Right2Water submission to the Expert Commission on Domestic Public Water Services

1. Right2Water: Background and policy

Established in 2014, Right2Water is a public campaign of activists, citizens, community groups, political parties/individuals and trade unionists which is calling for the Irish government to recognise and legislate for access to water as a human right.

"[The UN] recognizes the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights."

Concerned that private ownership of water and sanitation introduces the profit motive to this fundamental human right, Right2Water holds as a fundamental principle that water privatisation should not be considered or facilitated in any way. To this end, Right2Water has hosted seven national demonstrations, the largest of which attracted upwards of 120,000 people onto the streets of Dublin. Right2Water's call for the abolition of water charges is supported by a large majority of TDs returned to the Dáil in 2016. We believe that the government's refusal to accept the express wishes of Irish citizens and abolish domestic water charges exposes the anti-democratic nature of Ireland's political system and has given rise to the necessity of an eighth national demonstration against water charges on 17 September.

Right2Water is in favour of protecting our water and sanitation services from privatisation and the profit motive by enshrining public ownership of our entire water system in the Irish Constitution. On legal advice we have commissioned the drafting of a wording and enumeration of a new Article 28 Section 4:2.1, which reads:

''The Government shall be collectively responsible for the protection, management and maintenance of the public water system. The Government shall ensure in the public interest that this resource remains in public ownership and management."

The Right2Water campaign will continue to seek political, trade union and wider public support for a referendum asking Irish citizens if they wish to guarantee, within Bunreacht na hÉireann, the ownership and management of the public water system.

2. Expert Commission on Domestic Public Water Services: Terms of Reference

Right2Water welcomes the opportunity to submit the enclosed evidence to the

Expert Commission on Domestic Public Water Services, whose remit as set out in the Terms of Reference is "*to assess and make recommendation upon the funding of domestic public water services in Ireland and improvements in water quality, taking into account:*

• *The maintenance and investment needs of the public water and waste water system on a short, medium and long-term basis;*

• *Proposals on how the national utility in State ownership would be able to borrow to invest in water infrastructure;*

• *The need to encourage water conservation, including through reviewing information campaigns on water conservation in other countries;*

• *Ireland's domestic and international environmental standards and obligations;*

• *The role of the Regulator; and*

• *Submissions from all interested parties.*

The Commission will be empowered to commission relevant research and hear evidence to assist this work. The Commission shall endeavour to complete its work within five months of its establishment."

At the outset, we wish to record our concern that the Terms of Reference are restrictive and cynically disposed towards a system of domestic water charges. Specifically, the invitation for ***"Proposals on how the national utility in State ownership would be able borrow to invest in water infrastructure"*** is predicated on the existence of a revenue stream to fund repayments of the resulting debt. Unless the Government are disposed to doing this through general taxation, it can be strongly argued that the Terms of Reference for the Expert Commission imply an outcome favouring the retention of domestic water charges.

Furthermore in relation to the Terms of Reference Right2Water wrote to the Minister seeking the inclusion of the following paragraph in the Terms of Reference but unfortunately it was denied: ***"The social implications of funding water services in the short, medium and long term – including water poverty, future privatisation and potential water shut offs for low income families."***

The exclusion of this or any similar provision in the Terms of Reference indicates that the Minister takes no cognisance whatever of the costs in terms of the social damage that domestic water charges cause and the cost to the exchequer when tackling these inevitable problems in the future. Ideally, for a balanced and informed debate, the Terms of Reference should include the economic, environmental and social implications of funding water services. To completely exclude from the remit of the Commission any reference to the social implications of this vital human rights issue indicates the ideological perspective behind the Irish Water project from the outset which is solely aimed at water commodification and privatisation.

3. Water charges infringe human rights

Over 2.6 billion people worldwide have no access to proper sanitation, while almost one billion still drink untreated drinking water. Until the introduction of domestic water charges in October 2014, Ireland could boast of being one of the very few OECD countries with guaranteed zero water poverty – i.e. no one would be deprived access to clean, safe water and proper sanitation because on an inability to pay an ‘end user’ charge. This was due to the funding of water and wastewater services through general taxation with additional contributions from commercial rates, a practice underpinned by the progressive principle of universalism: everyone pays their fair share in order that no one falls through the net.

