Citation for published version (APA):

Citing this paper
Please note that where the full-text provided on King’s Research Portal is the Author Accepted Manuscript or Post-Print version this may differ from the final Published version. If citing, it is advised that you check and use the publisher’s definitive version for pagination, volume/issue, and date of publication details. And where the final published version is provided on the Research Portal, if citing you are again advised to check the publisher’s website for any subsequent corrections.

General rights
Copyright and moral rights for the publications made accessible in the Research Portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognize and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the Research Portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the Research Portal

Take down policy
If you believe that this document breaches copyright please contact librarypure@kcl.ac.uk providing details, and we will remove access to the work immediately and investigate your claim.
Making space for practical authority: policy formalization and the right to water in Mexico

Katie Meehan
King’s College London

https://orcid.org/0000-0001-8330-4736

Abstract

How do novel policy ideas—like the human right to water—gain traction in real life? In this chapter, I draw on the case of Mexico to explore how institutional actors develop practical authority for human rights through a diverse set of sites, tactics, and strategies. Mexico enshrined the human right to water and sanitation in its national constitution in 2012, but implementation has stalled. Rather than focus on the usual suspects of policy realization, I examine how practical authority is developed at the margins of the state: the experimental spaces where governance ideas gain skills, sociotechnical capacities, and legitimacy on the ground. Drawing on a practice-based approach, I identify three pathways that actors use to navigate policy impasse and institutional entanglement. I show how nonstate actors have maintained important pressure and visibility for the right to water, innovated alternative service delivery models to reduce household water insecurity, and introduced alternative pathways of policy implementation at different scales. In moving debates forward, I argue that a practice-based approach reveals the diverse pathways, spaces, and capabilities needed to make institutional change permanent—to realize rights talk in daily life, beyond its constitutional script.

A new challenge

Safe and secure access to water and sanitation is widely recognized as a fundamental human right, enshrined in the Dublin Principles and promoted as a key point of policy reform by
international organizations, civil society groups, and government actors. In 2012, Mexico amended its national constitution to recognize the right of people in Mexico—regardless of national origin—to safe, sufficient, affordable, and reliable water and sanitation for personal and domestic use. On the heels of similar reforms in Bolivia, Chile, and Uruguay, Mexico’s constitutional reform was widely celebrated in the Americas as a milestone in promoting a human rights-based approach to water governance.

The reform touched down in a country marred by persistent disparities in household water provision and security. In 2015, an estimated 55 percent of Mexican households counted piped water inside their dwellings, 36 percent of households had water connections within their building or plot of land, and 9 percent of households lacked piped water entirely (INEGI, 2015). Rural, indigenous, and peri-urban communities are particularly vulnerable to problems of water insecurity: such as poor quality, unreliable service, and exploitation at the hands of private water vendors and municipal providers who exchange piped water for votes (Castro, 2006; Castro et al, 2015; Herrera, 2017; Pacheco-Vega, this volume).

Even households with piped connections encounter water shortages and problems. In Mexico City, the second-largest metropolis in the hemisphere, roughly 20 percent of city residents cannot count on daily tap water supply. Plumbed households must wait their turn for tap water (a rationing system called el tandeo) or purchase water deliveries from tanker trucks (pipas). In some areas, pack animals literally carry the burden of a dysfunctional public network. “A marginalized neighborhood in Mexico City depends on the use of donkeys to transport water,” reports Léo Heller, the Special Rapporteur of the UN Human Rights Council (UN OHCHR,
2017), “while other communities of the City reported that the water in their localities is diverted to high commercial, residential and tourist uses.”

Despite the bright promise of constitutional reform, the Special Rapporteur’s report signals a new challenge for the human right to water. In recent years, the policy challenge has moved beyond formal acknowledgement of the right to water and sanitation—in constitutional language, judicial decisions, or UN proclamations—to the uneven geography of policy implementation, enforcement, and practice on the ground (Baer and Gerlak, 2015; Olmos Giupponi and Paz, 2015; Baer, 2017). Located in the grey zone between rights talk and its realization is an urgent question regarding the authority of new institutions: How do policy ideas—like the human right to water—gain traction in real life?

