The Ebb and Flow of the Water Privatization Debate
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Water is indispensable to all forms of life, yet half a billion people suffer from severe water shortages and nearly one billion people do not have access to safe drinking water.[1]

I. INTRODUCTION

Since the 1980s, there has been increasing pressure from donors and International Finance Institutions (IFIs) - chiefly the IMF and World Bank - for governments to privatize and decentralize state-run functions. In 2002, the World Bank introduced the Private Sector Development (PSD) Strategy, aiming to advance privatization in health care, education and water. The World Bank encouraged developing countries to incorporate privatization and trade reforms into their Poverty Reduction Strategy Papers (PRSPs). These IFI demands were compounded by pressure to liberalize services under the auspices of the General Agreement in Services (GATS), as part of the Doha Development Round. As the 6th WTO Ministerial in Hong Kong drew near, and now in its aftermath, these issues have provoked intense scrutiny and debate, particularly the issue of water privatization.

Broadly defined, privatization is the transfer of assets or services from the public to the private sector. This definition of privatization encompasses a number of different forms, ranging from complete public sector control (e.g. management and service contracts) through joint public and private control (e.g. concessions, leases, joint public-private arrangement) to complete private sector control (diverstiture). Under public sector control and joint public-private control of water services, public assets technically remain with the government, while responsibility for operating the assets, delivery services and collecting user fees is transferred to a firm. Oftentimes, governments have decided to transfer services to private management, using regulatory policy as a means of influencing private state behavior.

The arguments surrounding the privatization debate are largely polarized between those who view water as a social good and see its privatization as inevitably resulting in reduced access for poor and vulnerable people, and those who promote the market benefits of water liberalization, seeing water as a source of profit for private capital. The move toward privatization of water services raises many concerns, and in some places, even violent opposition.[2] Although there has been general agreement that public utilities have been inefficient in extending access to services, increasing private sector involvement to address these problems remains very controversial. For many, the question of how water should be provided goes to the heart of the appropriate role of government. Moreover, while the debate is ostensibly about matters of high public interest, what makes the conflict between privatization and its alternatives so contentious are the conflicting vested interests of some key actors. The advocates of private sector involvement range from international financial institutions (IFIs), bilateral agencies, and transnational corporations (TNCs), while opposition to privatization proposals has resulted from local community groups, unions, and human rights organizations.

Following a history of privatization, this brief reviews the polemic debate surrounding private sector participation in water services, examining the arguments mobilized for and against its implementation in developing countries. It will conclude with a discussion on alternative methods to privatization.

II. HISTORY OF PRIVATIZATION

During the nineteenth century, water and sanitation services emerged as a public issue in industrializing cities of Europe and North America. The first water and sanitation services were provided by the private sector, however, in the latter part of the nineteenth century, municipalities started to confront problems with access and service and began a transition toward public control and management. In particular, private companies were failing to provide access to all citizens in an equitable manner. In the United States, for example, private water companies provided 94 percent of the U.S. market in the 19th century, dropping to only 15 percent by 2000.[3]

In nineteenth century France, the trend moved in the opposite direction; municipalities that previously had responsibility for providing water services began to contract services to private operators. Over the years, these operators expanded beyond the borders of France and as a result, companies, such as Veolia Environnement SA and Suez Lyonnais des Eaux (Ondes), now have a dominant position in much of the world in providing private water services.

During the twentieth century, the public sector managed most water and sanitation services. However, the public provision of water and sanitation services lagged in developing regions, including South America, Africa and Asia. By the late 1970s, many international actors, including IFIs, believed that private sector participation could address the deficiencies in water and sanitation services not only in developing countries, but also in developed countries. These actors believed that society's needs would be best addressed by business and economic development within free markets. IFIs used their leverage as creditors to promote reforms to developing countries.

In the last 15 years, there has been an increase of efforts to privatize water systems in developing regions, such as South America, Asia and Africa, as well as developed countries, including the United Kingdom, Italy and Germany. In some cases, such as Buenos Aires, governments have leased water facilities, allowing private operators to sell services directly to the public. Mexico City took another approach to privatization, contracting the rights to operate parts of the city water system to multiple operators, with the goal of stimulating competition among them.[4] Chile granted concessions with private ownership of water resources. The British government fully privatized its water and sewerage utilities in 1989. In most cases of privatization, the government retains ownership of the infrastructure while contracting out the operation. However, in England and Wales, the government has divested the entire utility, infrastructure included. The government sold ten publicly owned water companies—encompassing water and sewer-age assets and operating licenses—and set up a new, independent sector regulator.

