



**Forschungs- und
Dokumentationszentrum
Chile-Lateinamerika e.V.**

Development Aid and Water Privatisation

The Example of German Development Cooperation in Bolivia

Author: Thomas Fritz

May 2006

Forschungs- und Dokumentationszentrum Chile-Lateinamerika – FDCL

Center for Research and Documentation Chile-Latinamerica – FDCL

Content

Introduction	3
Bolivia: "Honest Brokers" at Work	5
Law 2029 and the Expropriation of the Water Committees	5
Conflicting Roles: The GTZ as both Moderator and Party	8
The German Plan Bolivia	9
Resistance to the Shareholder Model	11
Aguas del Illimani: Germany Intervenes	13
Development Co-operation versus Democracy	18
Literature	20

This publication was made possible through the support of:



© FDCL, Berlin, May 2006
Forschungs- und Dokumentationszentrum
Chile-Lateinamerika e.V. (FDCL)
Gneisenastr. 2a
10961 Berlin
Tel: 030/693 40 29
Fax: 030/692 65 90
Email: info@fdcl.org
Internet: www.fdcl.org

Introduction

Multilateral and bilateral development co-operation plays an important role in the privatisation of water and sanitation services in the countries of the “Global South“. Besides the World Bank and regional development banks¹, many bilateral donor agencies engage in the commercialisation of water: for example, the British DFID, Sweden’s SIDA, and Germany’s GTZ and KfW.

Without the support of aid agencies many water corporations, construction companies, equipment manufacturers and consulting firms would not become involved in the countries of the South. To a large extent, markets in Africa, South Asia and Latin America are perceived as “donor-driven markets”, i.e, they are dominated by donors and their policies. In contrast, water markets in the US or Europe are perceived as “customer-driven markets”. Therefore, European companies that engage in the water sectors of developing countries, often co-operate with international aid agencies.

These organisations play an important role not only in implementing and financing privatisation projects, but also in preparing the ground for private-sector participation. To a large extent, the work of GTZ and other development agencies focuses on “institution and capacity building”, that is, influencing the entire institutional and legal framework in order to facilitate market access of transnational corporations, protect their investments, and secure the transfer of profits to their countries of origin. By doing this, development agencies call into question their stated objective of promoting democracy. In some cases, they intervene massively in sovereign and democratic decision-making to impose private-sector participation. Recently, this was the case during the conflicts surrounding the failed water concession of the French world-market leader, Suez, in the Bolivian capital of La Paz.

On the following pages, we will describe the privatisation strategies applied by German development agencies. Germany is the second largest bilateral donor after Japan in the water sector. German development co-operation currently invests € 350 million per year in urban water projects in 28 countries. The government agency in charge of “financial assistance” is the *Kreditanstalt für Wiederaufbau – KfW*. The *KfW Development Bank* provides concessionary funds (grants, soft loans, mixed public-private financing), as well as loans on market-based terms for projects in developing countries. The *GTZ (Gesellschaft für Technische Zusammenarbeit)* is in charge of “technical assistance“. It provides consultancy

services and engages in sector reforms. GTZ advises governments, ministries and water authorities, develops plans for the efficient use of water resources and drafts laws and regulations for reforming national water policies.

The example of German co-operation in Bolivia highlights problems that official reports discuss either insufficiently or not at all, such as the vested interests of aid agencies, which contradict their self-image of “honest brokers“, “moderators“ or “mediators”, the sometimes huge pressure these agencies exert on their partner-countries, as well as their undemocratic influence on legislative procedures. This case study wouldn’t have been possible without the resistance of Bolivian social movements who systematically documented their clashes with German development co-operation.

¹ The most important regional development banks are the Inter-American Development Bank (IDB), the Asian Development Bank (AsDB) and the African Development Bank (AfDB).

Bolivia: "Honest Brokers" at Work

German development co-operation has been active in Bolivia for more than 30 years. Water and sanitation are – together with agriculture and state reform – at the centre of German activities. GTZ and KfW are currently running a cooperation project for supplying drinking water and sewerage systems in several Bolivian cities. Furthermore, these organisations are implementing projects in irrigation farming and managing water catchment areas. However, their activities frequently caused conflicts, particularly over the last years. Above all, social movements, which had successfully resisted authoritarian regimes in place for decades, repeatedly clashed with German development co-operation. This happened for the first time in conjunction with the so-called "water war" of Cochabamba in 2000.

