



Ronald MacLean-Abaroa

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Ms. Catarina de Albuquerque

Independent Expert on the issue of human rights obligations
related

to access to safe drinking water and sanitation

ESCR Section

Special Procedures Division

UNOG-OHCHR

Palais des Nations

CH-1211 Geneva 10,

Switzerland

OHCHR REGISTRY

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Fax: +41 22 917 90 06

Recipients :.....**SPD**.....
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Dear Ms Albuquerque:

I am respectfully writing to you to submit my experience as a former four-term Mayor of the City of La Paz, Bolivia, between 1985 and 1997, regarding the impact of private operators in the provision of water and sanitation in developing countries.

As Mayor, I presided over the municipality-owned water company SAMAPA for almost seven years. During that time I displayed innumerable efforts to streamline the company and make it efficient and economically viable. Although we achieved some degree of technical capability, economically the city lacked the necessary financial resources to carry the necessary investment, and administratively we continued to face different kinds of ineffectiveness, and persistent corruption.

In 1996 we decided to bid the operation of the company to the private sector, and conducted an open and transparent international tender, after which we chose an operator and negotiated a 30 years contract. Basically, the private operator Aguas del Illimani, committed to invest 362 Million Dollars over the life of the project (way above the ability of the city to invest in the service), and provide 100% water coverage for the population of both cities. After nine years of the life of the contract, the private operator had invested 68 Million Dollars, equivalent to 19% of the committed investment, despite the fact that the subsequent municipal administrations had frozen the contractually agreed adjustments in water rates. Remarkably, during these initial nine years, Aguas del Illimani completed an impressive 98,9 % of coverage in the provision of water, and 78,9 % sanitation, by far the best performance in the whole country. The operator had overestimated the growth rate of demand for water, and was within reach to complete the provision of sanitation, and therefore was well prepared to meet any future increases in the remaining 21 years left of the contract, and therefore contract was well in its way to be satisfactorily completed by its termination date.

Unfortunately, the new national government, and the serving mayor decided to unilaterally break the concession contract in 2005, and the company was reverted to the municipality, backtracking forty years of institutional development, supported by the German government's cooperation agency. In the last four years in which the company has been run by the municipality, the rate of coverage has not increased, due to a lack of investment in the service, and the coverage of the service has decreased due to lack of maintenance.

There is growing uncertainty about the ability of the new administration to cover future demand due to the increase of the population, and their inability to develop alternative and additional sources of water supply due to the melting of the glaciers around

La Paz, and El Alto. Those alternative sources of water supply are posed to require substantial investments that the private operator would have had to make out of the \$362 Million dollars committed, and which the local water company now would be unable to do.

I have absolutely no doubt that the concession of the water company SAMAPA to a private operator -Aguas del Illimani- in 1997 was the appropriate solution to reach the poor with an adequate provision of water and sanitation services. Poor cities in the developing world usually lack the managerial skills, the financial capital, and the administrative continuity to run water companies effectively, and economically. The recent experience of La Paz, El Alto, and Cochabamba after the "War of the Water" in the year 2000, is dramatic, and tragic. These cities are facing not only declining coverage, but accute shortages of water, particularly in Cochabamba. The poor population is bound to suffer the most, because the most expensive service is that which is lacking.

I would like to sum-up with the following reflections:

1. As the former Mayor of La Paz, I have had the experience using a private sector operator to give effect to our policies, which included extending services to people who did not have them, while eradicating corruption in the water company. I viewed the private operator as being an instrument for the execution of our policies. The private operator was not a substitute for the lawful political and economic responsibility of the municipal government.
2. Private operators can carry out socially "affirmative" and pro-poor policies including non-payment and disconnection policies and they have a good track record for giving positive results demonstrating good compliance with public policy objectives and regulations. They are

bound to follow the regulatory framework dictated by both national and local authorities.

3. All types of operators, public, private, or NGOs have the same obligations to respect the Right to Water and Sanitation dictated by regulation or law. They all need to receive clear instructions from governments about the objectives and responsibilities. These should include instructions about socially "affirmative" and pro-poor policies including non-payment and service disconnection policies.
4. I see no incompatibility between the Right to Water and private operation. Indeed I am concerned that if the report places impediments in the way of the private sector participating in the sector, this could be very detrimental to the objective of giving practical effect to the right to water for those who desperately need these services.

I would be willing to present further evidence to the fact that in poor developing countries, and/or cities, the concession of the provision of water, and sanitation to the private sector, when adequately regulated, and supervised by the authorities, could be a viable alternative to the often ineffective and corrupt state-run operations. The private operator can bring knowledge, technology, financial resources, and can buffer the public sector of corruption.

By nature, the international private operator today, in a globalized world, has increasing reputational risks, and can be brought to international courts, if it engages in corruption practices, or breach of contracts. Something that seldom can be done with local or national authorities running these business, instead of legislating and regulating it.

Ms. Albuquerque, please feel free to call on me if I could be of any assistance in the prosecution of your mandate.

With best regards,

Ronald MacLean-Abaroa
Former four-time Mayor of La Paz

rmacleanabaroa@worldbank.org

romacab@aol.com

Phone +1 202 458 4190 or cell +1 240 338 5199