citizens. The principles of the notion of citizenship can be understood as the set of rights and obligations that defines the relationship between nation-states and their individual members (Mouffe, 2001: 292). However, just like the conception of rights, the conception of citizenship has also evolved through time. Herein, one can refer to T.H. Marshall, the pioneering theoritician of citizenship. His model of citizenship divides the development of the concept of citizenship into three periods: In the first stage of modern citizenship, civil rights – rights necessary for individiual freedom-liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice - developed in the 18th century (Marshall & Bottomore, 1992: 8, 10). Suhc point clearly pertains to the bourgeois ascendancy against aristocratic powers in Europe. Following such development, the second stage of modern citizenship advanced in the 19th century imbued with the right to participate in the exercise of political power, as a member of a body invested

with political authority or as an elector of the members of such a body (parliament and councils of local government) (Marshall & Bottomore, 1992: 8, 10 – paranthesis added). In the aftermath of such developments, social citizenship advanced in the 20th century ranging from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society (i.e. the educational system and the social services) (Marshall & Bottomore, 1992: 8, 10 – paranthesis added). Following such periodization, Marshall comes to the conclusion that the institution of citizehship has imposed modifications on the capitalist class system altering the pattern of social inequality (Marshall & Bottomore, 1992: 40, 44). To put it more thoroughly, for Marshall, "a necessary tension existed between capitalism and its class system, on the one hand, and citizenship as a status involving a fundamental equality of rights, on the other" (Mouffe, 2001: 292). Nevertheless, still "the expansion of citizenship served to contain the socially divisive effects of class conflict and to limit the social and economic inequalities generated by capitalism" (Mouffe, 2001: 292). However, the question is that from what shifts is the institution of citizenship and its affiliated rights are undergoing in the current moment of global capitalism? Herein, Üstel (2013: 133 – translation and paranthesis added) points to several facts: First, legal *(de iure)* and actual *(de facto)* equality intrinsic to the citizenship could not have been assured. Second, political citizenship could not have been complemented with the economic and social features of citizenship (owing to the *de-constitutionalization of labor* - exclusion of labor from the constitution and its foundational status that came along with the end of the social welfare state and the decline of class contestations – (Hardt & Negri, 2003). To put it a more radical way, the citizen who has not been transformed to a customer is not considered as a citizen anymore for the bourgeoisie, which as a class has broken the ties with its "own citizen", "own people", and thus, "own nation" (Bürkev & Özuğurlu, 2011: 42-43 – translation added). Within this context, the question of collective agency comes into the fore again. Such agency which reclaims equal citizenship while reclaiming its collective rights has been touched upon and exemplified in this

dissertation. I hope this dissertation can pave the way for more academic works on the question of collective agency reclaiming being equal members of the political community while relaiming their collective rights as a barricade in front of practices of primitive accumulation in the current moment of global capitalism.

As rights, victories and defeats are open-ended, stories are open-ended as well. So is the story told in the dissertation. Such open-ended character of all phenemona reveals that they are constantly reproduced. Hence, a new right is possible different from told us by the hegemonic liberal approach. So are new stories to be told and reproduced within social praxis. Hopefully, this dissertation can encourage new stories not only to be told but experienced within praxis.

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APPENDICES

A. 1 ORIGINAL VERSION OF THE DIALOGUE IN TURKISH

(Osman Ağa) – Bakın arkideşler. Darılmaca, gücenmece yok. Şimdiden sonra suyu aşağı tarlalara salmıcam. Önce can, sonra canan. İlkin kendi tarlalarımı sulucam. Artanı size kalır...
(1. Köylü) – Senin gayri kulağın işitmiyi ağzından çıkanı?
(Osman Ağa) – Su benim değil mi, su benim arazimden çıkma mı? Ne istersem onu yaparım.
(2. Köylü) – Neyi yaparmışsın? Su herkesin malı. Akan suya sen nasıl sahip çıkabilirsin?
(Osman Ağa) – Çıkarım tabii. Su benim kendi malım, arkideş.
(1. Köylü) – Nerden senin olurmuş Allahın suyu?
(Osman Ağa) – ... Tapusu benim elimde. Elbet benim olcek.
(3. Köylü) – ... Bu su Adem babamızdan beri burdan akıp gidiyi. Kimsenin ona sahip çıkmaya hakkı yok.
(4. Köylü) – Su toprağın kanıdır Osman Ağa. Sen bizim kanımızı kesmek istiyon.
(Osman Ağa) – Başınızın bi çaresine bakın. Emme tedbirinizi önceden alın.
(5. Köylü) – Susuzluğun tedbiri de ne olurmuş?
(Osman Ağa) – Buraya konferans çekmeye de gelmedim. Ben suyumu vermem arkideş. Su benim toprağımın içinden çıkıyor, istediğim gibi kullanırım onu.
(1. Köylü) – Hakkın yok bunu yapmaya.
(Osman Ağa) – Var, hem de çok var.

