



Water Rights Arenas in the Andes: Upscaling Networks to Strengthen Local Water Control

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ABSTRACT: The threats that Andean water user collectives face are ever-growing in a globalising society. Water is power and engenders social struggle. In the Andean region, water rights struggles involve not only disputes over the access to water, infrastructure and related resources, but also over the contents of water rules and rights, the recognition of legitimate authority, and the discourses that are mobilised to sustain water governance structures and rights orders. While open and large-scale water battles such as Bolivia's 'Water Wars' or nationwide mobilisations in Ecuador get the most public attention, low-profile and more localised water rights encounters, ingrained in local territories, are far more widespread and have an enormous impact on the Andean waterscapes. This paper highlights both water arenas and the ways they operate between the legal and the extralegal. It shows how local collectives build on their own water rights foundations to manage internal water affairs but which simultaneously offer an important home-base for strategising wider water defence manoeuvres. Hand-in-hand with inwardly reinforcing their rights bases, water user groups aim for horizontal and vertical linkages thereby creating strategic alliances. Sheltering an internal school for rights and identity development, reflection and organisation, these local community foundations, through open and subsurface linkages and fluxes, provide the groundwork for upscaling their water rights defence networks to national and transnational arenas.

KEYWORDS: Water rights, legal pluralism, cultural politics, social mobilisation, peasant and indigenous communities, translocal network alliances, Andean countries

INTRODUCTION: WATER STRUGGLES IN THE ANDES

In the Andean highlands, the intrinsic connection of local water control systems to particular localities and communities, in terms of agro-ecological properties, political and cultural embeddedness and historical processes of rights generation, transformation and defence, intimately joins water rights to processes of identity formation. The interaction among peoples, places, techniques and production actively shapes culture and identity; and vice versa, local water cultures give particular form and meaning to this interaction.¹ Commonly, the relationship between a user collective and its water sources is one of 'powerful and mutual belonging to', in multiple aspects that range from the physical to the metaphysical.

Water is simultaneously a source of conflict and collaboration, of oppression and productive potential. As in many parts of the world, with growing scarcity, conflicts over access to water and control over water management intensify every day. The key role of water in the livelihood systems of

¹ See, for instance, Gelles, 1998, 2006; Pacari, 1998; Albó, 2002; Boelens and Gelles, 2005; Oré, 2005; Bustamante, 2006a; Guevara, 2006. As extensively elaborated in Boelens (2008), in the Andean region, cultural politics and the contested processes of identity labeling are at the heart of the water-power game, and go beyond the scope of this paper. This paper uses, among others, the concepts of 'indigenous', 'peasant' and 'community' as contextualized and dynamic, social and political constructs, thoroughly colored by history and power relationships. In the Andean region, the relationship between the imposed or self-defined class-based definition (*campesino*) and ethnicity-based identification (*indígena*) is complex and fluid, and strongly depends on who uses which labels in what period, context or place. In the Andes, place- and territory-bound names are commonly used to refer to indigenous groups' own identity.

peasant and indigenous communities, and the threats that local user collectives face from state agents (with economic, political and military objectives), agro-commercial enterprises, mining companies, hydro-power stations and other powerful interest groups, require users to organise not just within their local, common property institutions but increasingly extend their objectives and organisations beyond local resource management practices and purposes.² As Swyngedouw (2004) rightly argues:

The social power that can be mobilized is dependent on the scale or spatial level at which social actors can operate. Consequently, the success or effectiveness of social and political strategies for empowerment is related to the ways in which geographical scale is actively considered and mobilized in struggles for social, political, or economic resistance or change (see also Bebbington, 2004; Perreault, 2006b).

Water is a means of empowering and mobilising people at diverse scales. Here, 'water rights' – their contents, meaning, acquisition mechanisms and strategic uses – prove to be key tools in both internal control affairs and in the broader defence struggles.

In user-managed irrigation systems, water rights define users' access to water and infrastructure, and to the decision-making arena in which system management takes concrete shape. Therefore, as in most locally managed systems around the globe, water rights do not just define the relationship among water and people but, in particular, among people – i.e. among users and among user and non-user groups who have interests in controlling the water and its users. Fundamentally, a water right is a social relationship and an expression of power (Boelens and Hoogendam, 2002). It involves access to an extremely valuable resource, but also a relationship of inclusion and exclusion, and control over decision-making.

This means that water control, whether within community relationships or at supracommunity levels and interactions, does not lend itself to any romanticising.³ On the contrary, water rights are generated, constituted and distributed according to the prevailing class, gender and ethnic relations and contradictions in both intra-community and wider socio-political arenas. Neglect of intra-community and intra-household injustices (as in anti-modernist 'Andeanism' but equally in other schools), evades any critical analysis of local power relations and so, also, actively weakens the efforts of the marginalised to question these injustices.

At the same time, 'water community' – in all its heterogeneity, and differentiated along class, gender, ethnic and age lines – does exist: not as a state but as a struggle, a process, and a capacity: to activate and materialise users' mutual dependence through negotiated cooperation, merging collectivity from diversity, and steering the unbound, open network it comprises towards shared water control objectives. This struggle – both 'in-house' and 'external' – is not always 'successful' or constantly shared by all, and it is common to see that some users or leaders decide to opt for certain personal or 'outside' interests that oppose community endurance. But, for the continued existence of user-managed irrigation systems in the harsh political and physical environment of the Andes, this everyday struggle remains crucial and tends to constitute the crux of the fierce debates and meetings in most communities. A water community, with all its equities and inequities, must constitute a whole if its parts want to survive, collectively controlling the risks, conflicts and contingencies 'as much as possible'.

² See Swyngedouw, 1997, 2004; Bauer, 1998; Goldman, 1998; Bennett et al., 2005; Assies, 2006; Bebbington and Kothari, 2006; Dávila and Olazábal, 2006; Perreault, 2006a; van der Ploeg, 2006.

³ Debates on the 'Andean community' and 'collective action' are seldom strongly colored by ideological views, academic paradigms and political motivations. Where many, particularly indigenist, populist and romanticizing schools, have strongly focused on the community as a relatively authentic, self-regulating entity, others (especially structuralist and modernist paradigms) have tended to develop one-sided views of 'black-box communities' as articulated constructs and consequences of capitalism and the world market. For a critique: Boelens (2008) analyses seven divergent 'schools' on 'the Andean community' and the ways they instrumentalize 'indigenous identity in water property relations'. Whether their presentations refer to their cultural-technological backwardness, their neo-institutional rationality, their cosmopolitan purity, their revolutionary nature, or even their deconstructed, postmodern non-existence, it is common that they deny existing variety and empirical evidence.

