

## Conclusion

# Reclaiming public water through remunicipalisation

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Remunicipalisation is an undeniable trend as evidenced by the analysis presented in this book. Despite more than three decades of relentless promotion of privatisation and public-private partnerships (PPPs) by international financial institutions and national governments, many cities, regions and countries have chosen to close the book on private water and to bring services back into public control. More than 235 cities from 37 countries have remunicipalised water services over the last 15 years.

Remunicipalisation is generally a collective reaction to the unsustainability of water privatisation and PPPs. The pace of this trend has accelerated dramatically. It has been most symbolic in France, the country with the longest history of water privatisation, which is also home to the leading water multinationals. The experiences in other key countries (US, Germany) and major cities (Paris, Jakarta) featured in this book also demonstrate that privatisation and PPPs fail to deliver on the promised benefits to local governments and citizens and that public management is better suited to meet the long-term needs of end users, local authorities and society at large – including the need to protect our local and global environment.

In most countries, the expansion of modern water and sanitation systems happened as a result of public ownership and investment in response to increasing demand and public health concerns in urban areas. In the 1990s, however, many countries privatised their water and sanitation services as a result of strong international pressure to open up the services sector. Thus a similar public effort is required today to address our pressing water challenges, such as urbanisation and access to water and sanitation in the South, climate change

and water conservation. The global experience with remunicipalisation shows yet again, that a collaborative and democratic public sector is in a better position to lead the way into a sustainable water future.

By way of conclusion, we offer an overview of the key lessons from the cases presented in this book and also draw from our global list of remunicipalisation to illustrate additional cross-cutting themes such as the challenge posed to public water services by investor protection clauses, the position of the trade union movement vis-à-vis remunicipalisation as a social project, and performance evaluation as a way of measuring the success of remunicipalisation.

## Stop irresponsible policy prescriptions

Despite the failures of the flagship privatisations of the 1990s, including in Buenos Aires and Jakarta, international financial institutions continue to promote water privatisation as a solution to provide access to safe water in the South.

A more recent example is that of Lagos, Nigeria, the largest city in Africa with 21 million people. Only 5 per cent of residents have household water connections and sanitation is non-existent across much of the metropolis, while hospitals are full of people suffering from diarrhea and other water-borne diseases. Because of the lack of access to water, people have either illegally connected to the public water network of the Lagos Water Corporation (LWC) or rely on buying low quality water from private vendors. Lagos's reality mirrors the challenges in many other places in the world where access to clean and affordable water is an ongoing struggle. It is clear that investments and institutional reform are needed. In 2014, the World Bank's International Finance Corporation recommended private sector participation in LWC. The public utility rejected this policy advice, leading the bank to withdraw its loan commitment.<sup>1</sup> International and regional development banks have to stop imposing such irresponsible policy conditions and abusing the power of money. The Nigerian government and the public water utility LWC have to create space for democratic discussions on how they want to improve services. The international community should respect and support this process.

Today, the same flawed model of water privatisation and private sector investment prescribed in the South is being promoted in the European Union in the context of the financial and economic crisis, as a way to improve public finances and to fund cash-strapped water services. This has been the case in Greece where the attempt to privatise the water operators of Athens and Thessaloniki failed in the face of public resistance and concurring court decisions<sup>2</sup>; other countries such as Portugal, Ireland, Spain or Italy have experienced similar attempts. The Portuguese Court of Auditors recently uncovered the asymmetry that is intrinsic in PPP contracts between municipalities and private companies, which makes it difficult for municipalities to monitor the quality of investments and to assess financial implications.<sup>3</sup> Indeed, past experience shows that such policies turn out to be worse for public budgets in the long term, and lead to poor services and a loss of democratic transparency.

There is too much counter-evidence to believe naively what the private water sector promises to deliver. The growing list of remunicipalisation from around the world demonstrates that privatisation and PPPs are socially and financially unsustainable; it also shows how hard local authorities and citizens have to work to take back their services. There is growing awareness and evidence that service management by the private sector is very expensive.