In this chapter, I draw on the case of Mexico to explore how practical authority for the human right to water is developed through a diverse and sometimes unexpected set of institutional actors, sites, and strategies. Practical authority is a “kind of power-in-practice generated when particular actors (individuals or organizations) develop capabilities and win recognition within a particular policy area, enabling them to influence the behavior of other actors” (Abers and Keck, 2013, p.2). Policy formalization involves the two-way transformation of social values and norms into formal rules and rights, a process that adds flesh and blood to the bones of policy narratives and ideas (Meehan and Moore, 2014). Yet to formalize policy, new institutions like the human right to water require practical authority: “a kind of power in which the capabilities to solve problems and [win] recognition by others allows an actor to make decisions that others follow (Abers and Keck, 2013, p.7).
Rather than focus on the usual suspects of policy formalization—legal texts, elected officials, government agencies—in this chapter I examine how practical authority is developed at the margins of the state: the experimental spaces where governance ideas gain skills, capacities, and legitimacy on the ground (Abers and Keck, 2013; Angel and Loftus, 2017; McConnell, 2017). Drawing on a practice-based approach to institutional change, I identify three pathways that actors use to navigate policy impasse and to build practical authority for the human right to water. A perspective from the margins permits a more robust and comprehensive understanding of how novel policy ideas—such as the human right to water—come to life in complex institutional settings, in and beyond the official state apparatus (McConnell et al, 2012; Jeffrey et al, 2015; Angel and Loftus, 2017; McConnell, 2017).

Practical authority is especially important in a situation of policy impasse. In Mexico, progress in developing federal regulatory instruments and enforcement mechanisms for the right to water has stalled since 2012. Despite the impasse, I show how nonstate actors have maintained important pressure and visibility for the right to water, innovated new service delivery models, and introduced alternative pathways of policy implementation at different scales. I argue that a practice-based approach reveals the diverse pathways, spaces, and capabilities needed to make institutional change permanent—to realize rights talk in daily life, beyond its constitutional script.

Mexico is an important proving ground for realizing human rights policy. Over the past decade, the country has experienced a stark increase in kidnapping and torture cases, organized crime and gun violence, police brutality, assault and detention of migrants, gender-based violence, and the murder of journalists. In 2013, a Human Rights Watch report declared the country to harbor
the most severe crisis of enforced disappearances in Latin America in decades (in Wright, 2018). Entrenched problems of elite impunity, corruption, clientelism, and neoliberal policy reforms have sparked fresh outrage and public protest (Wright, 2017, 2018). Domestic water insecurity is a less immediate threat to human rights, but its presence as a form of institutionalized violence is no less pervasive. In a context of extreme public mistrust in authorities, this chapter suggests that actors increasingly rely on diverse tactics and strategies to build practical authority for human rights, especially at the margins of state power.

My analysis of the formalization process draws on a variety of data sources: interviews with institutional actors, reports and press releases, unpublished materials by NGOs, participant observation of water activists, and legal analysis and documents produced by Centro Mexicano de Derecho Ambiental (CEMDA). In contrast to conventional policy analysis, which seeks to identify ingredients that lead to ‘success’ or ‘failure’ of a policy idea, my approach advances a practice-based understanding of institutional transformation and change—one that situates policy as a process of creative world-making, in and beyond the formal halls of power.

**Institutionalizing the human right to water in Latin America**

Policy ideas and narratives travel through space; they also secrete and come to life in the thick of particular places. For nearly half a century, Latin America has been a testing ground for new policy ideas and development interventions in the water sector (Meehan, 2019). Starting in the 1970s under the Pinochet regime, Chile introduced the world to market-based water governance by reforming laws and regulations to inject free market principles in water rights adjudication (Budds, 2004). The so-called ‘Chilean miracle’ spread to other countries in the hemisphere, such
as Peru, which adopted similar market-friendly water policies and investment strategies during the Fujimori government (Seemann, 2016).

In Latin America, the human right to water emerged as a policy narrative in response to neoliberal reforms and water privatization in the late 1990s and 2000s. To date, Bolivia, Ecuador, Mexico, Peru, and Uruguay have adopted the right to water as constitutional principles and national policy mandates (Bustamante et al, 2012; Harris and Roa-García, 2013; Seemann, 2016; Baer, 2017; Roa-García et al, 2017). The constitutions of Chile, Guatemala, and Venezuela include an indirect recognition of the right to water. Beyond constitutional reforms, courts in Argentina and Colombia have upheld the right to water through judicial decisions (Olmos Giupponi and Paz, 2015).