Since water rights are fiercely challenged by supralocal agents with material and/or political interests, the struggle for water rights increasingly entails a battle in which both local and larger national, regional, and international forces enter the community. Key points of the struggle for water rights and control focus on what may be labeled as the four 'Echelons of Rights Analysis' (Boelens, 2003, 2008; Zwarteveen et al., 2005): Along with the struggle over water, infrastructure, and other material means (*Resources*), at a second abstraction level there is the contest over the formulation and contents of water rights and operational norms (*Rules*). The third level deals with the struggle over decision-making authority and the legitimacy of rights systems (*Regulatory Control*). The fourth level analyses the diverging discourses that defend or challenge particular water policies, normative constructs and water hierarchies (*Regimes of Representation*). The chain of echelons together shows the case-particular elements of water rights struggles: there is a battle over the material control of water use systems and over the right to culturally define, politically organise and discursively shape their existence. This also explains why the conflicts are so intense. The struggle over water rights is simultaneously a battle over resources and legitimacy: the legitimacy to formulate and enforce water rights and to *exist* as water user collectives, to have sufficient control over one's own future.

The relationship between water rights and power structures is two-sided: power relations generate key features of water rights' contents, distribution and legitimacy and, in turn, water rights in action reproduce or restructure power relations. In water rights disputes, all four rights echelons are involved simultaneously and 'chained' together in particular ways (establishing how water is to be distributed, how humans and non-humans are to be ordered in socio-technical hierarchies, how this is legitimated by moral and symbolic orders, etc). Such alignment takes place in ways that either strengthen or challenge the status quo. In the realm of the fourth echelon, discourses are developed and put to work as 'socio-technical organisers and political stabilisers': conjunctions of power and knowledge that aim to create and proliferate the belief that particular policies and water rights orders are self-evident. From the technical-physical to the metaphysical, they strategically compose and glue together these convenient water rights and truth orders: while the ones in command seek to enroll and align humans, nature and thought within a network that transforms the diverse social and natural Andean water worlds into one water governance system, structured according to 'outside' rules, truths and reference frames, local user collectives in the Andean region commonly strategise their ways to resist and construct their own, alternative orders (Boelens, 2008). Therefore, the water rights struggle involves – parallel to important in-house water rights encounters – a fundamental conflict between control-externalising governance networks (with 'remote-controlled water rights') and control-localising networks that foster local dominion over resources, rule-making and authority.

"The mobilization of scalar narratives, scalar politics and scalar practices", as Swyngedouw (2004) accurately states, "becomes an integral part of political power struggles and strategies. This propels considerations of scale to the forefront of emancipatory politics" (cf. Alvarez et al., 1998; Radcliffe, 2001). In this paper, which briefly analyses cases from three Andean countries, the focus is on three main elements. As a first element, it is examined how water rights battles go beyond just material struggles over water and beyond just cultural struggles for acquiring recognition of distinctiveness and more autonomy in water control affairs. They encompass the four, mutually linked echelons. Second, at the same time, it argues for the need to understand water rights struggles as going beyond merely the open, prominent, often large-scale and 'legal' battles and to see how, in most instances, localised and everyday rights struggles provide the groundwork. But, third, this does not imply their performance in local isolation: since local rights arenas are increasingly challenged by (inter)national forces, and transnational arenas also provide new strategic opportunities and allies, they often also constitute home-bases to engage in multi-scalar rights defence strategies.

WITHIN, AGAINST AND OUTSIDE THE LAW

At the moment, Andean countries, particularly Ecuador and Bolivia, are witnessing a shift in the overall legal and policy domain as a result of, among others, the claims made by peasant, indigenous and other popular groups who demand radical transformation of the prevailing, official legal-political system. Since the end of the colonial days this liberal-inspired ideological and political system preaches 'equality for all' but has so far used this equality discourse especially to oppress *deviance* from formal right-ness, whiteness, and assigned identities, while deepening economic inequality (Albó, 2002; Stavenhagen, 2002; Assies and Gundermann, 2007). Since two decades, marginalised *campesino* and *indígena* groups and federations tend to strategically fuse class and ethnic identities into powerful, new configurations that challenge the status quo (see also Morales 2006: 22). Debates emerge about changing the constitutions, and sometimes even the Water Law (remarkably, changing Water Laws in Bolivia, Peru, Ecuador and Chile has been possible heretofore only during military dictatorships that suppressed all dissenting voices). Andean water user collectives, and peasant and indigenous communities are often constrained by state law, but at the same time they approach it as a powerful resource for claiming or defending their interest and rights (Sousa Santos, 1995; von Benda-Beckmann, 1996; Roth et al., 2005).

It is still unclear, however, what the outcomes of these legal change processes will be, in terms of supporting actual recognition of local water rights repertoires and local autonomy. Also, the much needed water redistribution in contexts of huge social differentiation meets with enormous resistance from vested interests. Moreover, struggles *within the law* to achieve greater water access justice and autonomy for internal water management, and to recognise water rights as collective rights, have had ambivalent results historically. Commonly, 'ad hoc' incorporation of stereotyped 'customary law' in positivist law and policies has left the fundamental power contradictions unchallenged, and sometimes fostered the co-option of local authorities to outside interests. This has often led to subordinating local rights repertoires and illegalising the huge variety of 'non-recognised norms and rights' (von Benda-Beckmann et al., 1998; Assies, 2006; Guevara et al., 2006). As a reaction, grassroots groups increasingly avoid demands for specific rules or rights to be legalised, but claim for the legal recognition of greater autonomy to develop their own management rules. Rather than detailed rules, they also claim enforcement of general principles that promote greater democracy, transparency and equity in water management *processes* and *results*, as well as balanced representation in decision-making structures and platforms (cf. Cremers et al., 2005; Bustamante, 2006b; Hoekema, 2006).

Apart from these struggles for legal change, other encounters and endeavors are directed *against the law*. These are also often grounded in protests against assimilation processes, or when using illegal rules as outside institutions and companies attempt to usurp local water rights. Often, they are expressions of resistance to official laws and to the imposition of outside technological, political and cultural models. Legally forbidden rules and practices range from numerous small-scale infractions against official water governance regulations to high-profile revolts and popular uprisings to dismiss the current government (on several occasions in, for example, Ecuador and Bolivia) or even through a coup, as done by the Ecuadorian indigenous movement and its allies in 2000.

