

URUGUAY: Referendum Gives Resounding 'No' to the Privatisation of Water

Raúl Pierri

MONTEVIDEO, Nov 1 (IPS) - Uruguayan voters not only made a dramatic shift to the left in the presidential and parliamentary elections Sunday, but also approved a constitutional reform that defines water as a public good and guarantees civil society participation at every level of management of the country's water resources.

While at least 51 percent of voters elected the country's first leftist president on Sunday, more than 60 percent came out in favour of introducing a constitutional clause stating that "water is a natural resource essential to life" and that access to piped water and sanitation services are "fundamental human rights".

The referendum promoted by the National Commission for the Defence of Water and Life, made up of the trade union representing the employees of the state-owned water and sewerage company Obras Sanitarias del Estado (OSE) and several civil society organisations, needed the support of at least 50 percent of voters to pass.

Socialist president-elect Tabaré Vázquez, the candidate of the left-wing Broad Front coalition, was one of the advocates of the constitutional reform.

The referendum, which is unique in the world, "Sets a key precedent for the protection of water worldwide, by enshrining these principles into the national constitution of one country by means of direct democracy", says a letter by the environmental group Friends of the Earth International that was signed by 127 organisations from 36 different countries in support of the Commission.

The groups underline that the constitutional amendment "Secures the protection and sovereignty of this natural resource against attacks from transnational corporations transcending the national limits of Uruguay and setting a strong political precedent for the whole region."

Although voters came out in favour of the constitutional amendment, opinion polls show that a majority are unaware of the scope of the decision.

It will be up to the new parliament elected Sunday (in which the Broad Front will have an absolute majority in both houses) to draft legislation outlining the mechanisms for implementing the constitutional reform.

When that occurs, piped water will be supplied in this South American country of 3.3 million "exclusively and directly by state-owned legal entities", and concessions to private firms will be cancelled.

The Spanish companies Uragua and Aguas de la Costa, which have contracts to supply water in the southeastern department (province) of Maldonado, will apparently be hit hardest by the reform.

The proposed cancellation of concessions drew criticism from the conservative governing Colorado Party, the business community and sectors of the centre-right National Party, who argued that the constitutional reform would scare off investment and "authorise expropriation, in the style of totalitarian regimes."

But both Vázquez and Senator Danilo Astori, the future economy minister, gave assurances during the campaign that the reform would not be retroactive, and implied that the Spanish companies would not be affected. They made an effort to calm the fears of those firms on a visit to Europe earlier this year.

Astori admitted that there are conflicting opinions among legal experts within the Broad Front, and said the questions would be resolved through new legislation.

The president-elect, meanwhile, told business leaders during the campaign that the reform would not affect the foreign companies already providing water services here.

"The legal consultations that we have carried out within our political grouping establish that the new criteria, if the reform is approved, will not be applied retroactively for obvious reasons," said Vázquez.

However, "not only the Uruguayan state will have to live up to the previously assumed commitments, but the companies as well," he added.

But members of the National Commission for the Defence of Water and Life and of the Broad Front itself said previous contracts with private companies would be voided by the constitutional amendment.

"The debate on retroactivity is misleading," the Broad Front delegate to the Commission, Carlos Coitiño, told IPS. "The concept of retroactivity has nothing to do with the text of the referendum. Once the reform is approved, the current concessions will simply be voided."

Jurist Guillermo García Duchini, a co-author of the draft constitutional reform, commented to IPS that the very contracts themselves state that the concessions can be suspended by the state if they go against the public interest.

And that is the situation here, said the legal expert, because the reform says that the country's water resources form part of the public domain, and must thus be administered in such a way that "social concerns take precedence over economic interests."

If the concessions are cancelled, the firms are to be indemnified. But they will only receive reimbursement on unamortized investments, not compensation for lost future

earnings.

The country's water resources are to be managed exclusively by the state-run OSE, although in some cases city governments could be given control, said García Duchini.

In addition, some specific aspects, like maintenance, could be tendered out, but OSE will not lose control or "its direct contact with the public," he added.

María Selva Ortiz, a member of the Commission and of the local branch of Friends of the Earth, Redes-Amigos de la Tierra, told IPS that the reform will not affect companies that bottle water, soft-drink manufacturers or tourist establishments that make use of thermal spa waters.

These companies are not supplied by OSE, but use their own systems to extract water from under the ground, or from rivers, springs and streams, with permission from the Ministry of Transport and Public Works, and will continue to do so as long as there is no "over-exploitation".

But "The concession to Uragua will be suspended due to lack of compliance with the contract, and the concession to Aguas de la Costa because it failed to put social concerns before economic interests. It's true that there is no retroactivity. But approval of the reform makes the activities of these companies unconstitutional," said Ortiz.

Aguas de la Costa belongs to the Spanish Aguas de Barcelona, which is in turn an affiliate of Suez-Lyonnaise des Eaux. Since the firm began to operate in the department of Maldonado in 1992, rates have climbed to seven times the cost of water services in the rest of the country.

Uragua, which is owned by the Spanish firms Cartera Uno, Ibredola and Aguas de Bilbao, supplies piped water to Punta del Este and Piriápolis -- the country's two leading resort towns -- as well as the city of Maldonado in southeastern Uruguay.

In January 2002, at the peak of the tourist season in the southern hemisphere summer, OSE recommended that the people of Maldonado boil the water distributed by that Spanish firm before drinking it, as fecal e-coli bacteria had been detected in the water.

"The reform guarantees participation by the users and civil society in the administration of water resources," Adriana Marquisio, vice-president of the Federation of OSE Functionaries, told IPS. "Self-management projects designed by users in some parts of Uruguay are in line with the reform."

Activists say that in just a few years time, a handful of companies will control almost 75 percent of all water for human consumption in the world, as an increasing number of governments privatise water and sewerage services.

The biggest firms are the French Vivendi-Générale des Eaux and Suez-Lyonnaise des

Eaux, which control 40 percent of the market and provide services to some 110 million people in more than 100 countries.

The International Monetary Fund and World Bank have actively encouraged the privatisation of water resources in the developing South, making privatisation a condition for granting loans, says Canadian activist Maude Barlow in her new book, "Blue Gold".

"The concentration of power in the hands of a single corporation and the inability of governments to reclaim management of water services allows corporations to impose their interests on government, reducing the democratic power of citizens," says Barlow.

Water privatisation has been loudly opposed in several Latin American countries, including Argentina, Chile and Bolivia, and transnational corporations have sometimes been forced to pull out.

But Uruguay's referendum set a historical precedent not only in the region, but in the world. (END/2004)