

PART III STRUGGLES FOR PEOPLE- CENTRED PUBLIC WATER

URUGUAY: VICTORIOUS SOCIAL STRUGGLE FOR WATER

By Carlos Santos and Alberto Villarreal

Through the mechanisms of direct democracy, the Comisión Nacional en Defensa del Agua y la Vida (CNDAV-National Commission for the Defense of Water and Life), supported by 64,6% of the citizens, made possible the inclusion of water as a fundamental human right in the Constitution of Uruguay. In this way, the foundations for the public management of water resources, based on social participation and sustainability, were laid.

In October 2004, the Uruguayan people endorsed a CNDAV initiative that amended the Constitution in an election victory backed by more than 1,440,000 Uruguayans, almost 65% of the poll.

The amendment stated: “Water is an essential natural resource for life. Access to drinking water and the sewage system constitute a fundamental human right.” The Amendment of Article 47 of the Constitution (Rights, Liabilities and Guarantees section) says that the public management of the water resources ought to be based on the criteria of citizen participation and sustainability.

The direct democracy mechanism was fostered by the CNDAV. This commission was established in 2002 as a reaction towards the letter of intent signed between the Uruguayan government and the International Monetary Fund, in which the former committed to expand the privatisation of the drinking water and sewage services throughout the country.

Privatisation of these services began in Maldonado in 2000, favouring the multinational French company Suez Lyonnaise

des Eaux, followed by Spain's Aguas de Bilbao.

Like most cases of water privatisation worldwide in recent years, it had negative consequences in Uruguay.

From a social point of view, large sections of the population were denied access to drinking water as they could not afford the privatised service, whose tariffs have risen up to 10 times more than the price charged by the public utility OSE. The service also did not maintain the quality provided before by the public utility (which still serves the rest of the country with over 90% coverage). It was so bad that inspectors stipulated that the water ought not to be drunk as it did not comply with minimum standards.

From an economic point of view, it was a very bad "business" for the Uruguayan state. Neither of the companies has complied with the work scheduled in the contracts, nor have they paid the fees that were initially agreed. Instead, they resorted to a number of revisions of the original contract by which the state effectively took over the losses each of these companies incurred, effectively making the Uruguayan population subsidise them.

From an environmental point of view, the company Aguas de la Costa – a subsidiary of Suez - was responsible for drying up Laguna Blanca. As a result, neighbouring organisations in the province of Maldonado have recently sued the company, alleging environmental damage.

RESISTING PRIVATISATION

Reaction to the privatisation of water in Uruguay has varied according to the characteristics of the area where it was carried out. Grievances in coastal areas revolve around the quality and price of the water services - "Water for a Fair Price" was the main demand of the Liga de Manantiales (a community organ-

isation), while organisations in Maldonado's impoverished areas focused their struggle on the defense of "public or popular faucets" (supplying posts). These taps were installed by the public water utility at different spots throughout the country to ensure a supply of drinking water. The cost and installation of the service is borne by OSE, the public water utility in charge of providing the drinking water and sewage system services.

In the privatised areas of Maldonado, companies decided to eliminate the "popular faucets" as a way of increasing the number of people connected to their service.

In case of Manantiales (a locality near Maldonado), the private company was able to eliminate the popular taps, and poorer sectors were left without drinking water due to the high connection costs.

Solutions sought by inhabitants also varied according to the different socio-economic conditions: some drilled their own water wells (at the risk of legal reprisals since regulations governing the supply of water where private companies have taken control are not clear), while others have chosen to develop a system to collect rainwater as their water source. The latter strategy was adopted by a group of families that have settled on land situated a few yards from residential and tourist areas.

These options have worked since the natural characteristics of the surroundings allow this kind of strategy (the plots are big enough to drill wells or install rain water drains).

The reactions in the city of Maldonado were different. Even though the private company was successful at first in eliminating the taps in many impoverished areas, it later faced strong resistance from neighbours. Resistance was particularly strong in San Antonio III where the water supply was cut for a day after the private company removed the tap. San Antonio's neighbourhood commission - which has been committed to community work for over a decade - managed to make the

local authorities back their claim to restore the public tap, despite the fact that the municipality had to cover the maintenance costs.

