

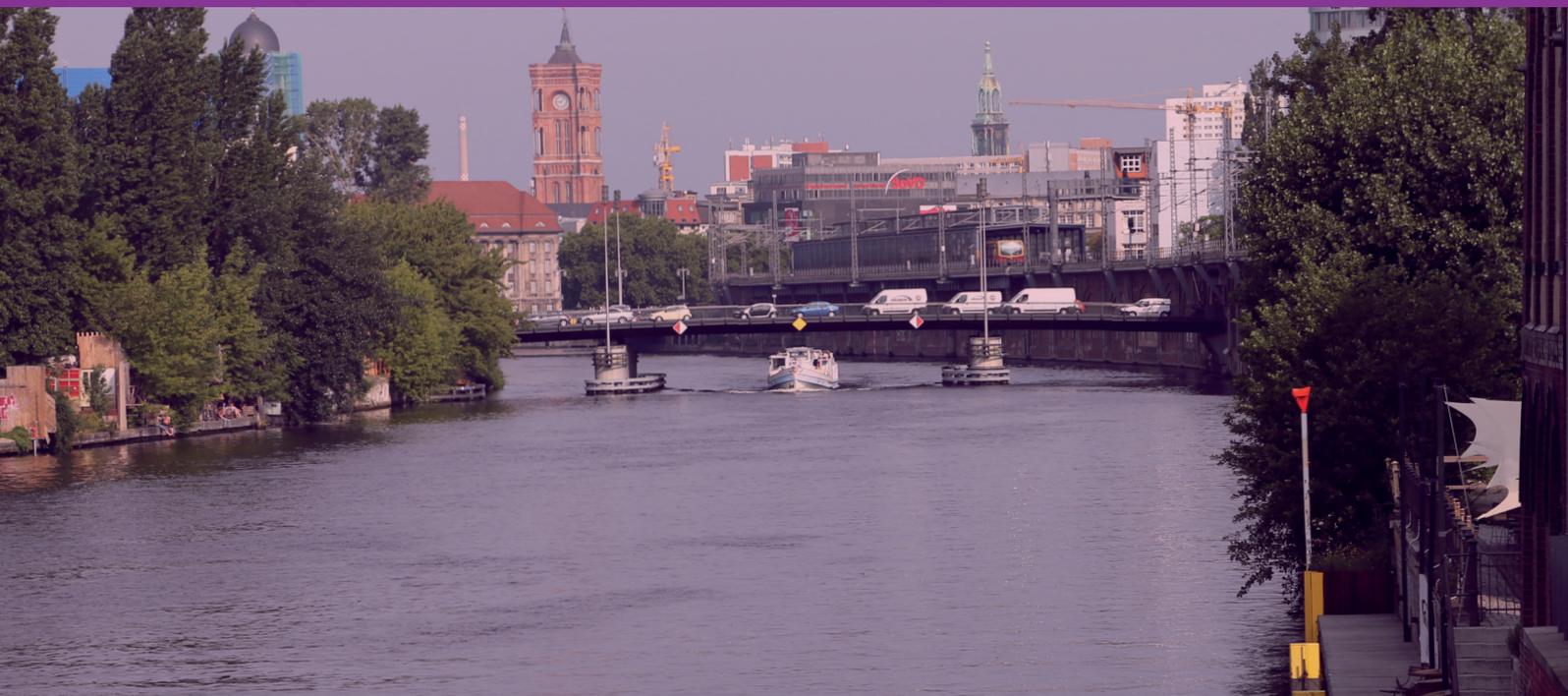
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**Water politics and management:
findings from Africa, Asia, Europe and Latin America**



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(In English, Portuguese and Spanish)

Newcastle upon Tyne and Buenos Aires, June 2017.

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Thematic Area Series

Thematic Area 3 - Urban Water Cycle and Essential Public Services

**“Water politics and management: findings from Africa, Asia,
Europe and Latin America”**

José Esteban Castro (Editor)
Newcastle upon Tyne and Buenos Aires
2017



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Cuadernos de Trabajo de la Red WATERLAT-GOBACIT

Vol. 4, N° 2

Serie Áreas Temáticas
Área Temática 3 - El Ciclo Urbano del Agua y
los Servicios Públicos Esenciales

“Política y gestión del agua: resultados de investigación de
África, Asia, Europa y América Latina”

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Thematic Area Series

TA 3 - Urban Water Cycle and Essential Public Services

Title: Water politics and management:
findings from Africa, Asia, Europe and
Latin America

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provided in each of the articles.

Serie Áreas Temáticas

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Asia, Europa y América Latina

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contacto son provistos en cada uno de
los artículos.

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Presentation of the Thematic Area and the Working Paper

This Working Paper is part of the activities of the WATERLAT-GOBACIT Network's Thematic Area 3 (TA3), the Urban Water Cycle and Essential Public Services (<http://waterlat.org/thematic-areas/ta3/>). TA3 brings together academics, students, professionals working in the public sector, practitioners from Non-Governmental Organizations, activists and members of civil society groups, and representatives of communities and users of public services, among others. The remit of this TA is broad, as the name suggests, but it has a strong focus on the political ecology of urban water, with emphasis on the politics of essential water services. Key issues addressed within this framework have been the neoliberalization of water services, social struggles against privatization and mercantilization of these services, the politics of public policy and management in the sector, water inequality and injustice in urban areas, and the contradictions and conflicts surrounding the status of water and water services as a public good, as a common good, as a commodity, as a citizenship right, and more recently, as a human right.

This Working Paper includes six contributions. The first article, by Mark Drakeford, presents a historical analysis of the changing arrangements for the provision of essential water and sanitation services in Wales. This, previously unpublished paper, was originally presented at a special seminar organized in the University of Oxford in 2002 as part of the activities of the PRINWASS Project (<http://waterlat.org/projects/prinwass/>). Drakeford offers a critical assessment of the implications and impacts of the privatization of the Welsh Water Authority by the Conservative government of Prime Minister Margaret Thatcher in 1989, and discusses the process of partial de-privatization that took place in the year 2000. The article provides important insights about the negative impacts of privatization, particularly on the poorer sectors of the population. This is of the highest relevance, given the renewed push towards the privatization of water utilities that is taking place, for example in Latin America (notably in Brazil and Mexico) as we write this Introduction.

