

## To privatize or not to privatize: that is the question. But is it the only question? Reediting the liberal agenda for drinking water supply and sanitation in Brazil

Privatizar ou não privatizar: eis a questão. A única questão? A reedição da agenda liberal para o saneamento básico no Brasil

Privatizar o no privatizar: esa es la cuestión. ¿Pero la única pregunta? Reeditando la agenda liberal de abastecimiento de agua y saneamiento en Brasil

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The financial crisis in Rio de Janeiro State, Brazil, opened the door to an important paradigm shift in the provision of water supply and sanitation services nationwide in Brazil: the privatization of State-owned water and sewer utilities. The agreement that allowed renegotiation of the State's debt was conditioned on transfer of assets from Rio de Janeiro State Water and Sewer Utilities Company (CEDAE), the State-owned utility company, to the Federal government, conditioned on the commitment to privatize it within two years. This unprecedented arrangement showed that the Federal government has its own agenda for drinking water distribution and sanitation in Brazil: a total of 18 governors (out of 27) have expressed interest in joining the current Administration's proposed privatization plan <sup>1</sup>.

It is not the first time that the Federal Government has attempted to push privatization of water and sewer utilities in the country. In early 1999, then-President Fernando Henrique Cardoso committed to the International Monetary Fund to sell the State-owned water and sewer utilities, along with the electric utilities and State-owned banks <sup>2</sup>. Based on orientation from the World Bank <sup>3</sup>, then-ruling party Brazilian Social Democratic Party (PSDB) introduced various bills of law to allow opening the water and sewer sectors to privatization to private enterprise, including one by then-Senator Jose Serra and another more important bill from the Executive itself in 2001 <sup>4,5</sup>. These bills were intended to transfer ownership of the utilities from the States to the Municipalities before the State-owned companies were auctioned, as the only way to allow properly pricing them, guaranteeing their customer portfolio for the future purchasers. Despite the support of various allied governors including that of Rio de Janeiro State, the opposition by municipalities in Congress blocked the vote on the bill throughout Cardoso's term, thus guaranteeing the utility companies' survival <sup>6</sup>.

Nearly two decades later, State-owned companies of drinking water distribution and sanitation collection have maintained their leadership in providing services, operating in 65% of Brazil's municipalities. Together they distributed water to nearly 110 million Brazilians and collect sewage from 57 million. But the industry as a whole experienced major changes that went unnoticed for the public at large. New institutions were created, the legislation was modernized, and more resources became available. The State-owned companies themselves diversified their arrangements in the search for financial sustainability. CEDAE, which remained under State ownership, became profitable, contrary to some people's expectations. São Paulo State Water and Sewer Utilities Company (SABESP)

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and Minas Gerais State Water and Sewer Utilities Company (COPASA), two utility giants, chose to go public with their shares, while maintaining State shareholding control. Meanwhile, privatization remained on the menu, although without relevant weight: holding construction companies consisting of famous domestic companies now serve approximately 20 million people in nearly 500 municipalities in the country. However, universal access is still a distant dream: 35 million Brazilians still lack access to water and 100 million lack sewage disposal and are forced to rely on individual solutions, not always safe, to meet their essential needs (Ministério das Cidades. Sistema Nacional de Informações sobre Saneamento. <http://www.snis.gov.br>, accessed on 20/Mar/2017).

Again, the Federal Government's proposed solution is to privatize the State-owned water and sewer utilities. The argument is that only private investment can handle the herculean and expensive task of providing access to the underserved population. The Federal government has negotiated this proposal directly with the State governors, but has failed to engage in dialogue with the Municipalities, excluding mayors and city councils from the industry's decision-making arena.