While the constitutional right to water is upheld by some scholars as evidence of resistance to neoliberal principles of water governance (Harris and Roa-García, 2013), this point is under some debate (Bustamante et al, 2012; Seemann, 2016; Baer, 2017). For example, Madeline Baer and Andrea Gerlak (2015, p.1531) argue that “the human rights frame does not necessarily challenge the dominant knowledge about the merits of marketization of water that is at the core of neoliberal water policy.” In the Americas, scholars tend to understand the human right to water in terms of formal institutional arrangements. As Baer (2017) argues, a legal-centric focus risks obscuring the right to water as a dynamic and fundamentally social process, subject to a variety of institutional actors and organizations operating at different scales, abilities, and capacities.
A practice-based approach opens up different modalities of explanation. In their decade-long study of Brazilian water policy reform, Rebecca Neaera Abers and Margaret Keck (2013) advance a practice-based approach to institutional change and policy formalization. A key component of their approach is institutional entanglement: the idea that “overlapping administrative jurisdictions layered upon ambiguous functional divisions of labor may produce competition for, confusion about, or even gaps in political authority” (Abers and Keck, 2013, p.21). Federalist countries, such as Brazil and Mexico, are especially prone to institutional entanglement. As Abers and Keck (2013) explain, legal and regulatory overlap are also important points of intervention, particularly for nonstate actors. In Brazil, institutional entanglement in the water sector led to a proliferation of new civic groups and organizations, exchanges and networks, and opportunities for state-society interaction (Abers and Keck, 2013, p.39).

Practical authority is achieved through a variety of tactics and strategies. In the sections to follow, I elaborate three techniques used by actors in Mexico: expert pressure, hedging, and practical experimentation. Together, these practices keep the right to water alive on the policy agenda and in the public domain—a beacon in the context of policy stalemate, human rights violations, and extreme water insecurity.

**Making space for practical authority in Mexico**

In 2012, the Mexican Congress approved reforms to the national constitution to recognize the human right to water and sanitation (Table 1). The Congress amended the language of several constitutional articles. Article 1 establishes the legal regime for the implementation of human rights. Article 4 establishes the human right to water and sanitation, as well as the right of people
to live in a healthy environment for their development and well-being. Article 4 calls on federal, state, and municipal authorities to recognize the right to water, and holds accountable actors who cause damage or environmental destruction (CEDMA, 2016). In addition to these reforms, two additional water-related provisions in the constitution are Article 27 (establishes state territory and the legal regime of national waters) and Article 115 (delineates the powers of municipalities to provide local public services such as drinking water, sewerage, and wastewater treatment) (CEDMA, 2016).

Table 1. Policy instruments applicable to the human right to water in Mexico. Adapted from CEDMA and Rabasa et al (2014), with updated information from the Human Rights Council (2017).

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Function</th>
<th>Source</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 1</td>
<td>Establishes the general regime of protection of human rights</td>
<td>National constitution</td>
<td>Authorities have obligation to implement human rights by observing principles of universality, interdependence, indivisibility, and progressivity.</td>
</tr>
<tr>
<td>Article 4</td>
<td>Establishes the human right to water and sanitation; establishes the right of all people to live in a healthy environment; federal, state, and</td>
<td>National constitution</td>
<td>Decisions related to water provision and infrastructure development should consider and protect ecosystem services; the Judiciary specifies Article 4 as a ‘subjective’ or universal</td>
</tr>
</tbody>
</table>
municipal authorities should recognize this right; recognizes responsibility of those who cause damage or environmental destruction.

**Article 25**
The state must guarantee that development is integral and sustainable.

**National constitution**
Decisions should also consider social and economic factors, the environment, and intergenerational needs.

**Article 27**
Establishes legal regime and national dominion over territorial waters.

**National constitution**
Changes to Article 4 did not modify the legal framework of national waters or territory, as explained in Article 27, paragraph five.

**Article 115**
Municipalities are tasked with the responsibility to provide public services for drinking water, sewerage, and treatment/disposal of wastewater.