Receiving far less attention but being far more widespread and influential, however, are the permanent, everyday water rights struggles *outside (or on the margins of) the law*: these battles take place in the 'deeper layers' of Andean water societies, and relate to most rules, norms and practices that water user collectives apply when they materialise their own water rights repertoires. Often, these norms and normative structures are not accepted or denied by the law since they aim, precisely, to elude bureaucratic or outside market-based control. Thereto, user collectives develop a diversity of strategies to stay *out of the way* of the law. At the same time, their active practicing and proliferation in local water user communities is a struggle against the mainstream 'recognition policies' that seek to tame the variety of 'unruly norms'. Rules and rights on the margins of the law have a fundamental impact on shaping Andean water realities, have key importance for sustaining both local and national livelihoods and, simultaneously, face huge official efforts to silence them.

Commonly, legal, illegal and non-legal struggles do not replace but complement each other. According to the scale-level of the conflict and the interests at stake, generally, they get different emphasis. This also gives an insight into how marginalised groups in the Andean region ambivalently relate to the state. Though diversity among and within countries is great, a large number of last decade's studies on Andean water rights⁴ have provided evidence of how, by claiming legal (state) recognition of their own socio-legal repertoires, local communities and movements in the Andes tend to perceive the state in three different ways (at once, thus making up diverse, complex matrices).

The first concept of the state is as an ideological construct with a role as benefactor and protector, an amorphous actor and structure that nevertheless has clear objectives: to serve the public realm and foster the well-being of the national community. This state – as – it – should – be is a positively valued parent of 'the community', also seen as a should-be ideological construct. It is interesting to see how, therefore, both *campesino* federations and *indígena* movements in Peru and Ecuador fiercely claim that water should remain a *public* property in the hands of the state – paradoxically, the same state that historically has largely denied and taken away their common property rights.⁵ It continues to be seen as the fundamental entity for defending and guaranteeing their collective water rights systems, particularly in these times of supranational, neoliberal water policy-making and its encroachment on community water rights.

Next, there is the state as it is experienced: a set of institutions such as agencies, offices, officials, rules, administrative procedures, etc., linked to each other through actual relationships and practices. In the Andes – particularly through the eyes of marginalised water user groups – this is often perceived as almost the opposite of the first concept: unfair, ethnically discriminatory, class- and gender-biased, technocratic, bureaucratic; a group of institutions and individuals (national elites) that control decision-making for their own purposes and fill their pockets at the expense of local communities and families.⁶

When confronting these two, the third common concept of the state is constructed: the state that can and should be a 'public-affairs-state-in-practice'.⁷ To materialise this state, last year's strategies were directed both at taking over the government and, through elections, claiming strong grassroots participation in government agencies and policy-making, and implementing bodies (at the local, provincial, or national level).⁸ Maybe not surprisingly, one of the first actions of the new indigenous-*campesino* supported MAS government in Bolivia was to restructure the national water administration, install a Ministry of Water, and make efforts to change neoliberal water policy. In Ecuador, at this moment, civil society and water user alliances have gathered in numerous round table debates at the local, provincial and national levels in order to present proposals for a new water administration, with new laws and policies.

⁴ See, for instance, the book series published by the Water Law and Indigenous Rights (WALIR) network: with IEP, Lima (7 volumes) and PUCP, Lima (1 volume); with AbyaYala, Quito (2 volumes); with Plural, La Paz (1 volume); with UNESCO, Paris (2 volumes); with Wageningen University (13 WALIR Studies); but also the studies realized by the Ecuadorian Foro Nacional de Recursos Hídricos; the Bolivian Visión Andina del Agua network; etc. (cf. Hendriks, 1998; Pacari, 1998; Gelles, 2000; Radcliffe, 2001; Mayer, 2002; Cremers et al., 2005; Oré, 2005; Bustamante, 2006b; Guevara, 2006; Palacios, 2006; Perreault, 2006b; de Vos et al., 2006; Assies and Gundermann, 2007).

⁵ In Bolivia, interestingly, many indigenous groups did not claim water to be a public property, but a local, collective property (especially before indigenous leader Evo Morales became President). Traditional weakness of the Bolivian state in, among others, water affairs is a fundamental reason. Strongly centralized, water-intervening states (e.g. Peru, Chile and Ecuador) have colored grassroots groups' perceptions in those countries, showing that the state does make a (positive or negative) difference and that defending local groups' rights, therefore, must happen through (among others) state power: a quest to be both in and against the state.

⁶ See, in particular, the ways how user collectives conceptualize the state and its water agencies as evidenced by the studies of Gelles, 2000, 2006; Peredo, 2003; Oré, 2005; Bustamante, 2006a; Dávila and Olazábal, 2006; Perreault, 2006a.

⁷ In water issues, its task would be to support local rights systems and increase justice in water distribution.

⁸ For example, the CONAIE (Confederation of Indigenous Nationalities of Ecuador), with its political party Pachakutik, winning governmental elections in Ecuador in 2002, and MAS (Movimiento al Socialismo) with Evo Morales, winning the elections and taking the Presidency in 2005.

Local groups' legal recognition struggles, therefore, go further than simply 'accepting existing state legal hierarchies', and may even go against it. As Bourdieu (1998: 34) observed, the state exists in objective reality, as a set of institutions, and also in the way people envision the state, "in the minds of the people, in the form of subjective law ('it's my right', 'they can't do that to me')". This attachment to 'legitimate rights' presents what the state should do according to local concepts and in keeping with historically conquered rights to co-decision and social benefits. Therefore, "the state in every country is the track in reality of social conquests...". As a result, the state is an ambiguous reality. "It is not accurate to say that it is an instrument in the hands of the ruling class. The state is certainly not completely neutral, completely independent of dominant forces in society (...) it is a battleground" (Bourdieu, 1998).

In the next section, two cases are presented that, although rooted in local conflicts, directly aimed for nationwide water policy and legislative changes to defend the interests of water communities. In the subsequent section, a case is examined where water users struggled for localised changes and, in doing so, they saw the strategic need to upscale their water defence network. In both cases, upscaling their water struggles to also supranational levels is not just a strategic move but also a direct consequence of the increasingly transnational character of the water conflicts and the transnational background of their adversaries.