III. DEBATE

The issue of privatization has been at the forefront for several reasons: first, public water agencies have been unable to satisfy the most basic needs for water for all humans; second, major multinational corporations have greatly expanded their efforts to take over a larger portion of the water services market than ever before; and third, several recent highly publicized privatization schemes have failed or generated great controversy. In debating whether water should be provided by the public sector, the private sector or through collaborative arrangements, numerous attempts have been made to argue that, given the characteristics of the water policy, one or the other form of provision is superior. The arguments mobilized for private sector provision and for public sector provision are presented and discussed.

A. THE UNIQUE CHARACTERISTIC OF WATER: SOCIAL AND ECONOMIC GOOD

In recent years, global water conferences and national governments have increasingly tried to identify the essential characteristic of water. On the one hand, the right to water is a human right, and water is a social good; on the other hand, access to water is an economic good.

Widespread availability of clean and affordable water is a social good under because it improves both individual and social well-being. Water is vital to humanity. Among the important social characters of water is its role in human nourishment, health and sanitation as well as peace and conflict avoidance. The privatization of water has generated much controversy, due to its quality as an essential human need. In such arguments, water is defined as a good to which people have a right, regardless of their ability to pay.[5]

In international law, the right to water was only recently specifically articulated in the United Nations Convention on the Rights of the Child. Adopted in 1989, the Convention incorporates the whole spectrum of human rights - civil, political, economic, social and cultural - and sets out the specific ways these should be ensured for children and young people. All children have the right to life through the provision of basic needs - water, food, shelter and health care. Article 24 of the Convention states that Parties "shall pursue full implementation of this right and, in particular, shall take appropriate measures: To combat disease and malnutrition including within the framework of primary health care, through inter alia the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution."[6]

In 2002, the United Nations Committee on Economic, Cultural and Social Rights issued a General Comment declaring that water is not merely an economic commodity, and that access to water is a human right: *"The human right to water entitles everyone to sufficient, affordable, physically accessible, safe and acceptable water for personal and domestic uses."*[7] Countries that have ratified the United Nations International Covenant on Economic, Social and Cultural Rights are now required to *"…take the necessary steps towards the progressive achievement of the right of everyone to an adequate standard of living, including access to water and sanitation."*[8]

Recognition that adequate water is a human right does not imply that the public sector must provide these services, nor does the General Comment rule out a role for private enterprises. The final version of the statement, arising from a debate between representatives from public sector, private sector and independent institutions, omitted opinions on privatization because the members of the Committee agreed "not to politicize the issue." It is reported that they were unable to agree because some human rights representatives were strongly opposed to privatization.[9]

The failure to meet basic needs for water for all people has led to a rethinking of national and international water priorities and policies. Many governments, IFIs, including the World Bank, and TNCs, view privatization of water services as key to improving water management, finding value in applying economic tools and principles. They contend that effective water resource management requires that water be treated not only as a social good, but also as an economic good. The International Conference on Water and Environment, held in Dublin, Ireland in January 1992, not only states that "fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment," but also that "water has an economic value in all its competing uses and should be recognized as an economic good."[10]

Following the Dublin Conference, the United Nations Conference on Environment and Development, held in Rio in 1992, clearly recognized that economics must play a part in efficient water management: "Integrated water resources management is based on the perception of water as an integral part of the ecosystem, a natural resource, and a social and economic good."[11] This view was further reiterated in a joint statement to the Ministerial Conference on Water Security issued by the World Water Forum CEO Panel on business and industry, which stated: "water is an economic good and its economic value should be recognized in the allocation of scarce water resources to competing uses."[12] Hence, this line of thought not only considers water to be a social good, but also a resource subject to supply and demand. Although water may fall freely from the skies, corporations and IFIs justify privatization by arguing that it has to be collected, managed, processed and supplied through an expensive system of reservoirs, channels, processing plants and pipes. Dirty water and human waste also have to be removed and treated in sanitation systems, the argument goes.