Law 2029 and the Expropriation of the Water Committees

The civil society organisation "*Coordinadora de Defensa del Agua y la Vida*", founded in November 1999 in Cochabamba, mobilised not only against the privatisation of the municipal water utility, Semapa, and the subsequent drastic increase in water tariffs by up to 200%, but also against the new water law adopted in October 1999 (*Ley 2029 – Ley de Servicios de Agua Potable y Alcantarillado Sanitario*). According to the *Coordinadora*, the GTZ's involvement in drafting this law was decisive.² However, the social movements saw this as a threat to the traditional water supply systems of local communities and urban self-help initiatives whose traditional rights would have been violated by the water concessions provided under the new law. The monopoly granted by the concessions threatened the very existence of several thousand alternative water systems in the areas under concession. In addition, Law 2029 not only provided for granting water services to concessionaires, but also for the right to use water sources, something which directly concerned the self-organised well systems. While town councils would basically focus on granting concessions and approving rates, two regulatory authorities at the national level would be responsible for approving and supervising the concessions: the *Superintendencia de Saneamiento Básico*, specialising in

² As Omar Fernández, President of the Association of Irrigation Farmers of Cochabamba (FEDECOR) and currently a Senator in the Bolivian Congress declared at that time: "The aim of this law – drafted with the decisive participation of the GTZ – was to provide legal security for the multinationals operating in La Paz/El Alto and Cochabamba" (quoted in: Dilger 2005: 15). See also the document "El rol de la GTZ en la privatización del agua en Bolivia" on the *Coordinadora* website (www.elaguaesnuestra.tk).

supply services, and the *Superintendencia de Aguas* which was in charge of water sources (cf. Crespo/Fernández 2004: 77, 5).

The concession contract with the private consortium, *Aguas del Tunari*, for supplying water to Cochabamba illustrates the practical consequences of this "pro-privatisation law (...) drafted by the German development agency GTZ" (Sánchez Gómez/Terhorst 2004: 122). International Water Limited, a subsidiary of the US corporation, Bechtel, and the Italian company, Edison, led the consortium. A large proportion of Cochabamba's inhabitants, particularly those more than 100,000 people living in the city's so-called "*Zona Sur*", are not connected to the water system. Consequently, there are countless alternative water supply systems in metropolitan Cochabamba, including neighbourhood initiatives, co-operatives and water committees. The latter have solved their supply problems in a more or less precarious way on a self-help and non-profit basis. An estimated 25 to 30% of the urban population obtain their water supply from these systems.

However, under the concession contract, water supply and the use of water sources became the exclusive right of the *Aguas del Tunari* consortium. Under the agreement, the concessionaire had the right to freely use the alternative systems. By way of example, according to the concession contract, the consortium could have forced the users of self-governed wells to install water metres at their own expense, thereby turning these systems into a free source of revenue for *Aguas del Tunari*. Furthermore, the contract also granted the right to prohibit the use of alternative systems from the moment a grid reaches an urban area, even if the area in question still encompasses unconnected settlements with a self-governed system. Such is often the case in Cochabamba (Crespo 2000).

Despite all this, Bolivian activists acknowledge that an integrated supply system may be quite desirable for several reasons: salt-levels in water from self-administered wells are often too high, groundwater levels drop as a consequence of uncontrolled well drilling, and most people rely on expensive water deliveries of dubious quality by private water vendors, the so-called "*aguateros*". Nonetheless, no solution can ignore the alternative systems, as water activist Pablo Solon stresses: "From a technical point of view, a single supply system would certainly be the best option. However, what is the best way to reach this goal in a country like Bolivia where several thousand co-operatives provide this service locally? Could it really be by forcing them to give up their wells, as provided for by Law 2029 and the concession contract with *Aguas del Tunari*? What about the investments made by small drinking-water co-operatives and committees? Should they be forced to hand them over to the concessionaire at

a ridiculously low price since they are legally no longer allowed to operate them?" (quoted in: Crespo 2000).

Therefore, Cochabamba's local water committees resisted this de-facto expropriation of their pipes and wells and joined local protests against the privatisation of the public utility, Semapa, and the huge rate hikes introduced by *Aguas del Tunari*. Weeks of ongoing unrest with the government declaring a state of emergency and sending in military forces eventually led to the cancellation of the concession contract with the private consortium. Semapa returned under public responsibility and the *Coordinadora* has been fighting ever since for participation and social control of the company. The independent water committees want Semapa to support them by delivering water and providing services while they continue to own their systems that they want to see remaining self-organised in the future (Sánchez Gómez/Terhorst 2004).

A further achievement of the "water war" were far-reaching changes of Law 2029, that led to the new Law 2066 on water and sanitation passed in April 2000. A major success lay in anchoring rights for social organisations and local communities to their own water systems and wells protected by specific legal titles (*licencia* and *registro*), which had to be applied for at the *Superintendencia de Saneamiento Básico*. While the *licencia* (art. 46) preserves the rights of small municipalities, urban districts and social organisations, which directly provide water and sanitation services, the "*registro*" title protects the water systems of indigenous and rural communities, farmer associations and unions, which govern themselves according to the traditional system of "*usos y costumbres*" (art. 49). Moreover, article 50 explicitly acknowledges their rights to use their own water sources.

