

Governing access to drinking water in the Congolese context between the formal framework and the practices of the actors: a problem of normative conflict?

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Abstract

The global scarcity of water resources has a negative impact on both the evolution of the planet (Loiselle, 2009) and access to water resources, which has been established as a fundamental right by both international legal instruments and the Congolese legal order. The water shortage resulting from a dysfunction of the related public service, and which affects a good part of the Congolese population, contrasts sharply with the immense freshwater resources that abound in DR Congo (Kayobola, 2020; Bashizi, Kadetwa, and Ansoms, 2018). In this context, given the vital nature of water resources, in the DR Congo, as in the case in other developing countries, the law is giving way to extra-legal arrangements between users and public water service providers (Darmame and Potter, 2009). Among these arrangements, the practices of daily corruption have become alternative routes of access to this resource and are variously perceived. This situation gives rise to a normative conflict for two reasons. On the one hand, an intrinsically legal normative conflict in that corrupt practices constitute an offence punishable by law leads to a paradoxical finding of a preference given to respect for the penal norm rather than the satisfaction of a fundamental right of access to water. On the other hand, an extrinsically legal normative conflict in that the corruptive practices used by actors obey contextualized norms of behavior that are in conflict or coexistence with the legal order.

By means of direct observation with the public operator of the water supply in Bukavu, this contribution intends to document the practices of "petty corruption" observable in the field of access to water and the normative logics that govern their operationalization before considering a way to articulate the normative conflicts they induce in a theoretical perspective of normative pluralism.

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