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Different positions in society, differing views of the world: the privatization of water and sanitation services in Minas Gerais, Brazil

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Introduction: In 2020, the Brazilian government sanctioned Law No. 14.026, which established new guidelines for water and sanitation in the country and encouraged service privatization. Based on this, the State of Minas Gerais government, Brazil has proposed a bill for these services. Regarding this bill, different social actors in the State of Minas Gerais have expressed different assessments concerning the outcomes of the proposed management model and its impact on the realization of the human rights to safe water and sanitation.

Methods: We used content analysis techniques to assess the position of different actors—government, civil society, and private sector—in three public events that were recorded and posted on the YouTube platform.

Results: The analyses of this study indicated that the positions of the current government are aligned with those of the private sector. Also, the analyses agree that privatization can lead to the universalization of access to services. These different actors did not mention the human rights to safe water and sanitation in their discourses. Civil society organizations are concerned about the guarantee of those rights. For them, privatization of water and sanitation services can lead to discontinuation of the access of these services to vulnerable populations and poor municipalities due to tariff increases.

Discussion: The discourses concerning water and sanitation privatization as an instrument for universalization are disputed. Private sector actors and government representatives, aligned with the neoliberal agenda, support privatization. Civil society organizations defend the improvement of public management as the path to universalization. Representatives of municipalities were not included in the discussion for the new bill. The different societal positions relate to the different views these actors have concerning privatization and the world.

KEYWORDS

water, sanitation, privatization, human rights, universalization

1. Introduction

In Brazil, there are still important and persistent deficits in access to safe water and sanitation services. Only 86% of households have access to safe water, 13.5% have primary access, and 0.5% continue to have unsafe access. For sanitation, only 48.7% of households have safe access, 41% have primary access, 10% have unsafe access, and 0.3% practice open defecation, with great disparities between urban and rural regions (WHO/UNICEF, 2021a,b). This access is marked by high degrees of inequality, which is evidenced between the federal states, between urbanized areas and informal settlements, and between different income and educational levels (UNICEF/UNFPA, 2021; Arruda and Heller, 2022). Furthermore, there are no concrete policies for assisting vulnerable groups, such as indigenous peoples, quilombo dwellers, or homeless people (Neves-Silva et al., 2018; Jesus, 2020).

Consequently, the privatization of water and sanitation services has been gaining space in the country's political agenda with the discourse that it would be the best strategy for achieving universal access (Gadelha et al., 2021). Based on this narrative, in 2020, the Brazilian Congress approved the New Regulatory Framework for Environmental Sanitation¹, Law No. 14.026, which established new guidelines for access to safe water and sanitation in the country, specifically urging states and municipalities to privatize their services (Brasil, 2020).

The new legislation prohibits state-owned companies and municipalities from signing contracts directly, requiring that the contracts be affected through public tenders involving private-sector competitors' participation. The legislation defines an arrangement for the regionalization of services, through the grouping of municipalities, to achieve gains in scale and to attract the interest of private capital. In addition, it is based on the principle of full cost recovery through rates, establishing the need for a transparent methodology for proving state-owned companies' economic and financial equilibrium as a condition for the validity of contracts. Thus, despite having as an alleged priority, that is, the universalization of sanitation services, the law opens up space for the concession of services to be carried out by the private sector, a practice that has already been occurring at an accelerated pace in several Brazilian states (Silva, 2021). As the new law establishes that the provision of sanitation services can be carried out in a regionalized manner, the state governments have been called upon to set up regional water and sanitation structures, which are groupings of municipalities, not necessarily bordering, to give economic and technical viability to the less-favored municipalities. The law establishes that the states must organize their regional structures by July 2021, and the providers, after bidding processes, will be responsible for the water and sanitation services related to the block that is awarded the concession.

It is widely known that the privatization process can compound the risk for guaranteeing human rights to water and sanitation (HRtWS). Factors linked to privatization processes, such as profit maximization, the natural monopoly of services, and power

imbalance, can be negatively related to the scope of rights (Heller, 2020). These concerns have been fundamental to the debate, in the country, concerning the impacts that the new regulatory framework can bring, the capacity of the private sector to guarantee universal access to safe water and sanitation services, and the effective implementation of the HRtWS (ONDAS, 2021).

In this context, the government of the State of Minas Gerais (the second most populous state in the country, with 20.8 million inhabitants, located in the southeastern region) sought to adapt to the new framework that was prepared through the Secretariat for the Environment and Development (SEMAD), Bill No. 2884/2021. In the proposed model, the state would create 22 regional units of water and sanitation, encompassing the 853 municipalities of the state, which would be selected according to SEMAD to seek an arrangement in which the provision of the service was technically possible and economically viable with municipal membership being voluntary. However, as specified in Federal Law 14.026/2020, if a municipality does not choose to join the block, the municipality would be penalized and would also be prevented from accessing the resources and financing managed by the federal government.

