

Columbia University  
Graduate School of Arts and Sciences  
Human Rights Studies Master of Arts Program

“Water Is a Human Right” – Exploring the Paradox of Framing Water as a Human  
Right in a Hostile Political Climate

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Submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts

February 2019

## **Abstract**

Many communities across the United States experience challenges in accessing clean and affordable water. In response, civil society and grassroots organizations are using a human rights framework to advocate for safe and affordable services for all. This is a curious trend, given that the United States is a country in which human rights, specifically socio-economic rights, are not recognized as relevant for domestic policy and even met with hostility. This study explores this tension: why do civil society actors, grassroots organizers, and national level advocates in the United States use a human rights framework to advocate for access to clean and affordable water in a country that is so hostile towards domestic human rights and socio-economic rights? How are they utilizing this framework to address water contamination, lack of access to and disconnection of services? And what have been the successes and/or shortcomings thus far?

The study examines advocacy in California, Michigan, and the Appalachian Mountains based on personal interviews with local activists. The study suggests that the human rights framework can be empowering for residents in affected communities. Moreover, while “human rights” can be a divisive phrase, the basic ideology of rights seems to be universally accepted. Finally, advocates perceive human rights as an alternative international framework, which is a step removed from their local and national governments which they distrust. Understanding this framing, the strategies behind it, and the obstacles advocates are facing provides insights for broader efforts to advance human rights and social justice advocacy in the United States.

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## I. Introduction

In the United States, communities across the country are facing violations of the human right to water. Water contamination, water shut-offs, infrastructure and managerial problems, and governmental negligence are all contributing factors to these violations. Past histories of structural and institutional injustices have led to government failures to prioritize, protect, and promote the rights of the most marginalized. The influence of state and local economics on infrastructure, of corporate interests (e.g. mining), and of privatizing water systems further disenfranchise and disproportionately affect people living in poverty.

Civil society actors, local grassroots organizing initiatives, residents, and national and international non-governmental organizations are speaking up and out against these violations. There is a trend in these organizations of using the framework of human rights to advocate for rights and using the slogan “water is a human right” in order to create change in communities.<sup>1</sup> The U.S. Human Rights Network, for example, is spearheading a campaign for water as a human right and coordinates a coalition of 160 organizations and civil society actors in the U.S. who are working towards this right.<sup>2</sup> The American Civil Liberties Union has also started to engage in the human right to water in California and the notion that an organization primarily focused on civil rights is expanding its scope to socio-economic rights is a significant shift. It shows how

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<sup>1</sup> The human right to water has been established in two United Nations documents. First in General Comment 15 of the International Covenant on Economic, Social, and Cultural Rights that states that the human right to water and sanitation can be found within Articles 11 (the right to an adequate standard of living) and 12 (the right to health). Then, in 2010, the United Nations passed a resolution that explicitly recognizes and states that there is a human right to water and sanitation.

<sup>2</sup> "#WaterIsAHumanRight: Human Rights to Water and Sanitation," US Human Rights Network, March 07, 2018, accessed March 23, 2018, <https://www.ushrnetwork.org/our-work/project/waterisahumanright-human-rights-water-sanitation>.

accessible the human right to water is for individuals and its ability to resonate with communities.<sup>3</sup>

This collective activism around a human right to water is an interesting notion because of the U.S.'s history of hostility towards human rights, and socio-economic rights in particular, in the domestic sphere. The dominant paradigm is that the U.S. Constitution protects citizens and that there is no need for the human rights framework for domestic issues. The paradox becomes clearer when looking specifically at the perception and treatment of socio-economic rights in the U.S. There is a resistance within the government to including socio-economic rights into the fabric of the country, and to acknowledging these rights are inherent human rights rather than privileges and benefits for those who work hard and participate in the conventional notion of labor.<sup>4</sup> The government holds the view that economic, social, and cultural rights are aspirational rather than having a place in the legal sphere and being justiciable.<sup>5</sup> However, activists in the human right to water community are arguing that socio-economic rights can and should be accessible, recognized by the government and justiciable in order to achieve success in accessing clean, affordable water. Activists are choosing the human rights framework to reclaim their right to water.<sup>6</sup>

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<sup>3</sup> "California's Human Right to Water Unrealized in Many Communities," ACLU of Northern CA, May 02, 2018, accessed October 04, 2018, <https://www.aclunc.org/news/california-s-human-right-water-unrealized-many-communities>.

<sup>4</sup> Philip C. Aka. "Analyzing U.S. Commitment to Socioeconomic Human Rights." *Akron Law Review* 39, no. 2 (January 2, 2006): 435.

<sup>5</sup> Ibid, 435-36. Socio-economic rights are seen in relation to policy to the United States government; civil and political rights are relational to laws. Thus, socio-economic claims are seen as non-justiciable whereas civil and political claims are seen as such, and they are integrated into laws and the U.S. Constitution.

<sup>6</sup> M.N.S, Sellers. "Universal Human Rights in the Law of the United States." *The American Journal of Comparative Law* 58 (2010): 533-4.

The U.S.'s exceptionalism ideology greatly impacts the ways in which individuals can interact with human rights on a domestic scale.<sup>7</sup> The government and courts reflect a view that the country does not need international human rights because of the Constitution and civil rights guarantees within the law.<sup>8</sup> There is also the idea that engaging in international law is “unpatriotic,” leading to the exclusion of human rights from the government system in order to maintain patriotism.<sup>9</sup> The U.S. courts rarely draw on international instruments, relying instead on its own laws and precedents.<sup>10</sup> While this ideology is present, the rights guaranteed in the Constitution and in civil rights laws largely align with civil and political human rights that are internationally recognized.<sup>11</sup> The U.S. lacks recognition of economic and social rights as human rights, viewing these rights as costly privileges.<sup>12</sup>

The resistance to economic and social human rights was not always the response of the government in the United States. The New Deal era under President Franklin D. Roosevelt (FDR) in the 1930s, prior to the formation of international human rights instruments, also

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<sup>7</sup> A.C. Finnegan, A. P. Saltsman, and S. K. White. "Negotiating Politics and Culture: The Utility of Human Rights for Activist Organizing in the United States." *Journal of Human Rights Practice* 2, no. 3 (Nov 1, 2010): 308.

<sup>8</sup> Aka, "Analyzing U.S. Commitment," 435.

<sup>9</sup> Ibid, 435. It is only in recent history that international law and human rights treaties have begun to enter the courts in the United States and are cited in judicial decisions.

<sup>10</sup> Sellers, "Universal Human Rights," 533.; Finnegan, et. al, "Negotiating Politics and Culture," 312.

<sup>11</sup> Civil and political rights are guaranteed in the International Convention on Civil and Political Rights, the Convention on the Elimination of all Forms of Racial Discrimination.

<sup>12</sup> An example of this belief can be seen within the healthcare debate. Sen. Ron Johnson (R-Wis.) spoke with high school students in September 2017 and was asked if he believed if healthcare was a right or a privilege and he explained that it is a privilege, as is food, clothing, shelter, etc. which are all considered socio-economic rights in the human rights framework. He also cited that our only rights are “life, liberty, and the pursuit of happiness.” This ideology is prevalent amongst politicians in the U.S. and reiterates the exceptionalism framework and anti-socio-economic rights rhetoric in the country. See <http://www.wisn.com/article/johnson-access-to-health-care-a-privilege/12655631>

embraced the protection and promotion of socio-economic rights as a way to support the country in the face of the Great Depression.<sup>13</sup> The U.S. also stressed the importance of including the economic and social rights in the 1947 draft of the International Bill of Rights, which became the 1948 Universal Declaration of Human Rights (UDHR).<sup>14</sup> However, there was a shift in ideology for the U.S. between 1947 and 1948, leading to the current status of economic and social rights in the country. The UDHR was drafted and adopted against the backdrop of a post-WWII world, with a fear of Communism, conservative backlash to the New Deal Era, and ideas of isolationism.<sup>15</sup> Resistance to ESC rights and international human rights can also be seen through various actions of the U.S. government including the pattern of a lack of ratification of international human rights treaties, minimal legislative protections on a domestic scale, non-justiciability in domestic courts, and the general discourse surrounding these rights.<sup>16</sup> Despite a lack in ratification of international human rights treaties, the United States is a signatory to four treaties, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which means that they are obligated to refrain from any action that directly defeats the object and purpose of the treaty.<sup>17</sup> However, the United States still does not embrace these

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<sup>13</sup> "The New Deal," Social Welfare History Project, April 30, 2018, , accessed December 25, 2018, <https://socialwelfare.library.vcu.edu/eras/great-depression/the-new-deal/>.

<sup>14</sup> Sally-Anne Way, "The "Myth" and Mystery of US History on Economic, Social, and Cultural Rights: The 1947 "United States Suggestions for Articles to Be Incorporated in an International Bill of Rights"," *Human Rights Quarterly* 36 (2014): 869.

<sup>15</sup> Way, "The "Myth" and Mystery," 895.

<sup>16</sup> The U.S. has only ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. They have not ratified the International Convention on Economic, Social, and Cultural Rights, nor has it ratified any other treaty explicitly protecting socio-economic rights. There is a distinct lack of protections of socio-economic rights within the domestic sphere of legislation, as well as a lack of justiciability of these rights in the domestic courts.

<sup>17</sup> Jeffrey A. Hilgert, "Building a Human Rights Framework for Workers Compensation in the United States: Opening the Debate on First Principles," *American Journal of Industrial*

rights and continues to perpetuate notions of privilege in relation to socio-economic human rights.

When considering this in regard to my research question, it becomes clear why the trend to use the campaign “water is a human right” in communities facing water rights violations in the United States is paradoxical.<sup>18</sup> Against this background of entrenched resistance to using international standards and socio-economic rights, it is a perplexing choice to use human rights to advocate for addressing and remedying issues related to water contamination, lack of access to and disconnection of services, and increasing utility bills. This prompts me to explore the interesting paradox of why civil society is stepping out of line in order to use the human right to water as an advocacy framework given the state of socio-economic rights in the United States. This study explores the following questions: why are civil society actors, grassroots organizers, and national level advocates in the United States using a human rights framework to advocate for access to clean and affordable water (i.e. promoting campaigns of “water is a human right”) in a country that is so hostile towards domestic human rights and socio-economic rights in particular? And to take it further, how are they utilizing this framework and what have been the successes and/or shortcomings thus far?

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*Medicine* 55, no. 6 (2012): 510, doi:10.1002/ajim.22023; United Nations, Vienna Convention on the Law of Treaties arts. 11, 12 and s18, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, available at: <https://www.refworld.org/docid/3ae6b3a10.html> [accessed 18 December 2018].

<sup>18</sup>There is advocacy happening surrounding socio-economic rights in the United States using the human rights framework, including the work being done that the National Economic and Social Rights Initiative and through the New Poor People’s Campaign. These advocacy organizations and movements are using the human rights framework to fight for the human right to water, food, education, and housing, among other socio-economic human rights, furthering the question of why this is the framework chosen given the context of socio-economic rights in the United States. See <https://www.nesri.org/>; <https://www.poorpeoplescampaign.org/demands/>



## A. The Human Right to Water in the United States

The United States is facing a water crisis. Contamination and rising water utility rates are on the rise as aging infrastructure is failing. As climate change worsens and economies struggle, water systems, infrastructures, and pipes will continue to deteriorate leading to increased instances of contamination and water rate hikes. The problem is widespread, impacting residents of all states. According to a 2017 report published by the National Resource Defense Council, in 2015 there were 77 million Americans drinking water that violated the Safe Drinking Water Act of 1974.<sup>19</sup> Specifically, there were over 18,000 community water sources that were providing this water, with a total of 80,000 violations of the Act in that one year alone.<sup>20</sup> For 10 million families and homes in the United States, lead contamination in aging pipes is a persistent barrier to the accessibility of clean water and poses the greatest threat to the health of children and future success of a community.<sup>21</sup>

Contamination alone is not the only issue. Between 2010 and 2015 major U.S. cities have seen an average water utility rate increase of 41%.<sup>22</sup> These statistics are staggering and can lead to situations of late payments due to unaffordability. As a result, cities will sometimes punish those who are unable to pay their bills by disconnecting water sources to homes.<sup>23</sup> In 2016 an average of 5% of homes in the United States had their water disconnected due to nonpayment

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<sup>19</sup> Kristi Pullen Fedinick et al., *Threats on Tap: Widespread Violations Highlight Need For Investment in Water Infrastructure and Protections*, report, May 2017, 1, <https://www.nrdc.org/sites/default/files/threats-on-tap-water-infrastructure-protections-report.pdf>.