Right2Water is concerned that, based on international evidence and experience, domestic water charges will lead in due course to water shut-offs and a spike in water poverty, regardless of whether they are administered through a state utility or a private sector entity. This view is borne out by a number of international precedents:

- In the city of **Detroit, Michigan,** an estimated 70,000 families have been affected by a mass water shut-off conducted by the Detroit Water and Sewerage Department – which is a public owned water system. The UN has described this practice as ***“contrary to human rights.”*** This practice has also recently been introduced to the city of **Philadelphia**, where the impact on residents has yet to be felt on the ground.

- Following the privatisation of the municipal water supply **Cochabamba, Bolivia’s** third largest city**,** Aguas de Tunari, the company which had been granted a monopoly over all water resources threatened to turn off people’s water if they did not pay their bills. Rate hikes and water shut-offs ensued, leading to a series of mass protests that culminated in the emergence of a mass social movement and the reversal of privatisation by the government.

- In February 2011, just three months after being taken over by Veolia, the company’s local subsidiary, Sofiyska Voda, increased water rates by 9% in **Sofia** and threatened to shut off the water service of customers who failed to pay their bills. Sofiyska Voda had operated the water system in the Bulgarian capital since 2000 when it received the country’s only water service concession.

- In cities in **Hungary** and **Cyprus**, where privatisation and the introduction of domestic water charges has taken place, non-paying, poor citizens in the suburbs have been cut off from their water supply. Similar examples are to be found in **Paris, Rome, Bucharest** and parts of the **Czech Republic.**

- The price of water in five US cities – Austin, Charlotte, Chicago, San Francisco and Tucson – ballooned by more than 50% over the last five years –five times higher than inflation.

The phenomenon of shutting off citizens' water supply based on their inability to pay is increasingly prevalent across Europe and further afield. It is because this is an established practice worldwide that the introduction of domestic water charges poses such a fundamental threat to the human right to clean drinking water and sanitation.

4. Privatisation and profiteering

4.1 Profiteering in the water industry

Water is fast becoming one of the most profitable industries in the world, with the privatisation market now worth in excess of $1 trillion.

"Water is a focus for those in the know about global strategic commodities. As with oil, the supply is finite but demand is growing by leaps and unlike oil there is no alternative." **– Credit Suisse.**

"Water as an asset class will, in my view, become eventually the single most important physical-commodity based asset class, dwarfing oil, copper, agriculture commodities and precious metals.**"–Citigroup Chief Economist Willem Buiter.**

"Investments in water offer opportunities: Rising oil prices obscure our view of an even more serious scarcity: water. The global water economy is faced with a multi-billion dollar need for capital expenditure and modernization. Dresdner Bank sees this as offering attractive opportunities for returns for investors with a long-term investment horizon." **– Allianz SE's Dresdner Bank.**

With the industry expanding at an exponential rate, publications such as *Fortune Magazine* are advising investors how to maximise their profits from betting on the price of water through emerging futures markets. Meanwhile the list of multinational corporations with water-related investments or water-targeted hedge funds is endless. Household names such as **Goldman Sachs, JP Morgan Chase, Citigroup, Credit Suisse, Allianz, Deutche Bank and HSBC** have joined companies such as **Nestlé** in securing a stake in the privatisation of water. Others firms such as **Veolia Water**, a company intimately linked with **Irish Water**, form part of a conglomerate known as the Global Water Summit, whose domain name (www.watermeetsmoney.com) tells us everything we need to know about the agenda being pursued by those involved.