Most of the water and sanitation services in the municipalities of the State of Minas Gerais are provided by a state-run, mixed capital company (with the majority of state-owned capital), COPASA², which is one of the most profitable companies in the sanitation sector in the country. COPASA holds the rights to provide water supply services in 75% and sanitary sewage in 36% of the municipalities in the state. The largest municipalities, including the capital, Belo Horizonte, with 2.7 million inhabitants, are part of this group. Between 2019 and 2021, the company passed on to the state nearly R\$770 million referent to the distribution of dividends. This amount exceeds the sum of the total state expenditures in the same period in the areas of science and technology, housing, water and sanitation, and urbanization, which was R\$740 million (Aguar, 2022). Since 2019, interest in the privatization of the company has been expressed by different social actors, including private banks. This interest has intensified with the elaboration of the bill by the state government and as a result of the auction processes for sanitation companies that have taken place in other states after the approval of the new legal framework (Dantas, 2022).

In this context, this study aimed to map the perceptions of different actors in the State of Minas Gerais on the possible privatization of water and sanitation services in the state, and its impact on the guarantee of human rights to safe water and sanitation, encouraged by the bill in progress, based on empirical material (Webinar: The New Environmental Sanitation Framework and Regional Blocks, e.g., the State of Minas Gerais; Webinar: Privatization and Creation of Regional Sanitation Units in the State of Minas Gerais; General Population Participation Commission of 27/05/2021). Specifically, an attempt has been made to identify different actors' positions on the different sides of the discussion and the possible root causes for taking their positions.

¹ It is important to note that, in Brazil, the term "environmental sanitation" (or "basic sanitation") corresponds to 4 services: water supply, sanitary sewage, rainwater drainage and solid waste management.

² Currently, COPASA transfers financial resources from municipalities with higher revenues to less economically viable municipalities, using a single rate charged throughout the state and operating considering the statewide economic viability of the company, but does not transfer resources from each municipality in isolation, which is named "crossed subsidy."

2. Methods

Qualitative methodology was used to conduct this research, evaluating the ideas expressed by different players in a public debate scenario. For this qualitative methodology, three videos of different debates on the bill were used, which were available for free access on the Internet and on the YouTube platform. In these debates, there are positions presented by representatives of civil society, as well as the government and the private sector, on the issue of privatization of sanitation services in the State of Minas Gerais, in the context of the effectiveness of Bill No. 2884/2021. The speeches from the videos were transcribed and analyzed using content analysis techniques. The theoretical references used as a base for the analysis were the HRtWS and the privatization of services.

The selected videos came from the events that took place between April 2021 and May 2021. These are (1) “The New Environmental Sanitation Framework and Regional Blocks, e.g., Minas Gerais” organized by the Center for Studies on Infrastructure and Environmental Solutions of the Getúlio Vargas Foundation in April 2021 to promote debate on the new environmental Sanitation Framework; (2) “Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais,” parts 1 and 2, organized by the Minas Gerais Forum of River Basin Committees in May 2021 to discuss the new legal framework for environmental sanitation and intentions to privatize companies that provide this type of service; (3) General Population Participation Commission organized by the Legislative Assembly of Minas Gerais to debate the proposal for the regionalization of basic sanitation included in Bill No. 2884/2021. This debate was held on two non-consecutive days, 20 May 2021 and 27 May 2021.

In the first video, there were four participants, three of them were from the government and one of them was from the private sector; in the second, there were 9 participants, five of them were representatives of civil society and four of them were from the government; and in the third, there were 18 participants, six of them were representatives of the government, one of them was from COPASA, five of them were from civil society, and six of them were state congresspersons. In total, there were discourses from 31 people. It should be noted that civil society encompassed a heterogeneous group of participants, including the National Observatory on the Right to Water and Sanitation (ONDAS); the National Association of Municipal Sanitation Services (ASSEMAE); the Workers’ Union from the Water Purification and Distribution Industries and from the Water and Sanitation Services of the State of Minas Gerais (Sindágua), the Municipal Sanitation Council (Comusa), the Basins Committee of the *Rio das Velhas*, and representatives of the sanitation workers from Conselho Regional de Engenharia e Agronomia de Minas Gerais (CREA), as well as activists.

The videos were analyzed using content analysis techniques since they are designed to study what was said by the subject or verified by the researcher, selecting, during the analysis of the material, themes, or categories that aid in the understanding of what is being said. Therefore, concepts related to the statistical semantics of discourse were utilized, aiming at inference through the objective identification of message characteristics (Bardin, 2011). To do this, the authors transcribed the speech in the videos, and two researchers individually analyzed the transcriptions,

assigning codes to specific aspects of their responses. To reduce bias, the researchers performed the data analysis independently and then compared their findings. Thus, both researchers separately read through all the transcriptions and drafted a list of recurrent codes derived from the data. The codes were defined independently and then refined collaboratively to ensure adequate intercoder reliability. The coders discussed discrepancies between their codes until they reached a consensus. A codebook was then developed, discussed, and accepted by the researchers. Then a list of key themes, based on the frequency with which each code was identified throughout the interviews, was created as follows: The recent change in the legal framework for environmental sanitation in Brazil; the bill being proposed for environmental sanitation in the State of Minas Gerais; and the relationship between the bill for environmental sanitation in the State of Minas Gerais and the HRtWS. The expressive, informative, and representative statements were selected and have been presented herein as direct citations. Illustrative quotations were reviewed by the researchers for consensus.

