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Recommended Citation

Moshman, Rachael. "The Constitutional Right to Water in Uruguay." *Sustainable Development Law & Policy*, Winter 2005, 65.

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THE CONSTITUTIONAL RIGHT TO WATER IN URUGUAY

By Rachael Moshman*

On October 31, 2004, more than sixty percent of the Uruguayan people voted to amend their constitution and make water a human right – a decision that guarantees public management of water services for Uruguay in the future.¹ Further, the executive branch determined that the constitutional amendment would be retroactive, that all current water companies in Uruguay are no longer legally authorized to do business in the country,² and that an “orderly, fast, and fluid” retreat of the water companies would be organized.³



Colombians at a protest against the Andean Free Trade Agreement in Bogotá, Summer 2004, hold a sign reading, “Water is a common good, never a commodity.”

At least twelve companies in Uruguay will be affected by the water plebiscite.⁴ The State Sanitary Works (“OSE”) will take over the provision of water services⁵ and announced that it is prepared to be responsible for the 60,000 households that will now require service.⁶

The referendum to make water a constitutional right was promoted by a coalition of social and political organizations calling themselves the National Commission in Defense of Water and Life (“CNDAV”), united under their opposition to water in Uruguay.⁷ Reasons for opposition included unaffordable, low quality services that were burdensome on the state economy, and environmental harms

caused by the private companies.⁸

Civil society opposition to water privatization is common throughout Latin America. The most famous incident of civil society resistance to water privatization is the Cochabamba, Bolivia case. In that instance, a water company partly owned by the multinational corporation Bechtel took over water services in Cochabamba in late 1999.⁹ Water bills rose sky-high and in April, Bolivians began to riot in the streets.¹⁰ After eight days, the government announced that the water company had fled the country, and water services had returned to the control of the government.¹¹

Other countries in Latin America face similar conflicts over the privatization of water services. Nicaragua will soon decide whether or not to accept 13.9 billion dollars from the Inter-American Development bank for the privatization of their water services. Non-governmental organizations are proposing a bill for Nicaragua that, like the recent decision in Uruguay, recognizes water as a human right and emphasizes the necessity for low-cost access to water.¹²



ENDNOTES:

¹ Deborah James, *Sovereign Decision for Water in Uruguay: More than 60% Said Yes*, Nov. 2, 2004, available at http://www.indymedia.ie/newswire.php?story_id=67283 (last visited Nov. 28, 2004).

² *Para el Poder Ejecutivo la Reforma del Agua es Retroactiva*, El País, Nov. 11, 2004, available at <http://www.elpais.com.uy> (last visited Nov. 28, 2004).

³ *Ejecutivo Decidió que Deben Caer las Concesiones de Agua*, El País, Nov. 12, 2004, available at <http://www.elpais.com.uy> (last visited Nov. 28, 2004).

⁴ *Id.*

⁵ *Id.*

⁶ *OSE Asegura Provision del Servicio de Agua en Lugar de los Privados*, El País, Nov. 11, 2004, available at <http://www.elpais.com.uy> (last visited Nov. 28, 2004).

⁷ *Id.*

⁸ *Supra* note 1.

⁹ See Connie Watson, CBC News, *Sell the Rain: How the Privatization of Water Caused the Riots in Cochabamba, Bolivia* (Feb. 4, 2003), available at <http://www.cbc.ca/news/features/water/bolivia.html> (last visited Nov. 28, 2004).

¹⁰ *Id.*

¹¹ *Id.*

¹² Katherine Stecher, Nicaragua Network, *Citizens Stand for Water* (2004), available at <http://www.nicanet.org/global/citizens-stand-for-water.php> (last visited Nov. 28, 2004).

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