Similarly, art. 34 secures independence for supply networks belonging to small co-operatives, neighbourhood committees and independent settlements in a concession area vis à vis the concessionaire, provided that these groups possess the required legal titles and meet relevant quality standards. Therefore, Law 2066 restricts the exclusivity of the concessionaires' right to supply water in their service area. Finally, the new Law 2066 anchored important consultation mechanisms. Before issuing an invitation to tender or signing any rate or price contracts, town councils have to consult civil society organisations (art. 13 (f) and 57). Both parties have to submit a joint statement – the so-called '*opinión técnicamente fundamentada*' - to the *Superintendencia*, which is responsible for approving tenders and rates (cf. Ley 2066). However, international investors were highly critical of this new law. A KfW report expressed their attitude: "Over the last two years, the conditions for PSP in the water sector have undergone a clear decline. Unrest in Cochabamba (...) is an indicator of the enormous

political risks foreign investors face in the water sector and this damages Bolivia's image as an investment location. The amended new water law of 2000 has considerably reduced the sector's attractiveness from the foreign investors' perspective" (KfW 2002). It is worth adding that two of the authors of this report – the German companies *GITEC Consult* and *Consulting Engineers Salzgitter* – are themselves active in the water business and repeatedly benefitted from KfW contracts.³

Conflicting Roles: The GTZ as both Moderator and Party

Law 2066 required new regulations that were to be elaborated through a nationwide consultation process. The World Bank financed this, and the Bolivian government charged the GTZ with coordinating and carrying out regional workshops, which took place in late 2000 and early 2001 in Cochabamba, La Paz, Sucre and Santa Cruz. Among the participants of these workshops were a large number of government representatives, together with some delegates from social organisations, and, to a smaller degree, representatives of rural communities. However, instead of moderating these workshops, the GTZ assumed the role of an involved party and presented its own proposals for implementing the law, which primarily entailed the creation of supra-municipal, regional water associations in the form of mixed stock companies or so-called EPSA SAMs (EPSA: *Entidad Prestadora de Servicios de Agua Potable y Alcantarillado Sanitario*; SAM: *Sociedades Anónimas Mixtas*). These mixed enterprises involve public and private sector partners. The water associations would obtain regional concessions, and in their service area the alternative water titles of *registro* and *licencia* would cease to exist. Likewise, the GTZ lobbied for a decisive role for the *Superintendencia de Saneamiento Básico*, which was supposed to regulate the holders of the different water titles (registro, licencia, concession) without any participation of social organisations and municipalities whatsoever.

However, the social movements rejected the GTZ's proposals since they would have questioned the achievements embodied in the new water law and were tantamount to a privatisation in disguise. As Carlos Crespo, a social scientist from Cochabamba University, and Omar Fernández, then President of the Irrigation Farmers of Cochabamba, point out: "De facto, the GTZ, whose expected role was to facilitate and mediate, drew upon its own proposal. Thus, three proposals were actually discussed at the consultation workshops: the

³ The third organisation involved in the report is the Bolivian company, CONNAL, which itself has a 5%

government's, the social organisations', and the GTZ's own" (Crespo/Fernández 2004: 108). Yet much to the surprise of the civil society movements, the consultation process was interrupted. The GTZ indefinitely postponed the expected nationwide workshop, which was expected to conclude the process of elaborating regulations. Instead, the government obviously intended to by-pass consultation and launch its own regulation proposals for Law 2066.

Against this backdrop, the social movements organised a protest march in April 2001 departing from different starting points in the country to La Paz. It was this march that forced the government to return to the negotiating table in May. During the first round of talks, the social organisations involved criticised both GTZ, which they accused of delaying the consultation process, as well as the government for trying to unilaterally impose its own regulations. Although in this new round of consultations grassroots movements and the government reached agreement on 38 out of 50 topics, these were later ignored by the government. Instead, it passed Presidential Decree DS 26587 that provided the legal basis for the mixed stock companies backed by the GTZ. In the eyes of the civil society organisations, which had been fighting for more than two years against the commercialisation of water, this was a provocation. The GTZ successfully lobbied for this decree. According to the then consultant of the *Coordinadora* and current deputy minister for basic services, René Orellana, a GTZ collaborator acknowledged: "that GTZ had had its finger in the pie" (quoted in: Dilger 2005: 16). Crespo and Fernández stress the strong influence this aid agency had on state bodies. According to them, a large number of government experts had previously worked for the GTZ and put pressure on the government to implement the German demands. "They took advantage of the upcoming change in government and President Jorge Quiroga's trip (...), and with Decree 26587 on April 12 2002, they succeeded in getting the regulation adopted, just as the GTZ had hoped" (Crespo/Fernandez 2004: 123).

The German Plan Bolivia

Plan Bolivia for the water and sanitation sector for the period 2002 - 2007, which GTZ drew up on behalf of the Bolivian government without consulting the water committees, co-operatives and alternative suppliers, represents another provocation. At the same time, this policy for Bolivia's water sector – formulated by GTZ and KfW – is a fundamental element

of a World Bank structural adjustment loan, as demonstrated by an internal bank document (World Bank 2004: 21f. and annex 5). According to this paper, the structural-adjustment programme was created with “close coordination and technical assistance by KfW and GTZ”, particularly in the “water and sanitation and social protection components” (ibid.: 36). Furthermore, the document refers to a German announcement to co-finance € 8m of the adjustment credit – a share it might eventually raise to € 21m (ibid.: 2).