The second article, by Ross Beveridge, discusses the troubled process that characterized the privatization of Berlin's Water Company (BWB) in 1999, in the aftermath of the reunification of Germany. Beveridge shows how the privatization process was the result of political decisions largely unrelated with the situation of water and sanitation services, and rather determined by a broader political project seeking to make Berlin once again a powerful player in Europe. The article delves into some of the intricacies of the privatization process, characterized by top down decisions, lack of transparency, and secretive negotiations between politicians and multinational water companies. Beveridge's paper presents important lessons that can be derived from Berlin's troubled experience with water privatization, which eventually led to the remunicipalization of water and sanitation services in 2011-2013.

In the third article, Emmanuel Akpabio, Eti-ido Udofia, and Kaoru Takara discuss some aspects of the interrelations between people and water in the context of sub-Saharan Africa. They pay attention to the interface between social power and cultural and institutional dynamics behind the structural socio-spatial inequalities characterizing common people's access to water. The article shows the interweaving of colonial and post-colonial legacies with the influence exercised by global development institutions in shaping current water policies in the region. The authors emphasise the mechanisms that help to reproduce structural inequalities and discuss the challenges facing sub-Saharan countries to implement water policies informed by the principles of equality and equity.

The fourth article, by Melina Tobias, Damiano Tagliavini, and Melisa Orta, addresses the current global wave of re-publicization of formerly privatized water and sanitation companies, looking at the experiences of Buenos Aires and Santa Fe in Argentina. The paper examines the national context that led to the demise of neoliberal water policies in the country in the aftermath of the financial and political crisis that affected the country in 2001. The authors argue that re-publicization of previously privatized utilities does not mean a return to the old public model of utility management that existed prior privatization, and put forward several questions and proposals to elucidate the actual character of the "new public model" that seems to be emerging in the process.

In the fifth article, Barbara Casciarri and Mauro Van Aken discuss the significance and potentiality of "water" as an anthropological object of study. They place emphasis on the fact that, despite water's key role in social and cultural relations, it has been mainly studied by the natural sciences, while anthropology has failed so far to recognize the value of water as an object of study. They suggest newly emerging perspectives for research on the subject. This article was originally published in French as an Introduction to an special issue on the anthropology of water in the *Journal des Antropologues*. The article by Casciarri and Van Aken was translated by Luisa Arango and Jorge Rowlands, who also provide an introduction to meta-studies of water-related research carried out by French and British anthropologists. The introduction to the article by Arango and Rowlands aims to contribute towards enhancing the conversation between anthropological traditions that often remain oblivious to each other along the lines of national and cultural divides, and to foster greater interaction between European and Latin American authors.

The sixth and final article, by Ladislau Dowbor and Arlindo Esteves Rodrigues, focuses on the contradictions characterizing the conceptualization of water by different social actors, in particular the contradictions between market-driven notions of water as a commodity and civil-society understandings of water as a common good. The paper places emphasis on the implications and risks of treating water as a commodity, including the economic restrictions inherent to the "inelasticity" characterizing the demand for water, as water consumption is a constant need for all humans. This is a major factor enticing multinational corporations to tap into the "water market", which leads to inevitable social and political confrontation. The authors argue that as a result, organized civil society has a crucial role to play in helping to ensure both that access to water for dignified human reproduction is secured and that the existence of water itself is guaranteed for future generations.

The six articles composing this edition provide important contributions to current debates about the politics of essential water-related services. They also offer important insights about new avenues for research on water issues, aiming to enhance our knowledge of both empirical experiences and academic traditions that often remain isolated from each other whether because of geographical, national or cultural obstacles and distances. We are glad to present this issue, bringing together contributions from authors based in Asia, Africa, Europe and Latin America, and wish our readers a fruitful experience.

Jose Esteban Castro

General Editor and Working Paper Editor

Newcastle upon Tyne and Buenos Aires, June 2017

Presentación del Área Temática y del Cuaderno de Trabajo

Este Cuaderno de Trabajo es parte de las actividades del Área Temática 3 de la Red WATERLAT-GOBACIT (AT3), el Ciclo Urbano del Agua y los Servicios Públicos Esenciales (<http://waterlat.org/es/areas-tematicas/at3/>). El AT3 reúne académicos, estudiantes, profesionales que trabajan en el sector público, especialistas de Organizaciones no Gubernamentales, activistas y miembros de grupos de la sociedad civil, y representantes de comunidades y de usuarios de los servicios públicos, entre otros. El alcance temático de esta AT es amplio, como lo sugiere el nombre, pero su foco central es la ecología política del agua urbana, con énfasis en la política de los servicios públicos esenciales. Algunos de los aspectos clave que abordamos en este marco han tenido que ver con temas como la neoliberalización de los servicios relacionados con el agua, las luchas sociales contra la privatización y la mercantilización de estos servicios, las políticas, las políticas públicas y la gestión en el sector, la desigualdad y la injusticia en relación al agua en las áreas urbanas, y las contradicciones y conflictos que rodean al agua y a los servicios relacionados con el agua considerados como bien público, como bien común, como mercancía, como un derecho de ciudadanía y, más recientemente, como un derecho humano.