<sup>20</sup> *Ibid*, 1.

<sup>21</sup> United States Water Alliance, *An Equitable Water Future: A National Briefing Paper*, 14, June 2017, US Water Alliance, Washington, D.C.

<sup>22</sup> "Price of Water: 2010-2015," digital image, Circle of Blue, April 2015, <https://www.circleofblue.org/wp-content/uploads/2015/04/WaterPricing2015graphs.pdf>.

<sup>23</sup> United States Water Alliance, *An Equitable Water Future*, 13.

alone, with a total of 15 million people on a national scale experiencing water utility shut offs.<sup>24</sup> These utility rates are often inherently linked to aging infrastructure as well. When water utility systems and pipes become older, they are more likely to have breaks and cracks.<sup>25</sup> These lead to increased risks of contamination and mass amounts of water loss, the burden of which is put on the community relying on the water source. With pipes and infrastructure still in use from over a hundred years ago, systems are inefficient in removing toxic chemicals and there are a quarter of a million water main breaks a year.<sup>26</sup> Breaks can lead to toxins getting into the pipes from the ground water, as well as extreme water loss.<sup>27</sup> Thus, contaminants enter the water sources, and residents must pay increasing water bills for contaminated water that never gets to their tap due to water loss. Aging infrastructure and pipes themselves can also contribute to contamination, especially lead. Pipes that were made prior to 1985 are more likely to contain lead; as the pipes age, the metals deteriorate and can contaminate the water stream if the pipes are not properly treated to prevent corrosion.<sup>28</sup>

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<sup>24</sup> "America's Secret Water Crisis," Food & Water Watch, November 28, 2018, accessed December 18, 2018, <https://www.foodandwaterwatch.org/insight/americas-secret-water-crisis>.

<sup>25</sup> American Society of Civil Engineers, *Drinking Water*, 2017, 2017 Infrastructure Report Card. According to the American Society of Civil Engineer's 2017 Infrastructure Report, the United States loses 62 billion gallons of water each year due to failing pipes; on a daily basis there is between 14 and 18% water loss across the country due to these leaking pipes, the loss of which could support a total of 15 million homes. Pipes last only between 75 and 100 years, and the majority of the one million pipes in the United States were placed in the early to mid-20<sup>th</sup> century.

<sup>26</sup> Kristi Pullen Fedinick, et al., *Threats on Tap*, 8.

<sup>27</sup> Haisi Liu and Ben Shorofsky, The Case for Fixing the Leaks Protecting People and Saving Water While Supporting Economic Growth in the Great Lakes Region, report, 2013, 3, [https://www.cnt.org/sites/default/files/publications/CNT\\_CaseforFixingtheLeaks.pdf](https://www.cnt.org/sites/default/files/publications/CNT_CaseforFixingtheLeaks.pdf). A report done by the Chicago-based organization Center for Neighborhood Technology estimates that approximately 6 million gallons of water are lost daily in the United States due to failing infrastructure systems.

<sup>28</sup> "Basic Information about Lead in Drinking Water," EPA, December 17, 2018, , accessed December 18, 2018, <https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water#getinto>.

Contamination can also occur from third party contaminators, specifically corporations, that are irresponsibly disposing of toxins in production practices. Two major contributors to water source contamination are big agriculture farming, seen in California, and coal companies, seen in Appalachia. For many Californians, especially in the Central Valley where there is a high concentration of mass-production agriculture and farming, groundwater and surface water contamination comes from croplands. In a recent University of California Davis report, nitrate pollution in California groundwater was found to be linked to crops (96% of total findings).<sup>29</sup> For California, groundwater is an important part of life – for industry, agriculture, and personal use.<sup>30</sup> To have largescale groundwater nitrate contamination, the public health of the state is at risk.<sup>31</sup> Nitrates enter the groundwater through agricultural companies using fertilizers with nitrates. When fertilizers are used that contain high concentrations of nitrates, it can enter surface levels of the ground and then seep deeper into the ground to contaminate water supply sources.<sup>32</sup> Aside from nitrates, the water is also contaminated with arsenic, coliform bacteria, pesticides, disinfectant byproducts, and uranium.<sup>33</sup> These chemicals and toxic metals have had a strong impact on 1.36 million people living in the Central Valley region of California.<sup>34</sup>

Coal industries can also be a source of water contamination, especially in Appalachia. Coal mining practices involve processes that are dangerous for the residents surrounding the mines. Mountain top removal, for example, is a method of coal extraction that involves the use

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<sup>29</sup> *Addressing Nitrate in California's Drinking Water*, report, Center for Watershed Science, University of California Davis (Davis, CA, 2012), 3.

<sup>30</sup> *Ibid.*, 9.

<sup>31</sup> *Ibid.*, 9.

<sup>32</sup> "Water Quality," Community Water Center, , accessed December 19, 2018, <https://www.communitywatercenter.org/contamination>.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

of explosives to remove the top of a mountain and then miners use machinery to dig to the coal. The mountain top removal practice causes debris to fall into surface water, contaminating these sources that supply water to residents in the surrounding communities. Companies will also dump the debris from the blasting into nearby valleys that leads to contamination and puts the health of residents at risk.<sup>35</sup> Another process of coal mining that leads to contamination is the cleaning of coal with toxic metals such as arsenic, lead, and manganese mixed with water – this creates a mixture called coal slurry or sludge.<sup>36</sup> When the coal slurry needs to be disposed, it oftentimes is not done in a proper way or secure way, leading to heightened risk of contamination. Sometimes the slurry is injected into the ground, in old mines that are not working any longer which are unstable and can break easily, leading to contamination.<sup>37</sup> Other times, coal slurry is stored in impoundments such as valleys that can overflow and spill leading to contamination as well.<sup>38</sup> Coal companies who do not take precautions when disposing of this toxic slurry can jeopardize the water sources of the communities that surround the mines and endanger the health of their residents.

The combination of contamination and increased water utility bills directly violates what the UN has recognized as the Human Right to Water. Resolution 64/92 was passed in July 2010 and recognizes that accessibility to safe drinking water and sanitation is a human right in and of

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<sup>35</sup> *Activist Battles US Coal Companies Over Mountain Top Removal Practice*. Washington: Federal Information & News Dispatch, Inc., 2009.

<http://ezproxy.cul.columbia.edu/login?url=https://search-proquest-com.ezproxy.cul.columbia.edu/docview/190433678?accountid=10226>.

<sup>36</sup> Benoit Van Aken et al., "Environmental Contaminants in Coal Slurry Intended for Underground Injection in the State of West Virginia," *Journal of Environmental Engineering* 141, no. 1 (2015): 1, doi:10.1061/(asce)ee.1943-7870.0000874. There is an estimated 70-90 million tons of coal slurry every year in the United States.

<sup>37</sup> Ibid, 1-2.

<sup>38</sup> Ibid.

itself.<sup>39</sup> This resolution calls on States and international organizations to provide resources, capacity-building and technology to ensure safe, clean, accessible, and affordable drinking water and sanitation for everyone.<sup>40</sup> The resolution focuses on developing countries to some extent, however this human rights crisis has no boundaries and affects all countries including the United States.

This paper focuses on violations of the human right to water and community struggles and advocacy in California, Michigan, and rural Kentucky and West Virginia regions of the Appalachian Mountains. Their struggles are mimicked in communities all over the United States as well as countries around the world.

### *California*

California has a history of water struggles, with a heightened demand of water due to its large population size, agricultural industry and challenges in allocating the limited water sources itself. For Californians living in the Central Valley their challenges in water accessibility are persistent. The Central Valley is a 400-mile-long stretch of California's middle lands; it is home to massive agricultural industries and comprises 1% of the United States' total farmland but produces 8% of the country's produce.<sup>41</sup> The estimated worth of the Central Valley's agricultural output is approximately \$17 billion annually, making it a major contributor to the mass production of agricultural goods in the country and the world.<sup>42</sup> The area is comprised largely of

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<sup>39</sup> UN General Assembly, *The human right to water and sanitation: resolution adopted by the General Assembly*, 3 August 2010, A/RES/64/292, available at: <http://www.refworld.org/docid/4cc926b02.html>

<sup>40</sup> Ibid.

<sup>41</sup> "California's Central Valley," California Droughts Compared | USGS California Water Science Center, March 20, 2017, accessed September 25, 2018, <https://ca.water.usgs.gov/projects/central-valley/about-central-valley.html>.

<sup>42</sup> Ibid.

migrant communities who find work on these farms and are typically living in low-income and unincorporated communities.<sup>43</sup> The Central Valley is dominated by mass agricultural production and corporations while being inhabited by low-income, migrants and people of color.

Since the agricultural corporations are producing mass amounts of product to supply 8% of the country's produce, they needed to find a way to make production more efficient. This came in the form of pesticides and nitrates to help with agricultural success. However, the industrialization of agriculture has led to vast contamination of domestic water supplies in the Central Valley.<sup>44</sup> The disposal of wastewater and runoff from agricultural corporations led to the contamination of groundwater and well water supplies that provide for over 50% of people living in the Central Valley.<sup>45</sup> It is estimated that 50% of the Central Valley population has been facing an inaccessibility to safe, clean water sources.<sup>46</sup> This contamination leads to majority immigrant communities being at heightened risk for drinking, cooking with, and bathing in water that is unsafe.<sup>47</sup> The pesticides and nitrates in the water can increase the risk of cancer among other negative health impacts, creating an inaccessibility to the human right to water in the community.<sup>48</sup> The residents of these communities in the Central Valley who are experiencing contamination must then face a decision of whether to purchase bottled water, an expensive

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<sup>43</sup> Rose Francis and Laurel Firestone, "Implementing the Human Right to Water in California's Central Valley: Building a Democratic Voice through Community Engagement in Water Policy Decision Making," *Willamette Law Review* 47, no. 3 (May 1, 2011): 498.

<sup>44</sup> *Ibid*, 496-7.

<sup>45</sup> *Addressing Nitrate in California's Drinking Water*, 17; Francis and Firestone, "Implementing the Human Right to Water," 497.

<sup>46</sup> *Addressing Nitrate in California's Drinking Water*, 17; Francis and Firestone, "Implementing the Human Right to Water," 497.

<sup>47</sup> Francis and Firestone, "Implementing the Human Right to Water," 498.

<sup>48</sup> *Ibid*, 498-99.

financial burden, or risk their health by drinking contaminated water that is coming out of their tap.<sup>49</sup>

In the face of this contamination, and the loss of access to the human right to water, residents of the Central Valley began to organize and advocate for themselves. As a result, a large-scale movement started in California with a goal of passing legislation recognizing the human right to water in the state of California. Residents of different Central Valley towns, cities, and unincorporated communities mobilized and began the process of lobbying for a legal protection and recognition of this crucial human right. The movement found a first step of success in September 2012 when legislation passed, and Governor Brown signed into law Assembly Bill 685 which legally recognized the human right to water in the state of California. The bill establishes a policy that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”<sup>50</sup> However, the advocacy is still ongoing as the state is now grappling with the implementation of this law.

### *Michigan*

Michigan’s cities of Flint and Detroit have both been facing years of violations to the human right to water in terms of accessible, affordable and safe water. In Flint, the state of Michigan put the economically distressed city under emergency management starting in 2011. This required Governor Snyder to reinstate the Emergency Management Law which had been originally overturned through a public referendum.<sup>51</sup> This is a significant part of the history of the Flint water crisis. The reinstatement of a law that had been overturned by the public through

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<sup>49</sup> Francis and Firestone, “Implementing the Human Right to Water,” 499.