Intended as an element of the structural-adjustment scheme, *Plan Bolivia* adopts a classic problem definition of the privatisation dogma dominating the debate in many countries. Urban and rural supply structures are believed to be inefficient due to the sector’s atomisation, its allegedly large number of suppliers, as well as small split-up markets.⁴ It explains financial shortages mainly by the lack of cost-recovering tariffs and institutional barriers to accessing central-government funds. Therefore, integrating the markets is the main measure of *Plan Bolivia*. This shall improve efficiency by benefiting from larger size – the so-called “scale effect”. Furthermore, it seeks to promote engagement of the private sector in managing and financing services, and to establish a differentiated investment scheme for small, medium and larger towns and cities. Citizens’ participation takes place only in the form of “hygiene education”, which aims to raise people’s awareness of the economic value of water and, in doing so, to bring about a rational use of the scarce resource. Finally, *Plan Bolivia* promotes “strategic alliances” between public and private companies in the three metropolitan regions of La Paz, Cochabamba and Santa Cruz. It proposes strengthening the concession contract with the French multinational, Suez, and even widening the concession area (cf. Crespo/Fernandez 2004: 23f.).

As a crucial element, the sector policy developed by GTZ and KfW includes an “institutional modernisation programme” for restructuring the water sector. Companies that wish to implement such a programme can apply for soft loans or grants. “The programme will establish a series of financial incentives to reach performance benchmarks and for the setting up of EPSAs on the basis of several municipalities and/or operators” (World Bank 2004: 92). Thus, the main elements to achieve the desired market aggregation are expanding concession areas and merging suppliers. The structural adjustment programme calls the foundation FUNDASAB – the creation of which had already been suggested in *Plan Bolivia* – a “key mechanism” for implementing this policy (ibid.: 93). Again, it was the GTZ, which drafted

⁴ Excluding the alternative systems, the World Bank document lists 166 water companies for Bolivia, with 37% under municipal ownership and 36% cooperatives (World Bank 2004: 89).

the foundation's concept (ibid.: 87, FN 2). Provided with a legal basis by a presidential decree in 2004 (DS 27847), the foundation was created in 2005. Financed by German – and prospectively international – development aid, its tasks basically involve assisting Bolivian water suppliers undergoing an institutional "modernisation programme", as well as integrating larger markets and metropolitan areas. The government passed a complementary decree on water finance (DS 27848), linking water suppliers' access to loans and grants to such a "modernisation programme".

Another element of the German *Plan Bolivia* to promote commercialisation was a new law on external financing of water suppliers or EPSAs (*Entidad Prestadora de Servicios de Agua Potable y Alcantarillado Sanitario*) adopted by the government in April 2004. Law 2649 paved the way for all water suppliers (EPSAs) to enjoy access to public funds, including concessionaires and private companies (World Bank 2004: 21). In contrast, under Law 2066 dated April 2000, only suppliers holding the alternative water titles of "*licencia*" and "*registro*" were entitled to funds from public programmes (cf. Ley 2066). Since these programmes are largely funded by development aid, the new Law 2649 provides water TNCs operating in Bolivia with access to government programmes and international development aid. Social organisations believed that the prime beneficiary of this new law was the *Agua del Illimani* consortium led by Suez. In 1997, it obtained the concession contract for supplying water and sanitation services in La Paz and its neighbouring city El Alto.

KfW is a major financier of *Plan Bolivia*. New projects planned for the period 2002 - 2007 amount to US\$ 204m, \$75m of which is funded by the KfW, and \$20m by the Inter-American Development Bank (IDB). Out of the 12 projects planned for large and medium-sized cities, KfW finances 7, the European Union 4, and IDB 1 (Crespo/Fernandez 2004: 126f.).

Resistance to the Shareholder Model

Even before Presidential Decree 26587 was passed in April 2002 to provide the legal basis for regional water associations in the form of mixed stock companies, the GTZ had already started to establish these so-called EPSA SAM ('*Sociedades Anónimas Mixtas*') in two regions: in the north of the "departamento" of Potosí (EPSA SAM Bustillo) and in the

Bolivian Chaco (EPSA SAM Chaco).⁵ A third association is currently being created in Southern Bolivia (Tarija) (Gerhardt/Heiland 2005).

In 2003, an attempt to introduce a further water association in the towns of Colcapirhua and Tiquipaya in the “departamento” of Cochabamba (EPSA Macoti) led to protests by local communities which the government repressed through the police and military. During the clashes many people were seriously injured. It was alleged that, contrary to provisions made in Law 2066, the town council would have appropriated the alternative supply systems and water sources by means of the regional water association. Given the protests, the GTZ and the KfW withdrew their offer of credit that was coupled to the special-purpose association (Crespo/Fernandez 2004: 130f.). Serious conflicts also arose in the case of the Bustillo special-purpose association. In April 2005, neighbourhood committees occupied the EPSA SAM Bustillo office in the mining town of Llallagua. They protested against the feared privatisation and demanded that EPSA SAM Bustillo be transformed into a municipal utility. Due to prevailing poverty and precarious supply, many of the inhabitants approved of the project, but they refused the GTZ's stock company model. At the same time, they were afraid that "demands for re-municipalisation might anger 'the Germans' and threaten the whole project" (Dilger 2005: 25f.). It is precisely the population's precarious situation that enables aid agencies to impose even unpopular solutions, such as the stock company model.