## Reject privatisation and PPPs, there are other solutions

Because of popular discontent with water privatisation, private water companies have used their marketing propaganda to encourage people to believe that PPPs are distinct from privatisation; they are not. PPP means the transfer of services management control to the private sector. PPP promotion within governments remains aggressive today and its proponents have managed to present it as a solution to bring 'innovative financing' to the water sector.

Local authorities and policy-makers should be extremely careful when considering privatisation and PPPs in water services. Reversing private contracts is possible but is not easy at all; it involves major costs, time and expertise. It is advisable to avoid privatisation and PPPs in the first place and seek assistance

from and partnerships with other local authorities and public operators instead because they share common missions and values. Inter-municipal cooperation can generate economies of scale and such public-public partnerships (PuPs) can strengthen operators' capacity to solve problems. It is encouraging to learn that national and regional public water operators' associations are starting to play an active role in sharing knowledge and providing peer-to-peer support. Their basic values of cooperation and solidarity (instead of competition) can go a long way to improving services and enhancing (rather than undermining) local capacity. At the international level, the Global Water Operators' Partnerships Alliance (GWOPA) was established to foster not-for-profit, peer-to-peer knowledge sharing to strengthen local capacity. GWOPA is one among many initiatives to pool knowledge and commitments to support utilities that wish to enhance their capacity to provide better services.

## Remunicipalisation is a viable remedy

If water services are already privatised in your town, remunicipalisation is a possible and viable remedy to end financially and socially unsustainable contracts. Again, remunicipalisation is not easy and even if negotiations go smoothly with a private contractor there are a series of steps that should not be neglected: technical issues such as the transfer of accounting and information systems, worker transition, institutional knowledge recovery and the need to build a new culture among managers, engineers, technicians, etc. Fortunately local authorities and citizens can learn precious lessons from the more than 235 cities in the North and South that have successfully remunicipalised their water services. There is strong evidence that remunicipalisation brought them operational effectiveness, increased investment in water systems and higher levels of transparency. Moreover, remunicipalisation offers a chance to reinvent public water services and make them more effective and accountable to the local community. It offers an opportunity to build socially desirable and environmentally sustainable public water models for the benefit of present and future generations.

## Building alliances

The experience of the remunicipalisation movement, as analysed in this book, shows the value of building broader alliances and collaboration between public operators, local officials, workers and citizens, not only to remunicipalise but also to improve public management afterwards. All of the authors in this book have been involved in one way or another in remunicipalisation movements for years. As such, they share their hands-on experience with a view to supporting cities and communities that are seeking to remunicipalise water services or want to create safeguards against privatisation.

## France, Germany, US and Jakarta

The majority of the population in Germany and in the United States enjoys public water provision while France is one of the few countries in the world where the majority is served by private water operators instead. Having had the longest and deepest experiences in private water management, France is now the seismic centre of remunicipalisation. Anne Le Strat, former President of Eau de Paris and deputy mayor of Paris, and Christophe Lime, President of France Eau Publique affirm that the political landscape has changed with major cities such as Paris, Grenoble, Nice, Montpellier and Rennes<sup>4</sup> returning to public management. Such is the remunicipalisation wave that private operators today need to lobby hard to convince cities to renew the private contracts that were once so easy for them to obtain, according to Le Strat. In Nice, even if the majority of the council and the mayor are considered conservative, they have decided not to renew the private water contract in 2013, showing that this issue goes beyond ideological choice. Because of mounting criticism on private management, stricter regulations were introduced in the 1990s in France to increase competition and transparency but Lime argues that this only translated into cost-cutting within private utilities and worsening service quality for users while financial transparency remained limited.

Mary Grant, a researcher with Food & Water Watch explains that the population served by local governments grew by 7 per cent between 2007 and 2013 in the US. This pace is comparable with France where the population served

by public providers has been increasing by 1 per cent annually since 2008 according to Lime. The movement to retain and strengthen public water services is vibrant in the US, and it is interesting to see that the country shares a common trend with France: many public water systems have expanded their services to neighbouring areas using the existing network, and remunicipalised water companies have merged with other towns and cities to harmonise water quality and services.