<sup>50</sup> Assem. Bill 685, 2012 Reg. Sess., 2012 Cal. Stat.

<sup>51</sup> "Timeline: The Flint Water Crisis," Progress Michigan, accessed September 26, 2018, <http://www.progressmichigan.org/timeline-flint-water-crisis-2011-2016/>

the democratic system had dire ramifications for the residents of Flint in the subsequent years. Emergency management meant that the city was no longer being run by elected officials, but by an emergency manager selected by the government itself.<sup>52</sup>

In 2013 Darnell Earley was selected as emergency manager by Governor Snyder. He decided to switch the city's water source from the Detroit Water and Sewage Department (DWSD) to the Karegnondi Water Authority that was in the process of building a pipeline to connect to Lake Huron; this pipeline would not be complete until 2016.<sup>53</sup> In the interim the decision was made to connect the city to the Flint River instead of continuing service with the DWSD. The switch was made in April 2014 and within only a few weeks' time residents began to notice a difference in their water – smell, taste, and color. These changes were attributed to lead contamination from the city stopping use of the needed anti-corrosive that is supposed to prevent lead in pipes from corroding and seeping into the water.<sup>54</sup>

Over the course of the following year, residents continued to speak out about the changes in their water and concern for the health of the city. Independent research began to take place testing the water for toxins.<sup>55</sup> In September 2015, Mona Hanna-Attisha, a pediatrician, published research and data that explicitly showed that the children of Flint had elevated levels of lead in

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<sup>52</sup> Interview with Yvonne Lewis on 7-18-2018 via phone and Rob Robinson on 6-5-2018 in New York City, NY. For Flint resident Yvonne Lewis and international socio-economic rights activist Rob Robinson, this was the first human rights violation in Flint. The reinstatement of the emergency management law after the public voted for it to be overturned was a violation of residents' right to vote, according to Lewis and Robinson.

<sup>53</sup> Susan J. Masten, Simon H. Davies, and Shawn P. Mcelmurry, "Flint Water Crisis: What Happened and Why?" *Journal - American Water Works Association* 108 (2016): 23, doi:10.5942/jawwa.2016.108.0195.; "Timeline: The Flint Water Crisis"

<sup>54</sup> Masten, et al., "Flint Water Crisis," 23.

<sup>55</sup> Ibid, 24. In February 2015 lead was found in Lee Ann Walter's home, a resident in Flint; In July 2015 lead was identified in the water by a group of Virginia Tech researchers.



their blood following the city's switch to the Flint River.<sup>56</sup> It took until October 2015 for the Governor to switch the source back to the DWSD water supply, but by then the city had already been exposed to contaminated water for a year and a half. This means that it took a year and a half for the government to listen to the concerns of the residents and accept that they in fact were correct when they first spoke up about inconsistencies in their water quality. And it took adopting a human rights framework to see this response from the government. Residents mobilized around a human rights framework when traditional avenues of democratic participation did not work.

The lack of acknowledgement and belief by the government that the residents were credible in their concerns only heightened the lacking sense of trust within the city between residents and their government. The notion that the government is meant to protect the interests of the people was lost in Flint. The loss in protection and lack of acting with the residents' best interests in mind only maximized the anger over the water crisis – not only was the city poisoned but the people were ignored when they knew that there was something wrong. The water crisis shook this low-income city with a majority minority population, leading many residents to believe that this was something that would have not happened in a more affluent, white community.<sup>57</sup>

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<sup>56</sup> Masten, et. al., "Flint Water Crisis," 24.

<sup>57</sup> Andrew Buncombe. *Flint Water Crisis: Race 'was Factor' in Authorities' Slow and Misleading Response, Says City's Black Mayor*. London: Independent Digital News & Media, 2018. <http://ezproxy.cul.columbia.edu/login?url=https://search-proquest-com.ezproxy.cul.columbia.edu/docview/2055558472?accountid=10226>.

In a 2018 interview with The Independent, the Mayor of Flint, Karen Weaver, explicitly expressed that she and many others in the city believed that race and class were factors in the way that the water crisis was handled. She stated, "We are not suggesting that those making decisions related to this crisis were racists or meant to treat Flint any differently because it is a community of colour. Rather, the response is the result of implicit bias and the history of systemic racism that was built into the foundation of Flint."

In the aftermath of the crisis, there were also multiple government reports and investigations to identify responsible parties, assess the causes of the water crisis, and offer remedies. The Flint Water Advisory Task Force, for example, published a complete 116-page report on who needs to be held accountable, what the different roles of the government were, and how to hold them accountable in the aftermath.<sup>58</sup> The government was also held accountable for their actions and role in the crisis through criminal prosecution. Four years following the water crisis, five government officials faced criminal charges for the roles they played in the poisoning of the city. This included three felony charges, including involuntary manslaughter, brought against Michigan's Department of Health and Human Services' director Nick Lyons.<sup>59</sup> As a result of these criminal charges and continued research on the crisis, the city of Flint is still overcoming the repercussions of the contamination and is slow to trust the government again.

Just an hour south of Flint is the city of Detroit. Detroit was facing economic instability and declared bankruptcy, which led to an emergency manager taking control over the city. The emergency manager made the decision to target the debt of the Detroit Water and Sewage Department of \$5.7 billion and began penalizing residents who were either three months behind on their water bills or owed a minimum of \$150.<sup>60</sup> In a city where approximately 40% of the

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<sup>58</sup> United States. Michigan (State). Office of Governor Rick Snyder. *Flint Water Advisory Task Force Final Report*. Flint, MI: Flint Water Advisory Task Force, 2016.

<sup>59</sup> Scott Atkinson and Monica Davey, "5 Charged With Involuntary Manslaughter in Flint Water Crisis," *The New York Times*, June 14, 2017, accessed December 22, 2018, <https://www.nytimes.com/2017/06/14/us/flint-water-crisis-manslaughter.html>.; Kayla Ruble, "Top State Health Official to Stand Trial for Flint Water Crisis Role," PBS, August 20, 2018, accessed December 22, 2018, <https://www.pbs.org/wgbh/frontline/article/top-state-health-official-to-stand-trial-for-flint-water-crisis-role/>.

<sup>60</sup> Rose Hackman, "What Happens When Detroit Shuts Off the Water of 100,000 People," *The Atlantic*, July 17, 2014, accessed September 26, 2018, <https://www.theatlantic.com/business/archive/2014/07/what-happens-when-detroit-shuts-off-the-water-of-100000-people/374548/>.

population lives below the poverty line, the number of households that are delinquent on water bills is 40% as well.<sup>61</sup> The penalty for these late payments was turning off the water supply to the households, a practice that started in 2014 and has continued every year following. Blue spray-painted lines would publicly mark the homes to have their water shut off, showing to the community as a whole who was unable to pay.<sup>62</sup> Single mothers feared having their children taken away.<sup>63</sup> Bacteria grew in pipes with stagnant water.

The reason why residents become delinquent on these bills is because the water rate in Detroit has increased by 120% over the past decade.<sup>64</sup> The increases happen partly because of the city's population loss.<sup>65</sup> The water system was built to support close to 2 million residents at the city's peak, but the population today is only 700,000. The system is also aging which leads to water line breaks and water loss; this is water that never reaches the tap but still needs to be paid

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<sup>61</sup> Hackman, "What Happens".

<sup>62</sup> Sharmila L. Murthy, "A New Constitutive Commitment to Water," *Boston College Journal of Law & Social Justice* 36, no. 2 (2016): 169.

<sup>63</sup> "Adult & Children's Services Abuse & Neglect." Michigan Department of Health and Human Services. Accessed December 22, 2018. [https://www.michigan.gov/mdhhs/0,5885,7-339-73971\\_7119-21208--,00.html](https://www.michigan.gov/mdhhs/0,5885,7-339-73971_7119-21208--,00.html); "In Detroit, City-backed Water Shut-offs 'contrary to Human Rights,' Say UN Experts | UN News." United Nations. October 20, 2014. Accessed December 22, 2018. <https://news.un.org/en/story/2014/10/481542-detroit-city-backed-water-shut-offs-contrary-human-rights-say-un-experts>. In Michigan, Child Protective Services (CPS) states that children can be taken out of a home if they are not being provided "adequate food, clothing, shelter, or medical care." As a result, mothers in Detroit were fearful that if their water was shut-off due to a lack in payment, that they were at heightened risk of having their children taken away for neglect by CPS.

<sup>64</sup> Murthy, "A New Constitutive Commitment to Water," 165.

<sup>65</sup> Kaeleigh Herstad, "'Reclaiming' Detroit: Demolition and Deconstruction in the Motor City," *The Public Historian* 39, no. 4 (2017): 91-93, doi:10.1525/tph.2017.39.4.85. Detroit's economic base for decades was the auto industry. The city experienced a population and economic boom from the 1910s-1940s as auto manufacturers built the city up with jobs. However, by the 1960s onward, there were rising racial tensions in the city as the African-American population grew in Detroit and the auto industry began moving their factories outside the city. As race riots ensued in the late 1960s and factory jobs minimized, there was an exodus of sorts in Detroit of mostly middle-class, white residents moving from the city to the suburbs. This led to a large population decline and economic instability, two factors that have impacted the water crisis today.

for by the residents of Detroit.<sup>66</sup> Since 2014, Detroit residents have been fighting back and lobbying for a water affordability act to stop the water shut offs, find a solution that will benefit the city as a whole, and protect the human rights of the people. Water shut-offs are continuing to happen today, with 17,461 households at risk of getting their water shut off this past spring 2018.<sup>67</sup> While it is to a lesser extent than years past, the water shut-offs are still a prevalent human right violation in the city of Detroit, effecting the most vulnerable residents of the city when the weather gets warm and spring comes again.

*Appalachian Mountains – Kentucky and West Virginia*

The Appalachian Mountains run all along the East Coast of the United States, from Maine to Georgia.<sup>68</sup> In the foothills of the mountains in Kentucky and West Virginia lie rural towns, unincorporated communities, and poverty. A region that once had economic success with the coal industry is now struggling as the demand for coal has diminished and increase in natural gas usage has taken its place, resulting in less job opportunities in the mines.<sup>69</sup> As a result, the people of Kentucky and West Virginia's Appalachian Mountains live below the poverty line and their governments do not have the financial stability to make improvements to the well-being of the community. In these regions, the water systems are old and damaged, leading to water line breaks and water loss. The rural nature of the region also leads to challenges in hooking up homes to a municipal water source, and many towns and communities do not have the financial

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<sup>66</sup> Murthy, "A New Constitutive Commitment," 165.

<sup>67</sup> Kat Stafford, "Controversial Water Shutoffs Could Hit 17,461 Detroit Households," Detroit Free Press, March 26, 2018, accessed December 22, 2018, <https://www.freep.com/story/news/local/michigan/detroit/2018/03/26/more-than-17-000-detroit-households-risk-water-shutoffs/452801002/>.

<sup>68</sup> For the purposes of this paper, Appalachia is in reference to Eastern Kentucky and Southwestern West Virginia where the interviews took place.

<sup>69</sup> Justin Worland, "Coal Mining Jobs Are Being Replaced By Clean Energy," Time, 2018, accessed December 25, 2018, <http://time.com/coals-last-kick/>.

means or population size to have their own water utility. Instead, residents rely on private wells because they cannot afford to fix any infrastructure damage on their property.<sup>70</sup> Affordability is a barrier to accessing water in these regions.

Appalachian Mountain regions also face contamination in their water due to the longstanding history of coal mining. During the process of coal mining, many toxic metals are used to clean the coal post-mining creating coal slurry. The leftover slurry is either injected into old abandoned coal mines or compiled into an impoundment. By injecting the toxic coal waste into the ground, there is a risk of contaminating the ground water that is used by residents' private wells, which residents are responsible for testing themselves but often cannot afford to do.<sup>71</sup> When there are impoundments of coal slurry the size of ponds there is a large risk of flooding and overflow that can infiltrate surface-level water sources creating a mass contamination. This leads to widespread water contamination for the people of Appalachia, both through metals in their wells and municipal water.