NATIONWIDE ARENAS

In the Central valley of Cochabamba, Bolivia, irrigation and drinking water systems are vitally important to the livelihoods of local communities and the well-being of the rapidly expanding city. For decades, peasant and indigenous irrigator communities have organised water distribution according to their 'uses and customs', with their own authorities and socio-legal frameworks.⁹ Shortly before what would become known internationally as the Bolivian Water Wars, communities together with rural municipalities, the main water users in the area, engaged in a major conflict when the municipal drinking water company started to drill wells in the valley. This severely affected their already over-extracted groundwater resources – in the course of 1997 they determined that they could no longer allow others to encroach on the water rights they considered as theirs. When the government proposed privatising the water works and the services of the drinking water sector in 1999, conflicts became even tenser. After numerous small protests, communities saw the need to ally their localised networks. They also appeared more and more in the public realm. The valley became a violent battlefield in the year 2000. Pressured by the World Bank, the government signed a contract with a large foreign consortium, Aguas del Tunari, headed by International Water Ltd. (a subsidiary of the US Bechtel Corporation) and enacted a privatisation support law that allowed the international company to have exclusive water rights over all water in the district – including smaller systems in the metropolitan area and rights to exploit the aquifers. Another law was rushed through parliament so that the company could capture new water resources, and even charge water fees for cooperative wells that were to be expropriated. Directly after privatisation, the international company raised water fees considerably, without any system improvement. Again, local networks were mobilised and linked together in a strong alliance (called the *Coordinadora del Agua y de la Vida*). Now, urban and rural water users jointly protested: the citizens protested against the huge increase in water rates, while rural municipalities and indigenous communities protested against the new law, because it affected their rights and could expose them to new encroachments on their water sources (Bustamante, 2006b; de Vos et al., 2006).

The social conflict blew up in February and April 2000, with several days of intense clashes between the so-called *guerreros del agua* (water warriors) and the police, which culminated in the declaration of

⁹ Case description based on Durán et al., 1997; Hoogendam, 1999; Boelens and Hoogendam, 2002; Peredo, 2003; Bustamante et al., 2005; Bustamante, 2006b; de Vos et al., 2006.

a national state of siege. The government sent thousands of soldiers into the streets in order to break up protests and roadblocks. As local media stated: "The voices of protest are on the rise. Statements made by many women and men from different parts of the city (...) indicate that people have gained consciousness and are increasingly angry. They report that airplanes from La Paz are arriving to unload large numbers of soldiers. The city seems to be at war, there is broken glass in the streets, burned tyres, piles of garbage, pieces of wood and stones in the middle of coca leaves. The people seem fearless, they have risen to their feet, and all they want is to be heard" (Bolivia Press 2000, Special Issue 7 April, 2000, quoted by Bustamante et al., 2005).

At the end of these Water Wars, leaving many people killed and injured, the government had to retract its decision and also commit to amending all the proposed law's articles that the popular alliance objected to. The Bechtel Corporation filed a multimillion dollar claim against Bolivia at the World Bank-dependent investment dispute court, in the USA, which difficult to reach for Bolivian grassroots platforms. It took four years of fierce international campaigning against the multinational before Bechtel dropped the case in January 2006, afraid of affecting its public image.¹⁰ What happened in the Cochabamba Water War made a strong international impact as an example of resistance against privatisation of water, water services and its fundamental policy principles, and has been repeated recently in the city of La Paz where another international consortium, *Aguas del Illimani*, has been forced to cease its services after years of client discontent. At the same time, these protests led to the opening of a process of wider participation to formulate regulations and policies concerning water resources. Currently, under the government of President Evo Morales, Bolivia aims to breakaway from its long inheritance left by colonial, authoritarian and neoliberal water rule.

While Bolivia's Water Wars have become an 'example' for many water user federations and global activist movements across the world, the reaction of the then Bolivian Information Minister to the water struggle was stating: "These protests are a conspiracy financed by cocaine traffickers looking for pretexts to carry out subversive activities. *It is impossible for so many peasants to spontaneously move on their own*" (The Associated Press, 11 April 2000). The negation of peasants' collective capacity for protests and resistance against subordinating water legislation and policy frameworks is characteristic of politicians and policy-makers in the Andean countries. First, the assumption is deep-rooted that water policy proposals, based on technical and economic 'scientific laws', are beneficial because they are universally applied. Next, there is strong disbelief in the idea that resistance can be a consequence of *collective self-representation*: since members of the Andean community are too simple and ignorant to understand the contents of these water policies, the culprits can only be subversive elements who manipulate and push the brainless peasant and indigenous masses.

But it is not only the negation of the mental and organisational capacity of local user collectives and the deemed supremacy of western scientific water rights policies that prominently come to the fore during such water conflict situations. The question of and struggle over the legitimacy of water rights frameworks is at the heart of the issue. The Information Minister expressed this central issue characteristically, accusing the alliance of urban and rural organisations and protesters of "a disinformation campaign designed to overthrow *legitimate authority* and the *rule of law*".¹¹ In their water rights struggles, indeed, Andean communities are not just interested in more equal access to water resources themselves. As explained in the section, *Introduction: Water Struggles in the Andes*, water rights, being understood not only as rights of access and withdrawal but also as authorised claims to control decision-making on water management, need to be seen in their full array. Contemporary water struggles, commonly, neatly entwine the 'four echelons'. Peasant and indigenous communities have many reasons to challenge 'legitimate authority and the rule of law', since it is precisely the water authority of indigenous and peasant organisations that not only historically but also currently is being denied; their water usage rights that are being cut-off, and their control over

¹⁰ In a period in which Bechtel's huge profits and poor services in Iraq also came under fire from public opinion.

¹¹ Press communication by EFE Agency, 11 April 2000.

decision-making processes that is increasingly being undermined. Therefore, also, it was not surprising that Morales' MAS movement, in the years that followed, needed to address all four echelons of the water rights battle, since the irrigators' movement constituted an important support to their power base and electoral campaign.

In Ecuador, the indigenous movement arose in the mid-1980s and in 1986 the CONAIE (Confederation of Indigenous Nationalities of Ecuador) was established as a broad platform.¹² In 1990, a massive mobilisation took the country completely by surprise: for the first time in ages the indigenous peoples massively stood up. In 1992, again, many thousands of indigenous peoples, after a long march from the Amazon region to the capital, took over the city of Quito. They claimed recognition of their territories and nationalities, with autonomy for rule-making. Since then, Ecuador could no longer deny the existence of a national majority that since the early colonial days had been neglected and discriminated, but which now claimed its rightful share and a strong position in the national power balance. In 1994, after a large number of uprisings, the country was again paralysed for several weeks by the indigenous movement. They fiercely protested against the new neoliberal Agrarian Development Law that proposed privatisation of water and land rights, among others. In 1996, after broad consultation and many debates from community to national level, CONAIE developed its first national law proposal: to install a new Water Law (CONAIE, 1996; see also, Pacari, 1998; Palacios, 2006).¹³ The proposal was defended in Congress by the first indigenous deputies of the new indigenous party, *Pachakutik*. Although it was not accepted because of the unfavourable balance of powers in Congress – still dominated by national elites – the water law proposal triggered an ongoing debate about the need for Water Reform, and many new proposals and counter proposals were developed by both the government and grassroots sectors. Water rules and rights were now prominently on the national agenda. In 1998, CONAIE and other national grassroots platforms and *campesino* organisations strongly influenced the process of a major national undertaking: the struggle for a new Constitution. The result, a compromise that also includes many neoliberal learnings, gives recognition to the issues of collective rights, pluri-culturality, and forms of self-governance, which ten years earlier were considered unthinkable.¹⁴ Through massive mobilisations and debates the process of a National Constitutional Assembly became a reality, a process that currently (2007-2008) is followed up by the new government.

