



## **WATER AND SANITATION**

# **PRIVATIZATION IS NOT A MEANS OF IMPLEMENTATION FOR SDG 6**

Meera Karunanathan

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**P**ublic Services International (PSI) is a global trade union federation representing 20 million working women and men who deliver vital public services in 150 countries. PSI champions human rights, advocates for social justice and promotes universal access to quality public services. PSI works with the United Nations system and in partnership with labour, civil society and other organisations.

**B**lue Planet Project (BPP) is part of a global movement, with partners around the world that promotes the fundamental truth that “Water is life”. Our goal: is to protect water as a vital resource and ensure that it is publicly managed so that it is available to everyone at reasonable, public rates.

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by Meera Karunanathan - Blue Planet Project

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Marie-Luise Abshagen (FUE), Anna Cavazzini (Bread for the World), David Boys (PSI), Robert Ramsey (CUPE) and Sandra Vermuyten (PSI).

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In early 2018, news about a catastrophic drought in Cape Town made headlines around the world followed by warnings from analysts that several other regions around the world would soon face a similar plight. The city's discourse about solutions revolved around themes of technological innovations and punitive measures that would curb household consumption. Patricia de Lille, the mayor of Cape Town reprimanded Capetonians for their negligent behaviour and threatened to "force people rather than ask" them to save water. There was very little discussion about vast inequities in the post-apartheid city where 25 percent of the population does not have access to piped water at home.

In response, residents, including many from the city's poorest neighbourhoods quickly formed a coalition called the Cape Town Water Crisis Coalition to challenge water conservation measures that would have deeply uneven social impacts. The group drove the point home by protesting at a Coca Cola plant demanding that the corporation halve the 530 million-litre amount it draws from the city annually to produce its beverage products .

Whether dealing with the issue of drought, the state of water and sanitation services or appropriate models of water resource management, the Cape Town story shows that unless the discussion is centred around the deep inequalities in access to water and their root causes, blanket solutions threaten to make matters worse for the world's most marginalized populations – those whom the UN's 2030 Agenda with its Sustainable Development Goals (SDGs) vows not to leave behind.

# INTRODUCTION

The ambition and breadth of the United Nations' Sustainable Development Agenda has been the object of both praise and ridicule. Some have scoffed at the sheer number of initiatives, describing the 17-goal and 169-target plan as the “leave no target behind” agenda<sup>1</sup>. In addition, the global development plan was produced by a range of actors with conflicting agendas and contradictory views. Throughout the process, many civil society groups denounced the economic growth imperative, featured prominently in the SDG agenda, would undermine social justice and human rights related targets, as well as environmental imperatives.

The European Network on Debt and Development (Eurodad) has already declared that “we are not on track to meet SDG targets”. However, rather than write off the SDG agenda, groups like Eurodad and Public Services International (PSI) are calling for the ambitious goals of ending poverty and hunger while fighting inequality, protecting the environment and achieving world peace to be met by equally ambitious implementation strategies that root out systemic causes. This report examines the challenges facing the implementation of the Sustainable Development Goal on water, SDG 6 and the bold strategies required to overcome them.

SDG 6 calls upon member states to “ensure availability and sustainable management of water and sanitation for all”<sup>2</sup>. As a result of a global campaign by water justice groups during the SDG consultation process, the targets relating to drinking water and sanitation are bold in their aspiration of universal access and clear in their articulation of social and human rights targets and indicators. This represents a significant improvement from the Millennium Development Goals, which aimed to halve the population without access to “improved” drinking water and sanitation.

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However, when it comes to the management of freshwater resources, SDG 6 reduces a broad range of complex issues to a series of decontextualized targets and indicators. In doing so, it obscures the hierarchies and power dynamics that produce uneven access to water in places like Cape Town. The hotchpotch list fails to identify the factors that have kept water flowing, even in the most water-scarce regions, to a thirsty and powerful few, including companies like Coca Cola, while millions are denied their fair share. Cape Town serves as a cautionary tale. To stay true to its vision of “leaving no one behind”, these power dynamics must be challenged not reinforced through implementation strategies. To do so, the SDGs must break from a long history of neoliberal water policies promoted through global development processes since the 1990s.