A review of existing case study evidence gives some indication of the exorbitant profits to be made from the privatisation of water. In **Britain,** for example, the 19 private water firms made profits of more than £2.05 billion in 2013 and paid £1.86 billion to shareholders, but only £74 million in tax. The largest, **Thames Water**, has made more than £1.8billion between 2008 and 2013, paying more than £1.4billion to its shareholders and paying an effective tax rate of 0.128% for that period. In 2013 it was one of seven firms not to pay any corporation tax at all.

Meanwhile average water bills have rocketed by 313% since the water industry was privatised by the Tory government twenty-five years ago – which is almost double the average price increase of all other goods. An investigation by Westminster's Public Accounts Committee has recently concluded that Britain's privatised water companies made windfall gains of at least £1.2 billion between 2010 and 2015 from bills being higher than necessary.

As one important element of the contract to privatise **Berlin's** water system, a process that began when the city entered into a public-private partnership with RWE/Vivendi (now Veolia), it was agreed that water and wastewater fees would remain stable until the end of 2003. By 1 April 2004, however, fees were raised by 15.1%, with the company announcing a further 5% increase in 2005 followed by a 2-3% increase in subsequent years. Faced with these steep increases in water prices, Berliners successfully organised a popular referendum in 2011 for the remunicipalisation of the city's water services, with an overwhelming majority voting in favour forcing Veolia out of Berlin.

Finally**,** a comprehensive survey of water companies across the **US**, by the Food & Water Watch, has found that privatisation invariably leads to excessive rate increases. This is, by its very definition, profiteering on the back of something that the UN regards as ***"a human right that is essential for the full enjoyment of life and all human rights***.*"*

It must be noted that when dividends are paid to shareholders this results in valuable resources that could be used for investment in necessary infrastructure being lost.

4.2 The privatisation logic of domestic water charges

Privatisation leads to profiteering, and it is our strongly held view that domestic water charges opens the door to privatisation and does so deliberately. Despite the wishes of peoples across Europe (see submission to Commission from the

European Water Movement) the European Commission and other institutions continue to push an ideological commodification and privatisation agenda:

***"The Commission believes that the privatisation of public utilities, including water supply firms, can deliver benefits to the society when carefully made. To this end, privatisation should take place once the appropriate regulatory framework has been prepared to avoid abuses by private monopolies." –* European Commission response to Parliamentary question, 2 October 2012.**

"Privatisation of Irish Water is ultimately envisaged." – Eurostat, 2015.

Proposals to introduce domestic water charges first appeared in the Irish government's National Recovery Plan 2011-2014, published in November 2010, and subsequently re-appeared in the Memorandum of Understanding agreed with the Troika in December of that year. It has been suggested on the basis of Cabinet papers that the impetus for domestic water charges came from Fianna Fáil, independent of external pressure and before the Troika bailout.

The EU/European Commission is one of the main driving forces behind the privatisation agenda. The logic of privatisation under the thin veil of ***"liberalisation"*** or ***"competitiveness"*** is enshrined in the Nice and Lisbon Treaties, and forms a central pillar of the Transatlantic Trade and Investment Partnership (TTIP) currently being negotiated between the US and EU.

The European Commission together with the European Central Bank has imposed some of the harshest discipline, including privatisation conditions, on the European states that sought debt relief in the wake of the 2008 financial crisis. The existence of water charges in **Greece** and **Portugal**, for example, has meant that the water utilities there are ripe for privatisation, offering a ready-made income stream for investors. The European Commission (as part of the Troika) has attempted to impose the privatisation of water utilities on Greece, Portugal and other member states by making it a condition of their bailouts.

In response to a question from Irish MEP Marian Harkin in June of this year, the European Commission stated that:

"Ireland made a clear commitment to set up water charges to comply with the provisions of Article 9(1) [of the Water Framework Directive] … Ireland subsequently applied water charges and the commission considers that the directive does not provide for a situation whereby it can revert to any previous practice."

However, the Commission is also on record as stating that it considers ***"established practices"*** to be those practices which were ***"an established practice at the time of adoption of the directive"***. This Directive was adopted on October 23rd, 2000, and transposed into Irish law in 2003, when it is beyond doubt that Ireland used general taxation as its established practice. Indeed, this was the established practice right up until the introduction of domestic water charges in October 2012 in a project which has now been resoundly rejected by the majority of Irish citizens.