Under the EPSA SAM model, several municipalities, local co-operatives and communal water companies transfer their capital (pipes, facilities, land, etc.) to a regional water association, which in turn distributes the corresponding shares. The shares are allocated to municipalities, co-operatives and inhabitants. In the case of EPSA SAM Bustillo for example, the municipalities obtained 20% of the shares, as did the co-operatives, and the population received 60%. The three owner groups make up the supervisory board and the board of directors of the stock company. KfW finances investments and GTZ puts the model into practice (Gerhardt/Heiland 2005; Zeeb 2005). However, since the EPSA SAMs are subject to commercial law – the '*Código de Comercio*' – the shares may, principally, be sold, something which kindles the fear of privatisation. Though the statutes of the regional associations limit share transfers to make buy-outs by private enterprises more difficult, it is impossible to totally prevent this from happening. Also, the model is subject to local variation, and from the outset, a *Sociedad Anónima Mixta* (SAM) may have private corporate partners. This, for

⁵ The preparatory consultations started in 1999 and the EPSA SAMs Bustillo and Chaco were founded in 2001 (Gerhardt/Heiland 2005).

example, was a solution fiercely defended by German development co-operation in the aftermath of the failed *Aguas del Illimani* concession contract in La Paz and El Alto.

Furthermore, Decree 26587 stipulates that the EPSA SAMs must adopt the legal form of a concession. Local communities, co-operatives or water committees joining such a regional association – having previously registered their grids and sources under the *registro* or *licencia* title – must give these up in favour of the concession. In doing so, they hand their independence over to the regional association that obtains exclusive rights in its service area. The concession period may last for up to 40 years. During this period, the alternative systems or committees may neither pull their capital out of the association, nor leave the stock company. Especially in regional associations covering a very wide area, such as the EPSA SAM Chaco that operates in three departments, the concessionaire's monopoly may endanger indigenous communities' traditional rights (*'usos y costumbres'*).

In addition, concessions are associated with rising costs since they not only incur water tariffs (that may have to cover private profits), but also regulation taxes that are added to the tariffs. The most problematic future risk might be that Decree 26587 and the mixed stock companies enable the state to abandon its responsibility for the water supply. “Through this decree, the government circumvents its responsibility for basic sanitation services, transferring it to private operators. This is a clear signal that the state will not assume any debts of the mixed companies“ (Crespo/Fernández 2004: 124). The risk for the impoverished Bolivian population lies above all in the objective of the financial independence of the water utilities, which will be sought through “full-cost recovery”. Should the unavoidable tariff increases become unbearable for parts of the population, thus causing financial losses for the suppliers, the state cannot be drawn in due to the operators' private status.

Aguas del Illimani: Germany Intervenes

Early last year, Germany's role in the water privatisation in Bolivia raised public attention for the first time. This was prompted by massive German interventions in the failed privatisation in the Bolivian capital of La Paz and its neighbouring city of El Alto.

In January 2005, in response to sustained protests by the Association of neighbourhood councils, FEJUVE, in El Alto, the then Bolivian President, Carlos Mesa, passed a decree initiating the cancellation of the concession contract with the '*Aguas del Illimani*' consortium. In 1997, the consortium, led by the French water multinational Suez, obtained the concession to provide water and sewerage services in La Paz and El Alto. In the following years, the

population had been particularly upset by tariff increases, together with high connection fees and misleading information about the rate of expansions. Although *Aguas del Illimani* (AISA) announced in 2003 that drinking water was supplied to 100% of the population of La Paz and El Alto, more than 200,000 inhabitants of El Alto remained unconnected. According to FEJUVE, the water tariffs for private households had already been raised by 57.7% shortly before the contract was signed. After that they rose again by a further 19%. Additionally, in spite of provisions made in Law 2066, for indexing only to the national currency, tariffs were pegged to the US dollar. Due to the *Boliviano* devaluation, the tariffs, which had to be paid in *Bolivianos*, rose by 35% over 8 years. While the regulatory body refused AISA's request to raise tariffs again by 25% for the 2002-2006 period, they approved an increase of 12.5% and waived the original demand for 15,000 new connections. They also approved the rise of connection fees to between US\$ 335,- and US\$ 445,-. On the other hand, the contract guaranteed the consortium a yearly profit of 13% (cf. FEJUVE 2005; FEJUVE n.d.).

For the international donor community, the concession contract represented an example of "pro-poor" private sector participation, since the bidder was selected according to the increase of water and sewerage connections, primarily among poorer households in the extremely fast growing city of El Alto. In contrast to most other tenders at that time, bidders in La Paz and El Alto had to submit the number of new connections they would install at a pre-defined rate. The tender documents specified the required water and sanitation expansions. As a result, a KfW study called the concession contract in La Paz and El Alto a "successful participation of the private sector in drinking water and sanitation services with 'pro poor' elements", above all due to the connection targets for El Alto (KfW 2004: 139). Even more euphoric was the conclusion of a 2002 KfW report: "Privatisation of water supply in La Paz and El Alto was a milestone in the framework of the Bolivian government's comprehensive privatisation programmes. Granting the concession to a private consortium allowed for considerable improvements in efficiency" (KfW 2002). The World Bank stressed the significance of this contract for international lenders in 2001 when its subsidiary, International Finance Corporation (IFC), took over an 8% share in the *Aguas del Illimani* consortium. This World Bank participation was perceived as a signal and reassurance for international investors still unsettled by Cochabamba's water war.

