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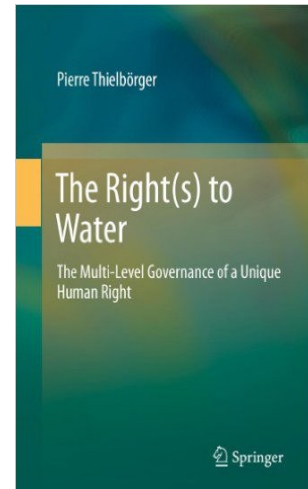
BOOK REVIEW

PIERRE THIELBÖRGER ON THE RIGHTS TO WATER: THE MULTI-LEVEL GOVERNANCE OF A UNIQUE HUMAN RIGHT (2014)

Mohammad Rubaiyat Rahmat[#]

Springer 2014, Pages: xvii + 236
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Water is an infeasible and essential necessity of humankind. In preceding decades, the concept 'human right to water' has been discussed in the orb of international law, politics and civil society. Nevertheless, in the realm of international and national law, the concept human right to water is existed in fragmented way. There is no comprehensive and legally binding 'human right to water' in international law. Pierre Thielbörger in the book under review, *The Rights to Water: The Multi-Level Governance of a Unique Human Right*, weaves together a large amount of legal scholarship in a very readable way, providing insights on human right to water. The book is structured into five chapters. After reviewing all the chapters of the book under review, it is comprehensible that these chapters can be grouped into 3 major parts. First part of the book is analytical in nature. It examines the status of right to water from three perspectives: international law, European law and domestic law (Chapter one and two). The second part of the book can be considered as the theoretical part. This part sifts through the feasibility of 'right to water' as a distinct human right (Chapter three). The last main part mulls as to the implementation of right to water in practical terms (Chapter four and five). In weaving together, the essence of all five chapters of the book, it is evident that author argues for comprehensive and legally binding human rights to water.



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Chapter one scrutinizes in details as to human right to water in international law and enquires about the extent to which international legal order would provide effective protection of a right to water. Author suggests that the concept of right to water is a complex network of different international and domestic rights and ambiguity still exists as to its status in international law as part of treaty law or customary law. Nevertheless, author opines that progress is visible as to human right to water as norm of international custom.

Chapter two of the book under review is theoretical and normative in nature. In this chapter, author enquires about general and philosophical questions relating to right to water. In the realm of international bill of human rights, there is no human rights instrument that provides explicit recognition of human rights to water. Nevertheless, in international law, many legal documents mention human right to water. However, neither of such documents establishes such a right in legally binding manner. To analyze the present standing of law as to human right to water, Chapter 2 sifts through current legal status of right to water in various legal orders: the spheres of domestic, European and international law. Such analysis provides the impression that the protection and the promotion of the right to water has taken very different shape and form in the legal orders across the globe. To illustrate, author contends that the Courts of India refer back to the right to life as a legal anchor for the right to water as only civil and political rights which are enforceable under the Constitution of India. The constitution of South Africa also does the same. The chapter propounds that the German, the Belgian and the French approach to the right to water are quite different. In the German legal system, the emphasis is put onto the responsibility of the state. The Belgium and France take a rights based approach, where the citizens' entitlements take center stage. It refers that Belgium and France emphasize the right to water as substantive right. Author opines that, what all systems have in common is that judges are one of the driving forces for the development of human right to water. Author argues that in the absence of any successful initiative, the courts and judges at least can set the ball rolling for the acceptance of the right in general. As a fitting sequel, the succeeding chapters of the reviewed book also reiterate the similar imperative.

Chapter three argues that access to water is a suitable object for the content of a human right. Author contends that the reason behind delving into such theoretical analysis is to evaluate the concept of human right to water from the very basic. In the hindsight, the chapter endeavors to find whether an attempt to approach basic water needs through the legal means of human right is logically coherent endeavor. For that, the chapter addresses three inquiries: whether water is a suitable content of right at all; whether right to

water is an apt legal approach to address the human basic need for water; and whether such right is correctly qualified as a human right. Regarding the first inquiry, author Pierre Thielbörger propounds positive answer. Regarding the second and the third inquiries, author also propounds similar positive opinion. It is the contention of the author that accepting water as human rights would pave the comprehension that whole global populace should entitle access to water. Hence, considering the results of the inquiry, author establishes that: water is a suitable content for a right; there is an added value of tackling human need to water through the means of right and such right can be qualified as human right.

In **chapter four**, author identifies various elements that would make the right more effective in practical implementation. Author contends that the discussion on right to water should concentrate on finding ways of how to better monitor, realize and enforce compliance with human rights obligations related to access to safe drinking water. In the chapter, author propounds that human right to water requires three requisites to make the right effective and these are: independent monitoring; enforcement towards the private sector and collective realization through international means. The independent monitoring for the right to water would ensure the right's effective implementation. However, due to water privatization, common people's collective right to water may be in conflict with the rights of investors. Such confrontation may allow for a violation of the human right water. Hence, the right to water should be effectively enforceable against both public and private service providers. Author contends that water privatization must be done with a view to ensuring basic access to water to common people. Human right to water and international water assistance are mutually inclusive. For effective human right to water, there is requisite of legal obligation of both national and international efforts and for such, the effective international monitoring mechanism for right to water are in existence. In support of the argument, author suggests that there is a sound philosophical cause for such obligations belonging to modern Kantian and Rawlsian ideas which would pave a compelling cause for an international duty to conform basic human rights standards.

Chapter five endeavors to recap the preceding chapters' discussion. In other words, in the concluding chapter, author reverberates the gist arguments of the preceding chapters. In the course of analyzing the issue of human right to water, number of objection has been raised against a human right to water. The chapter five seeks to satisfy such theoretical objection.

The concept 'human right to water' is not easy to grasp from legal perspective. There is still significant scholarship vacuum in the discussion. The book endeavors to fill the gap. The salient feature of the book is that it

concludes with a positive presumption in favor of human rights to water. To propound a holistic study, the book deploys legal analysis, economic reasoning and philosophical argumentation in combination. Author also take into account on recent developments that concept right to water has experienced through UN General Assembly resolution and the resolution of the Human Rights Council. Such adoption of motley of disciplines and techniques enable the book to provide a broad focus of study on human rights to water. However, as detailed discussion is missing on certain contemporary key issues, such as climate change impact, transboundary water pollution nexus with human right to water, the book is bound to leave some legal scholars, academician and policy makers hoping for more queries. All in all, the book is a thought provoking read, affording insights into several aspects 'human right to water'.