On this basis, Right2Water believes it is the Irish government's duty to use its derogation, justify its approach to river basin management and, if necessary, challenge the Commission through the EU courts. If the political will is there this could be done with reference to the 2014 landmark case on EU water recovery rules whereby the European Court of Justice found in favour of Germany, after the European Commission tried unsuccessfully to take that state to court for, in its opinion, failing to fulfil its Water Framework Directive obligations. This judgment conclusively stated that it cannot be inferred that the absence of pricing for water service activities will necessarily jeopardise the attainment of the Water Framework Directive.

The EU's fiscal rules also have a major bearing on the transition from domestic water charges to privatisation in that the **Fiscal Compact Treaty** enables water funding to be moved off balance sheet providing the government can prove that over half of Irish Water's revenue comes from customers. By effectively demanding that 51% of funding must come through water charges before it can be discounted from the government balance sheet this rule encourages states to firstly implement water charges in order to offload water from government accounts, and secondly, as we argue above, to privatise the water system.

5. The economics of water charges

Funding water services through domestic water charges is economically inefficient.

***"The proposed expenditure on water metering would mean spending more than €1 billion which we don't have on something we don't need!"* – Engineers Ireland, 2011.**

***"Senior Executive Engineer for Water, Gerry Concannon, estimated that the cost of unmetered water is currently about €350.00 p.a. per domestic unit. When all of the costs of metering involving installation, maintenance, administration and replacement are considered he pointed out that this cost almost doubles."* – SIPTU, *Water… A resource for the people,* 2011.**

Other costs:

• Advertising expenditure (TOTAL €2.85m and €717,000 to RTE alone - FOI)

• Consultants (€90m)

• Call center staff

• Billing cycle (6m letters in 6m envelopes with 6m deliveries) (FOI request showed €5.6m spent in 10 months)

• IBEC fees (six figure sum – Sindo report).

• Metering – as already mentioned - €500m

• Borrowing repayments – interest, etc.

All of the above expenditure comes to approximately €600m which is double the government spend on water services in 2013 – and this is before any investment is spent on fixing pipes or upgrading infrastructure. It is waste that could be completely avoided if water continues to be funded through general taxation. A proportion of the spend could be utilised to encourage water conservation through financially incentivising water saving devices and a nationwide conservation education campaign. This would also allow Ireland to achieve the objectives of the Water Framework Directive.

The government's aim of treating water like any other utility (gas, electricity, etc.) should be a concern for all. Firstly, water is not like any other good in that you cannot live without it and there is no alternative. But with Ireland having the highest fuel poverty levels in the EU, it should be a worry for all low income households as to the future direction of water services. The spend that Ireland currently has in terms of fuel allowance – which tackles fuel poverty – would be necessary to compensate for water poverty should charges proceed. This should be factored into any economic forecasts for Irish Water.

6. Environmentalism and conservation

***"International research shows that installing domestic water meters is unlikely to make any real difference to the amount of water used by families. For example in the UK, Germany, and the Netherlands it has been found that metering each home makes little difference to the amount of water used by families."* – SIPTU, *Water… A resource for the people,* 2011.**

There is currently no evidence that Irish households are profligate or wasteful with their water. In fact, Irish Water estimates that Irish individuals use 54,750 litres per day. The average usage for a single person *medium usage* household in the UK is 68,405 per year, approximately 20% more, and the UK has had water meters since the late 1980s.

Astonishingly the government itself has admitted that it did not conduct any research into the environmental impact of introducing domestic water charges and the water metering programme. Given the massive costs and waste involved the failure of the government and the department of the environment to produce any evidence that domestic water charges reduce consumption is itself a worry and, again, exposes the purely ideological privatisation focused nature of the project. The failure to conduct any investigation into whether introducing domestic water charges have a negative consequence for the environment exposes that the policy is not based on good environmental practice but instead on the commodification of a basic human right. For instance, Irish Water posts more than 6,000,000 letters per year which includes at least six million pages and six million envelopes. The metering programme has hundreds of vans driving throughout Ireland drilling holes in the ground and installing plastic meters that will need regular maintenance and repair, as well as replacement. This all has a cost, both economic and a substantial environmental cost and carbon footprint.