This reckless approach can come with a high price. For example, the mayor of Rio de Janeiro threatened to rescind the city's contract with CEDAE on grounds that he had not been consulted on the operation involving sale of the company <sup>7</sup>. The city of Rio de Janeiro is the company's principal client and main source of revenue. In the financing system practiced by the State-owned companies, revenue from the wealthier clients subsidizes the expansion of services to poor clients. Without the former, what would become of the latter? The government has no answer. But the economy does: the prices practiced will tend to increase, particularly penalizing the poor. The government's wager on the privatization of water and sewer services is highly controversial. Various experts have spoken against this approach, especially because access to water is a human right and a health right that should be guaranteed for everyone. Besides, there is still no solid study that has proven definitively that the performance by private agents in the sector is superior to that of public agents. In fact, the option to privatize goes against an international tendency, where countries that have tried it, have been moving backwards. France, Germany, and Portugal are returning these services to public control, following the failure of market agents to properly manage water supply <sup>8</sup>. In poor countries like Bolivia, the result was the outbreak of violent grassroots rebellions after privatization led to abusive tariff hikes for water, penalizing poor communities <sup>9</sup>. What can be expected in Brazil, with the same kind of deficit in water supply?

Many would wager on stiff contractual clauses to ensure services to underserved neighborhoods, a kind of mandatory condition for servicing wealthier areas. But this would require Brazil's State Executive Branches to wield strong bargaining power and commit to the cause of universal access. This does not appear to be the case of governors that auction off State-owned companies in exchange for some breathing room in their State budgets, or who maintain dubious ties with companies in related sectors. Contractual conditions are an important part of the business, but they alone do not solve all the issues involved in the providing health promotion services like water supply and sanitation for poor populations. In Recife, Pernambuco State, the public-private partnership signed by Pernambuco State Water and Sewer Utilities Company (COMPESA) with the Odebrecht company is being revised under orders from the State Accounts Court, after the agency's audit showed that delays of more than two years in the public works had produced an undue profit of BRL 34.6 million (approximately USD 11 million) for the company. According to the State Court, the concessionaire was receiving the installments provided under the public-private partnership without investing the agreed-upon amounts, thereby increasing by more than 30% the amount to be received by the company at the end of the contract <sup>10</sup>. In Tocantins, the Odebrecht holding company that acquired control of Tocantins State Water and Sewer Utilities Company (SANEATINS) in 2012 took over management of the State's 52 most populous (and profitable) municipalities, while transferring the other 78 municipalities to a State government agency created for this purpose. The government even reimbursed the company for consultancy provided during the portfolio transition <sup>11</sup>. In the State of Amazonas, where the access issue is critical, privatization deleted the State capital, Manaus, from the Amazonas State Water and Sewer Utilities Company (COSAMA) portfolio, leaving the city to its own devices with the State's other municipalities <sup>12</sup>. Even "successful" cases like Niterói, Rio de Janeiro State, sparked controversies: according to CEDAE, the amount paid to the company per cubic meter of water falls far short of covering production costs <sup>13</sup>. The fight made it all the way to the courts.

Meanwhile, State-owned utilities have not exactly proven to be the champions of equal access. After the Cardoso administration, the new government brought the utilities some new slack, and there was no lack of funding from the Growth Acceleration Program (PAC) launched in 2007. In light of such incentives, better results were expected than those actually produced. Most of the construction works took more than a year just to get started, and soon came to a standstill in the middle of the road, frustrating the hopes of the families that were their intended beneficiaries<sup>14</sup>. Just as contracts do not guarantee social responsibility in investments in poor areas by private players, the mere fact of belonging to government does not guarantee commitment by State leaders to universal access or protection of their administration against the patronage practices typical of the Executive Branch in Brazil. The main advantage of a company administered by the State is the window of opportunity that opens at each election to the adjustments and necessary corrections in the public interest, which would otherwise be difficult given the context in which private enterprise acts in the country.

It is thus definitely necessary to overcome the discussion focused exclusively on service providers and directly tackle the structural and internal obstacles to this sector's proper functioning in Brazil. Other (non-financial) difficulties could explain this public policy's repeated failures in the country. However, this issue is not even considered by government, the media, or water and sewer utility managers. The insistence on limiting the entire discussion on universal access to the service providers not only fails to help identify the real obstacles that affect the sector, but also serves to hide from the public debate the advantages and beneficiaries that reediting this old agenda intends to implement.

## Contributors

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