

The right to water, the global water industry, and current free trade negotiations

Markus Henn, Wasser in Bürgerhand / Water in Citizens' Hands

Berlin, 14 March 2015





Part 1: The human right to water and its implementation

Photo source: UNICEF/Schermbrucker

Access to drinking water (2012)

The lowest levels of drinking water coverage are in sub-Saharan Africa

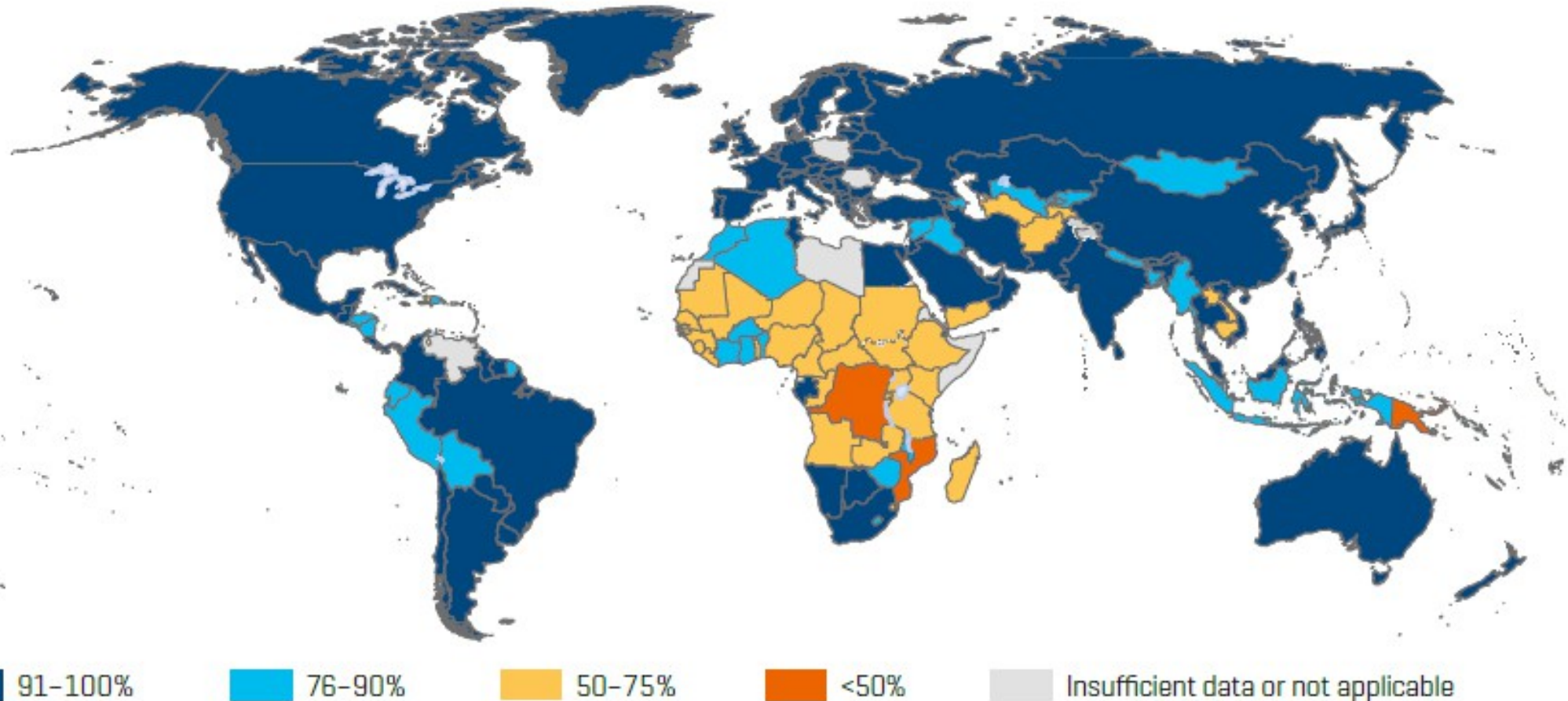


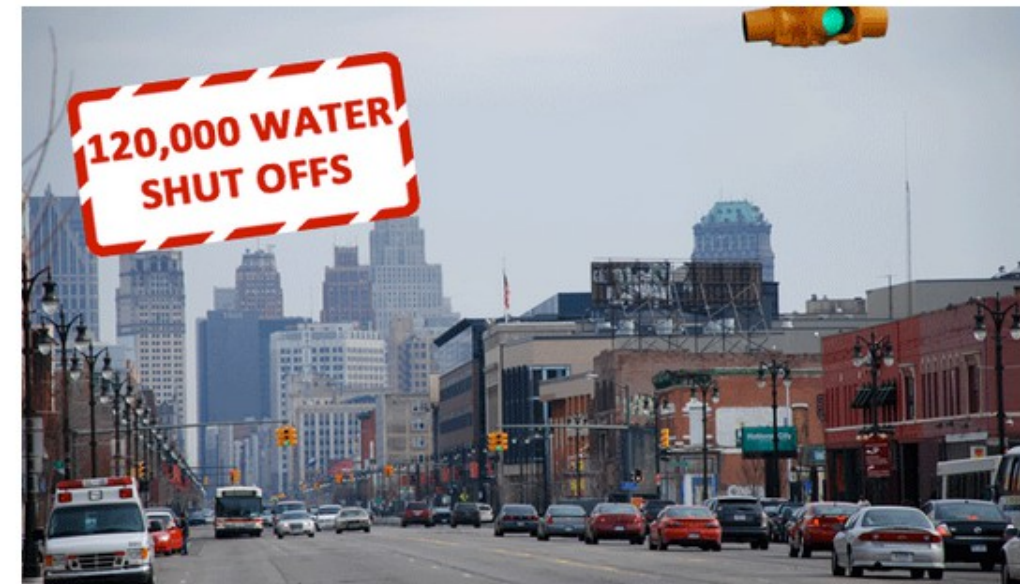
Fig. 3. Proportion of the population using improved drinking water sources in 2012

Source: WHO/unicef (2014): Progress on Drinking Water and Sanitation 2014 Update

The "rich" countries

Water cut-offs in Detroit a violation of human rights

May 26, 2014 - 9:51 am



Friday 5 September 2014

Promised children's free water allowance to be cut



Paul Melia 
EMAIL

PUBLISHED
28/06/2014 | 02:30



Access to toilets (2012)

There are 46 countries where less than half the population has access to an improved sanitation facility