Este Cuaderno de Trabajo incluye seis contribuciones. El primer artículo, a cargo de Mark Drakeford, presenta un análisis histórico de las formas cambiantes de provisión de servicios esenciales de agua y saneamiento en Gales. Este trabajo, no publicado anteriormente, fue presentado originalmente en un seminario organizado en la Universidad de Oxford en el año 2002 como parte de las actividades del Proyecto PRINWASS (<http://waterlat.org/projects/prinwass/>). Drakeford ofrece una evaluación crítica de las implicaciones e impactos de la privatización de la Autoridad del Agua de Gales por parte del gobierno Conservador de la Primera Ministra Margaret Thatcher en 1989, y discute el proceso de desprivatización parcial que tuvo lugar en el año 2000. El artículo provee elementos iluminadores acerca de los impactos negativos de la privatización, particularmente sobre los sectores más pobres de la población. Este tema reviste alta relevancia dado el renovado empuje hacia la privatización de empresas de agua y saneamiento que tiene lugar, por ejemplo en América Latina (notablemente en Brasil y México) al momento de escribir esta Introducción.

El segundo artículo, escrito por Ross Beveridge, discute el proceso problemático que caracterizó a la privatización de la Compañía de Agua y Saneamiento de Berlín (BWB) en 1999, en el período inmediato después de la reunificación de Alemania. Beveridge muestra cómo el proceso de privatización fue el resultado de decisiones políticas que en gran medida estaban desconectadas de la problemática específica de los servicios de agua y saneamiento y estuvo más bien determinado por un proyecto político más amplio dirigido a convertir a Berlín nuevamente en un actor poderoso en el contexto europeo. El artículo profundiza algunos de los detalles intrincados del proceso de

privatización, que estuvo caracterizado por decisiones verticalistas, falta de transparencia y negociaciones secretas entre los políticos y las empresas de agua multinacionales. El artículo de Beveridge presenta lecciones importantes que pueden derivarse de la problemática experiencia de Berlín con la privatización, que eventualmente culminó con la remunicipalización de los servicios de agua y saneamiento en el período 2011-2013.

En el tercer artículo, Emmanuel Akpabio, Eti-ido Udofia y Kaoru Takara discuten algunos aspectos de las interrelaciones entre los seres humanos y el agua en el contexto del África sub-Sahariana. Los autores prestan atención a la interface entre el poder social y las dinámicas culturales e institucionales detrás de las desigualdades socio-espaciales que caracterizan las formas de acceso al agua por parte de la población. El artículo muestra la relación entre el legado de los períodos colonial y poscolonial y la influencia que ejercen hoy las instituciones globales de desarrollo en la generación de las políticas del agua en la región. Los autores enfatizan los mecanismos que contribuyen a reproducir desigualdades estructurales y discuten los desafíos que confrontan los países del África sub-Sahariana para implementar políticas del agua fundadas en los principios de la igualdad y la equidad.

El cuarto artículo, a cargo de Melina Tobías, Damiano Tagliavini y Melisa Orta, discute la actual ola de republicización de empresas de agua y saneamiento que habían sido previamente privatizadas, analizando las experiencias de Buenos Aires y Santa Fe en Argentina. El trabajo examina el contexto nacional que llevó al abandono de las políticas neoliberales en el país, después de la crisis financiera y política que afectó al país en el año 2001. Los autores argumentan que la republicización de las empresas privatizadas no significa un retorno al modelo público de gestión de empresas de agua y saneamiento que existía antes de la privatización y proponen una serie de preguntas y propuestas para elucidar el carácter real del "nuevo modelo público" que pareciera estar surgiendo en el marco del proceso actual.

En el quinto artículo, Barbara Casciarri y Mauro Van discuten la importancia y potencialidad del "agua" como un objeto de estudio antropológico. Los autores colocan el énfasis sobre el hecho que, a pesar de la centralidad del agua para las relaciones sociales y culturales, la misma ha sido principalmente estudiada por las ciencias naturales, mientras que la antropología no ha reconocido todavía el valor del agua como objeto de estudio. Ellos sugieren perspectivas emergentes para la investigación sobre este tema. El artículo fue originalmente publicado en francés como Introducción a un número especial sobre la antropología del agua en el *Journal des Antropologues*. El artículo de Casciarri y Van Aken fue traducido por Luisa Arango y Jorge Rowlands, quienes también ofrecen una introducción a meta-estudios de investigaciones relacionadas con el agua realizadas por antropólogos franceses y británicos. La introducción del artículo a cargo de Arango y Rowlands intenta hacer una contribución al fortalecimiento del intercambio entre tradiciones antropológicas que frecuentemente tienden a ignorarse mutuamente, escindidas sobre la base de divisiones nacionales y culturales y generar una mayor interacción entre autores europeos y latinoamericanos.

El sexto y último artículo, escrito por Ladislau Dowbory y Arlindo Esteves Rodrigues, trata sobre las contradicciones que caracterizan la conceptualización del agua por diferentes actores sociales, en particular las contradicciones entre las nociones orientadas al mercado que tratan al agua como una mercancía y las formas de entender al agua como un bien común defendidas por sectores de la sociedad civil. El

trabajo coloca el énfasis sobre las implicaciones y riesgos de tratar al agua como una mercancía, incluyendo las restricciones económicas inherentes a la "inelasticidad" que caracteriza a la demanda de agua, cuyo consumo es una necesidad constante de todos los seres humanos. Este es un factor fundamental que atrae a las corporaciones multinacionales a intentar entrar en el "mercado del agua", lo cual deriva inevitablemente en confrontaciones sociales y políticas. Los autores argumentan que, como resultado, la sociedad civil organizada tiene un papel crucial en contribuir a lograr tanto que el acceso al agua para la reproducción humana en dignidad sea garantizado como en también asegurar la existencia del agua para beneficio de las futuras generaciones.

Los seis artículos que componen esta edición proveen contribuciones importantes para los debates actuales sobre la política de los servicios esenciales relacionados con el agua. Los trabajos también ofrecen sugerencias importantes en relación a nuevos enfoques de investigación sobre temas relacionados con el agua y procuran fortalecer nuestro conocimiento tanto de experiencias empíricas como de tradiciones académicas que frecuentemente permanecen aisladas entre sí debido a obstáculos y distancias geográficas, nacionales o culturales. Nos complace presentar este número, que incorpora contribuciones de autores basados en Asia, África, Europa y América Latina, y deseamos a nuestros lectores una provechosa experiencia.