A. 2 INTERVIEW QUESTIONS ASKED TO THE LEADERS OF THE PLATFORM FOR THE PROTECTION OF THE FINDIKLI BROOKS

A. Genel Sorular

A.1. Sizin buradaki (dernek, platform vs.) pozisyonunuz nedir? Ne kadar süredir bu görevi yürütmektesiniz?

A.2. Örgütünüz (dernek, platform vs.) ne zaman kuruldu?

A.3. Hangi amaçla kuruldu/ Hangi konularda faaliyet gösteriyor?

A.4. Hangi bölgede faaliyet gösteriyor?

B. Hikayeyi Dinleme

B.1. Bi HES meselesi varmış burada? Bunu anlatır mısınız?

B.2. Neden karşısınız/Nasıl etkiledi/etkileyecek burayı?

C. Hak

C.1. Peki; bu su/çevre kimin?

D. Mücadele Yöntemleri/Mücadele Repertuarı

D.1. Nasıl kurtulacaksınız HES'lerden?

E.1. Hukuk » DAVA

E.1.1 Hukuk yoluna başvurdunuz mu? Dava açtınız mı?

E.1.1.1.(Dava açmadılar veya bundan sonra açmayacaklarsa) Neden?

E.1.2 Noldu sonucu?

E.1.3. (Kaybetme durumunda)Neden kaybettiniz davayı?

E.1.4. Kaybederseniz napıyorsunuz?

E.1.5. Kazanırsanız noluyor peki?

E.1.6. Bu HES'ler konusunda yasalar ne diyor?

E.1.7. Yasaları/hukuk'u kim yapıyor?

H. Genel Değerlendirme

H.1. Özelde bölgenizdeki HES mücadelesinin; genelde Türkiye'deki HES mücadelesinin geleceğine dair düşünceleriniz neler?

A. 3 INTERVIEW QUESTIONS ASKED TO THE PARTICIPANTS/ACTIVISTS

A. Genel Sorular
- A.1. Demografik sorular (yaş, eğitim durumu, cinsiyet, nereli vs.)
- A.2. Kaç senedir bu köydesiniz?

B. Geçim Kaynakları
- B.1. Geçiminizi nasıl sağlıyorsunuz?
- B.2. … ekimi/üretimi için ne gerekiyor?
- B.3. Peki bu üretimde nasıl sorunlar yaşıyorsunuz?

C. Hikayelerini Dinleme
- C.1. Bir de, bu HES diye bir şey varmış. Bi anlatır mısınız?
- C.2. Bu gelirse/bu geldikten sonra ne olacak bu çay/buradaki yaşam?

D. HAK
- D.1. Peki; bu su kimin?
- D.2. Bu HES'ler gelirse kimin olacak bu su?
- D.3. Ne yapacaksınız/ne yapıyorsunuz o zaman bu HES'çilere karşı?/Nasılçözülür bu sorun?

E.1. HUKUK > DAVA
- E.1.1. Hukuk yoluna başvurdunuz mu? Dava açtınız mı?
- E.1.2. (Dava açmadılar veya bundan sonra açmayacaklarsa) Neden?
- E.1.3. Noldu sonucu?
- E.1.4. Kaybetme durumunda: Neden kaybettiniz peki?
- E.1.5. Kaybederseniz napıyorsunuz?
- E.1.6. Kazanırsanız noluyor peki?

E.2. HUKUK > Yasalar:
- E.2.1. Kanunlar ne diyor bu HES işine?
- E.2.2. Kanunları/hukuk'u yapan kim, peki?

B. CURRICULUM VITAE

This part is compulsory for PhD Dissertations. The format in the Thesis Manual is just a suggestion. You may use different formats for CVs.

