



Public Private Partnerships

In Water Sector:

Partnerships or
Privatisation?

MANTHAN (MP)

**Public-Private Partnerships
in Water Sector:
Partnerships or Privatisation?**

January 2010

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Manthan Adhyayan kendra
Badwani (MP)

Public-Private Partnerships in Water Sector:
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Published By: Manthan Adhyayan Kendra
Dashera Maidan Road,
Badwani (M.P.) 451 551
Ph: 07290 - 222 857
Email: manthan.kendra@gmail.com
Web: www.manthan-india.org

January 2010

Layout and Design: Rehmat

Cover Design: Makarand Purohit

Printed at:

Suggested Contribution: Rs. 150.00

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List of Abbreviations

- ADAG** - *Anil Dhirubhai Ambani Group*
- ADB** - *Asian Development Bank*
- ADF** - *Airport Development Fees*
- AusAID** - *Australian Agency for International Development*
- BHEL** - *Bharat Heavy Electricals Limited*
- BOO** - *Build Own Operate*
- BOOT** - *Build Own Operate Transfer*
- BOT** - *Build Operate Transfer*
- CAG** - *Comptroller and Auditor General*
- CAS** - *Country Assistance Strategy*
- CEO** - *Chief Executive Officer*
- CERC** - *Central Electricity Regulatory Commission*
- CUPE** - *Canadian Union of Public Employees*
- DMAE** - *Departamento Municipal do Agua e Esgoto*
- DEA** - *Department of Economic Affairs*
- DFID** - *Department for International Development*
- EWS** - *Economically Weaker Sections*
- SIDA** - *Swedish International Development Co-operation Agency*
- UNICEF** - *United Nations International Children's Emergency Fund*
- DWASA** - *Dhaka Water and Sanitation Authority*
- DMRC** - *Delhi Metro Rail Corporation Limited*
- DPR** - *Detailed Project Report*
- GDP** - *Gross Domestic Product*
- HDI** - *Human Development Index*
- IATA** - *International Air Transport Association*
- IDBI** - *Industrial Development Bank of India*
-

IFC - *International Finance Corporation*
IFI - *International Financial Institutions*
IIFCL - *India Infrastructure Finance Company Limited*
IMF - *International Monetary Fund*
IIPDF - *India Infrastructure Project Development Fund*
INCAP - *Infrastructure Corporation of Andhra Pradesh*
INRS - *Institut National de Recherche Scientifique - Urbanisation*
JBIC - *Japan Bank for International Cooperation*
JNNURM - *Jawaharlal Nehru National Urban Renewal Mission*
JUSCO - *Jamshedpur Utilities and Services Company*
KL - *Kilo Litre*
KUWSDB - *Karnataka Urban Water Supply and Drainage Board*
LIG - *Low Income Group*
MCC - *Mysore City Corporation*
MDG - *Millennium Development Goals*
MoA - *Memorandum of Agreement*
MPEB - *Madhya Pradesh Electricity Board*
MLD - *Million Litres per Day*
NELP - *New Exploration Licensing Policy*
NHAI - *National Highways Authority of India*
NHDP - *National Highway Development Programme*
NHPC - *National Hydro Power Corporation*
NTADCL - *New Tiruppur Area Development Corporation Limited*
NTPC - *National Thermal Power Corporation*
NVDA - *Narmada Valley Development Authority*
NWP - *National Water Policy*
PFI - *Private Finance Initiative*
PPWSA - *Phnom Penh Water Supply Authority*
PNGRB - *Petroleum and Natural Gas Regulatory Board*
PPI - *Private Participation in Infrastructure*
PPIAF - *Public-Private Infrastructure Advisory Facility*
PPP - *Public Private Partnership*
PSC - *Production Sharing Contract*

PSD - *Private Sector Development*
PSI - *Public Services International*
PSIRU - *Public Services International Research Unit*
PSP - *Private Sector Participation*
PUPs - *Public Public Partnerships*
PPP - *Purchasing Power Parity*
RIL - *Reliance Industries Limited*
RPL - *Reliance Power Limited*
RTI - *Right to Information Act*
SAGUAPAC - *Cooperativa de Servicios Publicos Santa Cruz Ltda*
SANAA - *Servicio Autonomo Nacional de Acueductos y Alcantarillados*
SMHPCL - *Shree Maheshwar Hydro Power Corporation Limited*
SOEs - *State Owned Enterprises*
TA - *Technical Assistance*
TNSIC - *Tamil Nadu State Information Commission*
TWAD - *Tamil Nadu Water and Drainage*
TBS - *Tarun Bharat Sangh*
TWSSP - *Tiruppur Water Supply and Sewerage Project*
UDF - *User Development Fees*
UIDSSMT - *Urban Infrastructure Development Scheme in Small and Medium Towns*
ULB - *Urban Local Body*
UMPP - *Ultra Mega Power Plant*
UN - *United Nations*
UNDP - *United Nations Development Program*
UNRISD - *United Nations Research Institute for Social Development*
VGf - *Viability Gap Funding*
VRS - *Voluntary Retirement Scheme*
WB - *World Bank*
WRA - *Water Regulatory Authority*
WSP - *Water and Sanitation Programme*
WWW - *World Wide Web*



Foreword

THIS BOOKLET should be read by everyone concerned with the development of infrastructure. It patiently lays out the detailed reality of what happens when public works and services are handed over to the private sector in the shape of public-private partnerships (PPPs). It makes brutally clear the extra costs involved, as a result of the private sector's need to pay higher returns to investors, and the lack of evidence of any compensating efficiency gains. It unpicks the seams of complex contracts, renegotiation, evasion, secrecy, selectiveness, avoidance of responsibility, incompetence and corruption that hold together this latest form of privatisation. It broadcasts the outraged voices of elected representatives around the world, north and south, who have discovered the political and economic swindles of PPPs. It reminds us that we have no need of PPPs to develop much-needed infrastructure, that we can construct these systems more effectively using public finance, and run them through participatory public services.