José Esteban Castro

Editor General y del Cuaderno

Newcastle upon Tyne y Buenos Aires, junio de 2017

Article 2

The partial-privatisation of the Berlin Water Company in 1999 and urban development in 1990s Berlin

*Ross Beveridge*¹ - Urban Studies Foundation Senior Research Fellow, Urban Studies, University of Glasgow, Glasgow, Scotland

Abstract

The partial privatisation of the Berlin Water Company (BWB) was completed in October 1999 when the city of Berlin entered a public-private partnership with RWE Umwelt, AG/ Vivendi (now Véolia) and S.A /Allianz. This article examines the processes through which this major shift in Berlin politics occurred, detailing the privatization process and the years before 1999 in which the political consensus on public ownership ruptured in the wake of neoliberal policy and logics of urban governance. General dynamics apparent in the BWB case – commercialization, privatization, lack of transparency and limited opposition – should be understood within the broader socio-economic restructuring of Berlin in the 1990s. Narratives of inevitability ('there is no alternative'), the necessity of change in the city on re-entry to the global economy spread to management of urban public services. The partial privatisation was justified largely in relation to the need to raise funds to address mounting city debts and bring in the private sector expertise deemed necessary to make BWB a global player in expanding water markets. It is shown that earlier rounds of neoliberal policy change in the city at large (e.g. speculative real estate development) and BWB in particular (e.g. commercialisation) contributed to the problems faced by both at the end of the 1990s. Further, the formal democratic process through which privatisation was implemented is revealed to have been seriously undermined by secret bilateral negotiations with the private investors.

Keywords: water and sanitation, privatization, Berlin, Germany, neoliberal policies

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Resumen

La privatización parcial de la Empresa de Agua y Saneamiento de Berlín (BWB) se completó en el año 1999, cuando la ciudad de Berlín creó una asociación público-privada

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junto con las empresas RWE Umwelt, AG/Vivendi (luego Véolia) y S.A /Allianz. Este artículo examina los procesos involucrados en el enorme cambio que esta decisión significó para la política berlinesa, detallando el proceso de privatización y la ruptura del consenso político que existía en torno a la propiedad pública de los servicios, en función de la introducción de políticas públicas y lógicas de gobernabilidad urbana neoliberales. Las dinámicas generales que pueden distinguirse en el caso de BWB – comercialización, privatización, falta de transparencia y oposición limitada – deben ser entendidas como formando parte de la reestructuración socio-económica más amplia que tuvo lugar en Berlín en la década de 1990. En ese período, las narrativas de la inevitabilidad ('no hay alternativa'), la necesidad de cambios en la ciudad que caracterizaron su reingreso en la economía global, se expandieron a la gestión de los servicios públicos urbanos. La privatización parcial fue justificada en gran medida por la necesidad de recaudar fondos para pagar las deudas crecientes de la ciudad y la incorporación de la pericia del sector privado era considerada necesaria para convertir a BWB en un actor global en el contexto de la expansión de mercados de agua. El artículo muestra que rondas previas de cambios de corte neoliberal en las políticas públicas de la ciudad en general (por ejemplo, desarrollo especulativo del sector de bienes raíces) y de BWB en particular (por ejemplo, la comercialización) contribuyeron a los problemas que se confrontaron a fines de la década de 1990. Además, el artículo revela que el proceso democrático formal a través del cual se implementó la privatización fue seriamente afectado por negociaciones bilaterales secretas con los inversores privados.

Palabras clave: agua y saneamiento, privatización, Berlín, Alemania, políticas públicas neoliberales

Recibido: marzo de 2017.

Aceptado: junio de 2017.

Introduction

In January 1999, the Berlin government, in partnership with Deutsche Telekom, unveiled three new 'Mediapolis' projects. These were presented as part of the transition from an industrial-based economy to an information society. The emphasis was on "innovation", "new media" and creating "knowledge networks" (*Der Tagesspiegel* 1999d). The high-tech, knowledge-rich sectors were the future for Berlin. This was the fashionable language of the time, one which re-imagined Berlin as a global city, rivalling London, Paris and New York as a key node in the world's economy (see Sassen 1991). This sense of a future already written led the city's Economy Senator, Wolfgang Branoner (CDU), to state a month later: "Truly, we will become the most 'state-of-the-art' city in the Western World" (Böhm and Hasse 1999). Such hyperbole may have characterised the decade of urban policy making but by 1999 it was increasingly jarring. Shortly before this statement, a reporter in the same Berlin newspaper (Frese 1999) surveyed the latest reports on Berlin's financial and economic situation. They made grim reading, with the only positive aspect of the reports being their clarity, the paper remarked. This was the fifth year of rising governmental debts and negative news about Berlin's economy. Industry was disappearing, the restructuring of the economy stalling, while innovation actually dropped in some areas. Indeed, the optimism and grand plans which had characterised the decade should now be forgotten, the paper argued and with good reason. In the ten years after the fall of the Berlin Wall, unemployment had risen from 5% to around 15%, while the city's population had steadily dropped. Berlin had become a shrinking city, economically and demographically.

It was within this context that on the 29th October 1999, the partial privatisation of the Berlin Water Company, *Berliner Wasserbetriebe* (BWB), was finalised when the city of Berlin entered a public-private partnership with RWE Umwelt AG/Vivendi (now Véolia) S.A /Allianz. BWB was the biggest water company in Germany and the largest employer in Berlin (Wuschick 1997). After the privatisation of the water companies in England and Wales in 1989, it was the largest privatisation in the European water supply and sanitation (WSS) sector. As elsewhere around the world, commercialisation and privatisation of public companies had become a key strategy in urban governance during the 1990s, with the BWB privatisation following those of the Electricity (BEWAG) and Gas (GASAG) Companies in 1997 and 1998. By the time of the partial privatisation, BWB had been operating for 4 years as a commercial company outside of Berlin. This venture into international water markets was in many ways characteristic of policy-making in the 1990s: the grand rhetoric promising success in global markets was soon undermined by large financial losses, allegations of mismanagement and corruption. On the same day as the privatisation, the President of the *Rechnungshof* (the German National Audit Office) criticised the city's government for being around \$46 Billion (DM 90 Billion) in debt (Schomaker 1999). The coincidence highlighted one of the main justifications put forward for the privatisation: to address the city's growing debts. It also showed the extent to which Berlin was floundering in its attempts to become a global city.