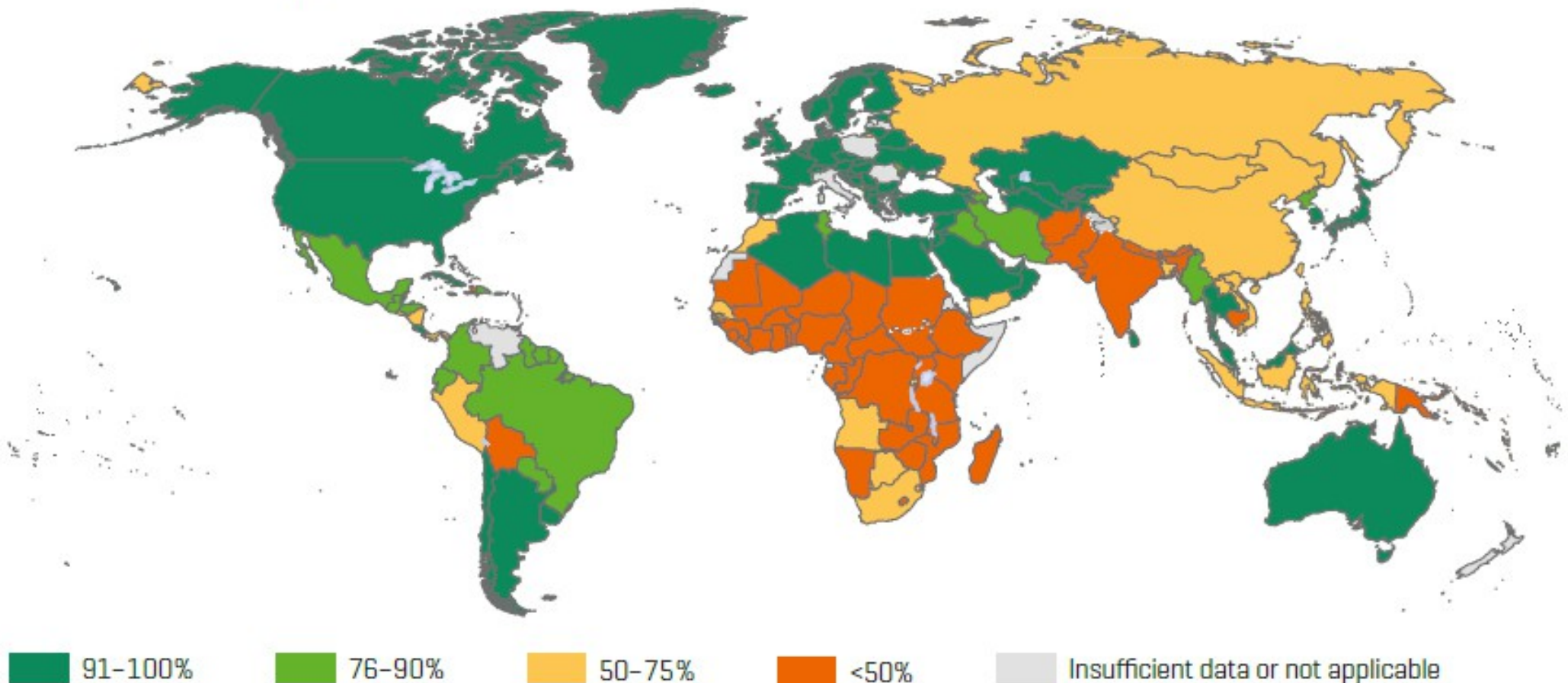


Fig. 9. Proportion of the population using improved sanitation in 2012

Source: WHO/unicef (2014): Progress on Drinking Water and Sanitation 2014 Update

The human right to water: history

1977 Mar del Plata UN Water Conference: the right to water is mentioned in a declaration for the first time

1992 Rio UN Conference on Environment and Development strengthens the right to water

1999 UN General Assembly resolution on the “Right to Development” mentions access to water

2002 The “International Covenant on Economic, Social and Cultural Rights” recognises the interpretation of the right to water

2008 UN Human Rights Council appoints special rapporteur

2010 UN General Assembly recognises the right for the first time: 122 states vote for it, 42 abstain, 29 absent

“The General Assembly (...)

1. Recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights;

2. Calls upon States and international organizations to provide financial resources, capacity-building and technology transfer, through international assistance and cooperation, in particular to developing countries, in order to scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all;

(...)”



“Right to Water” EU citizens’ initiative

„1. The EU institutions and Member States be obliged to ensure that all inhabitants enjoy the right to water and sanitation.

2. Water supply and management of water resources not be subject to ‘internal market rules’ and that water services are excluded from liberalisation.

3. The EU increases its efforts to achieve universal access to water and sanitation.“

Successful in 2013 with 1,884,790 signatures



Part 2: The role of the state and companies



Photo: Nestlé factory in Tongala, Australia; source: Mattinbgn/Wikimedia

“... the fact that water resources and water supply should be public, marked... the initial development of the global water policy.” (Prof. Petra Dobner)

From the 1980s: **World Bank** and **International Monetary Fund** force privatisation