Similarly, the speeches of actors from civil society, from the State of Minas Gerais government, and from the private sector, presented in the selected videos, were analyzed. It was possible to analyze the way in which the process of privatization of the provision of sanitation services is viewed by these groups and the way they perceive the relationship of this process with regard to guaranteeing human rights to safe water and sanitation.

The research was approved by the Research Ethical Committee of the René Rachou Institute under protocol CAAE 54181921.6.0000.509. The data were collected from public events posted on YouTube platform; the participants were not identified, but the name of the event from where the data were taken was identified.

3. Results

As a result of the data analysis, which was obtained after reading the transcripts of the selected videos, and based on the theoretical references of the HRtWS and the privatization of services, the following thematic categories were created: (1) The recent change in the legal framework for environmental sanitation in Brazil; (2) the bill being proposed for environmental sanitation in the State of Minas Gerais; and (3) the relationship between the bill for environmental sanitation in the State of Minas Gerais and the HRtWS.

3.1. The recent change in the legal framework for environmental sanitation in Brazil

3.1.1. The Government of Minas Gerais

In the federal government’s official narrative, the new legal framework for environmental sanitation would be the solution for universal access to services since, through regionalization, the cost of the services would be reduced, facilitating access for poorer municipalities.

“Regional units are a base mechanism for starting the universalization process, and the main objective of the units is to gain scale and guarantee universalization and the technical, economic, and financial viability of services.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

“The costs for provision when it is done by a consortium of municipalities is much lower than when it is done by the municipality alone, and we also realize that larger projects have a much lower cost per ton, so this reinforces the idea that regionalization is necessary for us to achieve a gain in scale and the reduction of unit costs for the provision of services.” (General Population Participation Commission 27 May 2021).

“The only possibility for us to bring sanitation services to the 853 municipalities of Minas Gerais is through the grouping, the densification of municipalities, which is what the new framework proposes.” (General Population Participation Commission 27 May 2021).

Moreover, the spirit of the new framework was confirmed to expand the participation of the private sector while emphasizing the importance of economic and financial viability, which will depend on the collection of rates as an important factor to be considered during the modeling and formation of blocks to guarantee the interests of private sector actors.

“I think the objective is to fulfill the spirit of the Framework, which is to expand the participation of the private sector, and that is why I think that the idea of economic and financial viability as a pillar for this grouping is very important.” (Webinar: The New Environmental Sanitation Framework and the Regional Blocks, for example, Minas Gerais).

“How can we actually ensure economic and financial viability, especially for municipalities that in the first evaluation do not prove to be attractive from the point of view of service provision by the private sector? They must be financially sustainable (...). So all of these are important variables when we are going to model the regional units from the point of view of economic and financial viability. Therefore, viability will depend on the required rate collection.” (Webinar: The New Environmental Sanitation Framework and the Regional Blocks, for example, Minas Gerais).

3.1.2. Private sector agents

Private sector agents also approve of the new framework and see opportunities, especially when it comes to the formation of blocks and the combination of municipalities.

“When we look at these alternatives and opportunities, we really like this model of regionalization. We think, and we see exactly what you are predicting there in the idealization that is this combination of municipalities.” (Webinar: The New Environmental Sanitation Framework and the Regional Blocks, for example, Minas Gerais).

3.1.3. Civil society

For members of civil society represented in this study by sectors that are not part of the government or the private sector, such as environmental movements, and entities that defend sanitation and housing, unions, and activists, the law would encourage the privatization of water and sanitation services, which would result in a deepening of the inequality of access between municipalities since there would be an elimination of crossed subsidies and an increase in rates to guarantee sustainability. Note that the municipalities will not really have the option to choose because if they do not choose to join the blocks, they will have no access to federal resources.

“Law 14.026, which I refuse to refer to as a new legal framework, is, indeed, far from being a new legal framework for environmental sanitation, and I hope it will be short-lived. It encourages the action of the private sector in the concessions market, it clearly has a privatization motivation, so the federal government made a clear choice and missed the opportunity to broaden the advances proposed in Law 11.445, fill in some holes, and improve management mechanisms that are proposed there.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

“Law 14.026 put a knife at the neck of municipalities, conditioning the adherence of municipalities that do not adhere to these regionalized units. They will not be able to have access to federal resources or to federal financial institutions that operate federal resources. So, I mean, it’s optional, but if you don’t join, the municipalities won’t have access to the resource, so it’s sort of, kind of optional.” (General Population Participation Commission 20 May 2021).