This paper examines the processes through which this major shift in Berlin – and even German - politics occurred, detailing the privatization process and the years before 1999 in which the political consensus on public ownership ruptured in the wake of neoliberal policy and logics of urban governance. BWB is a significant case. It was strategically important for private investors in the 1990s as the capital and biggest city

in Germany and, as stated, the largest German water company. Privatization of BWB was seen as providing an entrance point to the still predominately public German water market (Barraqué 2009, 241). Veolia, one of the two private partners (with RWE) in BWB, wanted to use BWB as a base for further projects in developing water markets of Central and Eastern Europe. Furthermore, as the city experienced a deep and painful process of economic structural change from 1990, it became emblematic of global shifts to neoliberal urban governance.

The paper has the following structure. Section two offers a brief overview of Berlin's social and economic development in the 1990s highlighting the problems in urban policy making. Section three details water policy making in Berlin in the same period 1990s, emphasising commercialisation and its failure. Section four outlines how privatisation emerged as a policy, 1997- 1998. Section five examines the highly problematic process through which BWB was partially privatised. Section six provides a summary and concluding remarks.

Context: rising debts, socio-economic restructuring and urban policy-making in the 1990s

Crises of public budgets and local economies have been used to provide arguments for privatizations worldwide and are central to the "there is no alternative" thesis. This was particularly the case in Berlin. Optimistic visions for Berlin's development after 1990, establishing itself as a gateway city of services between Western and Eastern Europe failed, despite the agenda of economic restructuring and privatization pursued by the coalition government of Social Democrats and Christian Democrats (CDU). The city acquired massive debts and the economy in the transition from industry to service sector, undermining any claims to being a global city (Scharenberg 2000). After 1990, both parts of the city experienced the collapse of their previously highly subsidized industries and a significant decrease of jobs in the public sector (Ellger 1992, 45). The hope that there would be a boom in other sectors to compensate for the jobs lost proved to be wishful thinking.

The historical legacy of the Cold War shaped economic development (Geppert and Vesper 2006). Berlin's aim to be globally "competitive" was hindered by its inability to overtake rivals within the German context (Gornig and Häussermann 2002, 339). Despite slightly improved economic development in recent years, Berlin is still far behind other German cities like Munich, Hamburg, Cologne, Frankfurt or Dusseldorf, which had developed considerably during the Cold War period (Gornig 2009). In the late 1980s, West Berlin received \$11 billion (DM 20 billion) per year to bolster the city's budget (Ellger 1992, 42). Federal Government grants to Berlin continued after reunification, albeit on a lesser scale, but were severely reduced in 1993 (Newman and Thornley 1996, 98). An important consequence of the Cold War period was that West Berlin's industrial manufacturing sector had existed apart from the wider capitalist economy, surviving only through governmental subsidies aimed at bolstering employment in West Berlin. Upon exposure to the global economy, without the generous subsidies of the past, much of these businesses declined or disappeared.

Within this context, however, the government of Berlin continually promoted

– discursively and materially – the city as an up-and-coming node of the global economy. Nowhere was this more apparent than in the commercial property market and the re-development of Berlin. Through their continued funding of a public-private financial corporation, *Bankgesellschaft Berlin*, they helped fuel the real estate boom. This material support was combined with rhetoric about Berlin’s potential for growth. In the early 1990s, the government stated that 11 million square metres of new office space were required by 2010 to equip Berlin as a major service metropolis (Krätke 2004a, 62). By the end of the decade Berlin had the largest unoccupied office spaces in the world: 1.5 million square metres (Krätke 2004a, 62). The *Bankgesellschaft* had become a key player in the speculative real estate bonds in the Berlin and wider East German market. In the process they created special ‘VIP’ bonds which were offered exclusively to “well-known representatives of Berlin’s political class and urban government” (Krätke 2004a, 62).² The speculative bubble, with the promise of tax write-offs and the generous financial support of *Bankgesellschaft* encouraged huge investment in property development projects across Berlin. In combination with the drop in population, rising unemployment and welfare claimants, these tax breaks contributed to the decline in the city’s tax revenues (DIW, *Deutsches Institut für Wirtschaftsforschung* 1997 in Krätke 2004b, 62).

Water policy making in Berlin in the 1990s: from reunification to commercialisation

Soon after reunification the magistrate of East Berlin transferred the responsibility for managing the East Berlin water and wastewater operator VEB *Wasserversorgung und Abwasserbehandlung Berlin* (WAB) to BWB, though the two companies only fully and formally merged in 1992 as a municipal utility (Lanz & Eitner, 2005a, 10). The reunified water company faced a number of challenges: there was a need for investment in infrastructure, largely in the east of the city (Lanz & Eitner, 2005a, 10); and the perception that the system did not have the capacity to cope with the anticipated rise in levels of consumption as Berlin ‘boomed’. Privatisation of BWB was discussed as early as 1992 (Lanz & Eitner, 2005a, 10). Proposals came from within the CDU leadership and rather than focusing on a real ‘need’ for privatisation, as occurred in the UK in the 1980s, the emphasis was that privatisation was ‘more efficient’, a ‘superior’ way of managing utilities. Ultimately, however, the case for privatisation made little headway in the early 1990s. With expressions of public opposition to the policy, plans were dropped in 1993 (Lanz & Eitner, 2005b).