C. TURKISH SUMMARY / TÜRKÇE ÖZET

BİR KOLEKTİF HAK OLARAK SU HAKKI: MÜŞTEREKLERİ SAVUNMANIN BİR ARACI MI

Bu tez su hakkı kavramını bir kolektif hak olarak incelemekte olup üç soyutlama düzeyinden oluşmaktadır. Makro düzeyde, kolektif hak kavramını ana motif olarak ele almaktadır. İkincil düzlemde, tezin ana konusu olan su hakkı kavramına, ilkel birikim kavramıyla ilişkili biçimde yaklaşmaktadır. Su hakkı kavramının ortaya çıkışının ana sebeplerinden birisinin su krizinin yanında, su krizini manipule etmek yoluyla su müştereklerini çitleyen yaygın ilkel birikim süreçleri ve pratikleri olduğu iddia edilmektedir.

Ampirik düzeyde, niteliksel yöntemle iki vaka çalışması yapılmıştır. Bunlardan biri küresel su adaleti hareketinin analizi olup, diğeri Rize, Fındıklı'daki hidroelektrik santral karşıtı hareketin incelenmesidir. Bu ampirik analizle, su hakkına farklı yaklaşımlar sadece ampirik düzlemde değil, teorik düzlemde de karşılaştırılmıştır. Bu yolla, tezin, su hakkı kavramı özelinde liberal insan hakları paradigmasının eleştirisine ve sınıf-temelli bir kolektif su hakkı kavramsallaştırılmasının inşasına dayanan teorik argümanları ampirik veriyle sağlamlaştırılmıştır. Bu bağlamda, tez su hakkı kavramının çeşitli su hakkı mücadelelerini açıklama gücünü güçlendirmek adına eleştirel bir su hakkı kavramsallaştırılmasına katkı koymayı amaçlamaktadır.

Kısacası, Bu çalışmada, son dönemdeki piyasalaşma saldırıları ve bu saldırılara karşı verilen mücadelelerle gündeme gelen 'su hakkı' kavramı eleştirel bir analize tabi tutulacak ve ekonomi-politik bağlama oturtulmaya çalışılacaktır.

Su hakkı kavramının gündeme gelmesine ve bu kavrama referansla verilen mücadalelerin doğmasına vesile olan piyasalaşma süreci, kapitalizme özgü

sermaye birikimi mantığının sonucudur. Sermaye, kendi birikim mantığının gereğince piyasa mantığına tabi olacak yeni birikim alanları yaratmak durumundadır. Neoliberal dönemde ise, buna yanıt olarak önceden piyasa kurallarına tabi olmayan birçok alan sermaye birikimine açılmıştır. Su alanları da, bu sürecin hedeflerinden biridir. Bu anlamda, su hakkı mücadelesi de emek–sermaye çelişkisinin içine gömülüdür. Bu mücadele, farklı sınıf aktörlerinin ve farklı çıkarların dahil olduğu bir hegemonya mücadelesi içinde yürümektedir. Hegemonya mücadelesi ise, ideolojik bir alan üzerinde yürütüldüğü sürece, kavramlar ve kavramsallaştırmalar üzerinden de yürütülmektedir. Bu anlamda, su'yun nasıl kavramsallaştırılacağı da bir çatışma ekseni oluşturmaktadır. Su'yun bir ihtiyaç mı, yoksa hak mı olarak kavramsallaştırılacağı beraberinde başka uzantıları da getirmektedir. Zira su ihtiyaç olarak kavramsallaştırılması, suyun metalaşması ve özelleştirilmesini meşrulaştırmakta; suyu bir ihtiyaç olarak kabul eden Birleşmiş Milletler ve Dünya Bankası, suyun diğer ticari mallar gibi değerlendirilmesi, yani kar esasına göre sunulmasını savunmaktadırlar. Oysa suyun bir insan hakkı olarak kavramsallaştırılması, suya erişimin toplumdaki konumundan bağımsız olarak herkese tanınmasına ve tanınmadığı hallerde bu hakkı alabilmek için mücadele edilmesine imkan vermektedir.