**National constitution**
Changes to Article 4 did not modify the legal framework of municipal decentralization or responsibility for public service provision.

**National Water Law**
Stipulates federal regulations. Passed in 1992; revised in 2008. This law is the single most important legal instrument for
Water in Mexico. As of 2018, the law does not incorporate a human rights framework; nor does it reflect 2012 amendments to the Constitution.

| Water Sustainability Law | Adopt a human rights approach to water management and regulation in Mexico City | Regulatory law Passed in 2014; contains controversial concessions to private sector involvement; transforms public utility into autonomous unit; applies to Mexico City only |

Constitutional reforms stipulate that domestic consumption of water and sanitation should be provided in a way that is safe, sufficient, acceptable, and affordable (Rabasa et al, 2014). The Judicial Branch has determined that Article 4 is a subjective right, which means it may be enjoyed by any person within Mexico, regardless of their national origin or background (Rabasa et al, 2014). One of the most important implications of the Article 1 reform, as interpreted by the Supreme Court of Mexico, is an expansive protection of human rights, including international treaties signed by the federal government (Rabasa et al, 2014).

Despite constitutional success, implementation has stalled. To date, Mexico lacks any regulatory law, enforcement mechanisms, or independent oversight to ensure the right to water, resulting in a constitutional mandate without the necessary policy teeth for effective, equitable, and comprehensive realization (Rabasa et al, 2014; UN OHCHR, 2017). For example, neither the
National Waters Law (first established in 1992, updated in 2008) nor state-level drinking water laws and municipal provision ordinances have been updated to reflect the human right to water. The National Waters Law is the most influential and important institutional framework for managing water in Mexico. Yet, in its current iteration, the Law facilitates private sector involvement and a public consultation process that has done little to ameliorate service problems and equity gaps in water provision (Wilder, 2008, 2010).

In the face of this policy impasse, institutional actors in Mexico have struggled to carve different pathways toward policy formalization. As the following anecdotes demonstrate, making space for practical authority requires creative action and careful navigation around existing institutional arrangements and policy impediments.

**Expert pressure**

Pressure makes water flow. Through forces both physical and social, actors use pressure tactics to make water available to diverse groups and geographies. “Pressure can be mobilized by using pumps or politicians,” writes Nikhil Anand (2011, p.543), “and access to the technologies of pressure is mediated as much by capital as by social connections.” Pressure works in multiple directions. For example, local actors in Mumbai use a variety of tactics to compel decision makers and utility operators into better water service (Anand, 2011). In this section, I use the term **expert pressure** to describe how elite global actors follow prescribed lines of influence to develop practical authority for institutional change.

A prime example of expert pressure is the Special Rapporteur for the Human Right to Water and Sanitation. Established in 2008 by the UN Human Rights Council (Resolution 7/22), the Special
Rapporteur is charged with providing policy guidance, monitoring progress and impediments, and identifying best practices to implement safe drinking water and sanitation in countries around the world. Within the UN system, Special Rapporteurs are independent experts appointed by the UN Human Rights Council. Catarina de Albuquerque served as the first Special Rapporteur for the Human Right to Water and Sanitation from 2008 to 2014; Léo Heller was appointed in 2014. With a goal of shaping policy discourse, the Special Rapporteur makes official visits to assess the situation of water and sanitation in various countries (Baer and Gerlak, 2015). Between 2009 and 2017, the Special Rapporteur participated in 21 country visits.

In May of 2017, the Special Rapporteur made an official visit to Mexico. Following a Papal visit to Mexico in February 2016—Pope Francis is a vocal supporter of the human right to water—the Special Rapporteur’s trip to Mexico marked the second visit in under two years by a prominent international human rights advocate. Over eleven days, Mr. Heller met with representatives of the federal government, state and municipal authorities, and civil society organizations. He made visits to urban and rural communities in central and southern Mexico, speaking directly with residents about their provision challenges.