The process of neoliberal adaptation of BWB (along with other public utilities) to economic globalization was evident as early as 1994 with the commercialization of some of BWB’s functions aimed at developing the water company into a global player in the growing international water market. This was a trend apparent around the world as both private and municipally-owned companies become competitors in global

² This came to light in 2001 in the so-called ‘Banking Scandal’ when it transpired that leading politicians from the then largest party, the CDU, had profited from these funds. This led to the collapse of the CDU-led coalition, the launching of criminal proceedings against prominent Berlin politicians and the shattering of public confidence in the political establishment. Ultimately, the Berlin government was forced to intervene in the 2000s and guarantee the huge debts of the *Bankgesellschaft* and – controversially – payments to the bond-holders.

water markets (Swyngedouw 2003, 8). Most other major German cities took similar steps to change the legal status of their publicly owned companies to allow them to pursue commercial objectives outside their borders (Wissen and Naumann 2006, 3). It was not until after the success of the CDU (and poor performance by the SPD) in the election of 1995 that privatisation of BWB, (and of the publicly owned Gas and Electricity companies) became an official policy objective in the CDU-SPD Coalition agreement. BWB was actually a profitable company at this stage. In 1995, the total revenue of BWB was \$1 Billion (DM1.75 Billion) and the profit for that year was around \$30 Million (DM 51 Million), according to the Executive Director (*Frankfurter Allgemeine Zeitung* 1997a). In other words, in 1995, when the reform came into effect, BWB was not seen as badly managed or a company in trouble. This step was therefore more of a re-definition of the company's purpose. The hope was that BWB, with its apparent expertise, would be able to exploit the perceived opportunities emerging in the international water market, particularly in developing countries and Central and Eastern European countries. The aim then, as upon privatisation in 1999, was to make BWB an international centre of water management expertise (*Berliner Morgenpost* 1998). It did not, however, become an official policy proposal until 1997. By this time the fiscal situation in Berlin had worsened, in part as a result of the end of the mini-boom and the emerging property market crisis. Furthermore, BWB had been transformed from a profit-making into a loss-making company between 1995-1997. The strategy for making BWB a global player rested in large part on the ultimately flawed notion that Berlin was a "gateway" city to markets in Eastern Germany and Central and Eastern Europe. Investments in these markets and elsewhere around the world would prove to be loss-making failures. The city's fiscal problems also increased between 1995 and 1997, with debts rising from about \$27 billion in 1995 to around \$33 billion in 1997 (Marschall et al. 1997). In this context, it is likely that the government pressured BWB to increase profits.

Proposing privatisation, 1997- 1998

By the end of the summer of 1997, members of both the SPD and CDU leaderships had openly called for privatisation of BWB. Later in 1997, BEWAG, the electricity company majority share owned by Land Berlin was privatised and in 1998 GASAG, the publicly owned gas company was also privatised. Though hardly popular, privatisation in these sectors (where the private sector already played a prominent role) would not have been seen as such a risky policy as the BWB privatisation. Privatisation in the water sector is far more challenging and controversial. In the German context, privatisation of water services was also uncommon. At this time, and still today, there was a good deal of consensus around the notions of the social market, as expressed in the concept of the *Kommunale Daseinsvorsorge* and illustrated in municipal ownership and operation of most water utilities. Hence privatisation of water services and supply was a controversial step, a break with the general approach in Germany and one we would expect to provoke opposition.

It was, however, made more possible through the active support of the Social Democrats (SPD), the centre left party, which had previously opposed privatisation. In the Berlin context, the SPD had suffered defeat to the CDU in the Berlin election of 1995 as Berlin's economic problems and unemployment rose in the 1990s. In response, the right wing of the SPD grew more powerful and argued that the party must move

to the centre. This mirrored changes within the SPD at the national level (as well as internationally), as Gerhard Schröder with his third way politics, *Die Neue Mitte* ("The New Centre"), emerged after yet another defeat to Helmut Kohl, long-term CDU leader, in the national elections of 1994.

The government's official declaration (24th June 1997) that BWB should be privatised followed a period in which the privatisation of BWB had been increasingly discussed. Senior politicians in both the governing parties, CDU and SPD, sought to depoliticize the privatization through focusing discussion onto the gravity of the city's and BWB's debts and the necessity for quick action (i.e. privatization) to address these problems (Beveridge 2012a). In 1997 the Berlin government confirmed that there had been contact with Suez regarding a "quick sale", though Suez denied rumours that they were prepared to offer around \$1.78 Billion (DM3 Billion) (*Berliner Zeitung* 1997). According to other press reports in this period, many international water companies and German energy companies had already signalled their interest in BWB (*Handelsblatt* 1997). The failure of policies to make Berlin a prosperous global city and the failure of BWB to become a "global player" were intrinsic to the fiscal crisis but they, along with the ultimate objective of becoming a global city were never problematized by senior politicians in the two main parties.

During the period 1997-1998, there was much discussion regarding the conditions of privatisation, with the left of the SPD and the opposition parties (PDS, forerunner party of DIE LINKE, and the Greens) providing the only alternatives to privatisation. The Unions, despite some opposition, were ultimately supportive of privatisation after they accepted a guarantee from the Berlin government of no job losses post-privatisation. Ultimately, the Berlin SPD leadership won the support of its members through the signing of this deal and the provision that there would only be partial-privatisation. While the opposition to privatisation from the SPD and the Unions can be seen to have secured a partial privatisation, their ultimate support for this compromise made privatisation almost inevitable. The lack of solidarity between the Unions and the SPD limited the potential of both to promote alternatives, to build an opposition. Further it appears that the Unions did not have, nor did they develop, particularly strong links with the main opposition parties: the PDS and the Greens. The strong links between the Unions and the CDU and SPD, the traditional parties of government, appear to have precluded this. Having no real leverage within the parliamentary system and little influence on negotiations with the Unions and workers, the only real option for the opposition parties to broaden support against privatisation was to engage with actors outside of the system of politics: NGOs and civil society groups. There was, however, little organised activity against the privatisation of BWB, and no successful attempt to mobilise the public. Some small NGOs did campaign against privatisation, such as Wasser in Bürgerhand ("Water in Citizens' Hands") and Attac Germany (Fitch 2007, 143). They were not, however, able to make themselves visible in the media and were unsuccessful in more direct campaigning. Unlike a similar attempt to engage with citizens in Hamburg, there was to be no grassroots movement against privatisation. While little, if any, popular support for privatisation is apparent, there is no evidence of widespread opposition.

