Endangered By Injustice

The human right to water in the United States

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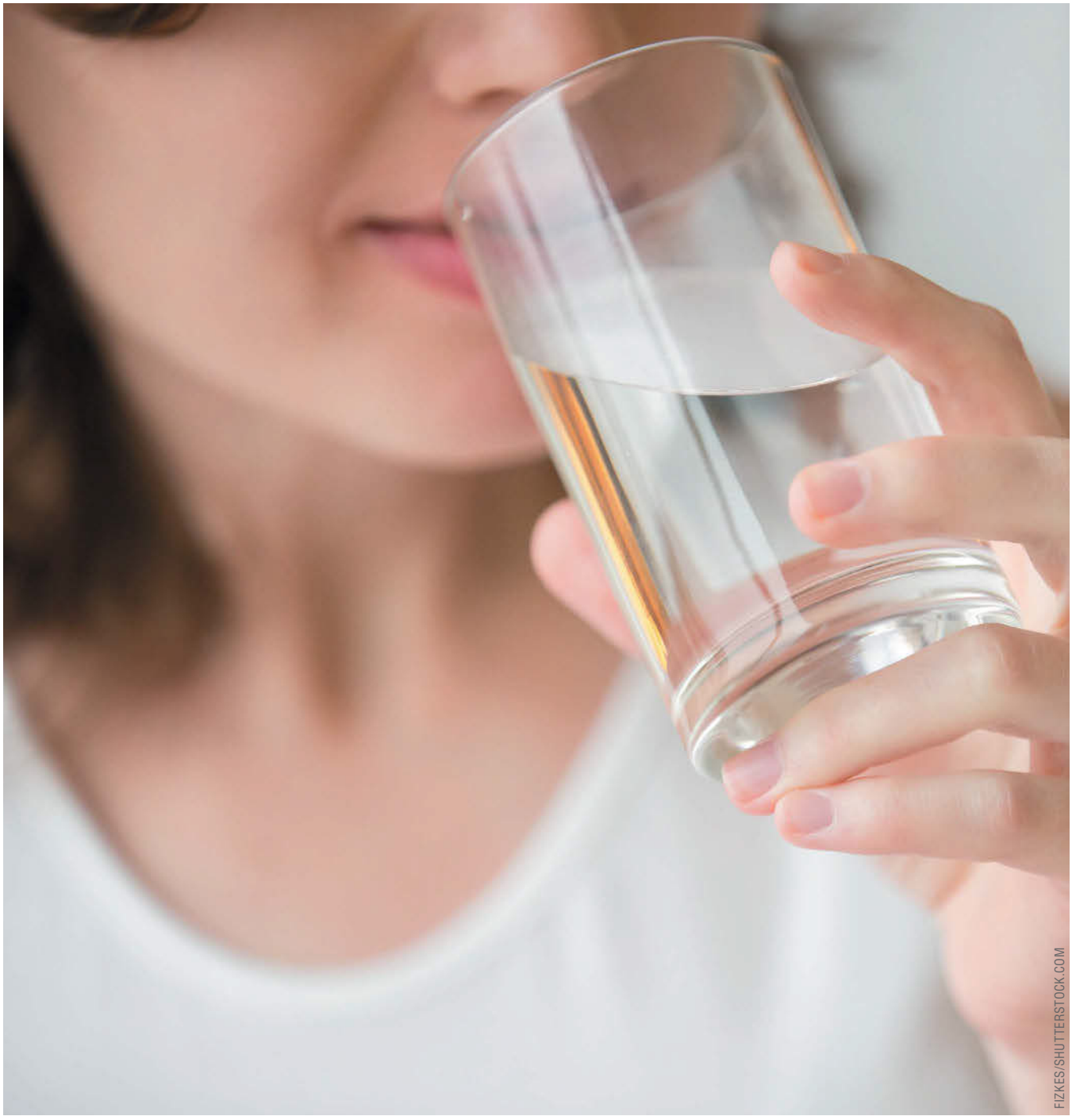

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The internationally recognized human right to water requires that every nation provide safe, affordable water for household uses. While most Americans enjoy safe drinking water from their household tap, the human right to water in the United States is endangered by multi-faceted social injustice that pervades modern America—injustices born of racial and wealth disparities, the unwillingness of the rich to invest in public water infrastructure, and corporate willingness to pollute in unconscionable ways in pursuit of the almighty force of quarterly profits.

Moreover, safe drinking water in the United States has fallen victim to political indifference and public distrust. It is telling that more than half of Americans no longer have confidence in their tap water and two-thirds do not drink untreated tap water due to concern about its safety. Even this statistic has a racial dimension. About 40% of whites are willing to drink untreated tap water, but fewer than 20% of blacks and Latinos will take that chance.

Superior cost-benefit analysis and integrated water resources management are powerless to restore the human right to water in the United States because neither focuses on the injustices at the root of our drinking water problems. Instead, we must name the injustices and then we must correct them. We must rededicate ourselves to the ethics of water justice that demand every human being, rich or poor, urban resident or rural, white or any other color, have safe drinking water made available on an affordable and non-discriminatory basis. Otherwise, we face the real prospect that the days of enjoying safe drinking water from the tap in America are numbered.

American tap water: safe to drink?

One out of every 12 Americans—77 million people—drank water from a community water system that violated health-based standards of the Safe Drinking Water Act (SDWA) in 2015. Some 5% of Americans contracted an illness in 2015 from their tap water. Most had diarrheal or other gastrointestinal illnesses far too mild to be reported to health authorities. However, other illnesses from drinking water are far more severe. According to a Centers for Disease Control (CDC) report, 42 drinking water-associated reported outbreaks during 2013-14 caused at least 1,006 cases of acute illness, including 13 deaths caused by *Legionella* bacteria. Chemicals, toxins and parasites such as *Cryptosporidium* and *Giardia* together accounted for another 30% of the outbreaks. A single release of a coal-washing chemical in West Virginia caused 369 people to fall ill, with 13 hospitalized.