The indigenous movement, in their initial phase (1986-1996), struggled for redistribution and recognition from outside the political system – among others through massive strikes and mobilisations. In a second period (1996-2003) they decided to join not just the political system but also the government at local and national levels, to struggle 'from within' (Dávalos, 2007). After winning the 2002 elections, CONAIE-Pachakutik appointed ministers for important posts such as foreign affairs and agriculture. But even with significant representation in parliament and at all levels of local government, the prevailing, dominant power structures (i.e. Ecuador's oligarchic elites and neoliberal business monopolists) successfully frustrated real changes towards re-distributive policies and practices, also regarding water issues. Severely 'injured' and divided, the movement stepped out of the Lucio Gutiérrez Government in August 2003 to recover and, in a new phase, reformulate its strategies, to a large extent again 'from outside the system' (Dávalos, 2007; Palacios, 2006). This relative withdrawal as a prominent actor from the 'overt', public scene, however, did not imply that the user collectives themselves remained powerless. Since the mid-1990s and particularly in the last four years, local water user alliances of the indigenous peasantry have proven to be extremely active, rising up, networking and

¹² CONAIE joins together 14 Kichwa nations and 14 other indigenous nationalities, all affiliated to the three regional federations: CONFENAIE (Amazon peoples), ECUARUNARI (Andean peoples) and CONAICCE (Coastal peoples), making also a bond among the *campesinos*, *indígenas* and Afro-Ecuadorians (Palacios, 2006).

¹³ The CONAIE proposal demanded, among others, resisting privatisation of water resources; continued public and community control over water allocation; recognition of cultural and social rights; and representation of users, indigenous and peasant organisations within the institutional framework for water management.

¹⁴ Another important achievement of the indigenous movement in this process was Ecuador's ratification of the ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries.

allying strategically when their interests are threatened (see, for example, Dávila and Olazábal, 2006; Boelens, 2008).

The above Bolivian and Ecuadorian overt battles and broad national (or international) alliances constitute important markers in the struggle for local (water) rights recognition and justice – and even call for reconstitution of the state and its legal apparatus. But the respective legal resistance strategies have proven largely insufficient to redirect overall water resources management policies and structures, more responsive to local needs. First, it can be observed that the implementation of legislative changes in Water Laws and Regulations, among others, seriously lags behind the beautiful constitutions. Second, and more important, laws cannot act by themselves and require social forces to materialise them. With respect to the latter I argue that, more than the large 'public' battles, often with a utopian flavour, it is crucial to focus on what happens in the 'day-to-day battlefields', the commonplace water rights arenas 'in the field'.

While the Water Wars of Bolivia have reached the front pages of all major newspapers in the world and some observers even saw in such events the start of World War III (which would be centred around control over water resources), such populist understanding fails to see that these wars, multiplied a thousand-fold, have already been going on for a long time, albeit not in ways as open or violent as in Cochabamba. It is particularly this huge number of local cases that have received little attention, in the Andean countries and internationally. Even the many cases of systematic cruelty and institutionalised banality regarding water rights encroachment and injustices do not necessarily become 'public issues', attracting attention or provoking reaction by law- and policy-makers. Most often, although part and parcel of these conflicts, the state and dominant water players have an interest in keeping their role out of the spotlight, and only take positions when they are forced to do so, when the problem has become a real 'political issue'.¹⁵ So, an important reason for claiming for more attention to these local cases is the *large-scale* injustices (from a cumulative perspective) committed against local rights collectives.

Water struggles for rule-making and redistribution in local communities also deserve attention for quite another reason: they constitute the basis of Andean water control. As the earlier mentioned studies evince, they provide the profound substance of water rights generation and affirmation. And it is not just that the broader, open, public water struggles of subordinated peoples and communities in the Andean region cannot be understood without understanding these local, low-profile battlefields, but also that the former would not exist without the latter. They are basic to wider-scale resistance against domination through 'piecemeal re-moralisation' and 'rooted resistance', more than abstract slogan-sliding presentations 'against privatisation' and overall claims to 'water as a human right'. The shaping and defence of water rights is rooted in the often concealed, multi-layered foundation of local 'water communities' (see Boelens, 2008; cf. Boelens and Doornbos, 2001; Perreault, 2006a; van der Ploeg, 2006).

COMMUNITY-BASED MULTI-SCALAR ARENAS

Sharing water decision-making power is not a gift from policy-makers, politicians, state agencies or NGOs, nor is it based on open, transparent dialogue among equals who are in a supposed 'win-win situation'. Prevailing societal relationships and power structures provide the backdrop. Defining and allocating water rights and deciding on water control is essentially political and takes place in an arena in which conflicting water interest groups negotiate, compete and struggle. In the Andean countries, materialisation of redistributive proposals, user representation, cultural and environmental justice, or political accountability, do not appear out of the blue; they result from collective pressure from below.

¹⁵ When massive upheaval or popular protests did evoke overt reactions from the government and ruling classes, the latter's water policy and rights proposals have often been halted. However, usually, the underlying water governance structures and its social contradictions were only slightly 'smoothened' – commonly, then, they were adapted to participatory Devspeak (certainly, these days, Bolivia and Ecuador are important 'test cases' to see if any real changes may be brought about).

Rather than being a neutral input for policy- and decision-making, they generally may be seen as the political *outcome* of grassroot struggles; a process that, further, necessarily requires monitoring and pressure 'from below'.

The encounters of the villagers of the Peruvian district of San Mateo de Huanchur (Huarochiri, Lima) with the powerful mining (and drinking water) companies that took interest in the waters of their territory, is exemplary. The local population has a long history of struggle to defend their livelihoods. Their efforts provide insight into how water rights defence is and remains rooted in the historical, political, socio-territorial base of the community. Meanwhile, when confronted with powerful outsiders and intruders, the latter seeks to extend its political and geographical manoeuvring space. This does not mean that common Andean community strategies to strive for a relatively autonomous territorial space are abandoned. On the contrary, this home-base is considered the foundation (in many aspects, covert and 'underground') that creates the conditions and opportunity to 'manoeuvre' towards outside battlegrounds.¹⁶ In water rights defence struggles, this 'manoeuvring' has a very strategic, practical meaning; literally (according to Webster's Dictionary): "a clever, often evasive move or action; a shift of position to gain a tactical end". And although resistance cannot be engineered, this manoeuvring is a conscious, carefully developed action: "to guide with adroitness and design" (ibid). For the villagers of Huanchur, 'room' to manoeuvre relates both to the geopolitical upscaling of their space ('the political-legal battlefield') and the defence and evolution of their socio-territorial place – the earlier referred to generation of 'water community and hydraulic identity'.