However, donors ignored irregularities in the course of the tender procedure, as well as the well-known weaknesses of the concession contract, which, from the outset, foiled the alleged poverty orientation. According to legal provisions in force in 1997, any tender procedure had to be suspended – and, if necessary, repeated – if fewer than three bids were submitted.

However, only one interested party had responded to the invitation to tender for water and sanitation supply in La Paz and El Alto: the *Aguas del Illimani* consortium. The government subsequently passed a decree enabling the continuation of the procedure even though there was only one bidder. It is therefore rather difficult to call this case an orderly and "competitive" tendering process (cf. Crespo 2004).

Back in 1998, a World Bank analysis of the concession contract pointed out a number of clauses that were deemed counterproductive with regards to poverty eradication and the connection targets for poorer households in El Alto (cf. Brook Cowen/Komives 1998). For example, *Aguas del Illimani* was not obliged to supply the entire concession area (*área de concesión*) with household connections, but only the area already serviced by the public utility SAMAPA in addition to expansions agreed upon with the regulatory body (*área servida*). However it is precisely in the unserved areas (*área no servida*) where an ever-growing number of migrants from rural areas of Bolivia come to live. However, in these areas a connection only became obligatory after a certain population density had been reached and if it did not involve rising costs for the concessionaire (ibid.). Due to this weak and blurred requirement, *Aguas del Illimani* (AISA) refused to connect settlements outside the *área servida* unless all connection costs were covered either by the households or through external funding. AISA certainly made numerous new connections in both cities (52,000 drinking water and 36,000 sanitation connections in the first five years), but AISA's figures for the connection rates in El Alto published in 2003 (100% drinking water, 61% sewerage) only referred to the *área servida*. In reality, more than 200,000 people outside the *área servida* went without services. Furthermore, the 52,000 drinking-water connections made lagged far behind the contractual target of 71,752 connections.

Moreover, the World Bank paper drew attention to further counterproductive incentives in the concession contract. For the first 30 cubic metres of water, the progressive block tariff charged private households a low rate that did not cover costs. Tariffs rose with rising consumption. However, the average El Alto household consumes less than 10 cubic metres of water per month. Therefore, each newly connected household in El Alto meant new financial loss for *Aguas del Illimani* (AISA). In this respect, the contract's 'social tariff' was a clear incentive to circumvent further connections in El Alto (Brook Cowen/Komives 1998). AISA's not very customer-friendly manager, Arnaud Bazire, declared the population of El Alto to be "the worst customer and the worst consumer in the world" (quoted in: Crespo 2004). An attempt was made through advertising and "hygiene education" to encourage the population, not to *save* water, but to increase consumption and thereby boost AISA's turnover.

Misinterpreting the way of life of El Alto's inhabitants, an official declared that the population should learn "to have their daily bath, water their flowers and wash their cars" (ibid.).

Against the backdrop of these contractual deficits and the large number of uncovered households in El Alto, one cannot understand the justification made by KfW employees who point out that basic rates in La Paz and El Alto are "the lowest among all large and medium-sized cities in Bolivia" (Zeeb 2005: 7). Unconnected households do not benefit from these allegedly low basic tariffs. Such statements also ignore the obviously counterproductive incentives of the tariff structure as well as the individual sustainability of the rates, and the legitimacy of a 13% profit to be covered through tariffs. In Bolivia, a considerable proportion of poorer households' expenses go towards public utility tariffs. 10 % of the expenses of the poorest 20% of the population cover water and electricity bills alone. If these rates climb even higher, for instance, as a consequence of dollar pegging, they might sooner or later become unbearable for large parts of the population (Hilderbrand 2002: 7).

As an aggravating factor, the concession contract with *Aguas del Illimani* granted the concessionaire exclusive rights. Accordingly, the concessionaire was entitled to charge a fee for private groundwater extraction throughout the concession area, while private households were prohibited from selling water. In addition, all communal standpipes, which for many families provided a cheap alternative to in-house connections, had to be removed. The World Bank document concludes: "Restricting the options available to poor households will likely do more harm than good in areas (such as the *área no servida*) where the concessionaire is not obligated to provide in-house connections in the foreseeable future" (Brook Cowen/Komives 1998: 2). The authors would be proved right.