Many of the coal companies are at the root of the human right to water violations, and with the coal industry being a constant pillar in Appalachian society and economy, residents may fear the repercussions of speaking against them.<sup>72</sup> However, there is a grassroots base that is beginning to address the violations to the human right to water in these rural communities. They

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<sup>70</sup> Erin Arcipowski et al., "Clean Water, Clean Life: Promoting Healthier, Accessible Water in Rural Appalachia," *Journal of Contemporary Water Research & Education* 161, no. 1 (2017): 1-2, doi:10.1111/j.1936-704x.2017.3248.x.

<sup>71</sup> Molly Moore, "Private Wells Raise Concerns for Public Health Appalachian Voices," Appalachian Voices, September 20, 2012, accessed December 25, 2018, <http://appvoices.org/2009/08/25/private-wells-raise-concerns-for-public-health/>; "Private Drinking Water Wells," EPA, June 06, 2018, , accessed December 25, 2018, <https://www.epa.gov/privatewells>.

<sup>72</sup> There is fear of job loss, isolation in the community, and an overall feeling that this is the way it has always been and there is no way to change it.

are doing this through their engagement in human rights frameworks, communications with local and state government, and working with community organizations and members. They are standing up to the coal industries and lobbies that have dominated the region for hundreds of years to try to change the way water and the health of residents are treated in Appalachia.

## II. Literature Review

Civil society and grassroots actors embracing a human rights framework in the face of inaccessibility to safe, clean, and affordable water is a paradoxical trend in the United States due to the historical and current discourse surrounding human rights in the country. For the purposes of this thesis, it is interesting to look at the role social-framing theory plays in relation to civil society and grassroots actors' use of the "human right to water" campaign in the United States. It is also relevant to look at literature on human rights-based approaches to socio-economic rights to better understand the framework of human rights in advocacy settings.

### *Framing Theory*

Framing theory in the social sciences is the theory that providing a meaning for a social movement is "prefatory to action."<sup>73</sup> This theory believes that in order to connect people to a social movement, the movement must be framed in a way that elicits meaning for individuals.<sup>74</sup> The meaning itself is socially constructed, and reconstructed, in a way that stimulates a movement.<sup>75</sup> Framing theory was theorized by Erving Goffman in his 1974 publication, *Frame Analysis: An Essay on the Organization of Experience*, which explains it as the organization of social experiences and events (i.e. "frames") and individuals' subjective involvement within these experiences.<sup>76</sup> Goffman postulates that individuals have a primary framework, which influences the interpretation of their experiences and surroundings.<sup>77</sup> Robert Entman's article

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<sup>73</sup> Robert D. Benford, "An Insider's Critique of the Social Movement Framing Perspective." *Sociological Inquiry* 67, no. 4 (November 1997): 410.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> Murry S. Davis, *Contemporary Sociology* 4, no. 6 (1975): 599.

<http://www.jstor.org/stable/2064021>

<sup>77</sup> Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (New York, NY: Harper & Row, 1974), 21-22.

*Framing: Toward Clarification of a Fractured Paradigm* takes the social framing theory and breaks it down into four parts. He explains that framing theory first defines a problem, then diagnoses the causes, provides moral judgments, and then offers a solution, with the goal being to create salience and illicit a response from the “receivers.”<sup>78</sup> He emphasizes that this framing theory is about transferring a perceived reality to achieve salience through communication.<sup>79</sup>

In the context of my thesis, the interviews conducted for this thesis have been analyzed in relation to social framing theory. Social framing theory’s four steps provides a framework within itself to better understand why and how civil society constructs human rights activism within communities facing human right to water violations. Framing theory will provide a theoretical understanding of the ways in which social movements utilize identifiable collective experiences (i.e. experiencing a loss of clean, safe, and affordable water) to generate support for the human right to water within a given community. The theory is a tool that enhances the structure of civil society and grassroots organizing efforts in California, Michigan, and Appalachia, providing the basic skeleton of the advocacy and activism being done in these cities and towns. Social framing theory provides a greater understanding of how human rights can be a productive tool for fighting socio-economic injustices in a country that participates in negative rhetoric and discourse surrounding economic, social, and cultural human rights.

#### *Human Rights-Based Approaches Theory*

This thesis will also pull from Alicia Yamin’s book *Power, Suffering, and the Struggle for Dignity*. Yamin’s book engages in understanding the ways in which human rights-based

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<sup>78</sup> Robert M. Entman, "Framing: Toward Clarification of a Fractured Paradigm," *Journal of Communication* 43, no. 4 (1993): 52, doi:10.1111/j.1460-2466.1993.tb01304.x.

<sup>79</sup> Ibid, 52.



approaches (HRBAs) can be used in relation to health and development.<sup>80</sup> While Yamin looks at HRBAs and human rights framing specifically regarding the right to health, her analysis provides an insight of how and why human rights frameworks can be applicable to socio-economic rights. Yamin's work can provide a foundational base of the successes and challenges of human rights frameworks. It can also show how human rights can be applied to advocacy and activism in relation to socio-economic rights, and how the outcomes of using these approaches can benefit people positively. Thus, interviews conducted for this research and thesis will be analyzed with Yamin's ideas of human rights-based approaches to health as a relational effort to the advocacy occurring in the United States surrounding the framework of the human right to water.

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<sup>80</sup> Alicia Ely Yamin, *Power, Suffering, and the Struggle for Dignity: Human Rights Frameworks for Health and Why They Matter*(Philadelphia: University of Pennsylvania Press, 2017).

### **III. Methodology**

#### **A. Methodology**

In order to answer the question, why are civil society advocates and organizers using the human right to water framework in the United States, semi-structured, qualitative interviews were conducted with local activists, civil society organizations, and community members embracing the frame of human rights. Specifically, these participants were located in California, Flint and Detroit Michigan, and the Appalachian Mountains (eastern Kentucky and southwestern West Virginia). These regions were chosen because they have been using the human rights framework in their advocacy and show strong examples of the way in which the human right to water is being utilized in action in the United States. The three regions also reflect different stages in engagement in the human rights framework and activism, which helps illuminate how communities chose to engage in human rights. Finally, the three regions are spread across the United States, represent different populations of residents, and different geographical topographies, which emphasizes how encompassing the human rights framework is despite differences in community demographics and locations. Each region garnered five to eight interviewees and interviews lasted between one and two hours on average. Interviews were based on the professional nature of the interviewees' work. However, there was overlap in the personal experiences for many individuals as they themselves are members of the communities affected and are struggling to access clean and affordable water in their own homes. Interviewees were asked open-ended questions that provided a platform to share their experiences and engagement, both professionally and personally, with the human right to water. This format allowed them to control the direction of the interview. Follow-up questions were based on the content provided by the interviewees themselves with minimal usage of the question guide.

## **B. Organizations and Interviewees**

Twenty-seven individuals were interviewed on the local level in this study. Of the twenty-seven there were sixteen interviews that were recorded and transcribed due to the relevancy of the conversations and requests to not be recorded. On the national level, Rob Robinson was interviewed. He is a human right to housing and water advocate on both a national and international scale.

### *California*

In California, interviews were conducted with both professionalized advocates working in the civil society sector, as well as activists who were directly affected by violations to the human right to water and advocating on behalf of the people in their communities. Recorded interviews were conducted with the Community Water Center, the Environmental Justice Coalition for Water, and the San Jerardo Cooperative.<sup>81</sup> In addition to these recorded interviews, conversations were held with a member of the Environmental Justice Coalition for Water, an activist from the Alliance for Democracy, and eight different community members living in Mount Shasta who are working on grassroots-level organizing around water and the Crystal Geyser plant.<sup>82</sup>

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<sup>81</sup> Laurel Firestone of Community Water Center, Britton Schwartz of the Environmental Justice Coalition for Water, and Horacio Amezcuita of the San Jerardo Cooperative, a low-income housing community in Salinas, CA.

<sup>82</sup> The conversations with the Mount Shasta organizers were informal discussions on the issues surrounding the bottling plant and who owns the right to the water that Crystal Geyser is taking for profit. While an important aspect of accessibility to water, as well as Indigenous rights and access to water. For the purposes of this study the conversations extended past the scope of the research question and were not recorded for those purposes. Their insights have influenced analyses and understanding of what the human right to water means in different contexts across not only California but the United States as a whole.

### *Michigan*

Interviews were held with both activists and organizations in Flint and Detroit. In relation to the water crisis in Flint, recorded interviews were with the Healthy Flint Research Coordinating Center, the Community Foundation of Greater Flint, and Crossing Water.<sup>83</sup> In Detroit, an interview was held with five members of the Michigan Welfare Rights Organization.

### *Appalachia*

In Appalachia, specifically West Virginia and Kentucky, interviews were conducted with organizations as well as grassroots, community level advocates. Recorded interviews included the West Virginia Rivers Coalition, the Coal River Mountain Watch, activists from the Kentuckians for the Commonwealth, and a nurse who works on public health research in Appalachia.<sup>84</sup> Interviews that were recorded with local community activists included Nina McCoy who started the Martin County Concerned Citizens, a community led group that was standing up for their right to clean water sources after a coal sludge spill contaminated their wells and municipal water source. Melissa Easterling, a resident of Emerald Ridge in West Virginia, was also interviewed to get the perspective of an individual community member working on her own to access her rights and the rights of the residents in her community. One interview that was not recorded in Appalachia was a meeting with Barbie Maynard, a resident in Martin County who was running for local government.

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<sup>83</sup> Yvonne Lewis of the Healthy Flint Research Coordinating Center, a member of the Community Foundation of Greater Flint, and Michael Hood, the founder of Crossing Water.

<sup>84</sup> Angie Rosser of the West Virginia Rivers Coalition, Junior Walk at the Coal River Mountain Watch, Teri Blanton and Mary Love from the Kentuckians for the Commonwealth, and Beverly May a nurse and MPH who engages in public health research.

### **C. Limitations**

The interviews conducted were only a small portion of the population using the human rights framework for clean and accessible water in the United States. They represented only three regions of the country, however there are more communities than these using human rights frameworks and facing water violations, including communities in Massachusetts, Washington D.C., Georgia, North Carolina, Maryland, Pennsylvania, and Alabama. Every advocacy effort and organization will have differing interpretations of the human rights framework and differing reasons as to why and how the framework is applicable in the community it is being used in. Thus, the small pool of interviewees only represents a portion of the population utilizing human rights as a framework.

Those who were interviewed believe in the idea of human rights, especially economic and social human rights, which provides a considerably biased opinion of why human rights should be centric to the debate of clean and affordable water. There are members of the communities where the interviews were conducted who would not agree with the framework, philosophy, or notion of water as a human right due to political discourse, speaking directly to the research question posed. Activists in these regions are characterized as “liberal” within the dichotomy of liberalism and conservatism in the country, meaning the work they do and beliefs they hold do not always reflect the feelings of a community as a whole. The breadth of interviews and information provided during these interviews was also not exhaustive. One to two hours spent with these individuals does not do justice to the trauma that their towns and communities are facing. These interviews were only a surface level introduction to the struggles in their communities.

#### IV. Findings and Discussion

California, Michigan, and Appalachia all experience challenges in access to water, and are all utilizing human rights frameworks to create greater accessibility, however they have differences in who is taking the lead on activism and advocacy. In California, there is a balance between who is engaging in this field of work. There are organizational activists as well as local community members participating in the work and activism as a voice of the people. In Michigan, Flint and Detroit have a strong prevalence of residents utilizing the human rights framework themselves, as well as local, city-based organizations embracing the framework.<sup>85</sup> Appalachia (eastern Kentucky and southwestern West Virginia specifically) has a small portion of community members engaging in the human rights framework and philosophy to stir up support and advocacy around clean and affordable water access.