In conclusion, the people the Government says it wants to pay the highest bills are those, apparently, with swimming pools and those constantly washing their cars or watering their gardens. While the seriousness of this matter does not lend itself to flippancy making arguments about swimming pools and pools of cars in Ireland is systematic of the impoverished nature of the debate on this vital human rights issue in Ireland to date. In fact the international evidence shows that the higher a person's income, the less they are likely to conserve in water. This is because domestic water charges are so small in terms of a proportion of income for high-income earners while, for those lower down the earnings brackets the situation gets progressively more serious. While water charges as proposed by Irish Water when applied to a retail worker would reach approximately 3% of their total incomes, a higher earner is expected to pay approximately 0.5% or even more for the more wealthy. There is therefore no incentive for higher earners to conserve water arising from charges. Domestic water charges are extremely regressive in nature.

The situation would be significantly worse if, as proposed by some, 'allowances' were included as part of the package. Because the Irish Water model is based on economics and not social impacts, and because the terms of reference of this Commission continues in that vein, Irish Water is constructed to raise a set amount per annum circa €500 per annum. If allowances are allocated this set amount of income demanded does not reduce and so the allowances simply add to the cost of every litre of water over the allowance threshold, whatever it might be.

Those at home most, usually the most vulnerable, will generally use the most water. Unemployed, under employed, pensioners and those with disabilities will, in that scenario, be hardest hit with increasing bills calculated to reach a determined amount of income over that requires to be raised over and above allowances. The EU insistence that in order to be 'off balance sheet' bill payers must pay 51%costs simply acerbates this problem and makes the entire project unsustainable. In summary including allowances makes an already regressive method of paying for water and sanitation even more so.

SUMMARY

Ireland's established practice of paying for water and sanitation is through progressive general taxation. This method is the most environmentally sustainable, economically efficient and equitable manner of doing so. It is also the clearest, possibly only, method which is assured of vindicating the human right to water.

That the EU have refused to follow the United Nations in ascribing water and sanitation as a human right points to the EU's wish to have water turned into a commodity and privatised. This is confirmed by the nature and workings of the EU institutions themselves.

Ireland leads the way in having the most sustainable and efficient way of vindicating for our citizens water and sanitation rights and the Commission must view the international evidence and submissions from Europe and North America in this regard.

Insofar as investment is required this can be raised more cheaply by a sovereign nation than a private or semi-state entity and a funding stream to support such investment should be 'red circled' from progressive taxation.

The Commission is flawed in not being permitted to assess a fundamental issue of human rights in light of social impacts and is prevented, deliberately and by design, by its Terms of Reference, from doing so. In this regard it is impossible to hope that the Commission can help solve this issue of vital national importance.

Right2Water will continue to ensure that Ireland leads the world in refusing to engage in a structured effort to privatise and commodify our water and sanitation rights. Right2Water deplores the waste of vital public money on meters, billing systems, public relations, consultants, legal advisors, and offices in the pursuit of privatisation.

Right2Water demands a referendum as outlined above to allow the Irish people to choose whether to enshrine public ownership and management of our water and sanitation in our Constitution.

Right2Water urges the 32nd Dáil to act on its mandate to abolish domestic water charges and to desist in its efforts to subvert that democratic mandate.

Right2Water notes the recent ability of the Irish Government to face down the will of the EU Commission in the European Court of Justice and insists that this newfound defense of what the Government argue is the Irish interest is extended to defending, should it become necessary, our long established and much envied practice of paying for water and sanitation through progressive general taxation.

This completes our submission.

Brendan Ogle Dave Gibney

Right2Water Campaign Co-ordinators, 9 September 2016.