The World Bank's active engagement in official processes aimed at supporting the implementation of SDG 6 poses a threat to this vision. For decades, the World Bank and other international financial institutions (IFIs) have led concerted efforts to promote various forms of privatization. Among World Bank's desired implementation strategies are private financing and corporate involvement in policy-making through multi-stakeholder bodies. These strategies have been echoed by UN-Water and other multi-lateral bodies including a “High-Level Panel on Water” created at the initiative of the World Bank in collaboration with the UN Secretary General.

# PARTNERSHIPS AS A MEANS OF IMPLEMENTATION OF SDG 6

Over the past three decades the World Bank has played a central role in creating mechanisms to bring corporations to the policy-making table. This coincided with a progressive erosion of the water policy-making space of states, particularly in the Global South through a range of mechanisms including structural adjustment programs and investor-state dispute settlement mechanisms which forced governments to prioritize the interest of donors and foreign investors over local populations in their policy decisions.

Since the 1970s, governments have been grappling with the dilemma of how to deal with competing interests surrounding access to water. In 1977, the United Nations held a conference in Mar del Plata, Argentina, to discuss the status of water resources and establish common norms for managing freshwater quantity and quality and allocation. The Mar del Plata declaration recognized the importance of public ownership of water sources and projects.

It was not until the 1992 International Conference on Water and the Environment in Dublin that water became officially defined as an “economic good”<sup>3</sup> to be valued through market mechanisms. The conference ended with a declaration that was consequently presented to the United Nations Conference on Environment and Development (UNCED) that was held in Rio de Janeiro in June 1992 (and would 20 years later in its follow-up process lead to the SDGs)<sup>4</sup>.

By the time of the Dublin conference, the World Bank had become a much more powerful player within the UN development system<sup>5</sup>. The World Bank and other international financial institutions (IFIs) had already begun to influence policy reforms in the Global South through loan conditionalities in the 1980s. Structural adjustment programmes aimed at trade liberalization, deregulation and privatization measures were being rolled out in exchange for loans from the World Bank and the

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***Maude Barlow***

IMF<sup>6</sup>. The Dublin conference bolstered this agenda by proclaiming quasi global consensus for the commodification of water couched in rhetoric of environmental sustainability and gender equity to suit the zeitgeist of the time.

Integrated Water Resource Management – a key tenet of the Dublin Principles – was often imposed by IFIs and donor agencies to shift water governance from state to local multi-stakeholder bodies. This was the case in India where the model prioritized commercial use of water over other subsistence use often excluding subsistence farmers who are predominantly women despite purported commitment to gender equality.

The Dublin conference also gave birth to the World Water Council, a multi-stakeholder platform that brings multinational corporations<sup>7</sup> together with governments and IFIs to deliberate on global water policy issues at the World Water Forum held every three years. The conference, which enables water industry corporations to push policy proposals and broker deals with ministers and heads of states, has faced fierce opposition from social movements since its inception. To quote Maude Barlow, one of the World Water Forum’s most outspoken critics, “the World Water Forum is not a legitimate policymaking space. It is a corporate trade show organized by the World Water Council, a multi-stakeholder consortium promoting solutions to the water crisis that serve the interests of multinational corporations”<sup>8</sup>.



In 2007, corporate involvement in policy-making took on a new dimension when the World Bank's International Financial Corporation launched the 2030 Water Resources Group (2030 WRG) at the World Economic Forum in Davos. The 2030 WRG is a private-public policy consortium that involves IFIs, multilateral aid agencies and some of the world's largest multinational corporations including Nestlé and Coca-Cola working together with a growing number of countries to draft water policy. Corporations embroiled in conflicts over water resources like Pepsi and Coca Cola in India<sup>9</sup> are suddenly granted a seat at the decision-making table.