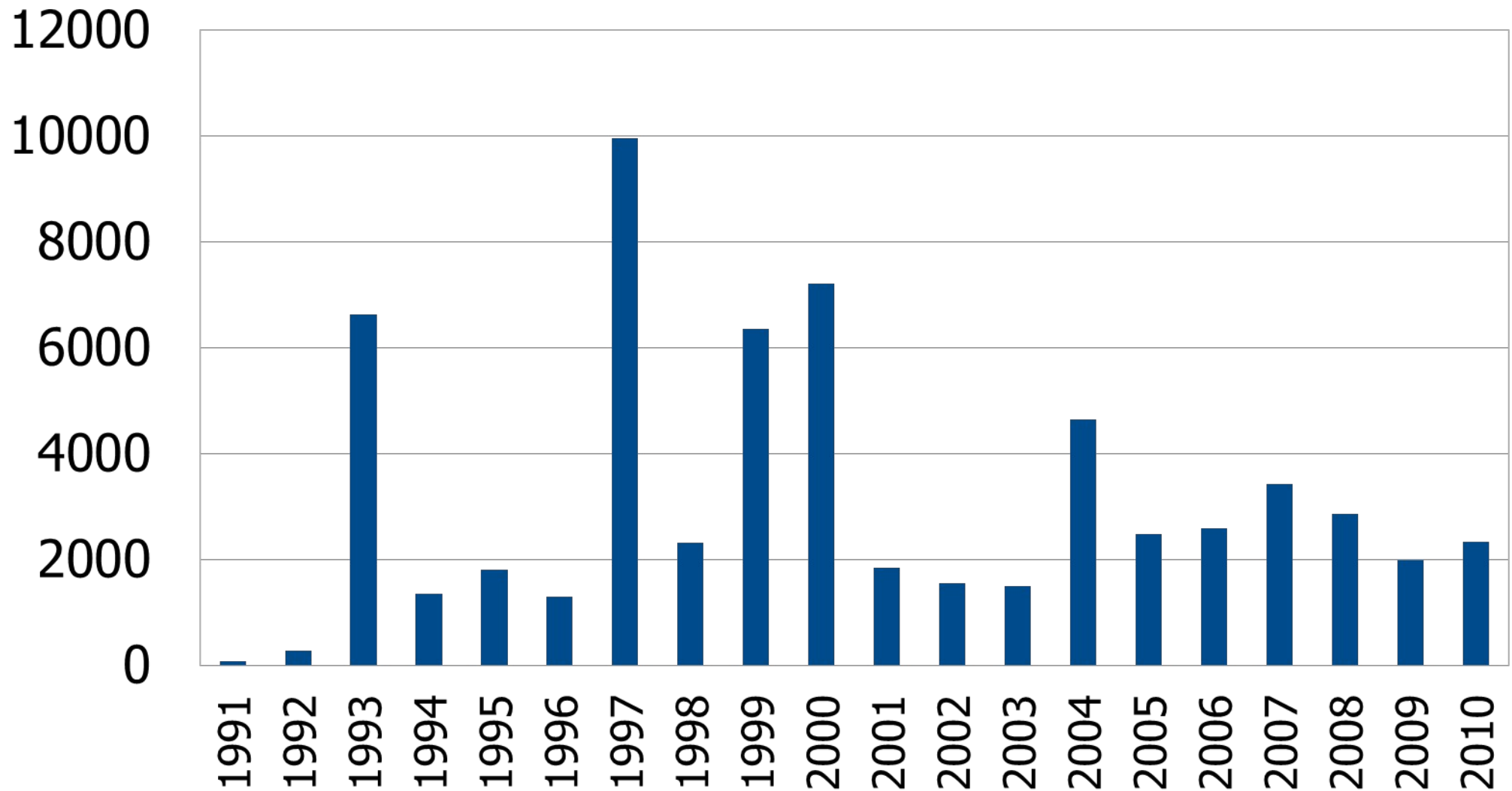
1992 Dublin UN Conference on Water and Sustainable Development: shift towards economic view (“Water has an economic value in all its competing uses and should be recognized as an economic good”)

1996 Founding of the **World Water Council** with strong private participation, since then **World Water Forums** (last 2012 in Marseille, next April 2015 Daegu & Gyeongbuk)

UN Special Rapporteur: “Human rights do not require States to directly provide individuals with water and sanitation. Their primary obligation is to create an environment conducive to the realisation of human rights. (...) Human rights ... do **not exclude private provision (including privatization)**. Yet States must ensure access for all, as well as ensuring – through adequate oversight and regulation, including effective monitoring and complaint procedures – that the actions of all actors, public and private – do not result in human rights violations.”

UN criteria: availability, quality, acceptance, access, affordability

Private investment in water supply (US\$)



2009 approx. 270 million people supplied by private companies

Source: The World Bank

Global tap water suppliers

	turnover (billion)	employees	customers (million)	countries
Veolia (only water)	€ 10.2 (2013)	96,260 (2010)	94 (2013?)	67 (2010)
Suez (only water, 2010)	€ 8.0	79,500 (incl. waste)	92	24
Thames Water (2013)	£ 1.9	4,700	15	1(?)
Saur (2010)	€ 1.6	13,000	12	6



Source: annual reports and websites

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Post Privatisation Challenges of Public Water in Ghana

Leonard Shang-Quartey

23 June 2014



Despite large aid support, Ghana's privatised water utility AVRL consistently failed to meet its contractual commitments. Water is now back in state hands, but it will need increased investment and a vigilant civil society to deliver the services Ghanaians need.

