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THE CHALLENGE OF BATTLING PRIVATIZATION: A CASE STUDY OF SWEDISH WATER COMPANIES

by Erin Webreck*

INTRODUCTION

In 2003, during the Third World Water Forum in Kyoto, Japan, Koichiro Matsuura, Director General of the United Nations Educational, Scientific and Cultural Organization (“UNESCO”), called for the creation of a World Cooperation Facility. The Facility, comprised of a network of organizations, would help resolve water conflicts and aid in transboundary water governance.¹ Director General Matsuura’s proposal came in response to the increasingly complex and multifaceted system of global water management, a system sorely needing regulation. As transnational corporations have become involved in water privatization projects worldwide, their actions often generate intense criticism from the affected local communities as well as numerous organizations around the globe.²

Sweden, long considered one of the strictest environmental regulators among European Union member countries,³ nevertheless possesses no mechanism to regulate the activities of its own multinational corporations working abroad. As a result, several Swedish-based corporations are involved in water privatization projects outside of their country – projects that would never be allowed within Sweden. This article will discuss the controversy surrounding the privatization of water resources and the argument that increased regulation is needed, and outline the activities of two Swedish corporations which illustrate the difficulties of maintaining a sustainable water policy in the face of privatization.

PRIVATIZATION OF WATER RESOURCES

In November 2004, at the Institute for Water Education in the Netherlands, UNESCO met to organize the World Cooperation Facility. UNESCO planned to select an advisory board, draft the Facility’s goals, and assign tasks to specific parties.⁴ As of November 2004, there were many uncertainties with respect to the proposed Facility. For instance, it was unknown which of the major players involved in water distribution will be active in the organization. It was also unknown whether the organization will have sufficient authority to resolve global water distribution and management issues. What was currently apparent, however, was the need for a powerful authority to regulate responses to the world’s growing water crisis, including the increasing use of privatization projects in developing countries. Without a centralized regulatory body, transnational corporations involved in privatization are free to operate without fear of regulation within their home country or abroad.

International Financial Institutions (“IFIs”) support privatization as a solution to water management issues and pro-

vide arguments in support of privatizing water systems, such as the following:

- The private sector is more likely than the government to adequately maintain natural resources because it possesses sufficient financial resources;
- The private sector has the technical expertise and aptitude to efficiently manage resources;
- Financial incentives are built into private sector contracts to encourage better performance and service;
- Increased investment in resources would improve access and availability, particularly in rural areas;
- A consumer user fee encourages responsible usage of scarce resources.⁵

There are equally powerful arguments against privatization, however, such as:

- Those funding privatization projects may not adequately plan for sustainability, leaving poverty stricken rural areas suffering because long-term investment in resources becomes infeasible and unprofitable;
- Increased prices of essential resources can lead to increased social conflict and unrest;
- The commercialization of resources and operations can lead to increased risk of corruption;
- Requiring the poorest members of society to pay for essential resources rather than providing it to them based on need is fundamentally unfair and unjust.⁶

The support of the World Trade Organization (“WTO”) for increased privatization of natural resources is illustrated by the General Agreement on Trade in Services (“GATS”), effective as of February 1995, which requires the “progressive liberalization” of services such as education, health care, and water distribution.⁷ Proponents of GATS claim that privatization will benefit the poor by putting services into the free market thereby increasing competition and decreasing costs. Many opponents to privatization argue, however, that privatization can actually lead to increased costs and many impoverished communities are no longer able to afford these services.⁸ The shift to corporate control of services, like water distribution, may ultimately lead

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to taxpayers having to pay higher fees to the corporation for the services, higher taxes to the government to subsidize the corporation's investment, or higher taxes to clean up the environmental damage often caused by the corporations.⁹

Many argue that it is inhumane of the WTO and IFIs to enable multinational corporations to capitalize on a basic human need.¹⁰

SWEDEN – A CASE STUDY

The following examples discuss two Swedish corporations that are involved in water privatization activities.