***Neoliberal water policies are defined in this report as processes that enable the appropriation of the water commons for private wealth including the privatization of water and sanitation services, the commodification of water into products such as bottled water or the transformation of water sources into capital assets.***

National water strategies have so far been developed by the 2030 WRG for South Africa, India, Mexico, China, Tanzania, Jordan, Mongolia and Peru. The private-public policy platform also works at the subnational level including in the water-stressed regions of Karnataka, Maharashtra and São Paulo. Interestingly, the majority of member states involved in the HLPW are also involved in the 2030 WRG: Mexico, Peru, Bangladesh, South Africa and Jordan

In Mexico, an attempt in 2016 to ram through the legislature a national water framework drafted by the 2030 was thwarted by tremendous

public opposition. Among other controversial elements, the policy called for the establishment of commercial water usage rights. Rather than being allocated by the state, water rights could be traded through a market-based allocation system with little public oversight. This model, which has only been established in a handful of states, keeps water in the hands of the highest bidders to the detriment of local communities<sup>10</sup>. For instance, in Chile, water markets have led to major conflicts between large corporate users and local water users. A Supreme Court ruling in 2009 determined that Chile's water markets undermined collective rights of Indigenous Peoples.<sup>11</sup>

While stronger international cooperation between government and subnational government can provide opportunities for capacity-building and knowledge-sharing, the trend in water policy has been towards corporate policy partnerships. Rather than reducing inequality, the P4 model promoted by the World Bank over the past few decades has enabled corporations to shape water policy in a manner that prioritizes their access above those of local communities.

The first part of this report explains why privatization and private-public policy partnerships threaten to widen the gaps and deepen inequalities in access to water. The second part of the report examines how the human rights to water and sanitation can serve as a productive channel to promote SDG implementation processes that challenge uneven access to water and its root causes.

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# PUBLIC-PRIVATE PARTNERSHIPS FOR WATER IN THE SDGS

Since the 1990s, international financial institutions have played a significant role in promoting private sector participation in the water and sanitation sector. In addition to promoting private service delivery and financing models through loan conditionalities, the World Bank has been actively involved in shaping water policy discussions at the global level.

The public-private partnership (P3) model is typically comprised of a 25-30-year contract between governments and private companies under which the private partner finances, designs, builds and/or operates some component of a public service on a for-profit basis.<sup>12</sup> The P4 involves a range of corporate actors outside the water and sanitation services seeking greater access to water as a production input or as a source of capital accumulation. There are several P4s around the world including the World Water Council, the Global Water Partnership and the 2030 Water Resources Group involving international financial institutions, private corporations and governments. Even the Stockholm International Water Institute (SIWI), which positions itself as a research institution count Nestlé and Véolia among its supporters and contributors.

Both forms of private sector involvement have been heavily promoted by the World Bank as means of implementation for the SDGs.

## Private financing

Despite claims to support “evidence-based” strategies, proponents seem to disregard overwhelming evidence, including the World Bank’s own research by emphasizing the need for private financing as a means of implementation for SDG 6.

In April 2016, less than a year after the launch of the 2030 agenda, the UN Secretary General Ban Ki-moon and World Bank Group President Jim Yong Kim launched the High-Level Panel on Water

(HLPW). It consisted of eleven sitting Heads of State and Government and one Special Adviser<sup>13</sup>, with the mandate of articulating a strategy for the implementation of SDG 6 on access to water. In March 2018 at the end of their two-year mandate, the HLPW produced an outcome document titled “Making every drop count”, which outlined its recommendations for the implementation of SDG 6. Among its key messages, the report calls for “higher and more effective investments” in water infrastructure and the promotion of partnerships.<sup>14</sup>