The district of San Mateo de Huanchur is just one of hundreds of cases in Peru (and its neighbours) in which water and environmental rights have been trampled, in terms of both quantity and quality. The environment and physical well-being and safety of 6000 inhabitants of five communities (San Mateo de Huanchur, Yuracmayo, San Antonio, San José de Parac and San Miguel de Visor) were poisoned by the dumping of tailings very near their homes.¹⁷ Many thousands of tons of toxic materials have polluted the present and future of these villages. In Peru, mining companies have almost hegemonic power, not only because of their great economic clout but also because of tremendous state backing and the legal and military-police systems supporting them. Despite their spokespersons' lip service to environmental discourse, the government supports mining almost unconditionally in practice, and this is commonly legitimised by constructing another complementary discourse: mining as the 'national interest'. This interest clearly overrides the interests of rural/indigenous communities, water users' organisations or the environment.

This encroachment on community rights by mining interests and practices is described (among many other such statements) by the representatives of the Latin American Network of Women to Resist Mining:

When mining companies arrive, they generate and increase marginalisation, abuse, displacement, violation of territorial rights, environmental deterioration, destruction of livelihoods, discrimination and inequality affecting Latin American women. We denounce the harassment, threats, persecution, intimidation, lawsuits and sexual abuse against women who resist mining. We call for a stop to these practices violating our human rights and also demand respect for the physical safety of our children, husbands, friends and families. We demand that mining companies respect our rights of self-determination, health, and access to sources of clean water with sufficient quality and quantity. We denounce that women's just, legitimate demands in different indigenous and rural communities have been criminalised, forcing them to set up committees for dialogue, consensus-building, and negotiation under unequal conditions vis-à-vis transnational companies, who have the governments as their accomplices to protect their interests. Accordingly, dialogue committees have served only to further encroach on collective rights and citizen participation. Moreover, these companies deny the grim impacts of their environmental pollution that

¹⁶ For a more detailed elaboration of the issue of water rights' 'home-bases', see Boelens (2008), from which this case is taken.

¹⁷ For details about the population's super-critical exposure to heavy metals, particles and toxic fumes, and their relative concentrations in the water, air and soil, see ISAT (Institute of Health and Labour), "Environmental and health status of communities exposed to pollution by heavy metals in mining activities, upper and mid-basin of the Rimac river", Lima, 2005.

poisons water, air, land and all forms of life. In the most cynical manner, companies and governments deny their economic, social and environmental responsibility to the environment inhabited by present-day communities and coming generations.¹⁸

Defending water rights plays a key role in demands and protests – as the statement continues: "in view of mining threats to water resources, we demand for our governments to protect the different watersheds supplying our communities with water". It seems to be no coincidence that there are several representatives of San Mateo de Huanchor on this international women's platform, just as San Mateo has representatives on several other such bodies at the local, district, national and international levels, regarding indigenous rights, small-farmer rights and water rights. The struggle and denouncements against abuse of their resources and threats to their safety have been a constant battle for these people; but now, in an increasingly globalised context, they have sought and built new scales of action, ever-broader, to reinforce and consolidate their 'defence network'.

This networking is necessary, since their adversaries – mines, private and government bodies supporting them, and the 'paid-for' press – are using new discourses and 'global' techniques. For instance, the state accuses them of being 'environmental terrorists' when men and women defend their environmental rights and the survival of their communities and homes, a new dominant-power ploy. In past decades, such accusations were made in terms of national official vocabulary, but now they draw upon both the terminology and repressive responsive powers of the International 'War on Terror'. Other practices such as spying, threats and physical abuse have intensified against those demanding sufficient, healthy water, land and air in Peruvian communities. At the same time, official agencies and mining companies intermittently apply strategies of inclusive, participatory power: the importance of harmoniously including rural communities in national progress and well-being, promoted especially by the mining and other businesses that need rural water.

When one visits the town, the first story one is told is about the resistance by the local hero, Huanchor, against the Spanish conquerors, a legend that continues to symbolically nurture current resistance. After he was captured, he was slain, burnt, and his ashes were cast into the Rímac river, which runs through the district and has been the core of struggles to defend water since then, to this day. The people continue referring to the name of Huanchor even though the Spaniards christened their town as San Mateo. Resistance has not been quenched but continues burning in its underground roots, ready to surface suddenly and unexpectedly. This was the case, for instance, in the 1930s. From the community's grassroots and concealed settings and relationships, this disguised resistance emerged ferociously when the people rose up in protest against pollution by the powerful metallurgical foundry of Tamboraque, which had human and environmental victims and seriously affected the local peasant economy. Complaints about this company's environmental crimes were ignored by the government, so the people rose up against the foundry. In 1934, the police came in to repress the people, massacring the unarmed villagers, which is another key element of the district's collective memory. To this day, an array of traditional celebrations and cyberspace technologies¹⁹ reminds the people of this resistance by those who are acclaimed as martyrs in Huanchor's struggle, highlighting solidarity with them and providing an important mirror for current self-representation by the Huanchor *comuneros* and *comuneras*.

Such counter-discourses and the self-representation and identification processes, in Huanchor and, more in general, in Andean water rights communities and grassroots movements, are not necessarily and always based on 'factual histories' or 'actual truths'. In the simultaneous struggle against the identities vertically assigned to them to keep them in straight, and for the right to self-construct identity, both 'identity' and 'water rights' are, to a large extent, functional-strategic tools. The creation of myths

¹⁸ Statement by the first gathering of the Latin American Women's Network to Resist Mining, Lima, Peru, 15-18 November 2005.

¹⁹ For details about this resistance, reprisals and documents from that time, see the website of San Mateo de Huanchor: <http://es.geocities.com/sanmateodehuanchor>

of origin, of a usable past, the invention of symbols and tradition, as well as the processes of boundary-crossing and discourse-shopping, need to be understood, among others, by reference to their positioning within the local and wider structures of water governance, meaning, and power. As such, they are part of both control-externalising and control-localising strategies, be it in different ways and with mostly opposite purposes.²⁰ They become ingrained in local contexts and histories.