Ancak iş burada da bitmemektedir. Suyun bir insan hakkı olarak kabulü de, sorunu çözmemektedir. Yukarıdaki paragrafta da belirtildiği gibi, su hakkı mücadelesi, ayrı bir alanda değil; aksine farklı çıkarların hegemonya mücadelesi sürdürdüğü bir sınıf mücadelesi alanı olan mevcut toplumsal düzlemde sürdürülmektedir. Bu bağlamda, suyun bir hak olarak kabulü önemlidir; ama su hakkı, farklı sınıf konumlarını ve güç ilişkilerini dışta bırakan egemen liberal insan hakları paradigmasını da aşmaktadır. Bu çalışmada, su hakkının sınıf mücadelesi ve praksis ile birlikte düşünülmesi önerilecektir. Bu bağlamda, su hakkı mücadalesi aslında 'ilkel birikim' kavramının da işaret ettiği metalaşmaya karşı verilen bir mücadele olduğu sürece suyun kullanım değerine mi, değişim değerine mi tabi olduğu sorusunu gündeme getirmektedir. Bu çalışmada su hakkının yukarıda bahsi geçen 'ilkel birikim', metalaşma, kullanım değeri – değişim değeri diyalektiği ile birlikte düşünülmesi önerilecek, su hakkının

emeğin yeniden üretimiyle doğrudan ilgili olduğu vurgulanacaktır. Bu önermelerin arka zemini olarak, Rize'nin Fındıklı ilçesindeki bir çitleme ve ilkel birikim örneği olan hidroelektrik santral inşaatı girişimlerine karşı mücadeleler teorik argümanlar eşliğinde incelenecektir.

Kapitalist toplumsal ilişkiler günümüzde oldukça derinleşmiş; su gibi ortak varlıklar kapitalist sermaye birikiminin yasalarına gittikçe daha derinlikli biçimde tabi kılınmıştır. Kapitalizmin ulaştığı evrede şirketler çağıdır; sonuç olarak bu zamana kadar meta formu dışında kalabilmiş pek çok varlık hızla metalaştırılmış; yani alım-satım ilişkisine tabi hale getirilmiştir. Esasen, hikâye yeni değildir. Metalaşma kapitalizmin özündedir. Emek gücünün metalaştırılması; yani emek pazarında sermayedara satılıp ücretle değiş tokuş edilmesi, kapitalist üretim ilişkilerini mümkün kılmıştır. Bu anlamda meta formu, değişim değerine ve pazarda alım-satım ilişkisine konu olan bir biçimi ifade etmektedir.

Ancak günümüzün küresel kapitalizminde bu form çok daha geniş bir alana yayılmaktadır. Doğal varlıklar da bu yayılmadan giderek artarak payını almakta; müşterek niteliğindeki pek çok doğal varlık metalaştırılmaktadır. Hiç kimseye ait olmayan ve bu anlamda herkese ait olan (Fırat, 2011: 103), bu anlamda üzerlerinde dışlayıcı bir mülkiyet hakkı tanımlanamayacak olan varlıkları niteleyen müşterekler, sermaye birikimin kuralları altına sokulmuş; kolektif kullanım yerini özel mülkiyet formuna bırakmıştır. Bu süreç, kapitalizmin ortaya çıkış dönemindeki, müşterek arazilere ve küçük üreticilere ait topraklara çitlenerek (enclosure) el konulan, Marx'ın deyişiyle "ilk birikim" (Marx, 2004: 686-730) süreciyle ortak bir mantığa dayanmak açısından benzerlik göstermektedir. Bu nedenle günümüzdeki müştereklere el konulması dalgası, akademi dünyasında da konuya yoğun bir ilgi yaratmış; pek çok yazar konuyu ilk birikim süreciyle paralellik kurularak "ilkel birikim", yahut "mülksüzleştirme yoluyla birikim" olarak nitelendirmişlerdir. Hangi kavramsal set kullanılırsa kullanılsın, esas olan, müşterek varlıklar üzerindeki kolektif kullanımın ortadan kaldırılması, dolayısıyla sermayenin müşterek nitelikli üretim ve geçim

araçlarına el koyması ve canlıların varlıklarını yeniden üretme imkânından yoksun bırakılmasıdır.