Proponents of privatization contend that water is wasted if it is not treated as an economic good. That is, on a domestic level, un-metered access to water means that consumers do not pay according to the quantity they use and so they will use it wastefully. At a national level, subsidized water for farmers and industry encourages wasteful methods and inappropriate crops (e.g. growing water-hungry cotton in California or Central Asia, both naturally areas of semi-desert), often with a damaging impact upon the environment. Pricing water according to its true cost would promote more efficient and environmentally-friendly practices, e.g. the use of drip-irrigation or dry farming in agriculture. The World Bank initiated water sector reforms aim primarily at privatizing water utilities and commercializing water resources. The water privatization policy of the World Bank articulated in a 1992 paper entitled "Improving Water Resources Management" proceeds from the belief that water availability at low or no cost is uneconomical and inefficient, claiming that even the poor should pay. As pointed out in the "World Development Report 1992," the poor need a wider range of options so they can choose the level of water services for which they are willing to pay, thereby giving suppliers a financial stake in meeting their needs.[13]

The economics of water has been among the most controversial aspects of water resource management. Balancing ecological and human requirements for water with the requirements of economic development raises many difficult environmental, social and legal issues.[14]

B. COST AND EFFICIENCY

A major debate on privatization is whether private enterprises are more efficient than public enterprises. Proponents of privatization contend that privatization schemes have intrinsic incentives to cut costs and be responsive to customers, while the pubic sector is bound by bureaucratic inertia, lacks incentives to innovate, and is unaccountable to helpless consumers who have nowhere else to go. In addition, privatization advocates claim that privatization enables governments to balance their budget. Their argument is that governments spend too much on subsidies because of inefficiency or political patronage to influential groups. By freeing up scarce budgetary resources, governments that sell off public assets or put them under private management can dedicate the proceeds and cost savings to other under-funded social programs. Furthermore, proponents of privatization contend that the efficiency that private provisions will bring will also make reform irreversible. According to this line of argument, because new political leadership can reverse reforms, private provision offers policy stability by removing reform from future political agendas.

However, anti-privatization advocates argue that there is little evidence to indicate that better performance of water services has occurred in developing countries. The reason for this lack of evidence is that the main indicator for performance is profitability or efficiency. According to anti-privatization advocates, profitability inadequately measures the performance of essential services, as it reflects the satisfaction of shareholders, not consumers. Essential services are expected not only to run efficiently, but also to provide high quality service and reach the poor. However, poor people are the least profitable because they often are the mostly costly to serve, living in remote and physically cramped areas. Hence, anti-privatization advocates argue that promoting profitability may directly undermine equity goals.

C. ACCESS TO WATER

Another issue in the privatization debate involves the distribution of water services and access to water. Privatization advocates argue that privatization would improve access to water by means of business expansion and investment, which public sectors that are financially constrained could not achieve. On the same note, privatization advocates assert that privatization will lead to a reduction in poverty, as the private sector has access to more capital resources than cash-strapped, deficit-ridden governments. Especially for sectors with high sunk costs, such as infrastructure, fiscal constraints cripple developing country governments' ability to upgrade and expand services for low-income people.

Privatization proponents hold that private firms increase capital investment in services used by poor people, improving quality and expanding access. Especially where government has failed to invest in marginalized people—either because of budget constraints or political neglect—private capital is claimed to be the only viable opportunity for reaching excluded citizens. Particularly in the capital-intensive utility sectors, cash-strapped governments are portrayed as unable to keep up even with basic maintenance, much less to expand or upgrade costly infrastructure, whereas large corporations and nimble capital markets can make major investments wherever needed.

IFIs argue that the public sector providers waste water too much, typically losing 40 to 50 percent of their volumes through leaks and theft. Consequently, IFIs claim that this waste adds to governments' inability to expand services to urban slums, small towns and villages. Hence, as a solution to public delivery failure, IFIs support and vigorously push private participation. IFIs assert that increased cost recovery and privatization will actually expand access to clean water and sanitation, including for the poor. Where the public sector has failed to provide the money for the necessary investment, the private sector believes that its participation is essential. However, for this investment to be attractive to the private sector, water companies must be allowed to make a profit through realistic water charges that reflect the

Water Management in Porto Alegre

The Departamento Municipal de Agua e Esgoto (DMAE), the water company of Porto Alegre, capital of the Rio Grande de Sul province, Brazil, is one of the well-known examples of participatory water management. DMAE, a not-for-profit company, is publicly owned, yet financially independent from the state and fully self-financed through the water bills paid by the 1.4 million inhabitants. Water has been under public control since the Workers Party gained power in Porto Alegre fifteen years ago. DMAE allows public participation and democratic control over its operations and investments. Not only does a council of local civil society representatives control the daily work of the company, DMAE's operations and investment decisions are subject to a Participatory Budget process. In Porto Alegre, citizens directly decide the budget priorities of their water company. Through a process of public meetings, every citizen can have a say in which new investments should be made first.