“What would you expect? Judicialization of the law by public entities, with wide legal uncertainty for the sector; increase in the value of water and sewage rates; deepening of social inequality and the denial of the human right to basic sanitation; with marginalization of small and poor municipalities.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

“What are the issues with the option of privatizing sanitation services? (...) deepening inequalities with the penalization of the most vulnerable populations, not only in large cities but mainly in smaller cities, with lower profitability; the question of the cross-subsidy already discussed here, in the practical elimination of this mechanism, also accentuates this problem.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

The members of civil society represented here also highlight that society will be subject, and for many years, to a service model that still needs to be determined to work and that the process of privatization of services goes against what is going on in other countries. They claim that the discourse of insufficient resources for the sector and the need to raise funds from the private sector needs to be corrected. They also believe in the increase in the possibility that the targets will not be achieved and that the public sector will then need to recover a service that has been junked for years.

“I think that this idea of privatizing through the regionalization of water and sanitation services in the state of Minas Gerais is fragile because it is not supported by evidence, it is a mistake. I would even say more, it could even be incoherent because it will subject the population of the state of Minas Gerais to a model for many decades, 30 years is the number that circulates, and once this model is started, it is a model that is difficult to reverse.” (General Population Participation Commission 27 May 2021).

“Many movements are already under way in the sense of restoring public sector management, in the provision of public services in municipalities. Many concession contracts with the private sector in various parts of the world have been canceled, they were not renewed, so there is a strong movement in Europe, North America, Latin America, and Asia as well, in the direction not of privatization, but of re-municipalization, with some exceptions. But here in this country, the opposite happens, we are going against many of these trends.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—1).

“Ultra-liberal language by the federal government, especially by the Ministry of Finance, a discourse that says first that the country is experiencing a fiscal crisis, and does not have the capacity to invest more in sanitation, the sanitation deficit is very high, and second, the only solution for this is to raise funds from the private sector. These are false arguments because it is always possible for a country to use its public resources to invest in essential goods and services, especially in a good that is a human right. Brazil has legal obligations regarding this human right, and the idea that the resource for sanitation will come from the private sector is absolutely fallacious.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—1).

“What will happen is the following: what if we arrive in 2033 and privatization hasn’t achieved universalization? What will happen? What will happen here is what has happened, in Paris, in Berlin, and in Brazil everywhere too, okay, just look at Manaus, right, privatized, just look at Tocantins. The mayor will get there and will have to take over the services. During this period, the private sector would have taken profits, taken assets, and junked them. We are going to get everything junked in 10, 15 years.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

These actors believe that the new law will leave the most vulnerable social groups without assistance.

“We see the federal law establishing a goal that is to have 99% of the population served with drinking water, and 90% of the population served with sewage collection and treatment. We understand where the 1% and the 10% that will not be assisted by either service will be. They are exactly that layer of the population in a situation of greater vulnerability.” (General Population Participation Commission 27 May 2021).

3.2. The bill being proposed for environmental sanitation in the State of Minas Gerais

3.2.1. State government

In its defense of the framework, the government argues that the established arrangement considers the economic viability of the provision, even without cross-subsidies at the state level, which will cease to exist and will only occur between regional units.

“Within the new framework, we no longer talk about cross-subsidies, but when we did the analysis of the economic viability of the regional units, we did it thinking precisely about the payment capacity of all municipalities so that within that regional unit that we are proposing as economically viable, payment for services by all the municipalities in the block. So, one of the items in the financial feasibility analysis is precisely to verify whether that block in the payment capacity arrangement allows for municipalities with lower capacity to be compensated by those with more capacity for this block to be considered viable.” (General Population Participation Commission 27 May 2021).

A noteworthy fact is that profitability was an important factor in building blocks in the State, and this was a topic that the government had previously discussed with the private sector. These actors emphasize in their discourse that profitability can increase after the granting of the concession of the service, and they highlight that the block in the Jequitinhonha region, which has a lower income population and therefore has lower profitability, will take advantage of a leveraging process to ensure economic viability, using funds from the Federal Ministry of Regional Development.

“This is a point that we have already discussed with private operators, but we believe that the process of improving the post-concession operation itself can increase the profitability of providing water and sanitation services. The Jequitinhonha block, it has a different configuration from the other blocks... slightly higher profitability, but a leverage process there, because as it is a very poor region, historically there has been little investment. This leverage would provide a breather for the economic viability of this region.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

“Jequitinhonha pilot project, this is a project that may be expensive for us, because it is a region that has always been, at times due to the HDI issue, reported as difficult. We are working hard to make this project viable and already have resources from the Ministry of Regional Development.” (Webinar: The New Environmental Sanitation Framework and the Regional Blocks, for example, Minas Gerais).

The government’s entire discussion is guided by a strictly technical rationale, based on the premise that the new bill and the logic of grouping municipalities into regions were built with economic viability in mind. Several arrangements were made to verify the viability of the blocks and from there on, to understand how many blocks and how those blocks would be organized. The government itself admits that there is no participation from the municipalities themselves or civil society in the initial construction of the proposal, with only the State Secretariat for the Environment and Development (SEMAD), the Regulatory Agency for Water and Sanitation Services of the State of Minas Gerais (ARSAE), and the Development Bank of Minas Gerais (BDMG) involved in this process.