The population of Germany is well informed about the pitfalls of privatisation too following failed experiments in cities such as Berlin and Stuttgart and no longer accepts to sell away water management and assets to the private sector, as explained by Christa Hecht, General Manager of the Alliance of Public Water Associations (AöW). Her claim is backed by opinion polls showing that 82 per cent of the population supports public water. Hecht stresses that the knowledge and experience of engineers and technical experts from the public sector is at least as valuable as that found in private companies. This coincides with International Monetary Fund and World Bank analysis from 2004 that recognises that there is no significant difference between public and private operators in terms of efficiency or other performance measurements.<sup>5</sup> Hecht concludes that the public water sector is clearly superior when it comes to taking social and environmental concerns seriously in the planning of infrastructure, as well as in setting tariffs.

Remunicipalisation is not a phenomenon only in developed countries. Jakarta, Indonesia is the most recent and significant win in the struggle to end water privatisation. Water multinational Suez signed a privatisation contract in 1997 that would have run until 2022. But Suez failed to fulfill its obligations to extend and improve water supply to the city's inhabitants, overcharging water users, forcing public authorities in heavy debt while it was making high private profits. Nila Ardhianie and Irfan Zamzami, researchers at the Amrta Institute for Water Literacy, have investigated the flaws of privatisation in their city for more than 10 years and organised countless public debates to advocate for the right to water and public management. The citizen mobilisations gained momentum when a coalition of Jakarta residents filed a civil law suit in 2012 against local authorities and the private companies by claiming the illegality of

the original privatisation projects. While such a strategy cost enormous energy and resources, it became a critical reference for citizens to consolidate their position and contributed to shifting public authorities' discourse. Without the persistent efforts of committed citizen groups, Jakarta's privatisation would go on and private companies would keep profiting. It is unfortunate that Jakarta had to bear as long as 16 years of water privatisation and such setbacks in achieving universal access to water. It is high time that residents and public authorities got this fresh start to build an efficient and democratic public water system to serve people's needs and protect the environment. As exemplified by this case, citizen engagement remains a critical factor in building a genuine public culture in water services after remunicipalisation.

## Reasons to remunicipalise

The chapters in this book and ongoing research on 235 cases of remunicipalisation worldwide confirm that the reasons to remunicipalise water services are universal. The false promises of water privatisation that have led to remunicipalisation include: poor performance, under-investment, disputes over operational costs and price increases, soaring water bills, monitoring difficulties, lack of financial transparency, workforce cuts and poor service quality. In the case of Jakarta notably, all of these factors combine.

Water quality problems are often linked with job cuts and inadequate system maintenance by private operators, putting public health at risk and creating environmental hazards as happened in the US and elsewhere. Grant explains how local governments remunicipalise their water services primarily to secure the local control necessary to reduce costs and improve services in the US. Water price increases accompanied by worsening quality of water due to the lack of investment in network upgrades was experienced in Rennes, France where 30 per cent of residents were delivered insufficient quality drinking water. Today, in France, private operators claim to have introduced greater transparency in their contracts, but in practice, as Lime argues, asymmetry of information is intrinsic to service outsourcing, and local authorities only have a very limited ability to verify the information provided by private operators.

Water tariff increases coupled with non-compliance with investment obligations were also recorded in Berlin.<sup>6</sup> Hecht points out that public authorities could neither oversee nor influence private operators in Germany. In the South, the tariff increases and connection fees that followed privatisation in Bolivia, Argentina, India (Latur) and Mali also made the service unaffordable.<sup>7</sup>

## Cost savings

The driving force behind remunicipalisation is the desire to secure local control over essential resources and to reduce costs. The most common and obvious change is that local authorities can save significant costs when taking water service provision back in-house. The survey on 18 small US communities found that return to public operation cut costs by an average of 21 per cent (see chapter 2, this volume); a big city like Houston (2.7 million people) cut costs in 17 per cent, or \$2 million annually. This was made possible thanks to efficiency gains in public operations, by stopping outsourcing, and reducing the cost of monitoring external contractors. The same kinds of savings were achieved in Hamilton, Canada (C\$1.2 million), in Grenoble (€40 million) and Paris (€35 million within the first year of operation), France.<sup>8</sup> In many cases such public savings allow increasing investments to improve the network or reducing the water bill for users (Paris).