This participatory model is one of the reasons that poor communities in Porto Alegre have gained access to clean water: their needs are prioritized because they participate directly in deciding about new projects. Approximately 99.5% of the citizens of Porto Alegre have access to clean water. Other advantages of this system include awareness-raising from being involved in decision-making and a feeling of ownership which makes citizens accept price increases that are necessary for new projects. DMAE's water price is one of the lowest in Brazil, but at the same time environmental information campaigns and the progressive price structure has made total consumption decrease. In this system, water use above a basic level—i.e. swimming pools—is relatively expensive.

costs of supply and a return on capital. The private sector believes that issues of quality, equity and environmental standards can be handled through effective regulation.

Often, IFIs find it necessary to charge higher rates to give private companies an incentive and sustainable profit, allowing companies to extend piped water service to the poor. The World Bank views current water tariff rates in several developing countries as 'below the market rate.' The privatization process would benefit from commercializing operations at all levels, attracting private investments, substantially increasing water prices, and creating water markets.

Conversely, anti-privatization advocates contend that privatization restricts access to water services by withdrawing from or ignoring markets that public sectors are obliged to serve, specifically, the low-income communities. Privatization leads to rate increases, exacerbating economic inequities and the affordability of water. Anti-privatization advocates assert that cash-strapped and indebted governments around the world are pressured, through IMF and World Bank policies, to raise consumer fees for water, increased "cost recovery."[15]

Privatization involves the implementation of full cost recovery in order for private sector investments to be economically viable. Under the full cost recovery strategy, consumers would be expected to meet the full operating and maintenance costs of water facilities and services, meaning that all subsidies and cross subsidies would be eliminated. It would also involve tariff hikes, disconnections, transfer of water from rural to urban areas, and from poor to rich neighborhoods. Collectively, water privatization would hit poor and vulnerable groups the hardest.

For example, water companies employ prepaid cards for the consumption of water to guarantee full cost recovery, and as a means of improving the management and efficiency of the system. Under this system, water firms save on metering and billing costs, thus promoting payment convenience. The system eliminates tampering of meters and allows for self-disconnection. At the same time, it allows the firms to reduce their workforce. With prepaid cards, consumers would have access to water only if they pay upfront. The experience in Cebu in the Philippines illustrates that water from prepaid water meters costs about US$3 per

Bolivia v. Bechtel: The People Win!

In the late 1990s, the World Bank pressured Bolivia to privatize the public water system of its third-largest city, Cochabamba. In particular, it threatened to withhold debt relief and other development assistance. In 1999, in a process with just one bidder, the California-based engineering giant Bechtel, was granted a 40-year lease to take over Cochabamba's water system, through a subsidiary the corporation formed for just that purpose ("Aguas del Tunari"). Within weeks of taking over the water system, Bechtel raised prices by an average of more than 50%, leaving the poorest segments of the population without access to water. The rate hikes sparked massive citywide protests that the Bolivian government brutally suppressed. In April 2000, as anti-Bechtel protests continued to grow, the company's managers abandoned the project. In consequence, Bechtel rescinded the contract.

As a response, Bechtel filed legal action against Bolivia in November 2002 demanding $25 million in compensation. This figure was far greater than Bechtel's investment in the few months it operated in Bolivia, because it included a portion of the company's expected profits from the project. Bechtel filed the case with the International Centre for the Settlement of Investment Disputes (ICSID), which operates under the auspices of the World Bank. Like most international arbitration processes, ICSID operates in secret, without any possibility for public input of scrutiny. The tribunal rejected a cubic meter - higher than the rates in most other parts of the country. Also, these prepaid cards have an expiry date. The use of prepaid cards limits access of water to the poor, forcing them to also depend on other water sources, which could be contaminated. This system has led to major disease outbreaks such as dysentery, cholera and other waterborne disease in the developing world. The use of prepaid cards, the increase in tariffs, and the disconnections result in the transferring of water from poor to rich neighborhoods. Anti-privatization advocates argue that when the distribution and access to water is organized around rules of the marketplace and the profit motive, only communities and individuals who can afford to pay for water services will have access to safe drinking water.