Ghana finally yielded to pressure from multilateral donors in 2006 and privatised its urban water utilities. The Government's experiment with what it conveniently referred to as "private sector participation", and not

In **Guyana** 80% of the indigenous settlements were to be connected by 2005 but by 2006, it was only 4%; in **Manila** US\$ 7 billion in investments were promised over 18 years, after eight years the total has only reached 112 million; similar situation in **Tanzania** and **Gabon**

Price increases e.g.:

- **Buenos Aires** 88.2% in nine years
- **Paris** 260% in 25 years
- **Cochabamba** 300% (thus US\$ 20 more for a normal household – with a minimum wage of \$ 100);

simultaneously, frequent high profits, such as in **Portugal** 9.5 to 15.5% or even profit guarantees, as in **Berlin** and **Ho Chi Minh City**

Extreme increase of cut-offs in **England** (23,670 in 1991) until the government issued a ban

Private suppliers: corruption



e.g. in **Grenoble** (see picture),
therefore remunicipalised in
2001

WATER MAKES MONEY

Comment
les multinationales
transforment
l'eau en argent



un film de Leslie Franke et Herdolor Lorenz

En coopération avec Jean-Luc Touly, Christiane Hansen, Markus Henn et Aquattac
Produit par KernFilm et A. du Genestoux en collaboration avec Arte et La Mare aux canards
Distribution : www.lamare.org - www.watermakesmoney.org



The people defend their right





Cochabamba (Bolivia) 1999

Widespread remunicipalisation



 successful remunicipalisation cases,  ongoing campaigns for remunicipalisation



 successful remunicipalisation cases,  ongoing campaigns for remunicipalisation

PSIRU/TNI/MO („Here to stay“): 180 cases till 2014 (2000: 3)

The Netherlands:

Privatisation of supply prohibited by law

Greece, May 2014: Highest administrative court verdicts water supplier privatisation in Athens and Thessaloniki:

„The transformation of the public company into a profit-orientated private company threatens the continuance of its services for the common good, and, particularly, its high quality because the latter is not fully ensured by state supervision only“

Global bottled water suppliers (2013)

	turnover (billion)	employees	customers (million)	countries
Nestlé Water	SFR 6.7	31,602 (2010)	-	36 (2010)
Coca-Cola	US\$ 46.8	130,600	-	>200
Pepsico	US\$ 31.9 (beverages)	274,000	-	>200

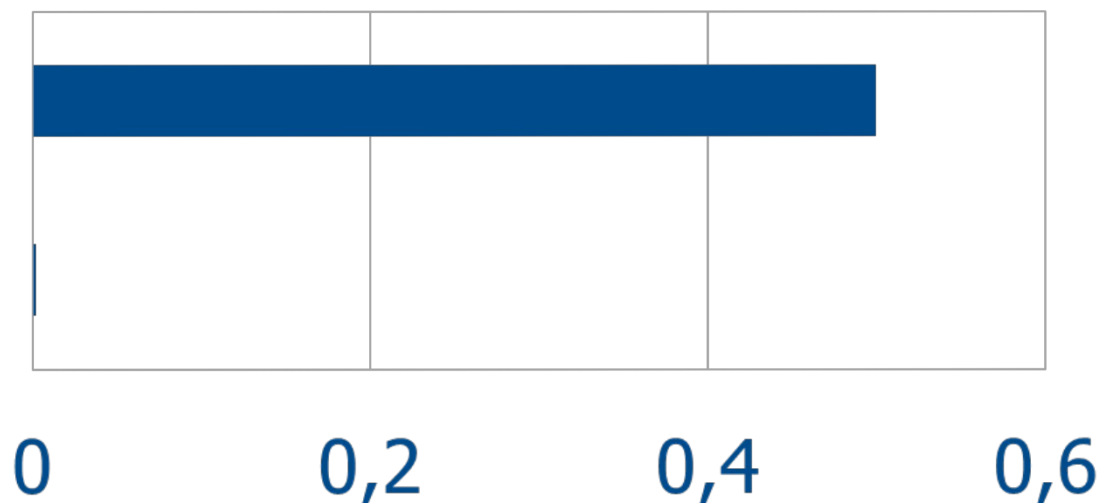


The bottled water thieves

Price per litre
(€): Bottled
water several
hundred
times more
expensive

Bottle

Tap



Conflicts over groundwater, e.g. in Kaladera (India): with the presence of Coca Cola, the water level fell by 4 metres over ten years, in the ten years thereafter, by 25 meters; a commission also determined groundwater contamination and dumping of waste