Using his international platform, the Special Rapporteur identified legal gaps and institutional weaknesses in the Mexican right to water. In addition to the outdated National Water Law, he noted a lack of financial resources and technical capacity in municipal governments, which are ultimately responsible for providing water and sanitation services. He highlighted the absence of an independent regulatory body, as private and social actors in water provision—such as informal water sellers, community water boards, bottled water vendors, and sanitation providers—are currently unregulated in Mexico (Rabasa et al, 2014; UN OHCHR, 2017).
Beyond legal issues, the Special Rapporteur made a direct and powerful analogy between water insecurity and other forms of systemic violence. “Civil and political rights issues including addressing allegations of torture and forced disappearances were noted as high priorities of concern to Mexico,” he wrote (UN OHCHR, 2017), “While this is vital, I encourage the Government, as required under international human rights law and standards, to give equal and appropriate attention and to provide necessary resources to addressing critical economic, social and cultural rights, including the rights to safe drinking water and sanitation.”

As a tactic that follows prescribed lines of influence, expert pressure has recognizable limitations. “[The Special Rapporteur] approach may be effective in getting states to recognize their crucial role in the water sector,” argue Baer and Gerlak (2015, p.1538), “but it is not a transformative discourse that challenges old paradigms or power structures.” For example, previous reports by the Special Rapporteur have been reluctant to oppose private sector participation in water services (Baer and Gerlak, 2015). The Mexico visit continues this pattern. Bottled water consumption and informal vendors are noted as areas of concern, but the Special Rapporteur’s report is mute on the question of whether private sector involvement could even guarantee safe, sufficient, acceptable, and affordable water and sanitation (Pacheco-Vega, this volume). In this way, expert pressure risks promoting a vehicle of change without a paradigm shift.

Nonetheless, the Special Rapporteur lends important elements of international visibility, credibility, and political salience to the human right to water in Mexico. Expert pressure may leverage the positional power of policy actors, who are lodged in bureaucratic hierarchies (Abers
and Keck, 2013). In contrast to Pope Francis, who casts the right to water in moral tones, the Special Rapporteur helps to shape the discourse of policy implementation as an issue of governance in Mexico, not ethical will.

**Hedging**

Compared to expert pressure, which follows prescribed lines of influence, *hedging* describes a process in which actors construct policy implementation possibilities in more than one institutional arena at the same time. “They are, proverbially, putting their eggs in more than one basket,” explain Abers and Keck (2013, p.25), “under conditions of substantial uncertainty about the future of any given effort.” Hedging is a response to overlapping jurisdictions, institutional entanglement, and uncertainty about future outcomes. “In the Piracicaba basin,” explain Abers and Keck (2013: 202), “a group of water specialists allied with businesses and mayors managed to dominate three overlapping arenas at the same time: the consortium they had created, a river basin committee created under state law, and another created under federal law.” Unsure about policy outcomes but wanting to stay in the game, hedgers help to build practical authority in multiple and even competing institutional domains.

In Mexico, an example of hedging is the Water Sustainability Law (Ley de Sustentabilidad Hídrica) of Mexico City. First introduced in 2014, the law was passed by the city’s Legislative Assembly in November 2017 with 33 votes in favor, 14 votes in opposition, and one abstention. The law requires the city government to conform to the principles of human rights, sustainability, transparency, and shared responsibility. Notably, the law provides legal, regulatory, and enforcement measures for the human right to water and sanitation—not currently provided by the National Water Law—for residents within the geographic limits of Mexico City. Implementation
of the Water Sustainability Law must conform to the principles of universality, interdependence, indivisibility and progressivity—the same guidelines stipulated by Article 4 of the Federal Constitution.

The new Law introduces several controversial elements that have generated opposition from human rights organizations and local activists. For example, the law has transformed the legal status of the local water utility, known as Sacmex (Sistema de Aguas de la Ciudad de México). Under the new law, Sacmex has full technical, budgetary, and management autonomy, including the ability to sign third-party contracts with private companies for the provision of water and sanitation services—a sticking point that caused legislators from opposition parties to debate and delay the vote on the bill (including Andrés Manuel López Obrador, a populist politician, former CDMX mayor, and current President of Mexico). Among its other controversial elements, the bill also (1) introduces the possibility of a market for harvested and purified rainwater, (2) prohibits the provision of piped water services to irregular settlements on conservation land, and (3) permits the suspension of water service to those who do not pay in two or more consecutive periods (although a ‘humanitarian supply’ of 50L per person per day is guaranteed).