There are also a range of demographics within each of the three regions, which highlights that access to clean and affordable water has far reaching effects. In California, rural, immigrant farming communities in Central Valley are hit the hardest by water contamination and affordability, while Flint and Detroit are both predominantly African-American, urban settings. Appalachia (eastern Kentucky and southwestern West Virginia specifically) is part of low-income, rural white America with a strong conservative base. Despite these differences between the three regions within this study, there are strong commonalities between them all that reflect *why* communities turn towards human rights for their advocacy framework.

This chapter will explore three main common themes that reoccurred in all of the interviews conducted within California, Michigan, and Appalachia. For the interviewees, a) the

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<sup>85</sup> For example, the Michigan Welfare Rights Organization in Detroit, MI and Crossing Water in Flint, MI – both are community-led, volunteer-based organizations tackling water crisis in their communities.

universalism of the human right to water, b) its ability to empower, and c) its role as an alternative, external system to the current government and as a reaction to the distrust for the local and state government. Within each of these themes, there are challenges as well as examples of how the human rights framework is used in practice, which will be explored as well.

### **A. Universalism of the Human Right to Water**

A main aspect of human rights is their universality – they are rights that all humans have based purely on the fact that they were born.<sup>86</sup> All humans, no matter their race, gender, economic status, nationality, etc., have inherent human rights; whether governments recognize, protect, respect, and fulfill these rights is where human rights as a concept and as an enforceable set of entitlements clash. In the United States, all humans have the human right to water regardless of whether the government on local, state, and national levels recognize and guarantee that right. In the framework of this research, “universality” came to mean the belief that water access, in terms of clean water sources and affordable prices, is something that all humans deserve and that this access should be available to all people despite their race, class, economic status, etc.

Universality as it came through in interviews with activists and organizers reflected the essence of the human right to water, showing that it speaks to all humans across the United States with no differential based on class, race, ethnicity, and geographic location. This is what universality means – and residents of communities in rural California, urban Michigan, and rural mountainous Appalachia all understood and believed that people deserve and should have access to clean and affordable water. To be exact, out of sixteen recorded interviews, the idea of

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<sup>86</sup> UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html>

universality was referenced a total of forty-nine times, and at least once in every interview.<sup>87</sup>

This shows that the meaning of the human right to water (i.e. water must be clean, safe, affordable, and accessible to all) resonates with people across different geographic locations and backgrounds. Human rights as a framework can be utilized, then, when advocating for clean and affordable water because of this universality – this emerged as the main reason why advocates turn towards this framework.

Discussions between advocates/organizers and residents of affected communities regarding water issues in a community can be centered around the universal notion of clean and affordable water for all. Advocates interviewed have found that the essence of the human right to water is typically not disputed in the communities they are working with.<sup>88</sup> However, there can be pushback depending on the specific language used in the practice of utilizing the human rights framework which will be discussed further below. In agreed upon terms, interviewees reflected similar ideas when talking about the human right to water and the work that they do.

Universality, then, not only means that human rights under international law extend to all people, which is why advocates use it as a framework, but more so it is the concept and ideology behind the right that allows people to “wrap their arms around it.”<sup>89</sup>

The human rights framework is used because this sense of universality allows for advocates and organizers to garner support for the fight for clean and affordable water. There is little dispute in a community facing contaminated water sources to align themselves with the idea that they are all deserving of clean water. In the United States, whether the government wants to

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<sup>87</sup> There were approximately 27 interviews and discussions total, however only 16 were recorded and transcribed for reference due to relevance and requests by interviewees to not be recorded.

<sup>88</sup> Within all the interviews there was the same reiteration that residents in their communities would not dispute that they believe people deserve clean and affordable water.

<sup>89</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA



accept it or not, there is a human right to water and a strong belief amongst residents that this is a matter of humanity, dignity, and something that they deserve access to.<sup>90</sup> Thus, human right to water activists are utilizing the framework because communities experience identifiable violations of rights. They can share the most basic form of the human right to water grounded in the notion of universality through town forums, open dialogues, and print/social media information sharing to help communities gain access to this right; organizations and activists are a tool for residents to understand and access these rights that already exist.<sup>91</sup>

Advocates also express the idea that “we are what we drink” and the notion that bodies are made up of water, creating an even stronger base for this idea of universalism of water accessibility.<sup>92</sup> There is a connectedness between the health and bodies of residents and their water sources.<sup>93</sup> It connects humanity to a point where people can understand its importance and feel the violations to their rights on a personal as well as communal level. A water advocate in West Virginia, Angie Rosser, spoke to this specifically and the sense of there being no divide when it comes to thinking about who does and does not deserve clean water in the communities where she works.<sup>94</sup> The humanity of water, and of water accessibility, outweighs the politicization of human rights; there is no way to determine who is more deserving of clean water

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<sup>90</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA.

<sup>91</sup> Interview with Rob Robinson on 6-5-2018 in New York, NY. For example, the organization Appalachian Voices provides residents with information on water in Appalachia, on what their rights are, and how to engage in activism on a local level to create a change in their own community. While the residents themselves are taking control of their future, Appalachian Voices helps them understand how to best advocate on their own and different ways to engage with their local government.

<sup>92</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia; Interview with Yvonne Lewis on 7-18-2018 via phone; Interview with Teri Blanton on 7-24-2018 in Berea, KY.

<sup>93</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia; Interview with Yvonne Lewis on 7-18-2018 via phone; Interview with Teri Blanton on 7-24-2018 in Berea, KY.

<sup>94</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia.

in a community. When a community, or individual, is affected by the inaccessibility of clean or affordable water, the understanding of universality is magnified. There is a greater sense then that the essence of the human right to water is not as divisive as the discourse surrounding human rights suggests – however it is still not without its challenges.

### *Language and the Challenge of Universality*

Despite the common belief amongst activists and community members in all three regions that the universality of the human right to water is a compelling reason as to why the framework is utilized for advocacy efforts, there is a strong challenge to this universality. While the basic idea of the human right to water, specifically the belief that everyone should be able to access clean and affordable water, resonated with residents in California, Michigan, and Appalachia, advocates expressed that they could not always explicitly use the phrase “human right.” In nine out of the sixteen interviews, there were a total of thirty-eight times in which the question of language and semantics was mentioned and how depending on the audience, advocates would change the language they used. These interviews directly speak to the paradox of why communities use human rights when the discourse surrounding it can be divisive.

The region in which this conflict in language came across most prominently was in interviews with advocates from the Appalachian Mountain region. Water activists in these communities noted how the audience influenced how the human right to water as a framework is utilized. Angie Rosser, of the West Virginia Rivers Coalition, explained: “...I think some audiences around here, you'd go into [human rights] and you'd totally lose them. So, we have to gauge every time we're in front of a person or an audience, ‘Okay. Where are these people at and how do we meet them where they're at?’” She is speaking to the *how* of the human rights framework in terms of how one engages a community audience that may not know of human rights

as a concept. Junior, from Coal River Mountain Watch (CRMW) in Naoma, West Virginia, expressed this as well. He acknowledged that at CRMW, there is not a strong sense of putting forth human rights language or instruments, but rather the human right to water is a guiding philosophy and principle for the organization as they engage in activism and resistance against the coal companies in their region.<sup>95</sup> Human rights is an underlying principle, or philosophy, and they use that idea of “water for all” and understanding that this is a violation of rights to shape the activism that they engage in while still keeping in mind the audience in which they are engaging.

For Angie, there is a challenge of using human rights because the communities she works with might not know what that means. Beyond that, and more significantly, there is the fear that the idea of human rights (or environmental protection) and demanding these would lead to a loss of jobs for the region.<sup>96</sup> This was a discussion that occurred many times in Appalachia - clean water is constructed as the antithesis to jobs. The region has fallen into the myth that one cannot have environmental protections and regulations and economic prosperity.<sup>97</sup> The government,

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<sup>95</sup> Interview with Junior Walk on 7-26-2018 in Naoma, WV

<sup>96</sup> Jenny Brown, "Climate Change is Drowning Out 'Jobs Vs. Environment' Debate." *Labor Notes*, 03, 2013, 8-10, <http://ezproxy.cul.columbia.edu/login?url=https://search-proquest-com.ezproxy.cul.columbia.edu/docview/1316620575?accountid=10226>.; Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia. “Jobs vs. environment” has been a common myth for decades in places across the United States. Union workers are often pitted against environmental regulations, placing favoritism on jobs over protecting the environment. There has been misconception then, one that is still entrenched in Appalachia, that if you are “pro-environment” you are “anti-jobs” and vice-versa, leading to great challenges in efforts both to increase economics and the environmental health of the region. However, in more recent history, there is a changing belief that these two are not mutually exclusive, especially in relation to climate change. People are now seeing that environmentalism does not mean no jobs, but that it can mean different jobs – “green jobs” – that support more environmentally sustainable practices and promote job growth. However, for Appalachia, there still seems to be a strong dichotomy between coal companies, job growth, and the passage of legislation to implement stricter regulations on clean water.

<sup>97</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia; Interview with Teri Blanton on 7-24-2018 in Berea, KY

corrupted by coal lobbyists, creates a dichotomy between socio-economic rights – the people are expected to choose either the right to clean water or the right to work and be economically prosperous.<sup>98</sup>

Activists such as Angie need to balance the universality of “clean water for all” with the realities of the community in which they are working. These communities face economic struggles, have high unemployment rates, and have a conservative-leaning political base, strongly believing in the “American dream,” working for yourself, and that you access water, housing, and food through this hard work.<sup>99</sup> The history of human rights discourse in the United States still has influence, then, on the beliefs today.<sup>100</sup> There is a continued association between human rights, specifically socio-economic human rights, and socialism that is still prevalent in the United States’ belief system.<sup>101</sup> These beliefs can still be seen in pockets of conservatism, leading to the politicization of human rights in the present day.

An example of this can be seen through an anecdote from Bev May, a nurse and public health researcher in Eastern Kentucky. At a town meeting facilitated by a group of students studying human rights at the local college, the students introduced the question of what human rights look like to the community. Bev expressed that health and healthcare are human rights to her, and rights that she felt were violated in their town and state, but this notion of health as a human right angered another community member. Bev stated: “...he went off on that people don't have a right to anything. They should work for what they get. He worked for what he has.”

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<sup>98</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia; Interview with Teri Blanton on 7-24-2018 in Berea, KY

<sup>99</sup> Interview with Beverly May on 7-26-2018 in Whitesburg, KY; Interview with Nina McCoy on 7-25-2018 in Inez, KY

<sup>100</sup> Way, “The “Myth” and Mystery,” 870, 889-94.

<sup>101</sup> Ibid, 895.

This again speaks to the discourse of socio-economic rights in the United States and how there is a sense of privilege associated with accessing healthcare, water, and shelter and a belief in the “American Dream” mentality. This instance shows how “human rights” as a phrase can anger some individuals, particularly those who are holding onto negative associations of human rights. It also highlights the notion of “privilege” in conjunction with socio-economic rights. The man in Bev’s anecdote associated “human right to health” as free healthcare. In the case of the human right to water, activists see this same pushback from people who interpret it as receiving water free of charge.

Activists such as Bev, Angie, and the West Virginia Rivers Coalition still prioritize and embrace the human right to water in the work that they do. Angie states that, “[a]ll the polling I’ve seen on the right to clean water, it’s universal [sic] valued.”<sup>102</sup> This means that the barrier in language and the politicization of human rights in her community does not affect the belief that clean water is valued by the people she is interacting with. The idea that socio-economic human rights are a socialist concept is still influencing the community and furthers the divisiveness of human rights. Yet residents in the region who are still encompassing anti-socio-economic rights rhetoric are finding themselves agreeing with the notion of “clean water for all” – an inherently human rights-based belief – because the issue of clean water is personal. Bev explains, “the question of should you be able to turn on your tap and get clean affordable water isn’t fraught at all.”<sup>103</sup> Rather, it is all in the way human rights and the language of human rights are taught and socialized in the United States that creates a barrier and conflict. Simply removing the term “human rights” from the question of water accessibility while still speaking about the same

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<sup>102</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, WV.