The struggles against the bottle companies



English Français

Bottled Life

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WINNER BERG & ABENTEUER FILMFESTIVAL GRAZ 2012
PANORAMA SELECTION BEIJING INT. FILM FESTIVAL 2012
CONSCIENCE COMPETITION DOCVILLE BELGIUM 2012
OFFICIAL SELECTION PEACE ON EARTH FILM FESTIVAL 2012

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Shelly Gobeille
Kleingewerblerin
Shapleigh, Maine/USA

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INTERNATIONAL JURY PRIZE 2008 MUMBAI INTERNATIONAL FILM FESTIVAL
BEST DOCUMENTARY 2008 VAIL INTERNATIONAL FILM FESTIVAL
WINNER, BEST DOCUMENTARY UNITED NATIONS ASSOCIATION FILM FESTIVAL

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FLOW DVD now in stores

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Trailer

Water is a \$425 Billion a year industry

Blockieren...

00:43 02:21



Part 3: On-going trade negotiations

Photo: US chief negotiator Dan Mullaney and EU chief negotiator Ignacio Garcia Bercero; USTR

- **Most-favoured-nation treatment:** partners provide all the benefits granted to other states
- **National treatment:** foreign companies must be treated as domestic companies
- **Market access:** restrictions on markets such as monopolies or maximum number of suppliers are prohibited, regardless of whether discriminatory or not
- **Domestic regulations:** eligibility/qualification procedures, technical standards must not constitute trade barriers

Degree of liberalisation

In **lists**, states must define where they commit to liberalisation; in addition, **investment protection** rules

The TiSA, TTIP and CETA agreements

TiSA

Trade in Services Agreement

Under negotiation since 2012 by 23 members of the World Trade Organization, will not be concluded before the end of 2015

TTIP

Trade and Investment Partnership

Under negotiation since 2013 between the EU and the USA, will not be concluded before the end of 2015

CETA

Comprehensive Economic and Trade Agreement

Under negotiation since 2009 between the EU and Canada, text completed in September 2014

TiSA

TTIP

CETA

Market access (EU offer): „Services considered as public utilities ... may be subject to public monopolies or to exclusive rights granted to private operators.“

TiSA	TTIP	CETA
	Supply (EU offer / CETA final): <u>No</u> national treatment	
Disposal (EU offer): <u>Not</u> for cross-border supply, <u>but</u> for commercial presence		<u>Yes</u> (liberalised)

Council of Canadians in 2012: „Water services are on the table for the first time ever in a Canadian trade agreement. Why? Europe is home to the largest water corporations in the world.“ But **Canada** now has protection of supply, too

TiSA

TTIP

CETA

Supply (EU offer, CETA final): No free market access

Disposal (EU offer): Not for cross-border supply, but for commercial presence (but the safeguard clause for public services mentioned above may apply here).

Yes (liberalised), only exemption: Germany

TiSA

No indication so far, but TTIP includes „regulatory cooperation“ aiming to harmonize or mutually recognize standards (public EU draft from January 2015)

TTIP

CETA

EU/Canada:
water supply
exempted (but
not disposal)

“1. The Parties recognize that **water in its natural state**, such as water in lakes, rivers, reservoirs, aquifers and water basins, is not a good or a product and therefore, except for Chapter XX – Trade and Environment and Chapter XX – Sustainable Development, is **not subject to the terms of this Agreement**.

2. Each Party has the right to protect and preserve its natural water resources and **nothing** in this Agreement obliges a Party to permit the **commercial use** of water for any purpose [...]

3. Where a Party permits the commercial use of a specific water source, it shall do so in a manner consistent with the Agreement.”

Making privatisation difficult to reverse

- Primarily water supply is protected in the drafts
- Water services are never generally excluded, only in lists
- Only CETA speaks out against commercialisation, and even here, a market opening makes CETA fully applicable
- Large gaps remain, especially for waste water
- Unclear results: EU needs bargaining chips and has its own interest in market deregulation, especially for water
- Investor-state lawsuits in TTIP and CETA will enforce investor protection standards (e.g. remunicipalisations)
- Exceptions for water only result from public pressure

Thank you for your attention!

Contact: markus-henn@web.de

More information:

www.wasser-in-buergerhand.de

www.unwater.org

www.psir.org (Public Services International Research Unit)

www.gemeingut.org (Gemeingut in BürgerInnenhand)

<https://stop-ttip.org> (Campaign against TTIP)

