

## Water and privatisation: doubtful benefits, concrete threats

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The Bolivian experience of privatisation of the companies that manage and distribute water is a good window on the conflicts triggered by the privatisation of basic services. It also shows the enormous difficulty – some say the impossibility – of making the search for profit compatible with an equitable and sustainable supply of basic services; that is, making privatisation benefit the poor.

### X-ray of a conflict

Today, the body regulating basic sanitation covers 22 drinking water and sewage systems in the country. Fourteen are cooperatives, seven are municipal companies, and one – the largest in La Paz and El Alto – is a private concession.<sup>1</sup> There would have been two private companies, but in 2000, the privatisation of the Cochabamba water system was reversed following mass mobilisations opposing it.

General data indicate that access to water (number of connections) has improved over the past years but there is no clear correlation with privatisation (a single concession). At the same time, privatisation involves a reassignment of costs that the promoters of privatisation themselves recognise as producing «adverse welfare effects.»<sup>2</sup> – that is to say, they are «anti-poor.» Underlying these are the financial parameters demanded by the financing institutions: full cost recovery and the elimination of direct or cross subsidies.<sup>3</sup>

### Cochabamba

The failure of water privatisation in Cochabamba is well known and much debated worldwide. A relative scarcity of water creates excessive reliance on groundwater sources and interruptions in the service. Up to 60% of the water distributed is lost or not invoiced because of the inadequacies of an old distribution system. Half of the approximately 500,000 inhabitants are not connected to the water network and depend on cistern trucks that sell the water – perhaps the most expensive in the region – or on systems built by local communities. The unequal access to water reflects inequities in the society at large.

Since the beginning of the 1990s, the World Bank had been demanding privatisation of the municipal water company, SEMAPA, as the only solution to the water problem in Cochabamba. In 1996, the WB conditioned a USD 14 million loan to SEMAPA to its privatisation.<sup>4</sup> And in 1997, the IMF, WB and IDB conditioned debt cancellation of another USD 600 million to the privatisation of SEMAPA.<sup>5</sup>

The process was complicated for several reasons: the local elite tied the water system concession to the execution of a very ambitious and costly construction project; the company had a large debt to be taken on by the concessionaire; the WB demanded a rigorous application of full cost recovery; and the company managed to establish a guaranteed high rate of returns during the negotiations. All these costs – reached by consensus during an absolutely secret process between the company, the government and local elites – was to be reflected in the water rates *prior* to any improvement in the water system.

In September 1999, a leasing contract was signed in favour of the Aguas de Tunari consortium, directed by the giant engineering and building company, Bechtel Enterprises of the U.S. The contract set up a monopolistic concession.

At the beginning of 2000, bills for water containing a rise of between 200% and 300% started arriving and the reaction was not long in coming. A consumer rebellion broke out in the city, and in rural and peri-urban areas people mobilised against Aguas de Tunari. These joint efforts ended in April 2000 with confrontations with the police and armed forces, the declaration of a state of siege, hundreds of people wounded and one death. On 10 April 2000, the government announced rescission of the contract and substantial changes in the law that had covered it and had left self-managed systems and rural customs unprotected.

### La Paz

The first water privatisation in Bolivia occurred in 1997 when the government granted a water concession to Aguas de Illimani, a consortium led by Suez Lyonnais des Eaux, now Ondeo. Before privatisation the water rates were increased by nearly 60% for domestic use, 18% for commercial use and 21% for industrial use.<sup>6</sup> At the time of the concession, there was a further 19% increase. The rates were «dollarised,» but then «de-dollarised» because of protests in December 2000.<sup>7</sup> The rate structure is progressive (the cost per unit increases with more consumption). Previously, the consumption of 10 cubic meters of water was free, but now all water consumption is invoiced, which represents a clear blow to the poor.<sup>8</sup>

The problem facing the company was – and continues to be – how to make money selling water where 60% of the population have an income of USD 0.80 per day. How to get water to poor homes at the least cost in order to guarantee profits for the shareholders? The answer was a «joint ownership» system, cutting costs by placing pipes over patios and pavements (not under the streets) and taking advantage of user labour. These measures reduced connection costs, which had been prohibitive for the poor. To guarantee financial feasibility, making privatisation viable, extraordinary efforts were necessary: technical standards had to be significantly relaxed; construction, maintenance and risk costs had to be transferred to the users (community «participation»); campaigns had to be set up promoting greater water consumption; micro-credits had to be offered for the construction of bathrooms and showers; and the financial cooperation agencies had to fund the necessary research and training activities to implement the system.