Private companies tend to use their own subsidiary companies for outsourcing and overcharge for services. A small town in Spain, Arenys de Munt,<sup>9</sup> found that the previous private concessionaire was charging fees nearly four times higher to expand the municipal network than the town later did. Local authorities in Germany also realised that they could get more competitive rates by contracting local service providers, contributing to the regional economy at the same time.

The experience of Buenos Aires province<sup>10</sup> and its 2.5 million inhabitants is just as dramatic. The newly established public company ABSA collaborated with the workers' cooperative, 5 de Septiembre S.A., to improve operations and successfully reduced 75 per cent of technical costs compared to the private management period. Together they were able to restore drinking and wastewater plants. In Jakarta, the Amrta Institute estimates that public water

company PAM Jaya could potentially decrease operational costs by 29 per cent post-remunicipalisation.

Remunicipalisation carries other inherent advantages associated with public management, such as cooperation among municipal departments to rationalise operations and share equipment. For example, water and transport departments can work together to time water pipeline replacements with street repairs to avoid redundant repaving work. Municipal inter-departmental cooperation permits better use of resources.

## Investment

Operational cost savings can be used towards increasing investments to expand access to water and sanitation (in the South) and/or to replace old infrastructure in order to meet stricter environmental regulation (in the North). This is a fundamental difference from private management in which cost savings tend to translate into dividends for shareholders. In 2014, France's Regional Court of Auditors published reports to evaluate Eau de Paris and explicitly pointed out that the return to public management enabled the city to lower the price of water while maintaining a high level of investment (conversation with Le Strat, this volume). Argentine cities (Buenos Aires, Santa Fe) also underwent ambitious investment programmes to expand services following remunicipalisation, with support from the national government, and were able to maintain water tariffs at affordable levels. Similarly, national governments made major investments in La Paz/El Alto in Bolivia and Dar es Salaam<sup>11</sup> in Tanzania after remunicipalisation with the aim to expand services to unserved people. These cities' experiences tell us that public commitment is essential to achieve an ambitious social goal like universal access to water and adequate sanitation.

## Obstruction and new threat

Almost all cases presented in the book chapters were fraught with a range of difficulties. In particular, cities that terminated a private contract before expiry often entered into conflict with private contractors, which often led to litigation procedures. Private companies are well protected in the event of contract termination, both by commercial and national laws.

In general, remunicipalisation is smoother when it is the result of non-renewal of a contract upon expiry. Municipalities in France tend to wait for contract expiry to avoid paying compensation; in the meantime the municipality can prepare the new public model. Many municipalities face serious breach of contractual obligations and this situation is often the most direct motivation for remunicipalisation. However, it is hard for municipalities to prove such violations and filing cases before courts requires a lot of time and legal costs.

Moreover, the book chapter that examines investor-state dispute settlement (ISDS) mechanisms found in many bilateral investment treaties shows how they are emerging as a major threat for remunicipalisation. ISDS gives power to investors to bring states before international arbitration tribunals and this tool is increasingly used by companies to maximise compensation. Policy space for local authorities that wish to reverse privatisation is shrinking in the face of excessive investor protection, which undermines democracy.

