

PERMANENT PEOPLES TRIBUNAL

Hearing on

Neo-liberal Politics and European Transnational Corporations in Latin America and the Caribbean

10-12 May 2006 - Vienna, Austria

Case: "Privatization of water in Saltillo (Mexico): a shared experience between Europe and Mexico

Name(s) of the Association(s) presenting the case: Copenhagen Initiative for Central America (cifca) and the Mexican Network before Free Trade (RMALC)

Name of the transnational (s): Aguas de Barcelona, with the shareholder participation of Suez

Country (ies) of intervention: México

Synthesis

International instruments and / declarations from the United Nations, Conventions, Regulations, Guidelines, National Constitutions that are being ignored or violated by the Multinational?

The company Agsal is not guaranteeing the human right to water as defined by General Observation N° 15 of the UN Committee on Economic, Social and Cultural Rights¹.

Observation 15 does not establish that the potable water service should be free but does underline that the costs should be accessible for the population and should not constitute an obstacle for access to water and/or be detrimental to ensuring other fundamental rights. It has been clearly demonstrated in Saltillo that this factor is not being fulfilled. There is a double discourse on the part of the multinational Agsal.

Argument

The semi-privatization² process of the Potable Water and Sewer Systems in the municipality of Saltillo, Coahuila, was the first case in Mexico to involve a joint venture, which is to say the control/property of the water resource remained in the hands of the State but the administration and execution of the entire potable water and sewer system service is in the hands of a private investor, who holds 49% of the shares, in this case Aguas de Barcelona – where the controversial multinational Suez is a shareholder.

The legal representative of Aguas de Saltillo is Interagbar, a company that was created when Aguas de Barcelona won the bidding. In the partnership Contract it signed the following company name appeared (Interagbar of Mexico, SA of CV, constituted in the City of Mexico on August 6, 2001).

The new water system operator is called Empresa Paramunicipal de Servicios Aguas de Saltillo, SA of CV and its capitalization took place August 15, 2001 in order to begin operations on October 1 of that same year.

Irregularities on the part of the private company

- a) **Bidding Rules:** In Saltillo, municipal authorities initially said that several companies were interested among which stood out Anglian Water, Lyonnaise des Eaux, Vivendi and Aguas de Barcelona. However, two responded to the invitation, Vivendi and Aguas de Barcelona.

¹ The UN Committee on Economic, Social and Cultural Rights is the body responsible for ensuring the application of International Economic, Social and Cultural Agreements on the part of Members States and to assist this in issuing General Observations that constitute the authorized interpretation of the dispositions of those agreements, doctrine as a source of the international human rights law, also considered "soft-law."

² The concept of semi-privatization is the term that is technically and legally managed in the Saltillo municipal documents under the argument that the majority of the shares belong to the public sector (51 percent).

In the end the final company was the only one that made a bid and won with the concession with a price that was slightly higher than the minimum base price.

As a result, Aguas de Barcelona, without any competition, managed to win a 25-year contract to administer and operate the Saltillo Water Systems, paying 81.9 million pesos (Eighty One Million, Nine Hundred Thousand pesos) and began operating October 1, 2001.

b) “Consultation” process about the SIMAS-Saltillo privatization

The bidding documents were elaborated, the municipality carried out a couple of “consultation forums” which, according to some of the business leaders who were interviewed and representatives from the Association of Water Users in Saltillo (AUAS), rather than consultations these were forums to promote the advantages of joint ventures with and there was no room for criticism or questions.

c) Aguas of Barcelona Labor Policy

There is a new collective contract project that decreases labor rights and guarantees³. For example, the new workers who enter Agsal do not have the same rights as the old union members, etc.

The question of salaries deserves special attention as there is a major difference between what a worker earns and what a Spanish official from Aguas de Saltillo earns.

d) Rate hikes

In Saltillo there have been unjustified rate increases. For example on May 1, 2002 there was a 10% increase for domestic users and on December 1 there was a 5% increase for domestic and commercial clients.

The company argued that they needed to change meters and provide them with maintenance. However, this did not happen for all consumers, as a result it involved paying for something that might never take place.

e) Social and environmental responsibility discourse not respected

In January 2003, Suez revealed its “*action plan*” aimed at recovering the debt and moving toward profitability, by reducing its exposure in so-called “*emerging countries*” by 1/3.

The plan to pull out investment in developing countries contradicts that notion that the private sector “will provide the nations that need more assistance with potable and safe water.” Suez recognizes that it cannot carry out investment in infrastructure in a market that cannot confront the earnings expectations of the water companies⁴. The companies ask for public subsidies and labor contributions on the part of clients in poor neighborhoods to construct the installations and guarantee universal access.

f) Lack of transparency

The Association of Water Users from Saltillo consider that they were denied access to the documents that served as a foundation to privatize the system, such as the Diagnostic of the System and the Analysis of the technical, financial and social impact aspects, if they existed. At the same time it excluded the citizens who questioned the process.

³ A copy of this project elaborated by Aguas de Saltillo with the Agsal union leaders is available.

⁴ Suez, Water for all, a report from public citizens www.citizen.org/california/water

Other relevant indicators

An audit has been carried out about the Aguas de Barcelona operations in Saltillo, which included the fourth quarter of 2001 and the fourth quarter of 2002. When the ruling was published it demanded the devolution of the amount indicated prior to the patrimony of SIMAS Saltillo.

Regarding salaries and benefits collected by first level officials, the Comptroller estimated that the income was very high as they are public officials and they called on the Council to pay more attention so it does not happen again.