According to anti-privatization proponents, the trends toward water privatization, bulk sales of water, and water at a "market price," have contributed to the growing phenomena of "water apartheid." They argue that those who can afford it are provided with water services and those who cannot afford a "market price" are left to their own coping devices. In developing countries, access to safe and affordable water is a daily struggle for the majority poor population. More than 1 billion people lack access to potable water. In countries where privatization and "full cost recovery" for water are introduced without making subsidies available for those who cannot afford increased prices. As a consequence, those who cannot pay are sometimes cut-off from the water system. For example, in Nelspruit, South Africa, a cholera outbreak was linked to the government policy of turning off taps due to non-payment and forcing people to drink contaminated water instead. In Cochabamba, Bolivia, a massive uprising was necessary to overrule the contract between the government and the private water company, Bechtel, which had led to the soaring water fees and company cut-offs for non-payment. Advocates of anti-privatization assert that universal access to water and sanitation services must be upheld as a public and government responsibility.

Other issues relating to access to services raised by anti-privatization advocates involves the lack of accountability and local control, and the lack of participation induced by private corporations. Privatization reduces accountability and local control, and fails to include public participation and contract monitoring. The corporate water industry is highly concentrated. Major water companies are multinational conglomerates with operations spread across the globe. The largest water companies have an annual sales income larger than the Gross Domestic Product (GDP) of the small developing countries where they operate. It is virtually impossible for citizens or local governments to exercise a public oversight function or enforce accountability to local concerns. Multinational corporations are accountable to their shareholders rather than to the citizens in the countries where they operate. In contrast, it is easier for citizens to exercise oversight or to enforce accountability when water utilities are publicly-owned by municipal, regional or national governments.

D. QUALITY OF WATER SERVICE AND ENVIRONMENTAL SUSTAINABILITY

The quality of water service is yet another issue in the water privatization debate. Many supporters of privatization believe that marketplace competition can lead to higher quality services by driving out underperforming companies. However, anti-privatization advocates believe that privatization undermines water quality, as well as conservation, and environmental sustainability.

A private corporation has little incentive to be concerned about the environmental impact of providing water. If the local water supply is groundwater that is being used in an unsustainable fashion, the consequences on the environment may be immense.[16] Similarly, surface water diversions may have drastic environmental consequences, but be of little concern to the private corporation that diverts the water. These environmental costs are not internalized by the company but shunted off on society generally. As for water quality, private companies often resist undertaking expensive monitoring programs for low levels of pollutants. Corporations fear that it would be difficult to recoup these costs through rate increases, which are subject to both consumer acceptance and approval.

Private corporations seeking the highest profit may also ignore environmental sustainability. Private companies often sell or redevelop watershed reserve lands or groundwater recharge overlay lands that are traditionally marked as open space to protect watersheds and groundwater sources. Development increases cover and contaminated runoff, results in loss of important habitat and ecosystem services, affects hydrology patterns, and diminishes open space. When seeking cheap sources of water, private companies often fail to consider impacts on the natural environment, including watershed ecosystem services, instream flows, and aquifer health.[17] While public entities are obviously not immune from poor environmental decision-making, they are often more responsive to public protest. Globally, concerns are rising over the sustainability of water resources.

In addition, they assert that market-cost pricing or marginal cost theory tends to reward increased consumption because the marginal cost becomes lower as the volume increases. Instead of a progressive tariff structure that would encourage conservation by charging higher tariffs to higher volume users, anti-privatization proponents argue that market cost pricing tends to flatten the rate differential in the tariff structure and reward the higher volume users. Encouraging consumption is a typical strategy of any private corporation driven by the profit motive.