“We sought to present an arrangement of the state for the provision of water and sanitation services that made it technically possible to provide the service while economically viable. SEMAD, ARSAE, and BDMG worked together during this time to build the proposal, both on technical and economic–financial criteria for us to bring to the legislative assembly a state arrangement that allows us to achieve the universalization goals provided for in federal law.” (General Population Participation Commission 27 May 2021).

“We did two other simulations, a simulation with COPASA contracts that had expired. COPASA had contracts with municipalities that have expired today, or are to expire within 5 years, so we had only one block that was not viable in this configuration and we carried out an operation of municipalities with valid contracts. We removed contracts with a maturity of more 5 years, and then this made most of our units unfeasible. So, this is an important point in the debate, the relevant role of state-run companies from now on in universalization and in the concession process after the institution of our regional units.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

The government highlights that the regionalization process took into account municipalities that are contiguous so that they can share infrastructure, a premise not necessarily true for most municipalities in the State, which are distant from each other. For the government, one of the points considered important is the fact that the modeling of regionalization is being guided by the future concession of all services in the region.

“I think the choice of the state was one, instead of complicating things with municipalities that are not minimally contiguous, let’s try to create ideas of contiguous regionalization, also because there is the issue of sharing infrastructure that makes sense. I think a second theme that was a choice that I also think is smart is that all the regionalization is

being done thinking about the concession.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

3.2.2. Private sector agents

The private sector agents who participated in one of the events highlighted the positive action taken by the State in the construction of the project, stressing that it has a growth-oriented agenda and that they see opportunities in the proposed model. In addition, they say that they will actively participate in the construction process of the new model.

“We have here, as a private sector group, a very growth-oriented agenda, so we see this discussion as very healthy and appropriate for the moment and I think that Minas is pushing ahead in a very positive way in this agenda and that we have the goal of active participation.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

3.2.3. Civil society

Considering the civil society mentioned above, the study we carried out is based on the premise that the service will be privatized since it was designed to meet the viability and economic sustainability of the concession.

“We understand that the study was very well done and carried out with the assumptions that were made by important entities, ARSAE, Semand, BDMG, with extremely capable people, but they start from a premise of concession to the private sector. The study starts from this premise, because the modeling can be any one or another, as said by a government representative, but it was designed in order to meet the viability and economic sustainability for the concession.” (General Population Participation Commission 27 May 2021).

Another point that stands out is the non-participation of municipalities in the decision-making process.

“So far, as far as we know, there has not been any dialogue between the State of Minas Gerais and the municipalities, at least here in regional unit 17, to say how this regionalization would work. So, faced with tight deadlines, the chief executives are invited to join a project that they are unaware of and don’t know how it works.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais–2).

Furthermore, these actors state the fact that the proposed project for the State did not take into account the performance of one of the best sanitation companies in the country, COPASA, and used as an economic viability criterion the consumption representing at least 5% of income, without taking into account the number of low-income people in the municipalities. Thus,

the proposed project will increase rates and deepen inequalities in the state.

“The government of the state of Minas Gerais is presenting a proposal for the future of sanitation in Minas Gerais without taking into account one of the largest and best sanitation companies in the country.” (General Population Participation Commission 27 May 2021).

“The starting point was to assess the viability of generating revenue based on the establishment of a minimum per capita income in each of the territories, in each of the units. I would like to point out that this criterion did not consider the verification of the concentration of low-income residents.” (Popular Participation Commission 27 May 2021).

“Increase in the value of water and sewage rates; deepening of social inequality; and marginalization of small and poor municipalities.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

3.3. The relationship between the bill for environmental sanitation in the State of Minas Gerais and the HRtWS

3.3.1. State government

The government never makes any reference to the HRtWS. In some of the dialogues, it is clear that the elaboration of the new bill may present risks to its guarantee, as exemplified in the following:

“The rate would be associated with 5% of this reference income, which as I just said, is a little different from what ARSAE considers, for example, 3%, but this is an approximation that we made.” (General Population Participation Commission 20 May 2021).

In this dialogue, the government draws attention to the fact that the project seeks to achieve universal access by reducing costs for the neediest municipalities. However, it should be noted that the limit of 5% of income consumption can be used as a reference, and it is not the same as the one estimated by ARSAE, which would be 3%, and which may not be suitable for issues related to economic accessibility, thereby hindering universal access. It should be remembered that household spending on access to safe water cannot impede access to other essential goods and services, such as housing and food. It is the responsibility of the states to continuously monitor and analyze how the implementation of the HRtWS is being realized (Heller, 2015).

A revision of rates for the service provided by COPASA, carried out in 2021 by ARSAE, has already generated an increase in the cost of access to safe water, especially for populations in small municipalities and for those who live in vulnerable situations. By failing to differentiate the rates for cities with just sewage collection vs. those with sewage collection and treatment, the regulatory agency benefited the larger cities, which already have sewage collection and treatment, and disadvantaged the residents of smaller municipalities and lower incomes (Aguiar, 2021a,b). There

was a compromise of the normative element of affordability, with the consent of the State, putting at risk the access to safe water for vulnerable populations.