ABB

In 1988, ABB formed out of a merger between the Swedish company, Asea, and the Swiss company, Brown Boveri. The firm's activities are engineering and technology, one aspect of which is power generation, including hydropower. ABB's divisions act as primary equipment suppliers for many dams around

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the world, and ABB plants currently account for about 20% of the total world hydroelectric capacity.¹¹

ABB claims a commitment to sustainable development. The corporation asserts that it meets or exceeds the local environmental legislation in the countries where it operates. Contrary to ABB's assertions, however, it often falls far short of meeting these standards. One example is ABB's involvement in carbon-offset trading.¹² The corporation constructs hydropower plants in the global south and then trades the carbon emissions saved by hydropower with countries in the global north, thereby allowing them to continue operations without reducing

their own carbon emissions. The result is the global south being forced to suffer the effects of dams and carbon sinks, while the global north makes no effort to reduce carbon emissions.¹³

Another example of ABB's controversial projects is the Bakun Dam in Malaysia. ABB's involvement with the Bakun Dam included a contract to supply all necessary electrical equipment, including six 420 megawatt generators costing a total of \$3 billion – the largest contract in ABB's history. Records show that ABB failed to consult its own environmental impact panel before bidding on the contract, even though the potential for a severe environmental impact was apparent.¹⁴ Furthermore, ABB failed to discuss the effects of the dam with local communities and refused to allow access to the company's environmental impact report.¹⁵

Opposition to the dam was pervasive. Within Malaysia, a collection of 40 groups joined to form the Coalition of Concerned NGOs ("Coalition") to oppose the dam. The Coalition attempted to meet with ABB representatives to deliver a memorandum outlining their concerns about the dam, but ABB refused to meet with the group. As a result, the Coalition claimed that ABB violated their own policy of open communication with parties interested in ABB projects. That led the Coalition to question ABB's business ethics, and prompted the Coalition's statement below:

Sweden, which is ABB's registered home country, has long abandoned large-scale hydroelectric projects because of the detrimental environmental and social effects of such dams. In the light of this policy, how does the company justify dumping such unacceptable technology onto Malaysia? The Prime Minister has often highlighted this sort of unethical practice of Western multinational companies. It is clearly not in our best interests to accept such discarded technology by the West.¹⁶

In addition to local opposition, ABB's involvement in the Bakun dam brought widespread international protest. Human rights and environmental groups around the world advocated for ABB's withdrawal from the project, accusing the corporation of hypocrisy and of violating its own commitment to sustainability and transparency.¹⁷ These actions ultimately led the project developers to withdraw ABB's contract,¹⁸ and the dam project is currently on hold while it is reviewed for economic viability.¹⁹

ABB's activities in Malaysia illustrate what many argue is one fundamental problem with privatization. The company would not have been able to operate in a similar fashion had this project been in Sweden, and there is no regulatory mechanism in place to control their activities abroad in order to prevent environmental harm.

SKANSKA

Skanska, founded in 1887, is currently the largest Scandinavian construction group. A few of the corporation's shareholders include Industrivarden, Inter IKEA, and Swedbank. In recent years, an average of 70 percent of

Skanska's operations occurred outside Sweden. Net sales in 1998 were \$7.5 billion.²⁰

Skanska makes broad claims to its environmental friendliness. For example, Claes Bjork, Skanska CEO, commented regarding Skanska's selection of projects:

In some cases, Skanska should refrain from participating in a project. This may be true, for example, when we believe that a project's negative environmental or social consequences will be too large. In recent years, we have refrained from bidding on a number of projects for these and other reasons. When we decide to submit a tender and receive an assignment to carry out a project, we must be able to accept this responsibility. We cannot hide behind official permits or the terms of our contract with the client.²¹

This comment, however, is inconsistent with Skanska's business activities. Like ABB, Skanska has been involved in the construction of controversial dam projects around the world, such as its recent bid on the contract to construct the Ilisu dam in Turkey, which will require the resettlement of at least 25,000 people.²²