Remunicipalisation can also take place by purchasing shares back from private companies. Berlin is a clear example of how the state government had to bear high costs to buy back shares (€1.3 billion in total). Similarly, the amount that Selangor state in Malaysia disbursed to buy back four private concessionaires' shares added up to €1.9 billion.<sup>12</sup> In these cases, local governments can avoid legal battles but they impose a heavy financial burden on tax payers for decades by taking up loans to buy back assets. Berlin citizens had already paid a lot through their water bills for services and assets as well as companies' generous profits during privatisation; they now have to repay the debt of local authorities after remunicipalisation. In such cases, despite ownership change, public companies may be forced to remain profit-seeking and little space is left to build a new public service culture and values. Expensive share repurchase results in high water bills and may prevent the public company from taking on social and environmental challenges.

## Workers in remunicipalisation

Workers are at the frontline of the remunicipalisation challenge to provide quality services. The European Federation of Public Service Unions (EPSU)

sees remunicipalisation as an opportunity for trade unions not only to improve working conditions but also to push for greater worker participation in governance of the public company to rebuild public service values. Nevertheless, workers are seen as costly (salary) and job cuts are frequent with private management as well in the context of austerity policies imposed on public administrations in most European countries.

It is essential to recognise that committed and qualified workers are key to providing good services. Thus working conditions and worker safety should be a high priority in public water management. Workers have played active roles in building public water services in the city of Buenos Aires and the province. Workers own 10 per cent of shares in the new public companies and training for workers has increased dramatically. A creative strategy was also developed with the workers' cooperative in Buenos Aires province, *5 de Septiembre*, which is not only responsible for technical operations and quality, but also for outreach with neighbourhood associations and communities. For their part, the worker cooperatives of public utility AySA (city of Buenos Aires) have worked with residents in expanding water access in low-income neighbourhoods, connecting more than 700,000 new water users.

## Public water operators as innovators

Eau de Paris has changed the image of public operators. It has demonstrated that public operators are innovators when it comes to social and environmental policies and building a new democratic culture. Water conservation is one of the central strategies in Eau de Paris and the utility has taken the water pollution challenge seriously. It has developed partnerships with farmers around water catchment areas to help them switch to organic agriculture and reduce the use of chemicals. Anne Le Strat confidently says that democratic governance helps achieve quality services and build public service values. The Water Observatory in Paris has created a space for Parisians to engage in water policies. The observatory together with other civic organisations and workers' representatives sit on the board of Eau de Paris, with voting rights on strategic decisions. High levels of information disclosure and transparency are a precondition for democratic governance. Using different models, citizen participation in decision-making

are also a reality in Grenoble and Lacs de l'Essonne<sup>13</sup> in France. Despite the tough social circumstances, Bolivian cities have also experimented with building social control in municipal companies. This tells us that remunicipalisation is not merely about a change in ownership but is also an opportunity to build a close relationship with users and to reinvent public services and values. The Paris Water Observatory model can be tried out elsewhere in the world. When citizens see the benefits from public water services and take ownership, they also become active defenders of their system.

## New opportunities for collaboration

Two chapters in this book were written by leaders of national public water associations in Germany and France. The Alliance of Public Water Associations (AöW) and France Eau Publique counter-lobby private water operators to protect the interests of public operators, and increasingly pool knowledge and experience to offer concrete alternatives. Such associations provide peer support based on the values of cooperation and solidarity, versus market competition, as explained by Christophe Lime (this volume). Collaboration is particularly important in the French context as many private contracts will expire in the coming years. From small towns to big cities, it is necessary for local authorities to equip themselves to make a logical decision on water management for citizens. Public operators' associations have a unique role to play in uniting their members to serve the public interest.

AöW and France Eau Publique are part of the European public water network Aqua Publica Europea. Regional and national public water associations, as well as civic organisations, are increasingly prepared to provide concrete support for remunicipalisation. Solidarity, cooperation and partnerships among public authorities can unlock more democratic, inclusive and sustainable water services. The authors of the chapter on Jakarta propose in a similar way that public utility PAM Jaya set up a PuP with well-functioning public operators domestically and internationally to receive peer support for its rehabilitation.