The privatization and commodification of water also promotes bulk water sales that can have disastrous ecological consequences. Many private water companies are seeking permits, licenses, easements and ownership rights to obtain access to fresh water that they can sell at huge profits. Mass extraction of water from its natural sources can result in ecological imbalances such as aquifer depletion and groundwater contamination. Once aquifers are depleted or contaminated, they are almost impossible to restore.[18]

IV. WATER MECHANISMS FOR PROMOTING PRIVATIZATION[19]

Mechanisms for promoting water privatization, including loan conditionalities, are a highly contested issue in the privatization debate. The World Bank and the IMF are among the world's primary sources of loans and development assistance, particularly to the South. In addition, they are responsible for a wide range of global- and national-level studies on economic policy, and their policy recommendations are, at the least, influential. While the stated objective of both institutions is to support sustainable and stable development, the extent to which their lending practices always adhere to these principles is questionable.

According to its mandate, the World Bank "aims to help developing countries fight poverty and establish economic growth that is stable, sustainable, and equitable," through a "mix of finance and ideas" that includes the provision of financial, advisory, and training services around the world.[20] In 2004, the World Bank provided $20.1 billion for 245 projects in developing countries worldwide.[21]

Similarly, the IMF aims to foster the growth of international trade, mainly by promoting international monetary cooperation and exchange stability. Currently, the IMF has two primary functions: to conduct research and provide advice on macro-economic policies and to make loans to countries faced with balance of payments crises. The financial assistance provided by the IMF includes credits and loans extended to member countries with balance of payment problems to support policies of adjustment and reform.

The availability of these moneys is traditionally dependent on a set of conditions. The explicit commitments to implement corrective measures that receiving countries make in return for support are known as "conditionalities."[22] While the stated rationale for conditionalities is to ensure that resources are safeguarded and eventually repaid, their application has caused concern. Financial assistance is often accompanied by pressure to adopt IFI-preferred policy positions, and private sector participation in the provision of essential services is prominent among them. The fact that IFIs have effectively imposed policy choices upon national governments through conditionalities, including in areas like the provision of water, has given rise to concerns among civil society groups and policy makers.

The World Bank's Poverty Reduction Strategy Papers (PRSPs) were developed to address some of these concerns. Mainly, PRSPs focused on increasing country "ownership" of programs by ensuring that national governments, instead of IFIs, take the

Water Management in Cochabamba after the Protests

After the protests in 2000, a Cochabamba civil society group, the Coalition for the Defense of Water and Life (the *Coordinadora*), assumed control, along with the Municipality, of the water sector in Cochabamba. Rather than just turning the management of the water back to the state, which had ushered in privatization in the first place, those involved decided organize around the principals of transparency, efficiency, participation, and social justice.

In order to be as inclusive as possible in the planning of the new project, the *Coordinadora* held a series of workshops for residents of the city and invited proposals from various constituencies on the shape of the future water service. With participation from and negotiations between the *Coordinadora*, the Mayoralty of Cochabamba, the society of professionals, a workers group, and others, a framework for a water utility, to be held in a public trust and, more importantly, responsive to the people it serves, was agreed. Since 2002, the Cochabamba water sector has been managed by a board of five representatives – three voted in by residents, one from the professionals society, and one from the workers group; the President's office is filled on an ex officio basis by the Mayor, and the Manager of the utility is chosen by the board. The posts are not remunerated (aside from expenses), and terms expire every two years.

Although the new water company utility faces problems common to all essential services agencies operating in developing world contexts, Cochabamba utility's effort currently constitutes one of the most successful loan packages from the Inter-American Bank in the sector. Experts estimate that, without foreign private involvement, three million dollars in capital stay in Cochabamba every year, instead of going to international corporations.

lead and that all stakeholders are involved in defining national policies. However, these efforts have so far failed to bring about real change: While the appearance of national sovereignty is carefully preserved, the World Bank continues to operate programs much as it always has. Accordingly, national governments hold the same perceptions about the kinds of policies they would need to adopt for World Bank Group loan eligibility.