The privatisation process, 1998-1999.

The model agreed for the partial privatisation was the so-called 'Holding Model', in which BWB legally remained a public entity but its operations – at this time including WSS within Berlin – were commercialised (Lanz and Eitner 2005a 4). In this model BWB would become a subsidiary of a Holding *Aktiengesellschaft* (Public Law Company or Plc.), with the majority share of both being owned by the city of Berlin. The Holding Model entailed the foundation of a *Beteiligungsgesellschaft* (Investment Company set up by the private investors), which would buy 49.9% of the shares of a Holding Plc., formally established by the State of Berlin who would remain majority shareholders. These new companies, the *Beteiligungsgesellschaft* and the Holding would then enter into silent partnership agreements, giving the private investors a total of 49.9% control of the public-law entity BWB (*Anstalt öffentlichen Rechts*). The State of Berlin therefore kept a majority share of the Holding and the *Anstalt*. This was the key condition of the Holding Model. On paper at least this model ensures that the balance of power between the private and public partners (Berlin government) was tipped just in favour of the latter.

Having secured formal parliamentary support for privatisation on 7th July 1998, the government then set about implementing the privatization and finding a buyer. Two formal steps were taken to achieve these tasks. The Berlin Senate established a "Steering Committee" to oversee the partial privatization of BWB. This consisted of the Senators for Economics, Finance and City Development, Construction, Environment and Transport. Constitutionally, the Senator for Economics had overall responsibility for publicly owned companies such as BWB, while the Finance Senator was responsible for fiscal management and public property. Alongside these political institutional arrangements, the Finance Senator assembled, at great cost, a team of consultants to manage the bid in the late summer and autumn of 1998. Contained within the Finance Senate's team were consultants from three companies, who led a small team of public administrators. Merrill Lynch, the investment bank and financial consulting firms, acted as financial advisors and were overall leaders of the bidding process (tasks they had performed for the privatizations of BEWAG and GASAG). *Hengeler Mueller*, a large German law firm, acted as legal advisors and the tax consulting firm, BDO (*Deutsche Warentreuhand AG*), advised on the valuation of BWB and the setting of water tariffs. In total, some researchers claim that thirteen consultancies were employed by the Berlin government during the privatization process at a cost of around €40 million (Lanz and Eitner 2005, 9).

The premise for forming this team was to utilise their specialist knowledge of these areas and to ensure that the Berlin government was able to deal effectively with the private sector companies interested in purchasing BWB. Consultants were officially meant to be the only real contact between the Berlin government and the bidding companies. They were meant to provide a buffer between the political system and the commercial process of privatization. However, controversy emerged with revelations of conflicts of interest at regular intervals in the project. They are a common feature of privatization processes (Hodge and Bowman 2006, 118-120), provided an ongoing subplot to the privatization process and called into question the appropriateness of hiring consultants. Firms such as those employed by the Berlin government, due to their size, have at any one time, a range of clients and this resulted in damaging revelations for *Hengeler Mueller* and particularly Merrill Lynch who were also working for one of

the bidding companies, Enron, on the planned flotation of its water company subsidiary Azurix (for more examples Beveridge 2012b). The emergence of conflicts of interest added a hint of scandal and most likely reinforced the view that privatization can be a “legalised form of corruption” (Hodge and Bowman 2006, 120).

The creation of this team of consultants can be seen as an example of arena-shifting of policymaking competences, away from formal policy processes and into extra-formal negotiations. Consultants were not only working on the commercial-side of the privatization process; they were, in fact, extensively involved in the parliamentary and legal processes, even the drafting of the Privatization Law itself. Consultants were officially the only formal direct contact between the public and private sides during negotiations. They were the means through which Berlin’s interests were represented. Reflecting the rise of consultants in both business and politics, consultants were not only working for the Berlin government, but representing the companies bidding for BWB. For example, the RWE/Vivendi/Allianz consortium employed 80 consultants at the high point of the bidding process at a cost of around €15Million. This team consisted of representatives from some of the biggest consultancy firms in the world. KPMG (responsible for tax and tariffs), one of the ‘Big Four’ accountancy firms active in the global consultancy industry (Hodge and Bowman 2006, 101), Credit Suisse (banking) Freshfields (law) and H.P.C (environment).

According to Beveridge (2012b) it appears that during the bidding process (October 1998 - October 1999), crucial parts of the Privatization Law, as well as the contractual agreements were being drawn up by the consultants in secret negotiations with the bidding companies. There was thus an overlap between the legal/ parliamentary process and the commercial processes. In effect, consultants can be seen to have played a key role in devising the Partial Privatization Law before it was sent to Parliament in January 1999 (and eventually accepted in April with only minor alterations). Furthermore, their leading role in the negotiations over the contracts between Berlin and the private partners (October 1998-September 1999) placed them at the centre of decision-making process of a political and legal character. Both of these decision-making processes were secret, not subject to parliamentary scrutiny nor the rules and norms of the formal political system.

The clearest and most important example of this is their work in constructing the tariff system within the Privatization Law. There was no precedent in Germany for establishing a public-private tariff system for water and wastewater services. Thus it was consultants, not public administrators who provided the knowledge necessary to develop a complex system to address the fundamental political challenge of the privatization: how much profit should the private (as well as the public) partners be allowed to make? After much consultation with both politicians and the bidding companies the consultants came up with the controversial ‘R+2%’ formula which was written into the Partial Privatization Law. ‘R+2%’ refers to ‘Revenue plus 2%’. ‘R’ is calculated in relation to the average percentage revenue made from 10 year, low-risk Stock Market Bonds over the previous 20 years. Once this percentage had been calculated, for example in 2004 it was 6% (Werle 2004), then ‘R’ would equal 6% of the revenue of BWB. 2% would then be added on to determine the profit rate for both the public and private owners (Beveridge 2012a). ‘R+2’ does then guarantee profit, but not a specific amount of profit (as the calculations for ‘R’ may change every year). More generally, ‘R+2’ guarantees profit without risk for the owners: the rate of profit is based more on a calculation than on performance. Put simply, ‘R+2’

removed much of the risk in investing in BWB (Beveridge 2012b).