In addition to the HLPW, the World Bank and IMF have actively promoted private sector involvement through the Financing for Development (FfD) process – a parallel process led by the United Nations bringing together governments, private sector actors and international financial institutions to develop financing mechanisms for development initiatives. The FfD process related to the SDGs is supported by an inter-agency taskforce (IATF) which was convened in 2015 by the UN Secretary General to guide discussions on financing for the implementation of the SDGs. The IATF’s advance un-edited report on financing in the water and energy sectors emphasizes the need for “innovative mechanisms” to increase private sector involvement.<sup>15</sup>

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In addition, a UN-Water report on means of implementation for SDG 6<sup>16</sup> draws heavily from World Bank data to make an argument for private financing. Its primary source of information on water, sanitation and hygiene (WASH) is the GLAAS report (UN-Water Global Analysis and Assessment of Sanitation and Drinking Water).

**T**he GLAAS report compiles information from surveys of participating countries and what it calls “external support agencies” which includes several development banks, bilateral donor agencies and large private foundations such as the Bill & Melinda Gates Foundation (GLAAS 2017). Country data is drawn from various national agencies of primarily low income and lower middle-income countries. UN-Water argues from the evidence produced by this limited data set that 80% of countries report insufficient financing to meet WASH targets and concludes that private investments are vital to meeting these funding gaps.

However, history shows the opposite to be true. When private corporations began to take over city-wide networks built with public funds, private profits could only be generated with considerable public subsidization. It was the private sector that was dependent on public financing and not the other way around. P3 place a far greater strain on the public purse than publicly financed and operated water and sanitation services.<sup>17</sup> When the City of Paris took water back into public hands in 2010, it saved 35 million euros in the first year while reducing tariffs by eight percent.

***[...]PPPs have proven to be the wrong model. Evidence shows that the drive to generate returns on investment has prevented private companies from investing the high capital costs required to expand networks to less profitable areas.***

Hence, despite decades of heavy-handed measures by IFIs to promote private sector participation, public financing remains by far the largest source of finance for water and sanitation infrastructure covering more than 90% of the sector<sup>18</sup>. A Public Services International report examining P3s over the past three decades in water, energy, rail and health services, concluded

that P3s are “an expensive and inefficient way of financing infrastructure and services” and that they are incompatible with the goals of protecting the environment and ensuring universal access<sup>19</sup>.

This view is supported in a United Nations Department of Economic and Social Affairs’ (UNDESA) paper on P3s and the SDG Agenda, which argues against P3s as a means of implementation for SDG 6: “Overall, the evidence suggests that PPPs have often tended to be more expensive than the alternative of public procurement while in a number of instances they have failed to deliver envisaged gains in quality of service provision”<sup>20</sup>. Yet the World Bank continues to champion P3s through new and innovative models of “blended financing” that call for the “leveraging of public funds” which in the end mostly leads to revenue generation for the private sector<sup>21</sup> rather than better water provision for people.

If states are to achieve the bold ambition of universal access to water and sanitation services as stated in SDG 6, PPPs have proven to be the wrong model. Evidence shows that the drive to generate returns on investment has prevented private companies from investing the high capital costs required to expand networks to less profitable areas. In Jakarta, Indonesia, a citizens’ coalition went as far as the Supreme Court in their campaign to reclaim water and sanitation services into public hands. In 2018, the Supreme Court concurred that privatization had led to violations of the human rights of residents living in poor neighbourhoods whose water services were grossly inadequate and annulled the contracts of both the city’s private operators. The private operators – Palyja, a local subsidiary of the French multinational Suez Environment and AETRA initially purchased by Thames Water and later controlled by an Indonesian private consortium called Acuatico - had failed to live up to the terms of the contracts initially secured in 1997 under the Suharto dictatorship as part of a World Bank loan package to extend the network and



improve access. In Chile, where near universal coverage was funded with public finances prior to privatization in 1999, corporate utilities have retained the right to determine which areas to service leading to a number of “non-utility zones” outside of profitable urban centres<sup>23</sup>.