Historical conflicts with abusive miners were also part of the shared history of this area. As mentioned above and reported by the Mayor of San Mateo,²¹ since 1998 the Lisandro Proaño Mining Company (which has belonged to Wiese Sudameris Leasing since 2001) began depositing toxic wastes just a few metres from the town of Mayoc. Shortly thereafter this caused serious health problems, affecting the children first. Studies show that the amounts of arsenic, lead, cadmium and mercury were much higher than allowable limits. For a decade, the residents have organised into (among other groups) the Committee to Defend the Environment and Sustainable Development – San Mateo de Huanchor (CODEMADES) and the Committee of Persons Affected by Mining in Mayoc, to denounce these mining practices, which have always been illegal anyway. The President of CODEMADES, Ruperto Cáceda-Vidal, explains that their demands include immediate removal of the toxic wastes from Mayoc; a judgment against the polluting company; indemnity for the victims of mining-related environmental pollution; and realisation of a recovery plan for the zone's ecosystem.²²

Among the people, behind the backs of state agents and miners, a series of actions and meetings began to first formulate their positions and polish their strategies, to then make their demands and resist the abuse.²³ These actions sometimes emerged publicly by appearing visibly in CODEMADES and the Committee of Persons Affected by Mining in Mayoc. They organised local protests and large marches to complain to national government entities. However, the inertia of the Ministry of Energy and Mines, non-compliance by the mining company and the slow pace of the court process drove residents to reinforce their battles by moving toward the international battlefield. In February 2003, through their (national) alliance with CONACAMI, the Confederation of Communities of Peru Affected by Mining, they presented a complaint to the Inter-American Human Rights Commission (CIDH) of the Organisation of American States (OAS), "against the Peruvian state for not guaranteeing the human rights of the people of San Mateo de Huanchor or providing medical assistance to victims of the pollution" (CODEMADES report by Cáceda-Vidal). The CIDH received the complaint and began working for the victims of the mining contamination in August 2004, "requesting the Peruvian Government, in six months' time, to transfer the toxic tailings to safeguard the lives and health of the affected population" (Cáceda-Vidal, 2005b).

This combined resistance – in hidden and open settings, and reinforced legally and politically from local to international levels – got results. On 6 June 2005, a legal agreement was finally reached to close down the Mayoc tailings rewasher, and the mining company was also ordered to move the toxic tailings and totally remediate the affected zone. On June 10, the Public Assembly of the Coordinating Group to Defend San Mateo de Huanchor, involving local authorities, rural communities, CODEMADES, the Committee of People Affected by Mining, Neighbourhood Committees and Social Grassroots Organisations, approved the plan. Even so, leaders felt it was necessary not to wait for government authorities and mining companies to fulfill their obligations, but to keep strong pressure up through surveillance, monitoring and, if necessary, complaining, from the community upward. They have set up their own, successful 'inspection and vigilance mechanism', embedded in the community's social

²⁰ For instance, Bustamante (2006a), Boelens (2008) and Perreault (2008) analyse the material and symbolic importance of the '*usos y costumbres*' discourse in the Bolivian irrigator movement, and in struggles over water control in Ecuador (cf. Bakker, 2007).

²¹ Hurtado (2005), including also the information provided to the author during a meeting with the water authorities' (November 2005).

²² Cáceda-Vidal (2005a) and (2005b). See also: News Bulletin No. 11, CODEMADES, May 2005.

²³ For example, cf. the story of leader Margarita Pérez, of Mayoc, San Mateo de Huanchor, compiled by Luis Vittor, www.conflictosmineros.net (accessed 23 January 2007).

relationships, calling on "the entire population, local authorities and friendly institutions, with the press to help resolve the socio-environmental conflict", to reinforce continual citizen surveillance and an oversight over mining and government agencies. The collective goal was "for the fundamental issue (people's health and the damage caused) to be viewed in national and international tribunals in accordance with the defence of our fundamental rights, as consecrated in the Constitution and international conventions" (ibid).

At the same time, while the people continued and still continue pressuring against 'the mining front', new fronts and arenas have also opened up, and the multi-scale network to defend the people's water in San Mateo de Huanchor is ever-stronger and broader. For example, leaders have actively participated in forming the "National Commission to Defend Water, for Life". Since 2005, this national alliance has played an active role in the struggle against policies to privatise water rights and defend water resources as a human right involving national public security. At a more local level, the organisation has concentrated on defending its waters from the powerful water supply company of Lima, which is trying to take away their sources. And, among these multiple initiatives, we also see their participation in, for example, the above-mentioned Latin American Women's Network to Resist Mining, where representatives from San Mateo de Huanchor partner not only with entities belonging to that Network in Latin America, but also with international agencies:

We demand respect for territorial rights and call for prior consultation and compliance with ILO Convention 169. (...) We request international financial institutions to suspend arrangements to finance mining projects in our countries, which have set up or plan to set up in aquifer zones, where aquifers charge and discharge, glaciers, high-diversity, ecologically fragile and agricultural or fishery areas. We urge our governments to stop authorizing the mining concessions they have granted or are considering granting in such areas; and to drastically penalize those companies that have polluted the water.

On the one hand they demand respect, but they also seek solidarity, through a strategy of intermittently appearing in public, in highly diversified ways – in terms of contents, partners, normative fields and scales – to expand their manoeuvring room for struggle and resistance: "We call for women's organisations the world over to raise their voices and, in solidarity with Latin American women impacted and threatened by mining, to demand for mining companies and governments to consult with the people beforehand, to respect our right to freely decide how to use our territories, to respect our right to life".

REFLECTIONS

Facing the powerful water interests of both private companies and the nation-state's agents, defending control over land and water is a matter of life and death for local Andean water user communities. Water is both the liquid that feeds their livelihood systems and the fuel for the zone's organisational engine, the energiser that invigorates collective action and generates locally particular waterscapes. To materialise local, collective control, the struggle to 'localise' the formulation and application of rules and rights is a core issue. Indeed, from the water wars in Bolivia and the CONAIE movement's struggles and national demands in Ecuador to the claims made by many hundreds of communities as in the case of San Mateo de Huanchor, nearly all water rights struggles in the Andean highlands express that there is more at stake than only the distribution of the (powerful) water resource itself. They manifest that all four rights echelons need to be analysed, just as the particular links among them. Besides the struggle over material and financial resources, also the definition of water rights' contents and the right-holders universe, the rules establishing how to acquire these rights, and the issues of establishing legitimate authority, are fundamental stakes in the water-power game. Going up and down the levels or 'echelons' of water rights contestation, different interest groups seek to defend and control rule-making amidst conflicting normative frameworks and make it clear that actual water rights are not simply defined in lawyers' offices or on engineers' drawing-boards; they are negotiated and enforced in processes of

social struggle. Indeed, for Andean water users these rights are too important to leave their definition and distribution to lawyers and state agencies: water rights not only give access to water and infrastructure but also constitute power relations that define control over decision-making for water management (Boelens and Doornbos, 2001; Zwarteveen, 2006; cf. von Benda-Beckmann et al., 1998; Bruns and Meinzen-Dick, 2000).

