

The Right to Water: The Fight Continues

On the 18th of September 2012, the renowned Maude Barlow gave a follow up lecture to the Right to Water Symposium held on 9 March 2012 in Lucerne.

■ LYNN WATKINS

On behalf of the Center for Law and Sustainability (CLS), Professor Klaus Mathis welcomed the participants of this event and in particular the speaker Maude Barlow. She is currently the National Chairperson of the Council of Canadians and chairs the board of Washington-based Food and Water Watch. In 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. Also present in the panel were Franklin Frederick, a Brazilian water activist, winner of the 2009 North-South Award from RomeroHaus, and Christian Hofer, who is currently Deputy Head of the Bilateral Economic Relations Asia and Oceania Section in the State Secretariat for Economic Affairs (SECO) in Bern.

In his introduction, Professor Mathis demonstrated that it is possible to found the right to water in international law through Art. 11 and 12 of the UN treaty I about economic, social and cultural rights. Art. 11 of the UN treaty I requires that the member states recognize the right to an acceptable standard of living including sufficient nutrition, clothing and housing. It therefore also implies a right to water, as access to water is a prerequisite to an acceptable standard of living. In a similar fashion Art. 12 of the UN treaty requires the right to water for the right to health, as without access to sufficient quantities of clean water, the right to health cannot be fulfilled.

Obligation to respect, protect and fulfil the right to water

What obligations does the right to water impose on the state? Currently three different obligations are recognized: Obligation to respect, protect and fulfil the right to water. The state must therefore firstly respect the right to water; in other words, the state may not hinder the individual's endeavours to gain a minimal access to water. Secondly, the state must protect the right to water by preventing any violations by third parties. If, for example the drinking water supply of a community lies in the hands of a private organization, the state must ensure that this third party does not supply dirty drinking water to the residents. Thirdly, if people do not have sufficient assets to enforce their right to wa-



Maude Barlow

ter, the state must actively ensure that the right to water is fulfilled. This could, for example, mean that the state must bear the costs of providing water to those who cannot afford it themselves.

A greatly debated issue is the question of whether or not the private sector should be allowed to participate as water suppliers. The private sector could contribute to providing an efficient and cost-effective water supply through providing its know-how and investment. However, maybe the exact opposite would be true, that the profit-orientated companies raise the price of water to such an extent that the poor would no longer be able to afford it. Water activists around the world therefore fight against the privatization of water.

Four principles for a just and sustainable water policy

In her lecture, Maude Barlow outlined her four principles for a just and sustainable water policy, while at the same time highlighting the potential conflict of interest raised by the influence private industry has on policy-making decisions. She made it clear that by 2030 water demand will outstrip the supply by 40% if we continue using water at the current rates and further drew attention to the fact that water shortage and lack of access to clean water is no longer just a development issue affect-

ing the "Global South" and poorer countries but that it is an issue confronting people living in many European countries and the United States as well. The four principles Barlow presented were:

1. Water should be treated as a common heritage and therefore belong to a public trust and not be privatized.
2. Privatization has no place in sustainable water policies. The private sector under no circumstances should be able to apply any influence on the policy makers.
3. Water, as an ecosystem in itself must be recognized and due respect given when making decisions regarding farming or trading water.
4. Water should be a teacher rather than a source of conflict and war. It should be a reason for us all to unite and protect this common good.

The contested role of the private sector in water supply

After her emotive and persuasive speech, the other panellists contributed some further food for thought for the discussion. Firstly, Christian Hofer reiterated that water is not solely a problem faced by developing or poorer countries but that all goods we consume, from Pizzas to TVs and electronics, require vast amounts of water in their production. Secondly he drew attention to the Nestlé Bottled Water debate and pointed out that Nestlé is actually only responsible for 0.0009% of the global water consumption. Franklin Frederick criticised the suboptimal water supplies by private companies in developing countries. While Brazil is one of the richest countries for water, many supplies are heavily polluted. He advocated for States' public water supply companies to interact with such developing states in place of the private sector.

A lively debate on the issues raised in the movie "Bottled Life" ensued. The tension between the private sector involvement and the basic human right to clean water is undeniable and therefore led to heavy discussions. All panellists agreed that the private sector involvement in water supply carries a multitude of legal, economic and ethical issues. While there is no one best solution to the problems posed, the symposium successfully encouraged a debate on the key issues.

Lynn Watkins is academic assistant at the School of Law.