Contrary to the UN-Water report, a 2012 study by the Public Services International Research Unit (PSIRU) demonstrates the myths of World Bank orthodoxy favouring commercial direct financing based on cost recovery in the Global South<sup>22</sup>. Unlike the GLAAS report, which focuses on low income countries, the PSIRU report highlights empirical evidence from low, middle and high-income countries demonstrating that private investments have failed to generate significant funding, particularly in the Global South. In Africa, where needs are the greatest, the report argues that private contributions are close to nil. The most important source of finance in middle-income African countries is the public sector and donor-aid in low-income countries<sup>23</sup>.

The recommendations by the HLPW and the IATF for reforms to make utilities “creditworthy” or “bankable” should be questioned in light of this evidence. To make an operation creditworthy is to create incentives for commercial financing by building in robust revenue generating mechanisms. For example, user tariffs remain the primary source of revenue generation. The World Bank recommends setting tariffs that “can recover operation and maintenance costs and, if needed, can finance any commercial borrowing”<sup>24</sup>. This model, referred to as full-cost recovery, enables private profit to take precedence over social needs and human rights. Full-cost recovery models of delivery have had devastating impacts in the most impoverished parts of the world. One example is pre-paid water meters activated by credit purchased by users in advance. The replacement of communal standpipes with pre-paid water meters in South Africa in 2001 led to a cholera

outbreak affecting more than 100,000 people in a country that had previously been free of the disease for decades. A different kind of tragedy ensued when a fire broke out after the installation of pre-paid meters in Phiri, one of the poorest neighbourhoods of Soweto. Residents struggled to put out the fire with ditch water after their water supply was automatically disconnected due to insufficient credit and two small children sleeping in a shack were killed.

Hence reforms making utilities “creditworthy” by enabling full-cost recovery are incompatible with the SDG targets of universal access to safe drinking and sanitation. The predatory practices associated with neoliberal reforms aimed at attracting private investments have proven to undermine the human rights to water and sanitation of poor and marginalized communities.

Finally, P3s undermine SDG commitments to gender equality. Higher tariffs, poorer quality services and lack of decision-making power have a disproportionate impact on women who are responsible for managing household needs. Studies show that privatization has had a tremendous physical and emotional impact on women living in urban slums in Dhaka and Jakarta.

Today, P3s are in decline with a growing number of communities mobilizing to reverse privatization and reclaim water into public hands. The Transnational Institute (TNI) has documented 237 cases of water utilities returning from private to public ownership and management between 2000 and 2015<sup>25</sup>. The authors of the book documenting world-wide remunicipalization argue that the case studies demonstrate a global trend towards collective ownership as a result of widespread dissatisfaction with P3s<sup>26</sup>.

Given the overwhelming evidence against private financing, the implementation of the SDGs must not become a ruse for the renewed push for a model that has been so widely rejected.

# A RIGHTS-BASED APPROACH TO THE IMPLEMENTATION OF SDG 6

The human right to water and sanitation were included in the SDG text because of a persistent campaign by global water justice groups who remained undeterred by vehement opposition from powerful states like the United Kingdom and the United States. For water justice groups like the Blue Planet Project, who typically engage in water policy issues outside the traditional corridors of power, the inclusion of human rights language was seen as a hard-won victory.

However, to be truly effective in challenging uneven access to water, human rights must move beyond the narrow and restrictive frame of targets and indicators to challenge the underlying power dynamics that produce social and economic injustice. Human rights mechanisms must engage with the macro-economic conditions that serve as a barrier to the realization of human rights. The ability of governments to ensure universal access to drinking water and sanitation – according to the normative criteria of safety, affordability, accessibility, acceptability, quality and availability – is determined by macro-economic policies that shape fiscal priorities and regulatory powers.