Most policies that national governments "propose" for IFI assistance tend to cut public expenditure, often by reducing government involvement and increasing private control of the provision of services. In 1999, the World Bank awarded debt relief to Mozambique only after the country agreed to privatize the water supply in Maputo and "eliminate obstacles to entry and private sector participation in the transport, communications, energy, and water sectors."[23] Similarly, in 2002, when Uruguay specified policy choices it would adopt as part of a request to the World Bank for augmented financial assistance, among these was a promise "to open to private initiative activities previously reserved for the public sector."[24]

Conditions for IMF assistance are comparable. According to the IMF, "lending is *conditional* on policies: the borrowing country must adopt policies that promise to correct its balance of payments problem." (emphasis in original). These policy conditions have consistently tended toward liberalization and private sector participation. For example, under the IMF Poverty Reduction and Growth Facility, many developing countries' governments have agreed to have their loan conditioned by the privatization of their water sector.[25] Yet, at the same time –illustrating the inconsistency between the IFIs words and actions –the IMF claimed that during 2000-2001 it worked to make its conditionalities "...less intrusive into countries' policy choices."[26]

Overall, the lending mechanisms of IFIs have had and will continue to have significant impacts on policy choices in many developing and transitioning countries. On the surface, these policy choices appear voluntary: They are contained in domestic policy documents and are not legally linked to the grant of money. In reality, however, the situation is different. With governments under financial pressure, they are often unable to avoid IFI policy recommendations, including on issues such as the privatization of water. Yet, despite this pressure, countries need to carefully assess their options before adopting any policies in the water sector.

V. ALTERNATIVES TO CORPORATE WATER PRIVATIZATION

There is a strong public movement worldwide fighting for safe water and the recognition of water as a human right. Alternative models of publicly-owned or collectively-owned water utilities focus on democratic participation, local accountability and community activism.

Civil society organizations have begun to articulate alternatives to the prevailing corporate model of water privatization. According to declaration of the participants of the Central American Civil Society Forum on Water, which took place in Mexico City in Summer 2005, "as an alternative to privatizing trends on the one hand and centralizing ones on the other, when it comes to water management, we propose a model of local and participatory management in which communities devise and execute, in coordination with the pertinent public sector entities, policies aimed at the protection, conservation, and sustainable and equitable use of the resource."[27]

The declaration goes on to state that, "we demand opening forums to facilitate social organizations' participation in the elaboration and implementation of said policies, which will have to be established in legislation with the relevant normative entities to make this management model effective, as the only means to guarantee respect for the human right to water."[28]

Cities around the world have already begun invoking measures that would improve public water supply by increasing popular control, participation, and other democratic reforms. These measures ensure that water utilities are accountable and responsive to the needs of the population.

Suez/Vivendi v. Argentina

On January 27, 2005, the Center for International Environmental Law (CIEL), along with its partners submitted a petition for transparency and participation as amicus curiae to an ICSID Tribunal hearing a case brought by Suez' subsidiary, Aguas Argentinas S.A., against Argentina.

This investment dispute before an ICSID Tribunal was at the heart of the controversy between the Argentine Government and a foreign investor concerning the provision of water and sanitation in the City of Buenos Aires and 17 districts of the Province of Buenos Aires (the largest concession area in the world). As in the other arbitration proceedings brought by companies supplying public services, Aguas Argentinas S.A. demanded massive compensation for the alleged impact on its business brought about by the general economic emergency measures adopted by the Argentine government during the 2002 economic crisis. The petition challenged the secret and non-transparent procedures in which issues of public impact closely relate to the manner whereby inhabitants have access to, and enjoy, water and sanitation services.

In response to this petition, on May 19, 2005, the ICSID tribunal for the first time decided that it has the power to accept amicus curiae briefs from civil society organizations, even in the face of objections from the disputing parties.

VI. CONCLUSION

While many of the world's public-owned water utilities operate effectively, others have become bureaucratic and out of touch with the populations which they are supposed to serve. IFIs and corporations use this as an argument for privatization, while ignoring that there are dynamic, alternative models of publicly-owned water utilities. Alternative and cooperative models deliver results by ensuring that water utilities are accountable and responsive to the needs of the population.

Transparency and public participation are critical for economic and political success in water services. Successful management of water services requires community and worker participation at the state, regional, and international levels in all decisions pertaining to water resources.

Water resource development projects must be based on the respect for the rights of affected communities and must provide full and meaningful participation in decision-making. Water crisis leads to conflicts at community, national and international levels. Therefore, the management and protection of the world's water resources must absolutely be based on the principles of justice, solidarity, reciprocity, equity, diversity and sustainability, because water is a human right.

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Other CIEL Publications:

Fresh Water and International Economic Law by Edith Brown Weiss, Laurence Boisson de Chazournes, Nathalie Bernasconi-Osterwalder (Oxford: Oxford University Press, August 2005)

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