TOWARDS A SOCIAL VIEW OF WATER

The CNDAV promotes a vision of water opposite to that promoted by multinational corporations. The Constitutional Reform supports the notion that water is a basic human right, not a “need” that can be satisfied by private corporations in exchange for profit. Moreover, social criteria prevail over economic criteria, and water for human consumption is now given constitutional priority over all other uses of water. The amendment also includes a clause that severely limits the ability of corporations to pump water and export it without limits, either as bottled or bulk water. The approved amendment demands a special majority approval in parliament for “the provision of water to other countries facing water shortages, for solidarity reasons”.

Besides making the private provision of water delivery and sanitation services illegal, by mandating that these can only be provided directly by state or government entities, the successful constitutional amendment also enshrines the participation of consumers, communities and civil society in all stages of water management and institutions. Participatory management, following the example of participatory budget administration in Porto Alegre and several other municipalities in Brazil, will certainly be the first and most effective weapon to protect — through local community control mechanisms — the existing public utility from corruption and the vices that were eroding its public credibility, services and finances. Effective public participation will clean the public utility’s top management of failed politicians who were given leading positions (which were

created specially for them) in (mis)management, with very high salaries. Similarly, existing and potentially new community-run water and sanitation co-operatives will be protected as participatory management schemes.

Finally, the approved Constitutional Reform gives a mandate for the sustainable management of all water resources in Uruguay. So far, the public utility has not incorporated high environmental standards and sustainability criteria in its management. Additionally, there is a myriad of government bodies that have decision-making powers over different aspects of water management, and this has led to inconsistent, incoherent and unsustainable policies. Water conservation will now be a central thread in all water-policy making, and measures and legislation to prevent water contamination will be at the forefront of management, with water basins as the basic management unit.

Naturally, all these provisions need to be translated into enforceable legislation, and this will be the challenge for the incoming government and the CNDAV.

DIRECT DEMOCRACY AT WORK

The Uruguayan electoral system requires that constitutional reform prompted through a citizens’ initiative must have the support of 10% of the electorate to be considered by citizens as a whole, together with national elections (legislative and presidential). In Uruguay, referendums are the traditional method for popular movements to resist authoritarianism by the military as well as the privatising “reforms” of neoliberal governments.

In October 2003, a year after it was formed, the CNDAV presented to parliament the 283,000 signatures that were required to have a popular vote (plebiscite) on constitutional

reform, thus triggering the plebiscite mechanism enacted a year later together with national elections.

ENTRENCHED OPPOSITION TO THE REFORM

The water plebiscite was an important political victory spearheaded by CSOs such as grassroots, local communities, trade unions and environmental organisations. CNDAV is a broad coalition of social and political organisations that oppose the commodification of water.

Among its founders are several neighbourhood organisations, FFOSE (the trade union of the public water utility workers) and REDES-FOE (Friends of the Earth) Uruguay. The commission grew to include the left wing coalition (Frente Amplio) that won the October 31st elections, and the majority sector within the Partido Nacional (that came second in the national elections).

Despite this political support, the water plebiscite was a minor issue on the political and media agenda for most of the two-year campaign. Moreover, private companies in the water and other sectors (such as bottling companies), as well as conservative business sectors (large land owners, forestry plantations, rice industry and cultivators) carried out a strong political and media lobby against the reform.

During the three months prior to the plebiscite, the International Monetary Fund (IMF) started a public debate with the CNDAV, denying any imposition on the Uruguayan government and rejecting any responsibility attributed to them with regard to the content of the 2002 Letter of Intent.

The interests of water multinationals based in the country are also affected by the special Z disposition established in the reform document, according to which: “the compensation that could arise as a result of the entrance in effect of these

reforms, will not generate reparation for future lost profits, and only debts not gradually being paid off will be reimbursed.”

This specific clause puts this local struggle against water privatisation in the international arena as it comes into direct conflict with what has become normal practice through bilateral investment agreements and free trade agreements (FTAs), such as NAFTA; namely that corporations demand compensation for future lost profits, arguing that they have been expropriated (expanding the definition of an expropriation to almost any government action that affects their interests).

Eventually, after the constitutional reform has been approved, we get to the cutting edge of the conflict. If Suez manages to pressure the new government enough with threats of huge compensation into flipping sides and, through “interpretative legislation”, allows Suez to stay, the introduced amendments in the constitution will be turned into dead literature.

Defending this constitutional reform from the claims of Suez and other private actors in the water sector in Uruguay will demand a strong international campaign. It will need to expose and defeat the undemocratic character of the international arbitration panels that the water corporations have already threatened to use to impose their will over the will of the Uruguayan people.

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