3.3.2. Private sector agents

At no point do the private sector actors directly address the HRtWS, but they believe that the new proposal for access to safe water and sanitation in the state can contribute to reduced rates and, consequently, to the development of the sector, promoting universal access.

“I think it has value and achieves gains in scale, it contributes to lower rates, so we think that this will contribute in a way to our process of developing the sector, which is needy.” (Webinar: The New Environmental Sanitation Framework and Regional Blocks, for example, Minas Gerais).

3.3.3. Civil society

Several references from civil society have drawn attention to the non-participation of society in the decision-making process, having proposed the constitution of a body of social representation in the regionalized management structures, provided for in the bill, which will be able to monitor the actions of the new arrangement in a participatory way.

“To date, the state has not called upon us to debate this issue in a frank and open manner. We feel that both society and the mayors’ offices are kind of lost in this process and the way it has been dealt with, in a way, I would say, that is really not very democratic and participatory.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—1).

“The absence of a prior discussion process, let alone a participatory discussion. The municipalities and civil society that are the main stakeholders and that will be the most affected by this new model did not have a say, they did not have a voice. The state does not want to listen to us, does not want to listen to civil society, does not want to listen to organizations.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

“Another point I wanted to highlight is the issue of societal control. I think that in the draft, this was really, really lacking. The news that it is already being incorporated, this can already be viewed as a first step, and we need to assess the sufficiency of the additions that are given since it is fundamental for us to have a voice in the defense of the human right of access to services for all people.” (General Population Participation Commission 20 May 2021).

The members of the civil society highlight that the discourse of seeking economic and financial viability in the process of building regional blocks puts the goal of universality in checks and indicate that the use of the maximum consumption representing at least 5% of family income cannot be used as a reference. This proposal could make universal access unfeasible. They also affirm the need

for the bill to establish the obligation of creating a social tariff so that everyone can have affordable access to the service.

“Is the private sector going to be concerned about the citizen who lives on the outskirts, who can’t afford to pay their water bill? It doesn’t even care, it will come and cut it off and that’s it. (...). Inevitably we will have a rate increase, this is a reality that has been repeated around the world.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—1).

“... increase in the value of water and sewage rates; deepening of social inequality and the denial of the human right to basic sanitation; and marginalization of small and poor municipalities.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

“What is at stake is not simply a redistribution, a grouping of a municipality. What is at stake is what will be the result of this movement, which will unfortunately be, from my viewpoint, a very problematic scenario for access, especially for those populations that are most underserved, with less economic capacity, who already live in situations of vulnerability, services as essential as water and sanitation.” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—1).

“We had the opportunity to create a rate mechanism, a social rate benefiting a layer of the population classified as extremely poor, in the extreme poverty range, and this option, although recommended by the technical team of ARSAE, was rejected by the leadership of the regulatory agency. Can you imagine if, in a scenario with private provision of services, we will have any chance of benefiting in a more significant way the most vulnerable populations of our city, of our state?” (Webinar: Privatization and Creation of Regional Environmental Sanitation Units in the State of Minas Gerais—2).

“... the bill must clearly and objectively state the objective that rate structures be adopted that promote and allow for the inclusion of all, especially those men and women, citizens who are part of the categories classified as in extreme poverty (...). Today, we have a situation of exclusion of people simply because they understand that they cannot pay for this service (...). I think that it is not the role of the bill to define the rate, it is not a regulator, but the bill can indeed point out this obligation so that tariffs promote and allow for the inclusion of all.”

“... in the privatization target, the rate being sought is 5% of family income. We here in Juiz de Fora currently have a rate of 1.5% of family income. So, family income cannot be used as a baseline goal for the pursuit of privatization of services, but the following can: adequate generation of resources for investment and low rates.” (Webinar: Privatization and Creation of Regional Units of Environmental Sanitation in the State of Minas Gerais—2).

“... to estimate revenue from these potential concessions, an expenditure of 5% of income was set. 2.5% for water, 2.5%

for sewage, which is already a very high expenditure, and the median per capita income of the first quartile above half the minimum wage. So, this has a very high risk of compromising their ability to pay. ARSAE itself uses different criteria and this is a very relevant point, not only because of the estimated revenue, but also because of the modeling of social rates for users that may not have the ability to pay.” (General Population Participation Commission 20 May 2021).

For civil society, the regionalization project, the consequence of privatization in the State of Minas Gerais, poses risks guaranteeing HRtWS.

“This very long-duration, the very long-term and difficult-to-reverse transformation could result in very harmful consequences for access by populations living in vulnerable situations. In other words, great risks to the enjoyment of human rights by these populations.” (General Population Participation Commission 27 May 2021).

“We are very concerned about guaranteeing everyone’s right to water. We understand that water is a fundamental human right. This issue of regionalization and privatization has to be handled very carefully, because once it has ceased being operated the way it is now, but it is related to the public and migrating to a real process of regionalization and privatization, it will change a lot, both its management and also, eventually even in the benefits and even the rates for the population.” (Webinar: Privatization and Creation of Regional Units of Environmental Sanitation in the State of Minas Gerais—1).