Although coverage expansion rates are considerable, their viability in the future under the commercial rationale of Ondeo is fragile. A WB report concludes that

1 <http://www.sisab.gov.bo/empresasreguladas.html>

2 Grover Barja & Miguel Urquiola, «Adverse Welfare Effects,» in *Capitalisation, Regulation and the Poor: Access to Basic Services in Bolivia*. WIDER Discussion Paper, No. 34, 2001, p. 1.

3 Barja & Urquiola, *op. cit.*, p. 20.

4 *Opinión* (Cochabamba), 23 January 1996, p. 5A.

5 *El Diario* (La Paz), 1 July 1997, p. 5A.

6 Carlos Crespo, «La concesión de La Paz a los cinco años: elementos para una evaluación,» 2001, [www.aguabolivia.org](http://www.aguabolivia.org), p. 1.

7 Barja & Urquiola, *op. cit.*, p. 22.

8 *Ibid.*

from the standpoint of the company, the new connections for the poor could well represent net losses; furthermore there are no incentives for the company to carry out the necessary cultural re-engineering to increase consumption. The report also considers that the rate structure, in which the unit cost of water increases with consumption, makes it «unprofitable to serve homes having low levels of consumption.»<sup>9</sup> Thus, the sale of water to poor people is not a profitable business.

Today the concession is presented as an example of feasible, efficient privatisation with «pro-poor» effects. However, there are various problems. The users have already denounced the bad quality and fragility of the works. While the promoters argue that the «joint ownership» system at least gives something to the poor, others – among them the Neighbourhood Councils – consider that to make privatisation viable, separate and unequal systems are being institutionalised – adequate systems for the rich and poor systems for the poor.<sup>10</sup>

### Rural communities, water and the rules of the game

Over 40% of the population live in rural areas, where it is estimated 5,450 irrigation systems are in operation. Approximately 4,700 of these are «micro-irrigation» systems in the hands of peasants and traditional communities.<sup>11</sup>

Far from being a simple commodity, water is the central element in a whole set of social and cultural processes in thousands of local management systems, which materialise the innovative capacity and collective sacrifice of their authors and managers.

There is a basic contradiction between the requirements of the major water sellers and concessionaires and the vision of rural communities and peasant organisations. For this reason, renewal of the Water Law has failed: over 30 drafts have been submitted and rejected. The last attempt at creating a new Water Law dates back to 1998, and was blocked by organised peasants. They rejected taxes or licences on waters used for generations, a system of concessions favouring company stakeholders and in particular, the establishment of a Water Superintendent with wide powers to grant and rescind rights over water, with no social oversight or monitoring.<sup>12</sup>

In view of the impossibility of adopting a Water Law, the government «smuggled in» a Drinking Water Law, resulting from an IDB financed consultancy. The Law contained all the things that the peasants rejected: a commercial orientation, preferences for major commercial concessionaires, ignorance of the «usage and customs» and the de facto creation of a water «Tsar».

Opposition to the Drinking Water Law ended with imposed revisions in favour of the peasants, and an explicit mention of respect for traditional «usage and customs.» However, the process of revision is stagnant in Congress because of opposition from Aguas de Illimani and the WB. A specialist on the matter commented, «a call by Aguas de Illimani to the World Bank could do more than the peasant mobilisations.»<sup>13</sup>

### Exports of crude water: the wolf in the chicken run

In Northern Chile, overuse of aquifers has produced deserts and resulted in the establishment of protected areas to limit exploitation of groundwater. The mining companies in Northern Chile must seek water elsewhere and have the neighbouring Bolivian territory, the north of Potosi, in their sights.<sup>14</sup>

Since 2000, local elites in Potosi have attempted three times to open up the business of exporting crude water. Each time, more or less successfully, regional, peasant and professional organisations have opposed it, arguing that Bolivia must avoid the environmental problems produced in Chile, not replicate them. A global water policy for the region must be drawn up that will attend to the socio-economic needs of its inhabitants, among the poorest in the country; only then, if possible, could «surplus» water be exported.