The exact amount of *Aguas del Illimani's* (AISA) investments is unclear, as is the proportion of international development-aid. The figures provided for the first five years vary between US\$ 55 and 80 million. These numbers allegedly also include work that had already been started and paid for by the public utility, SAMAPA. According to the Inter-American Development Bank, about US\$ 52 million out of the US\$ 55 to 80 million came from loans from the international donor community (Crespo 2004). These loans included funds for a controversial pilot-project for waste-water treatment in El Alto, the so-called "condominial system". By using narrower pipes that were installed across people's property rather than under roads, these systems were intended to cost less and consequently allow for a "pro-poor" supply. However, due to low water-consumption and insufficient flow, waste kept flowing back into homes (FEJUVE 2005).

Germany was also among the donors in La Paz and El Alto. The KfW had already been co-operating for many years with the public supplier, SAMAPA, and, during privatisation, it financed a wastewater project in El Alto at an overall cost of € 17.3 million (KfW share € 11,8 million).⁶ The project was initially directed by SAMAPA, but since August 1997 by the consortium *Aguas del Illimani* (KfW 2000). Therefore, German funds were also involved in dressing up the "bride" SAMAPA for takeover by the private consortium. The German side deemed the private sector's participation to be fundamentally sensible (Zeeb 2005: 7).

Interest in carrying on with private-sector participation must have been overwhelming. There is no other reasonable explanation for German interventions in late 2004 when the *Aguas del Illimani* crisis escalated and the Association of Neighbourhood Councils of El Alto (FEJUVE) demanded the concession contract to be cancelled. In December 2004, in a vain attempt to de-escalate the situation, KfW and World Bank signalled that they would provide new credits in the amount of € 10 million and US\$ 25 million, respectively. But on January 10 FEJUVE started a blockade of El Alto, and on January 12, the government passed a Presidential Decree to annul the contract with *Aguas del Illimani*. The decree was subsequently heavily criticised by the World Bank, the Inter-American Development Bank and the German agencies, GTZ and KfW, who demanded the continuation of private sector participation under the form of a "mixed" public-private enterprise. Meanwhile, Germany's economic attaché, Johannes Lehne, spoke to the media, denouncing the "radical groups" who in his eyes were responsible for the failed privatisation. He also demanded legal security for foreign investors and declared that the German government had suspended the planned credit (Dilger 2005: 7f.).

After the mayors of La Paz and El Alto had already given in and were also propagating the mixed model, the German Embassy again stepped up pressure, jumping in with a public statement in favour of Suez and the *Aguas del Illimani* consortium. The statement confirmed the German offer of financial assistance made in December on condition of an "amicable solution avoiding indemnisation payments". Barely disguising their own interests, the Embassy's statement propagated the "government's proposal of a mixed corporation" as a viable model. Unequivocally, it goes on: "Without these conditions, it will be impossible for German development cooperation to provide financial assistance for solving the water and waste-water problems in El Alto" (ibid.).

⁶ According to KfW's final audit document, the El Alto project was started in 1992, the final measures were completed in 1999 and the remaining funds were spent in 2001 (KfW 2002).

A few days later, FEJUVE published an open letter to the World Bank, the Inter-American Development Bank and the KfW in which it asked these institutions to stop pressurising Bolivia to impose private sector participation in the new water company of La Paz and El Alto. The neighbourhood councils also warned: "Continuing to insist on water privatisation will contribute to the instability of democracy in Bolivia." In order to consolidate democracy, development agencies had to be ready to learn from past mistakes, and to respect and support civil society initiatives. "Why don't you assume responsibility and help us to build a new type of company that excludes private greed and corruption?" (FEJUVE 2005).

Development Co-operation versus Democracy

The Bolivian example alerts us to a dimension of development policy that remains largely unnoticed in evaluations and reports of aid agencies. Financial and technical assistance not only try to influence the legal and regulatory systems of partner countries, but also resort to sometimes massive pressure. Their interventions in sovereign and democratic legislative procedures aim to secure investors' rights, to promote private sector participation, and thus to impose transnational corporate interests.

In many cases, aid agencies become actively involved in the respective countries' conflicts surrounding water privatisation. They don't play the roles of "moderators" or "mediators, but of parties. Their sector reforms, their "capacity building" as well as their consultancy work lay the foundations for increasing commercialisation and privatisation. In many cases, they are not afraid to undermine the achievements of participatory democratic decision-making, such as the new Bolivian water law "Ley 2066", if these run counter to their privatisation objectives. Decree 26587, which legalises the mixed stock companies propagated by GTZ and KfW, contradicts the rights that traditional water systems were granted under Law 2066. Nor do they refrain from discrediting and thwarting the application of existing laws and regulations whenever it might run counter to transnational corporate interests. Under Law 2066, the Bolivian government had the right to cancel concessions and to intervene preventively. The fact that this right was exercised due to popular pressure is a sign of democratic progress.

Further proof of partisanship in development aid gives the German attempts to discredit social movements. They not only referred to "radical groups" in the media: a KfW employee suggested that the neighbourhood councils of El Alto were "primarily interested in cancelling

the '*Aguas del Illimani*' concession and less so in increasing the number of connections or in cheaper connection rates" (Zeeb 2005: 7).