On the 14th June 1999 RWE/ Vivendi/ Allianz won the bidding process with a bid of \$1.96 Billion (DM3.3 Billion) and signed a range of contracts with the Berlin government. This did not, however, mark the end of the process. Two parallel processes continued: one public, conducted through the formal political system and the other, secret, conducted between the consultant team and the RWE/ Vivendi/ Allianz consortium. At no stage in the privatization process was the cleavage between the formal and extra-formal processes of policy-making so apparent. The rule-based formal process of the political system continued to shape the overall policy process, but key decisions were made elsewhere: in the ad hoc arena centred on the consultants at the Finance Senate. At this time, the Partial Privatization Law was being challenged in the Constitutional Court by the opposition parties (PDS and the Greens). Given the parliamentary majority enjoyed by the CDU-SPD coalition, this was one of the few genuine opportunities for resistance provided by the formal political process. Their challenge rested largely on the claim that the 'R+2' formula was unconstitutional: that a public or partly public enterprise should not be legally bound to provide profit returns to its owners.

Aware of the legal challenge, negotiations between the consultants working for the Berlin government and RWE/Vivendi/Allianz resulted in a fundamental amendment to the main consortium contracts. In an additional and confidential contract, the Berlin government ensured that, regardless of the Constitutional Court's decision on 'R+2', the private partners would receive the same profit rates as outlined in the formula. This contractual agreement did, in effect, pre-empt due legal process. In October 1999, the Court ruled that the means of calculating 'R' were acceptable – it was fairly common to use this means of calculation for municipal companies in Germany. However, it saw no grounds for a public-private monopoly to be able to simply add 2% on top and thus it was ruled unconstitutional and removed from the Law. In effect, then, profits for the public and private owners are determined by the secret contractual agreement. The Berlin government had, without the knowledge of Parliament, contractually obliged itself to an agreement on profit returns even if it was to be ruled unconstitutional. Furthermore, it is important to stress that the contracts are unlimited with the possibility for review and termination only in 2028 (29 years after the privatization). In a sense the sale price can be seen as a loan, with the terms of re-payment set in the guarantee of annual return over the 29 years of the contract (with the state of Berlin also, in theory, making a profit) (Beveridge 2012a; Hüesker 2011).

Conclusion: assessing the BWB partial privatisation

The privatization was eventually accepted by most political players (apart from the PDS, and the Greens), with the promises of job security, no price rises for four years and the compromise of a partial privatization defusing initial opposition from the unions, and CDU and SPD Regional Party membership. The unions accepted the privatization as inescapable and focused on negotiating an advantageous deal for the employees of BWB (Beveridge 2012a). The potency of neoliberalism was apparent in the lack of a genuine alternative proposed to privatization, the leading role played by the "Third Way" SPD Party leadership in the Coalition Government, the acceptance by all the major parties and the unions that BWB should operate as a commercial company and the

more general failure to link the financial problems of the city and the water company to the neoliberal policies which had shaped them in the preceding years. Nonetheless, the above compromises point to the local contingencies of implementing privatization: the “politicking”, the political agency, required to implement policy.

The sale price of \$1.96 billion for 49.5 % of the company has been generally seen as high (Lanz and Eitner 2005a, 4) and can be attributed largely to a mix of the fierce competition between the water companies, especially the French giants, Vivendi and Suez, the attraction of Berlin as the new German capital with over 3 million paying customers and the continued belief that BWB could exploit water markets in Central and Eastern Europe (Beveridge 2012a). It was also, however, a result of the details of the Partial Privatization Law which, at least initially, contained the profit guaranteeing ‘R+2’ formula (aimed to ensure similar annual profit rates ca. 8% to those enjoyed by the privatized water companies in England and Wales).

Depoliticization was not only a feature of the privatization process but also a characteristic outcome of the privatization. This is clear in the new decision-making structures, greater profit orientation and new regulatory instruments (Hüesker 2011; Beveridge 2012a; 2012b). Decision-making in the restructured BWB is convoluted, based on the privatization law and agreements set out in contracts that were until recently withheld from the public (Beveridge and Hüesker 2008; Hüesker 2011; Beveridge 2012a). It rests on the complex structures of the privatization model implemented, in particular the principle that no major decision can be made without the agreement of both the private investors and the state of Berlin. Overall the model is based on consensus in the sense that both sides are able to veto each other. Informal arrangements involving representatives of the private investors and the Berlin government were established to enable the shareholders to reach a consensus prior to the involvement of the parliament in the more official decision-making procedures (Beveridge et al 2014). These long-term, secretive and informal arrangements have reduced transparency and legitimacy in water policy despite the fact that the state still retains a majority shareholding (Hüesker 2011).

The huge increase in water tariffs since privatization is one of the key reasons for growing criticism and opposition. The state of Berlin and the private investors agreed in 1999 not to increase water tariffs between 1999 and 2003. This can be seen as a crude attempt to appease public opinion in the short term because since 2004 water tariffs increased massively. In total, between 2003 and 2006 prices for water supply have been raised three times (with an overall increase of 21%) and on four occasions for sewerage services (by a total of 30%) (Beveridge et al 2014).

Much of the financial dimension of water policy in Berlin has not been subject to political scrutiny since privatization. Profits were loosely fixed in the long-time secret contracts, and thus not open to parliamentary discussion, which had inherent and direct consequences for prices. Following Burnham (2001), this can be seen as a form of depoliticization, a “process of placing at one remove the political character of decision-making” (128), in that the profits, if not prices, were effectively determined by a range of confidential contracts and in negotiations between the private partners and the executive, and not the parliament.

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