4. Discussion

Brazil has an organized federalist system, with shared governance between central, state, and municipal governments. Since 1988, a process of decentralization was encouraged, planned, and coordinated by the central government. The financial transfers between the different levels of government—central, state, and municipal—are linked to public policies, such as health, education, and social assistance. These transfers are designed, most importantly, to ensure the fiscal and financial autonomy of the subnational levels of government. In the water and sanitation sector, municipalities have, in general, autonomy to decide whether the municipality itself will provide the services or will be delegated to a state company or a private enterprise. Due to this, currently, the same state or region in a state can share municipalities with different models for provision.

In the State of Minas Gerais, Governor Romeu Zema, elected in 2018 and re-elected in 2022, is a member of the New Party, whose economic agenda is guided by a neoliberal vision of the economy and for society and which defends the minimization of the role of the state through the privatization of services, such as sanitation (Faria, 2018; Aguiar, 2021b, 2022; NOVO, 2022). This party was aligned with the previous ruling political party at the central government until 2022 and supported the adoption of the New Regulatory Framework for Environmental Sanitation,

Law No. 14.026. Therefore, the language presented by government representatives in the events that were analyzed is aligned with this agenda and with the language of private agents who see the new sanitation framework, and consequently privatization, as the only alternative for achieving universal access, a discourse that is similar to other studies (Borraz et al., 2013; Frone and Frone, 2013; Rana and Piracha, 2020).

Encouraging the privatization of services, with the argument that only this is capable of promoting and achieving the goals of universal access, could place an unbearable burden on the States, which would be in charge of providing the service to regions with low attractiveness for private interests, while the financially more profitable regions would have their services provided by private companies (Félix and Neto, 2021; Gadelha et al., 2021). In some cases, parts of the population with less-favorable financial conditions and who live in municipalities where private companies would operate may have access to these services impaired due to the high rates charged (Gadelha et al., 2021).

The discourse of the state government is different from the discourse of those who should be its interlocutors, the municipalities, which, on the contrary, were not included in the discussion for the elaboration of the new sanitation law for the state. In the speeches from civil society, it is clear that the municipalities were not heard, which means that the city halls have been excluded from this process and will have to adhere to a project with which they have yet to contribute and will have to cling to a project that they do not even know well. Their exclusion from the debate, in addition to showing a lack of interlocution by the state government, could prove to be a problematic strategy, compromising the future adherence of municipal governments.

The new law is based on purely technical arguments and the guarantee of the HRtWS is never mentioned. The proposal's economic-financial modeling ends up being the only element used to justify regionalization and defend regional arrangements; it is as if the mathematical models legitimize decisions, which are laden with political content. One of the representatives of the government alleges that the new model would be the only possible way to achieve the universalization of services, due to reduced costs for needy municipalities. It is interesting here to discuss an example using the case of the block in the Jequitinhonha region, located in the northeast of the State and the poorest region, which would have lower profitability and, therefore, would have to go through a process of "leveraging", carried out through public financing, to ensure the economic viability of the bloc, which shows the government's commitment to transfer services to the private sector, even at the expense of allocating public resources to "protect" the viability of the private investor. It is clear that the goal for the implementation of the HRtWS is not what guides the new law.

In one of the events analyzed, the private sector agent was represented by the company Iguá Saneamento. It is important to highlight that a study on economic concentration in the sanitation area in Brazil revealed that the market is controlled by financial groups and multinationals attracted by the sector's potential for profitability. There are 26 companies that operate throughout more than 200 municipalities in the country, controlled by only five different groups. The study also highlights that two of the sanitation companies—BRK and Iguá Saneamento—are fully owned by financial institutions. This results in higher rate increases

for private companies, which have become 11% more expensive than the national average and have a lack of interest in providing service in more vulnerable areas such as irregular occupations. This has led to an increase in profitability for private service provider companies, which reported profits of 20–25% per year, while government's service provider companies reported approximately 5% (Imd, 2017; Fiocruz, 2018).

Lobbying and pressure mechanisms by the private sector, to convince governmental agents and to constrain other sectors, seeking to nullify criticism, have been reported in the literature. In France, for example, many municipalities have not renewed contracts with the Veolia and Suez companies due to increased rates, lack of transparency, and accountability. However, private companies have attempted to hinder the implementation of these decisions in several ways. The interference of private companies in policy decisions is facilitated by the process known as the "revolving door," where the same people alternately act as executives of large corporations and high-level policymakers (Le Strat, 2019). The United Nations Rapporteur for the HRtWS himself can cite examples of actions by private sector representatives and also by intergovernmental organizations, such as the Organization for Economic Cooperation and Development (OECD), in attempts to dissuade him from preparing a critical thematic report in relation to privatization and its risks for the realization of the HRtWS (Heller, 2022).