<sup>103</sup> Interview with Beverly May on 7-26-2018 in Whitesburg, KY

principles and ideas can eliminate the barrier in opening community dialogue. These residents, whether they believe in human rights or not, are having their right to water taken from them. Whether they use the language “water is a human right” or not is up to them, but the residents are seeing that something is wrong and that they should not be denied clean water.

Appalachia was not the only region in which language had to be navigated in order to avoid politicization and divisiveness when engaging in human rights frameworks. California water activists expressed this notion as well and noted that there were differences in the way in which they utilized the human rights framework depending on their audience. Laurel Firestone of the Community Water Center in Sacramento, CA stated: “But [the Community Water Center] definitely [doesn't] only use human rights, I mean I think that we have definitely found that there's some contexts where that's more helpful, and some people really react against that. Or are trigger [sic] by it.”<sup>104</sup> She acknowledges that there are certain communities and residents that the organization works with that responds well to this framework and some who do not.

An example of this can be seen within Latinx immigrant communities. These communities tend to respond positively to the phrase “human rights” because human rights, both political and civil as well as socio-economic rights, are interwoven in the culture and discourse of Latin American countries. The phrase “human rights” became inflammatory when used in white, rural communities because the context in which human rights are discussed in the United States is more divisive. Laurel also expressed that in the Latino communities there was a visible difference in how “human rights” resonated with different generations.<sup>105</sup> The term resonates less with those in the Latino community who have been in the United States longer, or have been

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<sup>104</sup> Interview with Laurel Firestone on 6-21-2018 in Sacramento, CA

<sup>105</sup> Interview with Laurel Firestone on 6-21-2018 in Sacramento, CA

socialized in the United States (i.e. those who were born here) than with more recent immigrants or those who grew up in Latin America, where the human right to water is a more strongly embraced concept.<sup>106</sup>

Reflections on these challenges to the human right to water framework in relation to barriers in language and belief systems in socio-economic rights as human rights can reinforce the paradox of this study. While these notions do reinforce the idea that the United States' government does not embrace socio-economic human rights, it does allow for a clearer understanding of why the framework is still used. Whether "human rights" as a phrase is used or not, and whether advocates are working in rural California, mountainous Appalachia, or urban Michigan, the idea and question of "do you deserve access to clean and affordable water?" elicits the same response from individuals. It is a resounding "yes." The human right to water is a universally valued and accepted right, whether the words "human rights" are attached to it or not. This is one reason why the human rights framework is utilized. There is a universally accepted belief in water for all, and for the communities facing violations it becomes personal. There is a deeper understanding, based on the personal struggle for access, whether it is affordability or contamination, that water is a necessary part of life and that it is not something that can be taken for granted.

The challenges that activists confront when using the phrase "human rights" may seem to be a barrier in advocacy efforts for clean and affordable water. However, this study shows that the concept of the human right to water itself is not as divisive as it seems. When stripped down to its core essence, this human right can be universally accepted by individuals in all parts of the

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<sup>106</sup>Interview with Laurel Firestone on 6-21-2018 in Sacramento, CA

country. Activists on all levels have been able to utilize this universality to implement the human rights framework, whether explicitly or not.<sup>107</sup>

Erving Goffman's frame analysis can help illuminate the reason for this belief in universality and how the human right to water becomes embraced by residents despite the notion that human rights are divisive. As residents in communities are experiencing violations of the human right to water, the event can be seen as natural in their own personal, primary framework.<sup>108</sup> The event of losing access to water is personal. As they understand this event through a social framework they begin to see the scope of the event outside of the personal. There is an understanding that a lack of access to water extends beyond the primary framework and has been created through a system of social constraints burdening them and their community as a whole.<sup>109</sup> Because the issue has now been personalized, residents in affected communities can better associate with and believe in the universality of water accessibility both in terms of safety and affordability.

When activists interact with community members in California, Michigan, and Appalachia, there is a general consensus that all humans deserve clean, affordable water. This provides a gateway for the framework of human rights in the realm of activism in California, Michigan, and Appalachia. People are experiencing a lack of water on a personal level, within their primary framework, which leads them to identifying with the core essence of the human right to water. The personalized experience leads to the embrace of and belief in universality,

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<sup>107</sup> Levels meaning non-profit organizations, grassroots organizations, community-led efforts, and even individual resident activism as seen in regions of Appalachia. For example, Melissa Easterling in Appalachia who is the sole activist in her neighborhood fighting for a hook up to a municipal water source.

<sup>108</sup> Goffman, *Frame Analysis*, 22.

<sup>109</sup> *Ibid*, 22-23.



understanding that this issue is not just affecting them but their neighbors, community, and cities surrounding them. They may also feel a connection with others through media outlets reporting on these same issues of contamination and affordability in places all over the country. This realization that their experience is not isolated and that there is an acceptance of clean, affordable water shows that human rights are not as divisive as society is led to believe.

While the interviews indicate there were challenges in using the phrase “human rights,” the fact that community members were able to personally identify with the core of the human right to water, illuminates how universal human rights can truly be. For advocates and activists looking to fight back against these violations, then, the human rights framework becomes more perspicuous because residents in the community are already recognizing the universality of human rights. It becomes an avenue for engagement. The acknowledgement of a human right to water is already there whether the phrase “human rights” is used by residents or not – activists and grassroots organizers are then just picking up on this acceptance of universality and translating it into an official human rights framework for activism.

Human rights as a framework, then, is used because it is built on the experiences of residents and the personalization of their experiences in relation to this violation of rights. This leads to residents becoming agreeable with the philosophy of and essence of the human right to water through universality. The divisiveness is slowly eliminated and the notion of “clean, affordable water for all” is embraced. Advocates and activists can then use this as an opportunity to implement a human rights framework, encourage engagement in human rights-based activism, and ultimately lead to community empowerment in the face of violations to this right.

## **B. Empowerment and Community Success**

The understanding of universalism of the human right to water provided water advocates and activists a way to encourage engagement in human rights in communities facing violations of this right. It is a unifying concept and a strong reason why this is a chosen framework for this activist effort due to its natural integration into individual beliefs in access to clean and affordable water for all. Universality, then, is the way to engage a community, while the human rights framework is used to empower the community itself. In all three case studies the concept of human rights as a tool for empowerment and community success was reoccurring.

“Empowerment” as a concept was mentioned in fifteen out of the sixteen recorded interviews and referenced fifty-nine times total, whereas “community success” was addressed in eleven interviews and referenced thirty-six times. This was particularly common in California and Michigan. Advocates see the human right to water as a framework that can empower those who have experienced violations to this right and subsequently lead to broader community success.

### *A Comprehensible Framework*

Britton Schwartz, a lawyer from the Environmental Justice Coalition for Water, discussed the empowerment of human rights regarding her work in California surrounding the human right to water more than any other advocate. For Britton, the human right to water is something that is accessible to understand, unlike the law in the United States, and therefore is a more empowering tool for residents. She stated: “There's a way in which [the United States'] legal system is constructed to disempower laypeople.” The human rights framework based on the notion of universality and the shared belief that everyone deserves access to water is more intuitive to grasp.

When residents are not able to read and understand the law, it creates a sense of defeat. The law is not written for everyone to access and vocalize their claims to rights. Human rights-based approaches to activism can help individuals see where they experience constraints due to power structures which limit participation in their rights.<sup>110</sup> The United States has created a power structure that limits the ability for laypeople to participate. If residents cannot understand the law on their own, how are they supposed to claim their rights when a violation occurs? How do they participate in the system of law? As Britton pointed out, the law in the United States is only accessible and empowering for those who can read, interpret, and understand it (i.e. professionally trained lawyers, a profession that itself is not accessible to all), which was not meant for laypeople to participate in.<sup>111</sup> However, the human right to water is clear cut in its language – it is accessible and allows for residents to point to the text and claim their right. In terms of framework, activists can easily incorporate the language of human rights to their advocacy without the need for interpretation. Human rights create an avenue for participation, understanding, and an accessibility to claiming rights.

#### *Internal Validation of Residents and Community*

The notion that human rights framing, in concept and in language, is accessible also leads to residents' experiences being validated, and as a result empowered to act. Residents in Appalachia are not as active in the engagement in the human right to water as regions of California and the residents of Flint and Detroit, Michigan, especially in explicit terms, and yet they are utilizing human rights frameworks to validate their experiences through participatory measures. Alicia Yamin discusses the notion of “internal domination,” referring to an individual

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<sup>110</sup> Yamin, *Power, Suffering, and the Struggle for Dignity*, 160.

<sup>111</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA

who adopts a point of view of themselves that positions them as inferior to others.<sup>112</sup> This leads to an invisible power imbalance between those who are experiencing internal domination and those who have created that sense of inferiority (i.e. governmental structures, politicians, society as a whole) and leads to a hinderance of social action by those suffering the most.<sup>113</sup>

Throughout the conversations with individuals in Appalachia, there was an overwhelming sense that there was no reason to act because nothing would change. Many community members were convinced that there was no hope for a resolution because the systems that were in place creating mass contamination in communities was dominated by the coal industries, coal lobbyists, and corrupt politicians. The government is supposed to protect the people it represents, but in Appalachia the people feel a distinct sense of disillusionment as they realize that this is not the way the government works in their communities. The coal lobby is too strong, and the industry is entrenched in the fabric of Appalachian politics, economics, and community life. Residents feel an overwhelming sense of defeat and belief that their voices do not matter enough and are not loud or powerful enough to take a stand and create a social change, experiencing this internal domination.

Yamin continues to explain that engaging in a human rights framework can help alleviate the sense of internalized domination and provide facilitation of meaningful participation.<sup>114</sup> In Appalachia, there were many women who were facilitating meaningful participation to give a voice to their neighbors, friends, and communities. For Barbi Ann Maynard, this meant running for town council, to get to the root of the corruption and to ensure that there was a person on the

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<sup>112</sup> Yamin, *Power, Suffering, and the Struggle for Dignity*, 160-61.

<sup>113</sup> *Ibid*, 160-61.

<sup>114</sup> *Ibid*, 161.

council who would open the floor for dialogue, concerns, and citizen voices.<sup>115</sup> For Melissa Easterling this meant being the designated neighbor in her small community who was willing to put forth her struggle for water and to engage in town halls, letter writings, and other means of participation with the goal of gaining access to clean water for her and her neighbors.<sup>116</sup> Finally, for Nina McCoy, this meant creating a concerned citizens group for her county to give a voice to the residents and find a path for engaging in dialogue with political figures and corporations that were responsible for sludge spills.<sup>117</sup>

These actions, whether explicitly using the phrase “human rights” or not, are all variations on human rights-based approaches to help engage in addressing critical rights violations. These women are creating safe spaces in which residents can feel that their concerns and experiences are valid because they are laying a pathway for open dialogue and participation. They are eliminating the feeling of internal domination, of the feeling of “what is the point” and “this is how it has always been,” and the sense that there is no value in speaking up because the forces in power are too strong to compete against.