Şüphesiz, doğal müştereklerden biri olarak su varlıkları da böylesi bir el koyma dalgasından payını almıştır. Barlow'un (2009: 62) ifade ettiği gibi suyun özelleştirilmesi lehine küresel bir konsensüs yaratmaya çalışan Dünya Bankası'nın sayfasından alınan bilgilere göre, 1990-2015 yılları arasında sektör bazında şirketlerin en fazla yatırım yaptığı sektör, elektrik sektörü iken, ikinci sırayı ise su ve kanalizasyon hizmetleri sektörü almaktadır. Yine aynı siteden alınan yıl bazında bilgilere baktığımızda ise, su ve kanalizasyon hizmetlerinde, örneğin 1990 yılında özel sektörün yatırım yaptığı proje sayısı sıfır iken; 1990-2016 yılları içinde aktif proje sayısı 967'ye çıkmıştır. Türkiye özelinde baktığımızda ise, bu alanda Türkiye'de kamunun ağırlığı devam ettiğini, özel sektör girişimlerinin 1996'da Antalya'daki su ve kanalizasyon hizmetleri projesi ile İzmit'teki içme suyu temini projesi olmak üzere iki projeyle sınırlı kaldığını görmekteyiz. Antalya'daki proje mevcut durumda iptal edilmiş olup Türkiye'den ENKA'nın, dünyadan ise dünyanın en büyük su şirketlerinden SUEZ'in katılımıyla yerel yönetim düzeyindeki bir özelleştirme denemesidir. İzmit'teki proje ise yap-işlet-devret modeliyle gerçekleştirilmiş yerel yönetim düzeyinde bir içme suyu temini projesi olupTürkiye'nin ve dünyanın en büyük özel finansmanlı su temin projesidir.

Görüldüğü gibi, Türkiye'de içme suyu şebekesi ve kanalizasyon hizmetleri konusunda halen kamu sektörünün ağırlığından söz edebiliriz. Ancak elektrik hizmetleri konusunda aynı şeyi söyleyemeyiz. Elektrik sektörü, Türkiye'de, 2015 yılı itibariyle, 59,310 milyon dolar ile özel girişim yatırımlarının en yoğun olduğu sektördür. Dünyada da elektrik sektörü, özel sektörün yatırım yaptığı proje sayısı bakımından 3062 projeyle en çok proje alan sektördür. Hidroelektrik enerjiye baktığımızda ise durum şöyledir: Elektrik üretimindeki payı 2.9 milyar dolar olup dünya enerji yatırımlarının % 63'ünü oluşturan yenilenebilir enerjiler içindeki payı % 8'dir. Bu görece düşük rakamın nedeni sermayenin güneş enerjisine olan yoğun ilgisidir. Güneş enerjisi yatırımları, yenilenebilir enerji

yatırımlarının % 26'sını oluşturmaktadır. Türkiye'de ise, 2015 yılı itibariyle, 46.072 MW toplam kurulu hidroelektrik enerji kapasitesi mevcut olup, özel sektörün payı 27.846 MW'dır. Yüzde olarak bu rakam, 2015 yılı sonu kurulu güç baz alındığında, % 26.08 baraj tipi HES'ler, % 9.28 nehir tipi HES'ler olmak üzere, toplam % 35. 36'ya denk gelmektedir. Güneş enerjisinin payı ise yalnızca % 0.34'tür (Elektrik Piyasası 2015 Yılı Piyasa Gelişim Raporu, 2016: 5).

Sermayenin su varlıklarının metalaştırılması konusunda en çok ilgilendiği alanlardan biri de "şişelenmiş su sektörü"dür. Dünyanın önde gelen su şirketlerinden Nestle'nin kendi sitesinden derlenen bilgilere göre, 2015 itibariyle, dünyada 7141 milyon € tutarında şişelenmiş su satılmıştır. 2007'de, dünya çapında ambalajlı su satışları 91 milyar $ iken son 10 yılda su pazarının büyüme hızı % 5-10'lere ulaşmıştır (Karakuş ve ark., 2016: 105). 1997'de ambalajlı su ile tanışmış olan Türkiye'de ise, 2012 itibariyle, 264 adet su markası vardır. Sektörün hacmi 1,3 milyar €'ya ulaşmış ve yıllık kişi başına düşen ortalama tüketim 126 litreyi bulmuştur (Gül ve Akpınar, 2012: 252, Karakuş et. al. 2016: 107 içinde).