And these figures don't even count chronic conditions triggered by contaminated drinking water, such as the severe neurological impairments from lead poisoning, which can dramatically affect so many lives.

The Flint lead poisoning incident reminds us that contaminated drinking water from the tap has become a dangerous reality for a disturbing number of Americans, particularly poor people and people of color. The Flint tragedy is not unprecedented. Washington, D.C. experienced an even more severe lead poisoning crisis from 2001 to 2004, in which the period of lead exposure, the lead levels, and the number of people exposed far exceeded Flint. The subsequent minimization of that crisis by the federal government, including a 2004 CDC report downplaying the significance of lead exposures from D.C. tap water, was equally devastating to public safety and trust. The rainbow colors of Americans deprived of their human right to safe drinking water in recent years also include the low-income Latino communities in the San Joaquin Valley and the 13% of Native American households that lack safe drinking water.

Profit-driven corporate pollution also endangers drinking water

Two pervasive, mostly invisible hazards affecting drinking water are nitrate pollution caused by corporate agriculture and chemical pollution by oil and gas fracking. Both industries have successfully secured exemptions from regulations designed to protect drinking water with appalling damage to public safety.

The highly contaminated San Joaquin aquifer in California provides nitrate-laden drinking water to 254,000 people. And nitrate contamination is not limited to groundwater. In 2014, nitrate pollution of Lake Erie caused algae blooms with cyanobacterial toxins that sickened 116 people in Ohio. Nitrate pollution is facilitated by the exemption of irrigation run-off from water pollution regulations.

Oil and gas companies pollute groundwater via fracking production wells freed from regulation through the "Halliburton exemption" from the SDWA Underground Injection Control program. EPA's 2016 report to Congress confirmed that fracking activities contaminate drinking water with a severity ranging from temporary contamination to rendering private wells unusable for drinking. As if to punctuate that conclusion, EPA and California admitted that they mistakenly allowed the industry to inject fracking waste into an estimated 2,500 wells through underground drinking water aquifers, a practice that violating state and federal law.

Safe drinking water: an unaffordable luxury in 21st century America?

The human right to water requires that drinking water be affordable; according to the EPA standard, water is affordable if the total cost paid by a household for water is less than 1.5% of mean household income. In many American communities,

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the cost of water is well above this level. For example, San Joaquin communities subject to nitrate contamination of well water spend 4.6% of their household income on water. During the lead poisoning crisis, Flint issued thousands of shut-off notices for late payments, a triple travesty of justice against poor Flint residents who were receiving contaminated water at rates inflated by the city's misuse of water and sewer funds.

Across the nation, water and sanitation services for the lowest 20% income earners cost more than 4-19% of monthly household income, well beyond what is affordable. And water rates are bound to skyrocket as water utilities seek rate increases to cover the estimated $1 trillion investment to update American water infrastructure.

We need to replace old, often poorly maintained water lines because more than 240,000 water mains break each year. Up to 10 million lead service lines must be replaced to avoid lead poisoning. Water treatment plants must be upgraded because they cannot remove many new toxic chemicals and pathogens. The hydraulic capacity of sewage treatment plants needs to be increased and combined sewage overflow systems eliminated to prevent discharges of untreated or poorly treated sewage into drinking water sources.

Local and state governments cannot fund these infrastructure improvements because they are hamstrung by anti-tax measures promoted by wealthy individuals and vested special interests. Given the priority placed by Congress and the President on cutting taxes for corporations and wealthy individuals, the federal government seems unlikely to pick up the rest of the tab, which would require increasing infrastructure spending from $2.37 billion to $8 billion annually.

Curing water injustice

So how can we make the human right to water and other water justice principles the guiding lights of water resources management?

First, we can educate the public about the dangers threatening our water, their right to safe drinking water, and broader water justice principles.

Second, we can join with others who are seeking to protect safe drinking water, environmental flows and prevent economic exploitation of water, particularly faith communities and indigenous peoples who are stalwart advocates of ethical water resources management. Water justice has become a critical issue for faith communities. The World Council of Churches, for example, has established 10 ecumenical water justice principles to guide Christian communities and individuals in the ethical treatment of water. Indigenous peoples rely on the traditional wisdom of elders to govern their relationship with water.

Third, we can raise ethical values and concerns, whenever we are discussing water conflicts or making water resources decisions.

Finally, we can embed ethical management of water resources in law. We can campaign in our state legislatures for legislative recognition of the human right to water. The Safe Water Alliance, a broad coalition of faith-based, environmental justice, tribal, consumer and public health advocates, campaigned tirelessly and successfully for California's Assembly Bill 685, which states: "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking and sanitary purposes" and requires California state agencies to consider that policy in their decision-making. Since legislative recognition may prove too ephemeral, we can use citizen initiatives to incorporate the human right to water into state constitutional law to assure the human right to water serves as an effective limit on state legislatures and state water resources agencies prioritizing economic interests.

In addition, we can foster ethical management of water resources by integrating other water justice principles in state law: provisions confirming that water is a public good impressed with a public trust, assuring water for farmers and fishers whose livelihoods depend on water, and guaranteeing the aquatic life and other creatures have life-sustaining water. Such steps radically improve the ability of water resources managers to follow their moral instincts and do the right thing, rather than being forced to do the bidding of special interests.

Together, we can usher in the era of ethical water resources management that is based on sound science, cognizant of sustainable economics, responsive to public sentiment, and deeply respectful of all life. ■

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