Hedging in Mexico reveals the contested nature of policy narratives, namely the role of private sector participation in the right to water. By hedging in multiple institutional arenas, policy actors strive to build support and consensus for their normative ideal of human rights—such as the idea that private business has no business in ensuring the right to water. For example, a national coalition of water activists, called Coordinadora Nacional Agua Para Tod@s, came together to develop the Citizen’s National Water Law: a set of governance principles and decision-making structures to realize the human right to water and sanitation in Mexico. The
group presented the first version of the law to federal legislators in 2015, and has since travelled around the country to national forums, university conferences, and public events.

A cornerstone of their approach is the idea that water and its management should remain in the public domain. In contrast to the aforementioned water laws in Mexico, the Citizen’s Law explicitly prohibits any institutional arrangement that makes water a commodity, bans private sector control over water resources, and forbids the extraction of profit from any aspect of water management. Elements of this law reflect broader debates about the right to water in Latin America, specifically concerning the encroaching privatization/commercialization of public water services (Castro et al, 2015). While national constitutions have been an important venue where this debate plays out (Harris and Roa-García, 2013), a practice-based approach reveals how authority for the right to water is developed and contested in the full spectrum of institutional arenas.

Hedging is often seen as a response to institutional entanglement. In Mexico, hedging strategies are a clear response to policy debates and deadlock at the federal level. Water in Mexico has a history of strong federal control and clear lines of centralized authority, embodied by the National Water Commission (CONAGUA) and its powerful regulatory scope and mission (Wilder, 2008, 2010). Until the federal government takes more concrete policy actions, institutional actors in Mexico will continue to build practical authority and governance capacity at different scales of government—such in state or city governments—and in multiple institutional arenas, including at the nexus of state/civil society.

Practical experimentation
Creative action is a hallmark of practical authority. To find pathways through institutional entanglement (or impasse), actors may first experiment at a small or local scale, where competition for authority is not strong. Practical experimentation involves a combination of ideas, resources, technologies and relationships in new ways to solve seemingly intractable problems (Abers and Keck, 2013, p.17). By starting small and resolving localized problems, actors produce intermediate outcomes that test ideas, build trust, develop organizational capacity for future collaboration, and win external recognition. Federal institutions are slow to change; powerful institutional actors are reluctant to cede their authority. “Despite such asymmetries—or perhaps because of them—experimenting at the small scale involves a great deal of perseverance by actors who [are] otherwise disadvantaged politically” (Abers and Keck, 2013, p.24).

In Mexico City, the civil society organization Isla Urbana is a novel example of practical experimentation for the sociotechnical realization of the right to water. Formed in 2009, Isla Urbana aims to ‘catalyze a rainwater harvesting revolution’ through the design and implementation of urban rainwater harvesting systems for household use in marginalized communities. Their mission statement is to enhance sustainable water alternatives while reducing water insecurity in the domestic sphere. Their operations and work are financially supported by contracts with city governments and public agencies, by small grants from private and public foundations, and by the sale of their harvesting technologies to more affluent customers. Over the past decade, Isla Urbana has earned awards and recognition from local and international organizations, such as the Government of Mexico City, the Clinton Global Initiative, and the United Nations.
Household water users in Mexico City, particularly in the southern and eastern districts, suffer from sporadic delivery, poor-quality service, or the complete absence of a piped connection. Starting in the borough of Tlalpan, Isla Urbana designed a rooftop rainwater collection system that integrates into existing housing stock, seasonal rainfall patterns, water use customs, and household labor practices. In a typical rainy season (July-September) in Mexico City, the rainwater systems supply up to 65 percent of total household water demand, replacing water otherwise purchased from private sources and informal vendors (an unregulated and exploitative market). Rather than replace public water, Isla Urbana aims to transform the sociotechnical mechanism of public service delivery through an idiom of *infrastructural coexistence*: piped water and alternative water provisioning systems existing side by side (Furlong, 2014).