Public operators would also benefit from developing common understandings of success in service provision. David McDonald, co-director of the Municipal Services Project, argues that indicators that enable the articulation

of public service values could go beyond current benchmarking systems that are driven by financial performance evaluation and are deeply embedded in market ideology. Although mainstream benchmarking may aim to enhance transparency and participation in principle, its technocratic and centralised nature paradoxically dominates the process. Measuring success is essential, but we need to account for the 'public' character of services. Equity, regardless of income, gender or ethnic group, means that people must get the same access to and quality of services, at affordable rates, all the while protecting workers' health and safety. Such alternative benchmarking should provide the basis for users' and workers' participation. Public water associations can play an active role in rethinking ways of measuring the success of public water provision.

## Citizen mobilisation

Many of remunicipalisation's successes would not have been possible without the tireless mobilisation of committed citizens. In Jakarta, citizens studied the problems of privatisation despite having limited access to information for years. Berliners had to organise a referendum just to demand that the secret private contracts be disclosed. Pressure from citizens swayed local authorities' positions on privatisation in Hamilton (Canada), Stuttgart (Germany), Grenoble, Rennes, Montpellier (France), Arenys de Munt (Spain), Stockton (US) and Buenos Aires (Argentina). The role of citizens and social movements illustrates that, ultimately, more is at stake than just a shift from private to public ownership in remunicipalisation. Remunicipalisation is about building better public services: services that are more transparent, more accountable, more efficient and focused on people's needs over the long term. If citizens are willing to fight for remunicipalisation and against privatisation, it is also because they believe that the public sector is better equipped to meet broader social and environmental goals, and in a better position to address fundamental issues such as affordability and equity, as well as climate change adaptation, water conservation and the protection of ecosystems, as opposed to private companies' focus on financial aspects. Clearly we cannot afford to continue to rely on private water 'solutions'.

## Practical guide for citizens and policy-makers

As you prepare to remunicipalise water, please consider the following check list.

- ✓ Verify the private contract to see if there is a 'termination for convenience' clause. This allows municipalities to exit the arrangement early for any reason as long as the private operator is given sufficient notice, although municipalities may have to pay termination fees.
- ✓ In the event of serious contract violations, you may need to pursue 'termination for cause' and this may allow exiting without compensation. However, municipalities may have to submit to legal arbitration.
- ✓ Check whether your country has signed a bilateral investment treaty with the country of origin of the private water operator. If so, extra attention will need to be paid to avoid a law suit before an international arbitration tribunal.
- ✓ Prepare well and take at least two years to examine the best way to terminate and to (re)establish the new public company. In the case of Paris, preparation took place over as much as seven years.
- ✓ Do not waste precious time renegotiating with the private company. The city of Buenos Aires spent six years doing so and ended up remunicipalising as a last resort. Jakarta spent four years in renegotiation without much gain. These years can be better spent on preparing remunicipalisation instead.
- ✓ Information systems are essential in service provision (e.g. billing, data collection) and great care has to be given to their transfer to the public utility. Private companies may not cooperate as much as desired in this transfer of information. Arenys de Munt was handed down incomplete, encrypted and illegible information from the previous private owner.
- ✓ Political will is important for remunicipalisation to succeed. Engaged city councils can greatly help by seeking peer support from other councils that have successfully remunicipalised services.

## *Conclusion*

- ✓ Consult and involve workers from the early stages of remunicipalisation. Their knowledge on the day-to-day operations of the water network and service is comprehensive. It is therefore critical to attract them to the new public company. Social dialogue on how to harmonise wage and conditions for all staff is needed to reach mutual agreement.
- ✓ Social dialogue can be expanded to have a broader discussion on what kind of public water company to (re)build. It is useful to explore how to better reflect the knowledge, commitment and demands of workers and users in the new public model. Public utilities can innovate by involving users and workers in strategic decision-making. This process helps make the new public company transparent and accountable.
- ✓ Develop indicators to measure the success of the new public model. In addition to measuring financial performance and operational efficiency, consider how to measure the quality of services through the lens of equity and sustainability.
- ✓ Search for public operator partner(s) to enhance local capacity if needed.

## Endnotes

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