Yet at the same time, development agencies remain deady silent with regard to irregularities in the bidding process, the weaknesses of the concession contract and their co-responsibility for the failed privatisation. In its letter to the three development banks, FEJUVE rightly asks: "Why did you not speak up and question the contract before becoming associates and granting credits to *Aguas del Illimani*?" (FEJUVE 2005). The question of co-responsibility also has to be directed at German development co-operation. It not only influenced the legal framework within which private companies operate in Bolivia, but it also became involved before and during privatisation in La Paz and El Alto. Furthermore, it is a shareholder of the World Bank and its subsidiary IFC, which has been a partner in the *Aguas del Illimani* consortium since 2001.⁷

Besides, in democratic states, discrediting privatisation critics may have embarrassing consequences when representatives of the "radical groups" suddenly sit on government benches. The former president of FEJUVE, Abel Mamani, is the current Water Minister in President Evo Morales' government, sworn in in January 2006. The Water Ministry, which was newly created under Morales' government, calls on the international aid community to "to support the initiatives of developing countries without any conditions based on the privatisation of drinking water and basic sanitation services".⁸ We can only hope that German and other aid agencies hear this call.

⁷ In 2002, Germany held capital to the value of US\$ 129 million in the International Finance Corporation, corresponding to 5.5% of its total capital (BMZ, 2002).

⁸ Draft declaration of the Bolivian Water Ministry for the World Water Forum in Mexico.

Literature

- Brook Cowen, Penelope J./Komives, Kristin, 1998: Expanding Water and Sanitation Services to Low-Income Households. The case of the La Paz-El Alto concession. World Bank, Public Policy for the Private Sector, Note No. 178, April 1998.
- Crespo, Carlos, 2000: „Aguas del Tunari, go home“: elementos para una crítica del contrato de concesión del agua potable in Cochabamba. CERES Cochabamba, Oxford.
- Crespo, Carlos, 2004: Aguas del Illimani y resistencia social. Centro de Estudios Superiores Universitarios, Universidad Mayor San Simon (CESU-UMSS), October, Cochabamba.
- Crespo, Carlos/Fernández, Omar, 2004: Estado, Movimientos Sociales y Recursos Hidricos. Presion Social y Negociacion luego da la Guerra del Agua de Cochabamba. Informe Final. Centro de Estudios Superiores Universitarios, Universidad Mayor San Simon (CESU-UMSS), Primavera 2004, Cochabamba.
- Dilger, Gerhard, 2005: Staat im Staate? Dossier zur Rolle der deutschen Entwicklungszusammenarbeit bei den Wasserkonflikten in Bolivien. September, Porto Alegre.
- FEJUVE, 2005: Open Letter to the World Bank, the Inter-American Development Bank and the KfW, April 5 2005, El Alto.
- FEJUVE, o.J.: 14 razones para romper el contrato con Aguas del Illimani. FEJUVE, El Alto.
- Gerhardt, Cornelia/Heiland, Stephanie, 2005: Die Wasserpolitik der GTZ in Bolivien. Die Rolle der gemischten, regionalen Wasserzweckverbände in Bolivien. In: Zeitschrift Entwicklungspolitik, 10/2005.
- Hilderbrand, Mary, 2002: Water for El Alto. Expanding Water and Sanitation Coverage for the Poor. Kennedy School of Government.
- KfW, 2002: Bolivien: Abwasserentsorgung El Alto. Schlussprüfung, 27.2.2002.
- Ley 2066, 2000: Ley de Servicios de Agua Potable y Alcantarillado Sanitario, No. 2066, 11. April 2000.
- Sánchez Gómez, Luis/Terhorst, Philipp, 2004: Cochabamba, Bolivia: Public-Collective Partnership after the Water War. In: TNI/CEO (Hrsg): Reclaiming Public Water. Achievements, Struggles, and Visions from Around the World. Transnational Institute & Corporate Europe Observatory, Amsterdam, 2004, 121-130.
- World Bank, 2004: Program Document for a Proposed Social Sectors Programmatic Structural Adjustment Credit in the Amount of US\$ 25 Million to the Republic of Bolivia. Report No. 28275-BO, May 17 2004.
- Zeeb, Stefan, 2005: Deutsche Entwicklungszusammenarbeit zur Verbesserung der Trinkwasser- und Abwasserentsorgung in Bolivien. In: Forum Umwelt & Entwicklung, Rundbrief 2/2005, 6-7.

Thomas Fritz: Consultant and Journalist. Member of the German NGOs *Berliner Landesarbeitsgemeinschaft Umwelt und Entwicklung (BLUE 21)* and *Forschungs- und Dokumentationszentrums Chile-Lateinamerika (FDCL)*.

Contact: Thomas.Fritz@blue21.de

This publication was made possible through the support of:



This publication was made possible through the financial support of the European Community. The opinions expressed therein represent the opinion of the author and do not represent the official opinion of the European Community.

This publication was elaborated within the framework of the cooperation-project "Handel-Entwicklung-Menschenrechte" of the Heinrich Böll Foundation (hbs), the Forschungs- und Dokumentationszentrum Chile-Lateinamerika (FDCL), and the Transnational Institute (TNI). More information at:

<http://www.handel-entwicklung-menschenrechte.org>