Initially, Isla Urbana started at the periphery of state power: as a young, three-person team equipped with personal drive, plumbing experience, and a background in industrial design. Through their organizational evolution, Isla Urbana exemplifies the trajectory of experimental spaces and technologies developed by actors who desire to advance more sustainable alternatives to the existing sociotechnical regime (Lawhon and Murphy, 2012). By starting small, Isla Urbana was able to test, modify, and improve their designs and implementation strategies in a relatively short time frame. Since 2009, Isla Urbana have installed over 7,000 domestic harvesting systems and trained 49,938 water users, mostly in partnership with the Mexico City borough governments of Tlalpan, Xochimilco, and Iztapalapa. Their relatively modest size and position as a civil society organization permits speed and institutional flexibility in the water sector. Following the 2016 earthquake, Isla Urbana rapidly installed systems in 101 households that experienced neighborhood water main breaks.
Experiments such as Isla Urbana test the human right to water in important ways. While governments largely agree that water and sanitation should be safe, sufficient, affordable, and reliable, the *technological* pathways of implementation and realization are rarely discussed in human rights circles. Indeed, the ‘modern infrastructural ideal’ of universal, integrated, single-system infrastructure provision is still the design norm in water service delivery models, even in the global South (Furlong, 2014). Thinking beyond the networked ideal requires a context of experimentation that is often best suited to nonstate actors, like Isla Urbana. As with other examples of municipal-supported rainwater harvesting projects (Furlong, 2014), the point of the Isla Urbana system is *not* to replace the grid with individualized collection systems, but to modify household elements of public infrastructure in ways that improve user experience and household security. In this way, practical experimentation has the potential to spark a paradigm shift in service delivery models that guarantee and actually provide the right to water.

Undoubtedly, there are also great challenges to practical experimentation in Mexico. Networked infrastructures, such as water and sewerage, are prone to monopolistic control and problems of clientelism. In other words, local politicians ‘sell’ piped water access for votes and party loyalty (Herrera, 2017), including the rainwater systems. In one interview, an Isla Urbana employee describes his awe at patronage politics and how authorities use water infrastructure provision to exert control:

> The interesting thing is the socio-political side. Of course, who gets the systems should be based on necessity, to help people with the highest need. But the politics are in there. They [elected municipal leaders] are giving the [rainwater] systems to the people who voted for them, basically. What I love about it is that they are super organized [laughs]. When we go into [a community], they have lists and we get divided up into teams with a
leader who takes you around to the houses. It’s like a top-down organization. It’s a way that they [municipalities] *massively* send social programs out.

As this comment reveals, experiments like Isla Urbana may solve one aspect of an intractable problem (old service delivery model), only to confront another (clientelism).

The ‘outsider’ role of a nonstate actor has plenty of drawbacks in building practical authority. Isla Urbana struggles with a lack of funding for social innovation and systems designed for secure livelihoods, not profit. As the Water Sustainability Law makes apparent, social technologies can be co-opted by private companies and transformed into revenue-generating streams. Ultimately, the right to water is a constitutional mandate and public policy obligation in Mexico. Therefore, any intermediate outcomes generated by Isla Urbana—such as an alternative service delivery model based on securing water needs—must also navigate and withstand institutionalized hierarchies and existing arrangements. Practical experiments must endure time and competing power interests in order to accrue the capabilities and recognition necessary to transform ideas into policy practice.

**Conclusion**

In recent years, the uneven geography of policy formalization has emerged as a central challenge for the human right to water. In this chapter, I employed a practice-based approach to explore how the right to water has gained practical authority at different scales and sites in Mexico, a country where federal progress in institutionalizing the right to water has stalled since 2012. This analysis imparts key lessons for the human right to water. First, this chapter provides analytical tools to make sense of policy impasse and political strategies in human rights implementation. A practice-based approach reveals the wide range of actors, organizations, and sociotechnical
capabilities needed to make institutional change permanent—to realize rights talk in daily life, beyond its constitutional script.

Second, this chapter demonstrates how actions at the margins of state power are vital in building practical authority for policy implementation. Practical authority is gained through multiple strategies, scales, and spheres of influence. What the case of Mexico reveals is the sheer diversity of efforts to democratize water management and work toward water justice—including top-down and bottom-up approaches, from within and outside the state apparatus, through elite tactics and unorthodox strategies. Constitutional reforms are undoubtedly necessary and important to lasting institutional transformation, but they are not the only sites where progress toward a right to water is exercised, influential, or made real.

References


UN Office of the High Commissioner for Human Rights (UN OHCHR). (2017, May 12) ‘UN expert calls on Mexico to urgently expand and improve water and sanitation provision for all.’