Bu rakamların gösterdiği gibi, 90'lı yıllardan itibaren suyun metalaşması çeşitli biçimleriyle kendini göstermiştir. Bu süreçte su, ya şişede satışa sunularak metalaştırılmış; ya enerji ihtiyacı bahanesiyle baraj yapılarak su varlıklarının bulunduğu bölgede yaşayan canlıların kolektif kullanımından kopartılmış ya da su hizmetlerinin özelleştirilmesiyle kullanım ya da içme suyu hizmetine erişim ancak parası olanların erişebileceği bir lüks haline getirilmiştir. Her durumda söz konusu olan, bir doğal müşterek olan suyun çitlenmesi, ilkel birikim amacıyla su varlıklarına sermaye tarafından el konmasıdır. Bu saldırı karşısındaysa, müşterekleri yeniden talep eden mücadeleler ortaya çıkmıştır. İronik bir şekilde, sermaye çitlediği oranda müşterekleri görünür kılmakta, yeni direniş alanları yaratmaktadır. Sermayenin ortak alanlara el koyması, müştereklerin, müşterek toplumsal pratiklerin ve ortak varoluşun sürekliliğini bize hatırlatır. Örneğin suyun herkese ait olduğuna, bundan dolayı da kimseye ait olmadığına; değişim değil, kullanım değeri üzerinden anlaşılması gerektiğine dair kolektif söylem,

tam da su varlıkları çitlenmeye, yani metalaştırılmaya ve özelleştirilmeye başlandıktan sonra oluşur (Fırat, 2011: 102-103).

Gerçekten, dünyada ve ülkemizdeki su mücadelelerini bu çitleme dalgasına karşı bir set olarak düşünebiliriz. Ancak bu setten anlaşılan şey, her mücadelede aynı değildir. Mücadeleler, aktörler bakımından homojen bir düzlemde değil, heterojen bir düzlemde yürümektedir. Düşünsel ve coğrafi farklılıklar mevcuttur. Bu bağlamda, kuşbakışı bir bakışla, mücadeleler, *hukuk-eksenli* mücadeleler ve *praksis-eksenli mücadeleler* olarak kategorize edilebilir.

Hukuk-eksenli mücadeleler, toplumsal mücadelede hukuk oluşturma süreçlerini etkilemeyi hedefler. Nihai hedef, bir insan hakkı olarak su hakkının uluslararası insan hakları sisteminde kabulünü ve bu hakkın devletlerce hayata geçirilmesini sağlamaktır. Suyun özelleştirilmesine karşı çıkma ekseninde oluşmuş hareketler, su hakkının kabulünün özelleştirme önünde bir bariyer olacağını varsayarak, bir su hakkı mücadelesi hareketine dönüşmüşlerdir (Bakker, 2007: 438).

Su hakkı hareketi, su mücadeleleri içinde, uluslararası arenada en çok tanınmış hareketlerden biridir. Hareket geniş bir koalisyona dayanmaktadır. Çevreci hareketler, kadın hareketleri, yoksulluk karşıtı hareketler, dinsel topluluklar, sendikalar bu koalisyon içinde su hakkının tanınması için beraber mücadele etmektedir (Bakker, 2013: 256). Uluslararası ağlara sahip olmak bakımından da hareketler içinde en önde gelen hareketi oluşturmaktadır. Hareket kampanyalarında, Uluslararası Af Örgütü, Kanadalılar Konseyi, Sierra Klubü gibi dünyanın en bilinen sivil toplum kuruluşlarının desteğini alabilmiştir (Bakker, 2007: 437-438).

Su hakkı hareketi, hareketin başlıca figürü olan, yazar ve aktivist Maude Barlow tarafından *küresel su adaleti hareketi* olarak adlandırılmaktadır (Barlow, 2009). Su adaleti aktivistlerinin içinde yer aldığı, küresel düzeydeki ağın adı Blue Planet Project (Mavi Gezegen Projesi) idir. Önde gelen sözcülerinden birinin yine Barlow olduğu Kanada merkezli bu enformel küresel ağ, hayati bir kaynak

olarak suyu korumayı ve suyun kamu tarafından belirlenen makul bedellerle herkes için erişilebilir olabilmesi için kamusal olarak yönetilmesini temin etmeyi amaçlamaktadır.