For instance, the proliferation of trade agreements and investment treaties over the past decade has granted transnational corporations greater powers to shape public policy and regulation. UNCTAD has noted a sharp increase in the use of investor-state dispute settlement (ISDS) mechanisms through which foreign investors have sued governments for hundreds of millions of dollars when public policies or regulatory measures have infringed on private profits. Proponents of private investment as a measure to alleviate cash-strapped governments should consider the example of Argentina, which was sued more than 40 times for actions taken during the economic crisis in the early 2000s<sup>27</sup>. In 2015, Argentina was ordered to pay the French water company Suez Environment \$405 million for measures it took to

protect a population facing mass unemployment from exorbitant rate hikes by reclaiming water into public hands<sup>28</sup>.

Adopting a rights-based approach for implementing SDG 6 should also challenge private sector abuses. A report by the NGO Mining Working Group, a coalition of water justice groups leading the effort to include the human right to water into the SDG text, argues “in practice, the emphasis on profit in the delivery of essential services results in systematic and predictable human rights violations and deprivations for vulnerable populations”<sup>29</sup>. As the Jakarta example demonstrates, human rights mechanisms can even be used to effectively reverse privatization schemes that put the needs of shareholders above those of rights-holders.

## Rights-based financing

It would be vital moving forward that SDG financing strategies be implemented according to human rights norms rather than criteria aimed at making public services more attractive to private investors. States are bound by duties to ensure water and sanitation services are affordable. According to human rights norms, domestic resources should be mobilized to ensure that “maximum available resources” are deployed to ensure access to water and sanitation services for all.

The international consensus is that States should spend at least 1 percent of gross domestic product on water and sanitation<sup>30</sup>. Empirical evidence suggests not only that the vast majority of states are capable of meeting this requirement (Hall and Lobina 2012), but also that private sector involvement would place a much larger strain on the public purse than fully public financing and delivery models. The push for creditworthiness poses a clear threat to the ability of governments to offer affordable drinking water and sanitation services.

ODA (official development assistance) efforts much also be directed by human rights obligations rather than by measures aimed at leveraging public funds for private profit. ODA must not serve as a carrot or stick to pressure aid recipient states to adopt P3s.

## Partnerships that promote the human right to water and sanitation

Finally, it is important to reclaim spaces of international cooperation from corporate power and to create new platforms for partnerships aimed at promoting human rights rather than corporate profits.

At the sub-national level, there is growing interest in public-public partnerships (PuPs) as an alternative to PPPs. The vast majority of water operators in the world, 90% of all major cities, are in public hands, offering a great diversity of examples of good practice and sound institutions. These public water operators are the largest pool of valuable experience and resourceful expertise. PUPs draw on the resources of the public sector itself and are cost-effective, practical and low-risk means to support public operators and local authorities in the implementation of the human rights to water and sanitation. A great advantage of PuPs is that they avoid the risks of public-private-partnerships in the form of large transaction costs, contract

failure, renegotiation, the complexities of regulation, commercial opportunism, monopoly pricing, commercial secrecy, currency risk, and lack of public legitimacy. PUPs clearly have enormous potential as a tool for addressing global inequalities in access to water and sanitation.

In addition, decision-makers must not forget that their primary duty is to the communities they serve. They are obliged to ensure public participation in decision-making. The human rights principle of “participation” requires duty-bearers to ensure that marginalized communities and communities most impacted by policies and developments are granted every opportunity to participate meaningfully in decisions that affect their lives, livelihoods and their ability to enjoy their human rights.

In conclusion, the focus on making water and sanitation infrastructure more creditworthy and bankable serve the interests of private companies and international financial institutions. They are incongruous with the targets of universal access to water and sanitation. The push for P3 in the delivery of water and sanitation services and the greater engagement of corporations within official policy-making processes only threaten to deepen inequalities in access to water.

Instead, human rights mechanisms must be deployed to challenge macro-economic policies that produce uneven access to water and sanitation and generate means of implementation that reduce inequalities.



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