Other regions and residents utilize external actors to find a sense of validation. Such is the case in California and Michigan, where organizations and residents turned towards UN representatives and mechanisms to validate their experiences. Britton explained, “Human rights, the power of human rights is about putting that in someone's hands ... It’s validated by external actors like the UN special rapporteur coming to visit your community...” This is especially true in communities that have historically been disempowered, as well, giving them a framework that validates their experiences of lack of clean and affordable water and the inequality they face in

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<sup>115</sup> Meeting with Barbi Ann Maynard in Martin County, KY

<sup>116</sup> Interview with Melissa Easterling on 7-28-2018 in Jolo, WV

<sup>117</sup> Interview with Nina McCoy on 7-25-2018 in Inez, KY

this struggle for access.<sup>118</sup> It provides a framework and advocacy plan that provides legitimacy to their claims.<sup>119</sup>

The notion of validation was also addressed by a member of the Community Foundation in Flint in relation to utilizing human rights mechanisms, in relation to addressing the presence of racism in the water crisis. She stated that "...[the UN report] was a validation of the systemic effects that caused the issue...I also think it validated, especially along the lines of racism, that [the water crisis] was a race issue, and that the systemic effects of racism were definitely at play."<sup>120</sup> Using human rights mechanisms and having the UN special rapporteur write a report, issue statements, and engage in communication with the city of Flint regarding the water crisis allowed for the community to feel that their experience, the systemic racism, and their concerns were real and that their rights were internationally recognized as being violated.<sup>121</sup> It called out explicitly the governmental actors who were to blame for the crisis, empowering the community as a result.<sup>122</sup> For both Britton and Sue, the validation through and use of the human rights framework can lead to "...the ability of communities to define their own futures."<sup>123</sup>

These tactics of finding validation both internally and through external actors helps facilitate the meaningful participation that Yamin talks about, providing an opportunity for residents to feel validated in what they have experienced and that they are not alone in wanting to create a change.

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<sup>118</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA

<sup>119</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA

<sup>120</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI

<sup>121</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI

<sup>122</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI

<sup>123</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA; Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI

### *Credibility and Acknowledgement of Concern*

The transformation from disempowerment to empowerment has also been referenced in conversations surrounding both the Flint water crisis and the water disconnections in Detroit. For Yvonne Lewis, a Flint community activist and resident, water had been a major concern for the people of Flint, before the crisis itself happened. Long before the media attention grew, Flint residents were speaking out about their concern for the switch in water sources and the increasing prices in water. They were mimicking the ideology of the human right to water in their activism and dialogues centered around water. As Lewis explained, the people knew that they had a right to clean and affordable water, it was inherently valued and understood by the community, however it was explicitly using the human rights framework and the learning of scientific language that led to a feeling of empowerment amongst the community.<sup>124</sup>

The residents in Flint needed to speak the language of the government officials in order to be taken seriously, to be listened to, and to have their voices valued. The discussion surrounding the Flint water crisis was largely scientific, so activists learned the science so they could participate in community discussions and have a seat at the table.<sup>125</sup> The use of human rights language as well allowed for a recognition by the government that the residents are not to be ignored, and as the member of the Community Foundation of Greater Flint also acknowledged, the human rights language and framework not only validated their experience and the systemic racism in Flint, but it also criticized the government explicitly on an international level.<sup>126</sup> When the crisis first began, concerns over the smell, taste, and color of the

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<sup>124</sup> Interview with Yvonne Lewis on 7-18-2018 via phone

<sup>125</sup> Interview with Yvonne Lewis on 7-18-2018 via phone

<sup>126</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI; Interview with Yvonne Lewis on 7-18-2018 via phone

water were largely overlooked and ignored by the government as there was a perception that residents were complaining to complain.<sup>127</sup> By reshaping and re-framing their concerns with the water into human rights language and learning how to speak about the water crisis in a scientific way, the residents of Flint were able to feel that they had a voice at the table and felt that their experiences had been validated.<sup>128</sup>

### *Unifying a Community*

For the residents of Detroit, the human rights framework provides empowerment as well. The Michigan Welfare Rights Organization (MWRO) is a volunteer-based organization that supports socio-economic rights and human rights of Detroit residents. The volunteers at the MWRO expressed how using human rights allowed an expansion in the conversations the organization was having with different members of the city in a way that helped them organize people across different sectors.<sup>129</sup> They reinforce the notion that the “residents must fight for their rights and fight with others beside them in order to stand up against a system that is working against them.”<sup>130</sup> The human rights framework has been a tool for opening this dialogue and empowering the residents to work together because water shut-offs in their city is affecting people no matter their identity.<sup>131</sup> The residents that they work with have embraced the human

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<sup>127</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI; Interview with Yvonne Lewis on 7-18-2018 via phone

<sup>128</sup> Interview with member of Community Foundation of Greater Flint on 7-17-2018 in Flint, MI; Interview with Yvonne Lewis on 7-18-2018 via phone

<sup>129</sup> Interview with Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

<sup>130</sup> Interview with Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

<sup>131</sup> This also relates back to notions of universality: the driving force behind the human right to water framework in these communities. There is a commonality between all residents in a community facing inaccessibility to water, whether it is contaminated or unaffordable, which bridges the gap of differences and unites a community in order to fight for a universal cause.



rights framework as a tool for pushing back against the violations happening to them and giving them a sphere in which they can stand up for themselves and elevate their voices.

### **C. Seeking an Alternative System**

Communities facing violations to the human right to water are also experiencing failing governments and harmful influences of third-party corporations (i.e. in this study they are the coal and agricultural industries). This leaves residents disillusioned by the role of the government. For the regions in this study, and in other parts of the United States facing inaccessibility to clean and affordable water, communities are turning towards human rights frameworks as an external alternative that can assist residents in holding the government and corporations accountable for their actions. Accountability is an important aspect of human rights framework that sets it apart from other activism-based frameworks.<sup>132</sup> The accountability aspect of a human rights framework can establish new relationships between pertinent actors in the violation process (i.e. government, policy makers, corporations, and residents) and elevate the voices of the most marginalized members of a community.<sup>133</sup> Human rights frameworks can also help residents and their governments facilitate solutions and ideally establish policies to protect residents from further contamination and economic exploitation moving forward.

#### **Distrust**

The case studies reflect, more than any other trend, a growing distrust for all levels of government as well as corporations in the communities facing an active struggle against the contamination of water sources. Distrust was referenced seventy-one times in the sixteen recorded interviews, reflecting how disruptive these violations of the human right to water are on

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<sup>132</sup> Yamin, *Power, Suffering, and the Struggle for Dignity*, 133.

<sup>133</sup> *Ibid*, 139.

a community and the personal toll they take on residents' ability to put trust into a system that was supposed to protect them but failed to do so. Instead, activists and organizers reiterated again and again how the communities in which they work and live lack trust in their government as they have often put profit over the rights, health, and well-being of the people. While human rights have become politicized and dismissed by the government, reinforcing the "American Dream" mentality that rights to food, shelter, water, and so forth are privileges, there is still a distrust in the government because people still want the government to protect them. When the government fails at protecting, distrust settles into communities.

In California, this distrust is seen with the negligence of the government and large-scale influence of agricultural companies, in Michigan it is seen within the government itself and the actions of both elected and appointed officials, and in Appalachia there is distrust for both the government and the corruption within the government due to ties with the coal industries.

### *California*

In California, the distrust residents experience is directed towards both the government and the big agricultural businesses that dominate the economy and provide jobs for many rural populations. Horacio Amezcuita, the manager at the Salinas based San Jerardo housing co-op, expressed strong feelings of distrust when discussing the cyclical struggle of access to water for his community. San Jerardo is a low-income housing co-operative that is primarily home to Latino immigrant farmworkers. The community first had to fight for years to obtain a water filtration system that would protect them from the contaminated groundwater providing water to their housing community. The contamination was a result of largescale pesticide usage among corporate agricultural farms, many of which employed the residents of San Jerardo. Now, for the

past two years, they have been fighting to gain ownership over their filtration system as to not have it bought out by a private company and subsequently raise water prices.

Horacio raised the questions “Who’s going to take care of this matter?” and “who’s going to protect the people and the animals and the environment...?” repeatedly, acknowledging that there is no hope or trust that the government is going to protect them.<sup>134</sup> He explicitly stated: “There’s something wrong with the government. The government and the people that are running the business just for the sole purpose of profit and money.” There is a strong feeling here that the government is working for the agricultural companies and not for the people, even with the human right to water law on the books in the state.<sup>135</sup> With no implementation of the law and a favoring of companies over the people, government has failed to abide by its obligation to respect, protect, and fulfill human rights for their residents. Horacio’s frustration highlights how residents in California feel that the domestic framework is failing, which is the reason Horacio, activists, and residents in California are turning towards the human rights framework as an alternative.

While Horacio references this failure of the government through his own experiences and observations, Britton Schwartz explicitly states what is happening in the United States – a lack of willingness to comply with the international framework of human rights law. As Britton states:

The US does a particularly, uniquely, terrible job of fulfilling one of the most basic obligations of human rights law, which is, if you, as a state, obligate yourself to an international human rights treaty, the first thing you're supposed to do is change all your law to conform with that and to provide people with the remedy in court, if your rights are violated. And we suck at that. We just straight-up refused to do it.<sup>136</sup>

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<sup>134</sup> Interview with Horacio Amezcuita on 6-19-2018 in Salinas, CA

<sup>135</sup> Assem. Bill 685, 2012 Reg. Sess., 2012 Cal. Stat.

<sup>136</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA

Britton's statement has brought up the paradox of this study again. She acknowledges that the human rights framework, while an alternative to the current domestic framework that is failing, also has its shortcomings. The human rights framework does not exert sufficient amount of pressure on the government to uphold its obligations to provide clean, affordable water.

This refusal to comply with obligations to respect, protect, and fulfill the human right to water for the people of California in addition to the long-standing dissatisfaction with governmental inaction regarding water leaves residents such as Horacio with feelings of distrust and confusion. Horacio voiced his concern: "I don't know why, if we have a government, why they don't stop [the agricultural companies]. Why they allow them. It keeps going." In conjunction with Britton's statement, it is paradoxical that residents utilize human rights frameworks despite the risk of failure to pressure the government into upholding residents' rights. But despite this, as residents face contamination they continue to search for a framework that will provide them with advocacy tools that will lead to solutions, including the human rights framework. For Horacio, Britton, and other residents of California, the passing of the human right to water bill was a success, but the state government is still largely failing to uphold and implement this right, perpetuating the feelings of distrust and hopelessness in communities facing the largest rates of contamination and raising water bills.

### *Michigan*

Distrust was a major factor in the interviews in Flint, Michigan. Advocates in this city expressed that there was a large distrust for the government and its priorities both prior to and following the water crisis. Much of this distrust came from the fact that the emergency manager law was voted against by the people; they exercised their democratic right to vote and their voices were still ignored by the government. For activist Yvonne Lewis, the fact that their right

to vote was violated was the first instance of a violations to human rights – the right to vote was not recognized by the government and that was the first time that the trust was eliminated.<sup>137</sup>

Michael Hood, of Crossing Water, reiterated this, believing that this was the first instance of rights violations and distrust in the city. The emergency manager who took over the city of Flint's economics was someone who came to power by appointment by the state government, not by election through the people of Flint. This is the base of the distrust in the city.

As Yvonne and Michael both experienced and reiterated, the distrust continued to grow once the water crisis happened and their concerns over the switch were widely ignored. The emergency manager and government continued forward with plans to switch the water source, losing all trust from the local community. As Yvonne stated:

[W]hat essentially happened as a result of these violations is a total lack of trust for the governmental process...[it] had a significant impact on the perspective, the hope, and the general sense of community and feeling and understanding that the leaders that were chosen to represent us were truly doing that in a positive way. That didn't happen.<sup>138</sup>

Years after the crisis, the feeling of distrust is still ever-present in the city of Flint, as the community is still grappling with the violations that occurred.

### *Appalachia*

For the communities in Appalachia, distrust comes from the influence that generations of coal industries have on the government and residents. People feel tied to the coal industry as it was the main source of income for hundreds of years, and the government is highly influenced by this industry as it has been the sole economic base of Appalachia. This creates a conflict of interest for residents in this community. If they actively claim their right to water, then they put themselves at risk of losing their jobs, or the jobs of a loved one, employed by the coal

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<sup>137</sup> Interview with Yvonne Lewis on 7-18-2018 via phone

<sup>138</sup> Interview with Yvonne Lewis on 7-18-2018 via phone

companies.<sup>139</sup> Junior of the Coal Mountain River Watch (CMRW) spoke to his experiences with this conflict. His grandfather, father, and himself have all been employed by the coal companies in Appalachia, but when Junior began getting involved in CMRW, he had to work anonymously never having his name published on any documents and articles he was affiliated with criticizing the companies and claiming rights to water.<sup>140</sup> He was fearful of losing his job as a security guard at a coal company and his father losing his job as well.<sup>141</sup> Junior decided to continue his work with CMRW, leave his job at the coal company, and put himself at a small distance of his family.<sup>142</sup> These were compromises he needed to make to fulfill what he thought was right: to fight the coal companies. Junior is not alone in this. He is just one of many in the Appalachian region who must make the decision between claiming rights to water and keeping their job.