Civil society, although heterogeneously represented, has seen a convergence in the concern of granting services provision to the private sector, as proposed in the State of Minas Gerais, as backpedaling instead of achieving universalization, jeopardizing the guarantee of the HRtWS through high rates, deepening social inequality, and lack of societal participation, as well as the marginalization of small and poor municipalities. For this group, the bill's exclusively financial and privatization focus exposes a real risk of less societal control and less prospect of realizing the HRtWS. This discourse is in line with research findings that highlight that private companies are not interested in investing in infrastructure or supplying vulnerable populations, thus leaving them on the margins of service provision and jeopardizing the enjoyment of HRtWS (Frone and Frone, 2013; Mathur, 2017; Marson and Maggi, 2018; Peda and Vinnari, 2020; Alemida and Hungaro, 2021; Berge et al., 2022).

Furthermore, refuting the idea that there are no public resources for investing in the environmental sanitation sector the way there should be, civil society representatives argue that it is always possible for the state to use its resources to invest in essential goods and services, especially in those that are of human rights, such as environmental sanitation. However, in developing countries, such as those in Latin America, it is common for governments to use the argument of a lack of resources and of fiscal crisis to justify the need for privatization (Félix and Neto, 2021).

Moreover, this group highlights that the new framework is moving in the wrong direction against global trends since, in many countries, services that were previously privatized have returned to public sector management and between 2000 and 2019, at least 311 services underwent a process referred to as "re-municipalization" or "de-privatization" (Kishimoto et al., 2020). One of the symbols of this trend was the "Right2Water" campaign in 2013, the objective of which was to commit the European Union and its member states

to implement the human right to water and sanitation by collecting 1.9 million signatures against the privatization of water provision in Europe. However, with these kinds of movements occurring globally, civil society decries that Brazil is moving in the direction of privatization of services, i.e., in the opposite direction to that of many countries around the world, putting itself in a unique position in the world, by privatizing sanitation on the scale set out in the legal framework.

Therefore, it is clear that the debate held for the construction of the new sanitation proposal for the state was unbalanced, and the debate did not allow for the participation of municipalities and civil society in the initial construction of the proposal. Even though it promoted these spaces for debate, the government, by altogether holding control over the political capital and institutional resources, can nullify dissonant voices to the proposed project, and these processes, which are said to be participatory, may have been triggered with the intention of legitimizing decisions that have already been made; specifically, the processes contradicting the notion of participation included in the framework of human rights to be active, accessible, and meaningful. One of the government representatives even mentions that the next step after the technical, economic feasibility studies would be to convince society on the validity of the work carried out, demonstrating the apparent lack of participation. This situation is similar to the findings of other studies that reveal that, often, the privatization process is not transparent, just as the actions of companies after taking over the service are not transparent, making it difficult for civil society and, often, for the public to participate. State actors in the decision-making processes become passive subjects regarding the governance of the sanitation sector (Borgias, 2018; Peda and Vinnari, 2020).

As a final remark, this study reveals that there are clear divergences between the perception of the actors concerning the new bill for the sanitation sector in the State of Minas Gerais, especially when contrasting the perspective of civil society to that of the government of the State of Minas Gerais and to that of the private sector. Symptomatically, such divergence is not observed between these last two sets of actors. It is noticeably clear that the initiated process gratifies government representatives and private sector agents, based on their discourses in the analyzed debates, in which they discuss that the new national framework for the sector will effectively universalize services. On the contrary, civil society is concerned about the privatization of services, linked to the new bill, and most of its representatives argue that the State of Minas Gerais proposal would end up backpedaling instead of achieving universalization; it will compromise the guarantee of the HRtWS with increases in rates, deepening social inequality and marginalization of small and poor municipalities.

The analysis suggests that the positions of the different social agents in the debate on the model for providing essential services, such as water and sanitation, are not independent of the positions occupied by these actors. Recalling the very title of this article: "Different Positions in Society, Different Views of the World." On the one hand, private sector actors and government representatives aligned with a neoliberal perspective support a design in which the entire provision of services in a state with 854 municipalities is transferred to the private sector. Corporate interests, on the part of the former, and worldview, on the part of the latter, possibly

explain this position. On the other hand, activists for the rights to water and sanitation, environmental activists, trade unionists, and representatives of class entities linked to the sector oppose the model and defend improved public sector management as the path to universalization. Quite possibly, it is the experience of these actors in this sector and other sectors where privatization has been implemented, in association with their ideological vision of the organization of society, and these are the determinants of the positions courageously defended in forums where the weight of the governmental machinery was presented.

Data availability statement

The original contributions presented in the study are included in the article/supplementary material, further inquiries can be directed to the corresponding authors.

Ethics statement

The research was approved by the Research Ethical Committee of the René-Rachou Institute under protocol CAAE 54181921.6.0000.509. The data was collected from public events posted at YouTube platform, the participants were not identified, just the name of the event from where the data was taken.

Author contributions

PN-S, JB, and LH contributed to the conception and design of the work. JB organized the database. PN-S and JB analyzed the database and wrote the first draft of the manuscript. LH revised the manuscript critically for important intellectual content. All authors contributed to manuscript revision, read, and approved the submitted version.

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Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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