Hareketin su hakkının kabulü konusunda başarılı olduğunu söyleyebiliriz. Suyun özelleştirilmesine karşı yürütülen mücadeleler hedefe ulaşmış ve dünyanın pek çok ülkesinde su hakkı anayasal bir hak olarak tanınmıştır. Mücadelesi *Yağmuru Bile* filmine konu olan Bolivya'da suyun özelleştirilmesine karşı yerli halkın başını çektiği meşhur *Cochabamba Su Savaşları* diye nitelendirilen mücadele sonunda su 2009'da yeni anayasaya girmekle kalmamış; iktidar değişerek yerli halklara mensup Evo Morales 2000'de yönetime gelmiştir (Oğuz & Atvur, 2015). Hatta Anayasanın kabulünden bir yıl sonra Morales'in çağrısıyla toplanan *Halkların Anlaşması İklim Değişikliği ve Doğa Ana Hakları Konferansı'*nda doğa bir hak öznesi olarak kabul edilmiştir (Özlüer, 2012: 63; Demirkol, 2012: 103-117). Benzer şekilde, yine bir Latin Amerika ülkesi olan Ekvador'da yapımında çiftçi, köylü, kadın, ekoloji örgütlerinin etkin rol aldığı anayasada su hakkı ve doğanın hakları kabul edilmiştir (Kolektifi Dergi Özel Ek, 2011; Arsel: 2012). Anayasanın doğayı hak öznesi olarak kabul eden çerçevesine dayanarak Vicabamba Nehri de hukuk süjesi ve hak öznesi olarak tanınıp nehrin haklarının korunması için açılan dava kazanılmıştır. Aynı şekilde, Yeni Zelanda'da da yerli halk Maoriler tarafından kutsal sayılan Whanganui Nehri 'canlı varlık' olarak tanınarak hukuki statü verilmiştir. Son olarak da Hindistan'ın Büyük Ganj ve Yamuna nehirleri mahkeme kararı ile "canlı varlık" olarak tanınıp hukuki statü kazanmıştır.

Su hakkı hareketinin en büyük başarısı Birleşmiş Milletler düzeyinde su hakkının tanınmasıdır. Birleşmiş Milletler, 28 Haziran 2010 tarihinde, 122 ülkenin evet, 41 ülkenin çekimser oyuyla (Narin, 2016: 733), her insanın temiz ve güvenli içme suyuna ve yeterli sağlık koşullarına erişim hakkını kabul etmiştir. Türkiye de çekimser oy kullanan ülkeler arasındadır. 2016 yılı itibariyle ise, madde 160'tan fazla ülke tarafından kabul edilmiş, 28 ülke tarafından da anayasal koruma altına alınmıştır (Narin, 2016: 729).

Türkiye'de su varlıklarının metalaşmasının başlıca alanlarından biri ambalajlı su sektörüdür. Diğeri ise Su Kullanım Hakkı Antlaşmaları ile hidroelektrik santral (HES) yapımı için su varlıkları üzerinde kullanım haklarının özel şirketlere devredilmesidir. Bu iki alandan ambalajlı su sektörüne karşı ciddi bir muhalefet ortaya çıkmamakla beraber, özellikle hidroelektrik santral yapımının oldukça fazla olduğu Doğu Karadeniz bölgesinde HES'lere karşı ciddi bir taban hareketi oluşmuştur. Bölgede, 152 tane HES bulunmakta olup, Eylül 2016 itibariyle inşaatı devam etmekte olan 94 adet HES projesi vardır. Yapımı iptal edilen 108 proje bu rakamların dışındadır. Ayrıca bölgedeki Artvin ilinde inşa edilen Deriner Barajı ve HES kendi kategorisinde dünyanın en yüksek üçüncü barajıdır. Hâlihazırda inşa halinde olan Artvin ili, Yusufeli ilçesindeki baraj ve HES'in ise tamamlandığında dünyada sınıfının en yüksek ikinci barajı olması beklenmektedir. (DSİ 2015 Yılı Faaliyet Raporu, 2015: 7).

Bölgedeki su varlıklarına dönük böylesi yoğun bir çitleme teşebbüsü, özellikle nehir tipi HES'lere dönük olarak su müştereklerini yeniden talep eden yoğun bir direnişi de beraberinde getirmiştir. Baraj tipi HES'lere dönük ise kitlesel bir tepki ortaya çıkmamıştır. Ekoloji konusunda bölgenin en önemli ve en köklü sivil toplum kuruluşlarından, çok uzun yıllardır bölgede altın madenlerinin açılmasına karşı mücadele veren *Yeşil Artvin Derneği'*nin başkanı Nur Neşe Karahan'ın aktardıklarını özetleyecek olursak, "barajlar, sürecin başında halk tarafından devletin enerji ihtiyacı olduğu düşüncesiyle olumlu karşılandı. Daha önce bölgede baraj olmadığı için halk devletin barajları olumlu ve faydalı bir yatırım olarak sunmasından etkilendi" (Erensu ve ark., Nur Neşe Karahan ile röportaj, 2013).