The government commissioned a study to define global policies that will take into account environmental criteria and socio-economic needs, while verifying the existence of those «surplus» waters. However, private consulting companies will foot the costs of preparing the study, and in the event «surplus» water is found to exist, the companies will have the right to exploit and market it. Thus, the government has asked the wolf to find out if there are chickens in the chicken run, so that he can later eat them.

### Doubtful benefits, concrete threats

The forces which support commercialising and privatising water are strong and have considerable influence on legislative processes. Conflicts arising from privatisation have led to injured people, lost lives and postponed solutions. Privatisation and the continuous pressure for more commercialisation pose real and constant threats:

- *The «blind» imperatives of commercialisation and necessary profitability ignore the cultural importance of water.* Water in Bolivia is anything but a simple economic commodity. In thousands of rural and urban communities people manage and use water according to a complex set of social and cultural concepts.
- *The companies are powerful, the State weak.* Although the provision of water through public companies requires a strong and efficient State, regulating a trans-national company may require even more strength and efficiency. In the Cochabamban conflict, the State showed itself to be incapable of adequately negotiating, regulating and managing a concession or representing and defending the interests of the population.
- *There are democratic deficiencies in privatisation processes.* Privatisation and the legislation to protect and sustain it, create an obvious democratic deficit regarding the transparency necessary for true public participation and oversight. To achieve privatisation, the government has had to «smuggle in» legislation, distort laws already adopted and sign contracts with iron clauses of «confidentiality» that effectively make public monitoring impossible.

### What does GATS imply in this setting?

GATS will exacerbate these problems in three ways:

- *By imposing privatisation.* While the country is debating privatisation, GATS will help impose it by allowing state bodies to provide services only «in the exercise of governmental authority,» which is defined as that «which is not supplied commercially or in competition with one or more service suppliers.» The definition is so restrictive that almost no public operator in Bolivia would qualify.
- *By restricting public debate.* While a strong participation of society in disputes over water regulations has been the case, under GATS these debates will be prohibited. The object of GATS discipline is not the services themselves, but what *the Governments do or may do that can affect the trading of a service.* Therefore, it is an instrument par excellence to limit «interference» by legislation and governmental administration in the operation of the «free» market, and implies an explicit abandoning of the sovereignty of courts and legislatures.
- *By preventing policy change.* GATS discipline places investors' rights above citizen rights and makes privatisations almost impossible to reverse. The failed «experiment» of water privatisation in Cochabamba *has* been reversed, showing how urgent it is to be able to minimise the cost of correcting errors. GATS will make it impossible or more expensive for society to make «corrections.»

Bolivia is already experiencing that threat. The U.S. Bechtel Company is demanding compensation for the rescission of its concession contract, arguing in the WB closed arbitration panel that it has been the victim of an «expropriation» of its property. Under GATS, the proliferation of this type of litigation by private companies against sovereign States will be inevitable. ■

9 Vivien Foster, «Economic and Financial Evaluation of El Alto Pilot Project: Condominial Water and Sewage Systems and Related Innovations.» [http://wbln0018.worldbank.org/eap/eap.nsf/Attachments/Water-Informe/\\$File/InformeFinalApr09.pdf](http://wbln0018.worldbank.org/eap/eap.nsf/Attachments/Water-Informe/$File/InformeFinalApr09.pdf), 2001, p. 14.

10 See Crespo, *op. cit.*, p. 7.

11 <http://www.aguabolivia.org/situacionaguaX/Riego/mapas/indexrh.htm>.

12 «Documento de Discusión y Consulta,» 27 April 1999, reproduced in *TUNUPA*, No. 2, May 1999.

13 Comment to the author by an analyst having a decade of experience on water issues in International Cooperation.

14 Juan Aluralde, «Mitos y realidades sobre la exportación de aguas al norte de Chile,» mimeo, 2002, p. 9.