Recently, Skanska has also been involved in another highly controversial project, the privatization of the Ghanaian water system. Pursuant to the World Bank's policy, one of Ghana's loan conditions mandates preparations for the handover of water management in the nation's large urban areas to the private sector.²³ Nine firms from Sweden, Britain, France, and the Netherlands bid successfully on the project. Skanska was one such bidder. However, Ghanaians are refusing to sell their water without a fight.²⁴

In 2001, Accra, Ghana hosted the National Forum on Water Privatization. This meeting of concerned organizations and individuals produced the Ghana National Coalition Against the Privatization of Water ("the Coalition"). The Coalition drafted the Accra Declaration, which criticized the World Bank's mandate and called for numerous groups such as the government, civil rights organizations, and the Ministry of Health to help block the impending privatization.

Statistics show that 50 percent of Ghanaians earn less than \$1 per day and 40 percent live below the national poverty line.²⁵ In addition, thirty-five percent of Ghanaians lack access to clean drinking water, while poor households in several communities in Accra spend up to 25 percent of their income on drinking water.²⁶ Many argue that privatization may actually worsen this situation, given the possibility of increased prices and decreased access.

Thus far, the Coalition has managed to fight the project, force several of the bidding companies to withdraw their support, and block privatization. In response to the massive public outcry, the World Bank has come forward with a new proposal, one that would offer the bidding corporations a three-year service contract as opposed to a ten-year lease.²⁷ The Coalition argues, however, that a service contract is even more dangerous

than a lease. While a lease would be based on the project's success, a service contract would require the government of Ghana to assume all of the risks by guaranteeing payment to the investing corporations.

Skanska's involvement in such a controversial project seems contrary to the company's professed commitment to environmentally and socially sound investments. In the case of the Ghana project, the World Bank is actually bearing the brunt of the protests, which enables Skanska to avoid both regulatory action at home as well as negative publicity.

FUTURE ACTION

Sweden has long been considered as a strong example of fair environmental practices. As such, the Swedish government should take steps to increase the regulatory control it has over Swedish companies engaged in privatization projects abroad, many of which could cause significant environmental harm. Additionally, Swedish citizens can take steps to demand greater accountability of its corporations for their activities abroad. The following steps could be taken by the government and citizens of Sweden – of any country with similar concerns – to influence global water policy:

- Swedish shareholders in corporations such as ABB and Skanska can demand increased information about the company's investment projects abroad and possibly demand that the company refrain from acting;
- Swedish citizens can demand increased transparency of all participants in privatization projects, including governments, IFIs, and corporations;
- As a donor country to the World Bank, Sweden can demand that the Bank stop using the privatization requirement as a condition on loans;
- Sweden can support the recommendations of the World Commission on Dams;²⁸
- Sweden can support the requirement of obtaining prior informed consent from communities that will be affected by privatization policies.

CONCLUSION

When addressing concerns about water privatization, accountability must be emphasized. Whether it is through government regulation, shareholder pressure, or World Bank policy, the private sector cannot be permitted to take over and manage water resources in a manner that will not be sustainable.

The U.N. General Assembly has declared the years from 2005-2015 as the International Decade for Action, "Water for Life."²⁹ The establishment of a Water Cooperation Facility will promote dialogue and consensus among those actors involved in water management and distribution. The creation of this Water Cooperation Facility lends hope that the global water crisis may ultimately be averted, and that the world is capable of moving towards equitable and sustainable water policies.