In the realm of the fourth echelon, conflicting discourses or regimes of representation are fundamental tools and drivers in this battle. They promote or defend particular water policies, normative constructs and water hierarchies. This is directly evident in national and globalised water struggles, where water privatisation ideologies clash with, among others, pan-Andean indigenous discourses as in Bolivia and Ecuador.²⁴ But it is equally fundamental to local struggles. In San Mateo de Huanchor, for example, the fight was about the right to sufficient water for their basic crops and water taps but also about the definition of 'water quality' and the threshold values of cadmium, arsenic, mercury and lead in the water that their children were drinking everyday. It was as much a struggle for the right to a healthy environment as a fight for the right to speak without being labeled and imprisoned as 'environmental terrorists'. And in this discursive arena the users necessarily had to confront seemingly contradictory strategies that were used intermittently by the dominant groups: people had to face and contest, alternatingly, the oppressive, coercive top-down power strategies of the state, mining companies and drinking water enterprises, and the modern, participatory discourses preaching 'harmony', the 'wish to become included in progress' and 'the shared, national interests of all Peruvians'.

Characteristically, dominant national policies and international policy discourses – bureaucratic and neoliberal – seek to dis-embed local water rights, de-linking and de-territorialising 'water' from community and from local history and territory, and so undermining local water community foundations and collective rights repertoires, since they need a uniform playing field to foster bureaucratic control and/or make water rights transferable according to 'global rules and agreements'. This way, they enhance processes of penetrating and dissolving the water rights defence home-base, de-identifying with the local, and aligning with national or outside interests. This process simultaneously implies the efforts to confine the water users, their collectives and their rights to the administrative and political scales that are manageable and convenient for the dominant agents and ruling groups.

But it is also common to find many local communities responding to these processes of political domination and cultural homogenisation. They struggle to actively re-embed their water rights, defend their resource base, reconstruct locally particular 'hydraulic identities' and strategise their own scales and scalar politics. They actively produce their own water action scales, water rights, and water identities, as tools in a struggle. Water rights in the Andes embody the innately political nature of water as much as they represent cultural meanings and identities of user collectives. Commonly, water is deeply attached to 'community' and has a fundamental role in the constitution of 'territory', i.e. the generation of a cultural-political and socio-productive home place, with own land- and waterscapes. Water control space is actively created by local water cultures and is rooted in history, in community identities, property relations and livelihoods, and in future territorial continuity.²⁵ Therefore, water struggles in the Andes are also struggles for localisation of control, for the right to self-define the nature of water problems as well as to decide on the direction for solutions. But users' localisation strategies

²⁴ See, for instance, Hendriks, 1998; Budds, 2004; Bennett et al., 2005; Boelens and Zwarteveen, 2005; Guevara et al., 2006; Isch and Gentes, 2006.

²⁵ This contrasts to many of the non-places and placeless irrigation and water control systems that are fostered by universalistic expert networks and policy institutes. Often, water scientists have joined hands with neoliberal (or new-institutionalist) economists to incarnate spatial techniques and artifacts that, despite being power-loaded and time- and context-particular, are presented as neutral, universal, timeless, and void of context. They create and represent space and land- and waterscape as a homogenous continuum, a hydro-geometrical location that can be re-ordered and subdivided into whatever calculated planning would maximize water efficiency and the economic rates of return. See Boelens (2008).

mostly do not have any intention to restrict the water struggle to just the *local* water battlefield, on the contrary.

While users' strategies to localise water development and decision-making power vis-à-vis exogenous water policy models and control-externalising networks indeed finds its roots in the local context, commonly, Andean water user organisations and peasant and indigenous communities do not aim to exclude supralocal relationships and influences. Rather, they aim to capture external and even 'global' opportunities and adapt them to the local conditions, under local autonomy. In many such cases, the active construction and re-construction of 'territory' is inherent and key to their localisation efforts but requires strategic, broad networking. Thus, notwithstanding their often contradictory objectives, it would be mistaken to suggest that local user organisations, try to avoid interaction with the state or development institutions to defend their autonomy. Actual practice proves the contrary.²⁶ For instance, both the state and the users try to achieve the most favourable ratio of investment versus control for their purposes, where local user groups try to gain more access to state resources and international funding without handing over local normative power. Both try to align the other parties and their resources in the network and action program they desire, aiming to forge a chain of compliance that weakens the resistance of the other. In this process of interaction between entities with confronting interests and a mutual need to capture each other's resources, both parties make use of each other's techniques, norms and rules – though under conditions of unequal clout.

Peasant and indigenous water user groups and other marginalised actors are often discriminated or subjugated by state laws, administrations and agents but, as I have argued, at the same time they try to access and use the state apparatus as a powerful resource for claiming or defending their interests and rights. At that moment they recognise its legitimacy and power, or even aim to take over local and national state power themselves which, however, does not mean that they accept its current manifestations or the existing power structures that sustain it.

With regard to these state-user encounters, in the Andean region it is in particular the nationwide water struggles and manifestations that openly challenge formal power, water laws and policies. They get broad public and political attention, and quickly link to global arenas and networks. Nevertheless, the impact of the thousands of everyday water struggles, localised but upscaling according to the constraints and adversaries they face and the broader geo-political and legal opportunities they see, tends to be far greater and largely unrecognised. As one case out of a continuum, in San Mateo de Huancho, a number of persons and entities, from the local to the (inter)national level, engaged and were engaged in this effort and aligned to the Huancho water rights struggle, thereby reinforcing the community's strategic defence network. Local, collective foundations – in which context particular water rights definitions, contents and relations are raised, modeled and dynamically redesigned – are fundamental physical, cultural, socio-legal and political spaces for manoeuvring not just in the local water world but also in the broader battlegrounds of water control. Whenever strong and stable, as 'nests of solid organisation', through multi-scalar struggles they enhance both their own water rights claims and provide the basis for wider political-legal networks, whether through horizontal alliances with similar grassroots organisations, or through vertical alliances with regional or national organisations and international institutions.

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²⁶ See also Hoekema and Assies, 1998; Mayer, 2002; Assies and Gundermann, 2007.

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