For water activists in the region, this correlation between government and coal has contributed to distrust, and the massive struggle with water that the people of Appalachia face. For communities that have experienced coal slurry spills, there is a sense that arrogance was a major contributing factor, and that they were not accidents; these spills result in distrust both in the safety measures of coal industries and of the water itself.<sup>143</sup> As a result, residents across Appalachia have taken on the economic burden of relying on bottled water because they do not trust that the government nor the coal companies responsibly took care of the spills, believing that their water is still being contaminated.

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<sup>139</sup> Interview with Junior Walk on 7-26-2018 in Naoma, WV

<sup>140</sup> Interview with Junior Walk on 7-26-2018 in Naoma, WV

<sup>141</sup> Interview with Junior Walk on 7-26-2018 in Naoma, WV

<sup>142</sup> Interview with Junior Walk on 7-26-2018 in Naoma, WV

<sup>143</sup> Interview with Angie Rosser on 7-28-2018 in Charleston, West Virginia; Interview with Beverly May on 7-26-2018 in Whitesburg, KY; Interview with Nina McCoy on 7-25-2018 in Inez, KY

### *Human Rights as an Alternative Framework*

Advocates, activists, and residents began using a human rights framework in relation to their struggles with access to water at a time when there was a strong sense of distrust and frustration with government. For the residents of California, Michigan, and Appalachia, their feelings towards their government systems have been negative since the beginnings of their fight for water. As seen, government actors and third-party actors (i.e. corporations) have been the source of the violations of the human right to water in these communities, resulting in an extreme lack of trust amongst residents. Profits are being placed over people in these regions, with governments ignoring what is best for the health and well-being of their residents to either protect corporations (i.e. California and Appalachia) or make up for deficits in their own budgetary issues (i.e. Flint and Michigan).

As a response, the human rights framework has been incorporated into advocacy efforts to address this distrust in the democratic system. Residents are looking for something that will place the onus on the government for what is happening in their communities surrounding water. Their experiences with inaccessibility of water is directly contrasting the politicized discourse surrounding human rights in the United States. They are choosing to turn towards this framework because they are looking for something that will validate their feelings of distrust in the current system and human rights is a framework that can aide them in holding the government accountable.<sup>144</sup>

Reflecting on the four steps of creating a social framing theory, the last of which is to provide a solution, the human rights framework is able to assist residents in building accountability relationships with their government and finding solutions to the issue of

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<sup>144</sup> Yamin, *Power, Suffering, and the Struggle for Dignity*, 133.

contaminated, unaffordable water.<sup>145</sup> Traditional avenues of activism and interactions with the government through the democratic system can become discouraging, as can be seen in Melissa Easterling's interview. However, human rights frameworks are external from the government system and stress the importance of government accountability, equality in decision making processes, and raising the voices of residents commonly discriminated against.<sup>146</sup>

One mechanism of accountability is through "naming and shaming," exposing the wrongdoings to the international community, through UN agencies, special rapporteurs, and country reports.<sup>147</sup> This was seen in all three regions within this study. In Flint and Detroit, Michigan, residents and activists mobilized, with the help of national organizer Rob Robinson, to attract the attention of the UN and the international community and have them travel to the cities to report on the violations to the human right to water. The Special Rapporteur on water and sanitation travelled to California as well, witnessing the action surrounding the fight to pass the human right to water legislation and supporting communities in these efforts. The Special Rapporteur on poverty reported on Appalachia and their socio-economic struggles.<sup>148</sup> The

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<sup>145</sup> Mariana Chilton and Donald Rose, "A Rights-Based Approach to Food Insecurity in the United States," *American Journal of Public Health* 99, no. 7 (2009): 1204, doi:10.2105/ajph.2007.130229; Entman, 52; Yamin, 133-39.

<sup>146</sup> Melissa spoke to the inability to be heard by the government, being ignored through her letter writings, being shut down by government at local town halls, etc. While she is continuing to fight, the process of addressing violations is a battle that is seemingly unwinnable. Interview with Melissa Easterling on 7-28-2018 in Jolo, WV

<sup>147</sup> Chilton and Rose, "A Rights-Based Approach," 1205.

<sup>148</sup> The UN has special rapporteurs, experts in the field, travel to different countries to report on how human rights are being incorporated in the country. For the United States, a special rapporteur toured California and Michigan, reviewing the violations to the human right to water, exposing the states and governments in a report. This happened in Appalachia as well through a special rapporteur on poverty who exposed through a report the dire state of socio-economic distress in this part of the country, which is directly linked to the human right to water as well and how the violation of the right to water is continually being perpetuated in Appalachia. See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22533>



incorporation of UN practices led to the ability to expose the violations to the human right to water in the United States, attempting to hold the government accountable for the current state of affairs. The Michigan Welfare Rights Organization, for example, has worked with the Inter-American Commission on Human Rights through the Office of American States (OAS) to bring attention to and hold the government accountable for the water shut-offs in Detroit.<sup>149</sup>

Human rights frameworks are also capable of providing education and opening dialogue between residents and local officials, a strategy that can help address the distrust in a community. Britton Schwartz speaks to this as well. She explains how she works with communities to educate them on their rights to water, asking them: "...what does that need to mean for you in practice? I'm going to work with you to make that happen in this other technical, legal world."<sup>150</sup> This shows how the human rights framework is applicable to residents through personal interpretations of the human right to water and how they can work with legal advocates such as Britton to apply human rights to the domestic sphere in search for solutions.

Education can also be seen through the experiences of the MWRO, who explained that by working with the Inter-American Commission on Human Rights, as well as engaging in organizations such as the U.S. Human Rights Network, they learned how to better interact with the government.<sup>151</sup> They shared that it was through this engagement with human rights organizations and mechanisms that they learned how to "[file] the formal P.O. or respond to the reports through the state department and all that kind of stuff where the government has to respond to these Human Rights violations, or allegations."<sup>152</sup> Adopting human rights frameworks

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<sup>149</sup> Interview with Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

<sup>150</sup> Interview with Britton Schwartz on 6-18-2018 in Berkeley, CA

<sup>151</sup> Interview with Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

<sup>152</sup> Interview with Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

and using human rights mechanisms such as the Inter-American Commission on Human Rights allowed for the Michigan Welfare Rights Organization to better understand how to address their distrust of the government and the democratic system through this alternative framework. While the human rights framework itself is not the solution, it provides the tools and education needed to engage in the democratic system with a clearer picture of how to hold responsible parties accountable for their actions.

The human rights framework can provide an alternative system of addressing the violations occurring in the United States surrounding water, especially in the face of the deep-seated distrust between residents and their governments. When the system at work is failing, when governments are not working towards putting the health of residents first, and when voices are not heard within the community, residents become distrustful of the government, of their political leaders, and of the water they depend on itself. The human rights framework is providing an alternative framework that can help residents introduce notions of accountability and open dialogues in their communities to push for solutions to the issue of water contamination and affordability.

## V. Conclusions

The United States is facing a water crisis. Residents in various cities across the country are facing contaminated water sources, water shut-offs, and rising utility prices. This study provides a small look at the ways in which community members, activists, and organizations are responding to this crisis specifically through the use of a human rights framework despite the opposition to socio-economic rights in the United States. Through this research, there were three main identifying reasons as to why residents of California, Michigan, and regions of Appalachia embrace human rights frameworks, approaches, and ideology in order to facilitate change and activism in the face of contaminated water and rising prices. Human rights can be a universally agreeable concept when it comes to the human right to water, despite the trend in belief that human rights, especially socio-economic human rights, are divisive in nature and politicized in the United States. The embrace of human rights as a framework also helps facilitate empowerment within a community as human rights becomes a concept that is accessible to the people.

The human rights framework does more than just address accountability to remedy the distrust felt by community members towards the government. It can also increase participation, as can be seen through the findings in this study on universality and empowerment, and address discrimination.<sup>153</sup> Human rights centralizes the systemic oppression of minorities and those who are often discriminated against in society. It tackles vulnerabilities and embraces ideas of respect, dignity, and autonomy through a holistic view of violations to rights, discrimination, and

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<sup>153</sup> Amarjit Singh, "Commentary: 'Rights-based Approaches' to Health Policies and Programmes: Why Are They Important to Use?" *Journal of Public Health Policy* 31, no. 2 (2010): 146, doi:10.1057/jphp.2010.11; Chilton and Rose, 1205.

accountability.<sup>154</sup> For those facing violations of the human right to water in the United States, especially in the regions within this study, the “equal rights” that democracy is based upon are not being promoted or protected when it comes to water accessibility. The lack of accessibility is tied to issues of race, ethnicity, and economic status within California, Michigan, and Appalachia.

The human rights framework understands the interconnectedness between violations and discrimination and can help elevate the voices of those suffering in the United States in a way that has not been possible through the democratic systems in place. Appalachians are continuously denied a voice by the government (i.e. having their letters and petitions ignored and being cut short at town hall meetings as they try to seek validation for their struggles with water). For residents in Flint, MI there was a distinct feeling that racial biases were the reason behind the water crisis and why, for so long, concerns expressed by residents were not taken seriously – until human rights language was introduced. In California, organizations such as the Community Water Center and advocates like Britton help rural residents interpret human right frameworks and put them into practice the way the residents see fit, including the passage of the Human Right to Water Bill.<sup>155</sup>

The human rights framework can also add a sense of “moral and political authority to the claims of residents, and equates their concerns with global standards.”<sup>156</sup> Again, speaking towards the validation that residents find within the human rights framework, there is a sense that by turning towards this alternative framework, people are able to elevate their experiences to a

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<sup>154</sup> Chilton and Rose, “A Rights-Based Approach,” 1206; Singh, “Commentary,” 146.

<sup>155</sup> Assem. Bill 685, 2012 Reg. Sess., 2012 Cal. Stat.

<sup>156</sup> Hilgert, “Building a Human Rights Framework,” 509.

higher level that matches global standards of what is acceptable and what is not. The human rights framework is reactionary to the dissatisfaction residents feel with the way things are. So, despite pre-disposed ideas that socio-economic human rights are divisive and propagated in the United States as perhaps a “socialist” concept, residents who are experiencing these violations to the human right to water are utilizing this framework, whether explicitly or not, to achieve access to clean, affordable water.

## Interview List

Angie Rosser (West Virginia Rivers Coalition) on 7-28-2018 in Charleston, West Virginia

Beverly May (public health researcher) on 7-26-2018 in Whitesburg, KY

Britton Schwartz (Environmental Coalition for Water Justice) on 6-18-2018 in Berkeley, CA

Community Foundation of Greater Flint on 7-17-2018 in Flint, MI

Horacio Amezcuita (San Jerardo Cooperative) on 6-19-2018 in Salinas, CA

Junior Walk (Coal River Mountain Watch) on 7-26-2018 in Naoma, WV

Laurel Firestone (Community Water Center) on 6-21-2018 in Sacramento, CA

Mary Love (Kentuckians for the Commonwealth) on 7-24-2018 in Berea, KY

Melissa Easterling (resident) on 7-28-2018 in Jolo, WV

Michael Hood (Crossing Water) on 7-16-2018 in Ann Arbor, MI

Michigan Welfare Rights Organization on 7-18-2018 in Detroit, MI

Nina McCoy (resident) on 7-25-2018 in Inez, KY

Rob Robinson (National Economic and Social Rights Initiative) on 6-5-2018 in New York, NY

Teri Blanton (Kentuckians for the Commonwealth) on 7-24-2018 in Berea, KY

Yvonne Lewis (Genesee Health Plan) on 7-18-2018 via phone

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