ENDNOTES: The Challenge of Battling Privatization

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- ³ Christopher Brown-Humes, *Survey of Sweden*, FIN. TIMES (LONDON), Dec. 15, 1995, at IV.
- ⁴ UNESCO Water Portal News Site, at <http://www.unesco.org/water/wwap/pccp/events.shtml#wcf> (last visited November 23, 2004).
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- ⁶ *Id.*
- ⁷ WORLD TRADE ORGANIZATION, THE GENERAL AGREEMENT ON TRADE IN SERVICES (GATS): OBJECTIVES, COVERAGE, AND DISCIPLINES, at http://www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm (last visited Nov. 23, 2004).
- ⁸ See WHIRLED BANK, PRIVATIZATION AND THE WORLD BANK, at <http://www.whirledbank.org/development/private.html> [hereinafter WHIRLED BANK]; see also BRETTON WOODS PROJECT, THE PRIVATE SECTOR IN GHANA'S WATER: A STRATEGY TO SERVE OR STEAL?, available at [http://www.brettonwoodsproject.org/article.shtml?cmd\[126\]=x-126-84227](http://www.brettonwoodsproject.org/article.shtml?cmd[126]=x-126-84227) (last visited Nov. 1, 2004) [hereinafter BRETTON WOODS].
- ⁹ See WHIRLED BANK, *supra* note 8; see also BRETTON WOODS, *supra* note 8.
- ¹⁰ See *World: Water Privatization Under Fire*, INTER PRESS NEWS SERVICE, Mar. 10, 2003, available at <http://www.corpwatch.org/article.php?id=5868> (last visited Nov. 28, 2004); see also the Global Policy Forum website, at <http://www.globalpolicy.org> (last visited Nov. 1, 2004).
- ¹¹ SWEDISH SOCIETY FOR NATURE CONSERVATION, DAMS INCORPORATED: THE RECORD OF TWELVE EUROPEAN DAM BUILDING COMPANIES (February 2000).
- ¹² *Id.*
- ¹³ SWEDISH SOCIETY FOR NATURE CONSERVATION, DAMS INCORPORATED: THE RECORD OF TWELVE EUROPEAN DAM BUILDING COMPANIES (February 2000).
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ *Id.*
- ¹⁷ Press Release, International Rivers Network, Swiss, Malaysians Urge ABB to Quit Bakan Dam (Feb. 27, 1997), at <http://www.irn.org/programs/bakun/pr970227.html> (last visited Nov. 23, 2004).
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- ¹⁹ Liao Y-Sing, Malaysia says changes needed to giant Bakun dam, Reuters News Service, July 28, 2004.
- ²⁰ SWEDISH SOCIETY FOR NATURE CONSERVATION, DAMS INCORPORATED: THE RECORD OF TWELVE EUROPEAN DAM BUILDING COMPANIES 92 (February 2000).
- ²¹ Skanska Environmental Report (1998), available at http://www.skanska.com/files/documents/pdf/Environ_report98.pdf (last visited Oct. 8, 2004).
- ²² *Supra* note 11.
- ²³ Sara Grusky, *Privatization Tidal Wave: IMF/World Bank Water Policies and the Price Paid by the Poor*, MULTINATIONAL MONITOR, Sept. 2001, available at <http://multinationalmonitor.org/mm2001/01september/sep01corp2.html> (last visited Nov. 23, 2004).
- ²⁴ See Integrated Social Development Centre website, at <http://www.isodec.org.gh> (last visited Nov. 1, 2004).. See also, *Water privatization: 9 foreign firms picked*, News in Ghana archive, at <http://www.newsinghana.com> (last visited Nov. 1, 2004).
- ²⁵ Water for All Campaign, Public Citizen website, at <http://www.citizen.org/documents/ghanawbalert.pdf> (last visited Oct. 30, 2004).
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ The WCD recommendations are: (1) No dam should be built without “demonstrable acceptance” of affected people, and without free, prior and informed consent of affected indigenous and tribal peoples; (2) Comprehensive and participatory assessments of people’s water and energy needs, and different options for meeting these needs, should be developed before proceeding with any project; (3) Priority should be given to maximising the efficiency of existing water and energy systems before building new projects; (4) Mechanisms should be developed to provide reparations, or retroactive compensation, for those who are suffering from existing dams, and to restore damaged ecosystems. International Rivers Network and the World Commission on Dam website, available at <http://www.irn.org/wcd/#rec> (last visited Nov. 23, 2004).
- ²⁹ *International Decade for Action, “Water for Life,” 2005-2015*, G.A. Res. 58/217, U.N. GAOR, 58th Sess., U.N. Doc. A/RES/58/217 (Feb. 9, 2004).