Barajlara kıyasla daha küçük ölçekli olan nehir tipi HES'ler ise bölgede ve ülkede önemli bir direnişle karşılaşmıştır. Öncelikle şunu tekrar belirtmek gerekir ki; bu mücadeleler içinde de bir hukuki hak olarak su hakkı talebi yer bulmamıştır. Türkiye'de HES mücadeleleri veren çeşitli örgütlenmelerle ve yöre halkıyla yaptığım görüşmelerde HES'ler karşısında ne yapılacağı, HES sorununun nasıl çözüleceği soruları karşısında hukuki bir yanıt alınmamıştır.

Tersine Fındıklı'da görüştüğüm bir aktivist şunu aktarmıştır: "Bu işin çözümü yasalarda değil, (şirketi) hiç sokmamak lazım". Ya da Tonya'da görüştüğüm görüşmecilerin belirttiği gibi, dava açmış olmakla beraber aynı zamanda eylem de mücadele repertuarında yerini almıştır. Aynı şey *Boğazpınar HES karşıtı Platform* için de geçerlidir. Platform HES'e karşı Tarsus'ta eylem yapmış; köyde ise halkı bir araya getiren bir festival düzenlemiştir. Kısacası HES mücadelelerinde hukuk mücadelesinin yanında fiili mücadele de, mücadele repertuarının bir parçasıdır.

Fiili mücadeleye değinmişken, bu noktadan, önceki paragraflarda sözü edilen, su mücadelelerinin ikinci kümesinden, *praksis-eksenli mücadeleler*den söz açabiliriz. Bu mücadeleler, hukuk yoluna başvurmakla beraber, mücadeleyi esas olarak bilginin ve toplumsal pratiklerin birleştiği çatışmalı bir alan olarak görmektedirler. Ancak Küresel Güney'in kitle desteğine sahip, Kuzey'in su hareketlerine kıyasla daha militan ve kitlesel su mücadeleleri (Yılmaz, 2010; Yılmaz, 2012) hukuk-eksenli mücadele hattının hegemonyası altındadır. Bu hegemonyanın bir parçası, mücadelenin ana eksenini su hakkı üzerinden örmek iken; diğeri de suyun mülkiyetinin devlette kalmasını temel bir hedef olarak koymaktır (Yılmaz, 2010: 28, 33). Hâlbuki su devlet mülkiyeti altında iken bile ticarileştirilebilir. Verimlilik, fayda-maliyet değerlendirmesi, kâr maksimizasyonu gibi ticari ölçütler kamu mülkiyeti altında da uygulanabilir (Bakker, 2005: 544)

Bu hegemonyayı kuran örgütlenmelere örnek olarak su mücadelelerini uluslararası bir ağla bir araya getiren, su hakkı hedefi üzerinden hareket eden, Kanada merkezli, yukarıdaki paragraflarda sözü edilen *Blue Planet Project*'i gösterebiliriz. Platformun internet sitesinde yer alan bilgilere göre, gayelerinden biri suya ve hıfzıssıhhaya erişim hakkının tam olarak uygulanması için bir hareket inşa etmektir. Çelişki şuradadır ki; sermaye örgütlenmelerinden kimileri de bir insan hakkı olarak su hakkını tanımaktadır. Örneğin Avrupa'daki su sermayesinin örgütlenmesi *Aquafed* (Barlow, 2009: 71), su hakkının Avrupa'da hayata geçirilmesini savunmaktadır. İtalya'da suyun özelleştirilmesine karşı

verilen mücadeledeki bir aktivistin dediği gibi, “'Su insan hakkıdır' deyip özelleştirmeyi savunuyorlar. İnsan hakkı deyip suyumuzu ticarileştirmelerine karşı çıkmalıyız”. Zira su mücadelesi, sadece bize ait olan müştereklerimizi değil, kavramlarımızı da yeniden talep etmektir.

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