It is published at a crucial moment not only for India but for the rest of the world. There is a swarm of companies and institutions circling the world in search of profits to be made from PPPs in infrastructure. India's commitment to a surge in infrastructure investment is one of the greatest opportunities on the planet, a great stream of public spending stretching out for decades. Investment funds, both Indian and international, are promising that they can make returns of 23-25% from infrastructure projects in India - if they are carried out through PPPs.

These companies and investors need to work very hard to ensure that PPPs are used, because people and elected representatives across the world are deeply suspicious of PPPs. The economic crisis has made this worse - private finance is even more expensive now (2%-3% more expensive than public finance in India, as the booklet points out), the reputation of private banks and financial organisations is extremely low, and many PPPs have hit their own financial crises because banks are reluctant to lend them any more money. In a glaring contradiction of their own claims for the superiority of market forces, PPPs have been happy to be bailed out by governments - including the UK, France, and India - setting up special funds, supported by government finance, to bail out PPPs by lending them public money - the opposite of the way PPPs are supposed to work.

In addition to state financial support, the companies are receiving extraordinary propaganda support from international institutions. At the start of December 2009, a meeting was held in Geneva to agree on the creation of a global body to promote PPPs and counter the public hostility. The idea for this originated at an international conference on PPPs, held in May 2009, involving the World Bank, Asian Development Bank (ADB), United Nations Economic Committee for Europe (UNECE) and various governments and PPP units, including India's.

The meeting was presented with a lucid picture of a global rejection of free-market capitalism, including PPPs, in the wake of the economic crisis:

“Discontent, even outright hostility, among the general public against the capitalist system has gained ground during the crisis... The ‘system’ is mistrusted, and confidence in capitalism and its future is low... The crisis appears to have had its roots in the era of deregulation and is replaced by the growing role of the state in managing financial capitalism and exercising accountability previously absent in the system; ... PPPs are equated with the now discredited privatisation and financial liberalisation”¹

The same presentation eloquently set out how the crisis has increased awareness of the economic, social and environmental needs for public spending on infrastructure:

“The potential demand for social infrastructure such as public lighting,

hospitals, and schools, is amplified in volatile times when financial and economic crisis negatively affect low-income people's life. The social infrastructure can not only serve as a safety net but also generate economic flow-on effects with increased human resource investment.There are ongoing needs to restore and replace much of the existing physical infrastructures, to accommodate population growth and to deal with the threats of global warming in response to the call for sustainable development.”

But this was not presented by a critic of PPPs, or an advocate of bold new policies based on social solidarity led by a developmental state. It was given by an official of UNECE, an international public sector bureaucrat, who is an extremely anxious supporter of PPPs. And his interest in all this turmoil and potential was entirely based on this narrow perspective:

“The global crisis may be an opportunity for the prosperity of PPPs in the medium run.... Faced with the threats, it is important that a greater role is given to the international advocacy of PPPs...[there is a need for] tools to bring back the banks and new institutions able to articulate a pro-PPP policy in the crisis (and those in the future)...a Global advocate to spread support and the message around the globe: an alliance of PPP units.”

Thus the international financial institutions, and national finance ministries - all public sector institutions sustained by public finance, act as a de facto international lobby group to protect PPPs and discourage direct state-funding of infrastructure. This propaganda support reflects a quiet shift that has taken place with international aid. Development banks and donors, led by the World Bank's International Finance Corporation (IFC), have channelled increasing amounts of aid into vehicles for investing in private companies only. All the major donor countries have created funds, now worth over \$20 billion, which are dedicated to support private companies, following the same principle as the IFC, including finance for private activity in sectors such as telecoms, energy, healthcare, higher education, and waste management. The objectives have nothing to do with charity or solidarity. Sweden's Swedfund states: “Our decisions regarding investments are based solely on business principles.”² The UK's

Commonwealth Development Corporation (CDC) reports: “CDC’s achievements in 2007 were impressive by any measure, outperforming the Morgan Stanley Emerging Markets Index by 20%.”³

In this context, the people of India and the rest of the world need this honest, thoroughly researched booklet which sets out the realities of PPPs.

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-
1. Impact of the Global Financial Crisis - What Does It Mean for PPPs in the Short to Medium Term?’ Presentation by Geoffrey Hamilton Chief of Section, Economic Cooperation and Integration Division, UNECE. 20 May 2009 to KDI/ADB/ADBI/WBI conference ‘Knowledge Sharing on Infrastructure Public-Private Partnerships in Asia’ 19-21 May 2009 Seoul, Korea, Source URL - <http://pima.kdi.re.kr/eng/new/event/090619/9-4.pdf>, South Korea, May 2009, Source URL - http://pimac.kdi.re.kr/eng/new/event_list7.jsp
 2. Source URL - <http://www.swedfund.se/en/investments-and-new-markets/meet-the-entrepreneurs-who-have-already-invested/health-care-in-ethiopia>
 3. Source URL - <http://www.cdcgroup.com/>

Preface

THE BOOKLET finds its context in the discussions going on in the country over the past few years on the existing infrastructure bottlenecks and how these bottlenecks can be a major hurdle in achieving higher Gross Domestic Product (GDP) growth rates. It is a widely held belief that if India has to match the GDP growth rates of the other developing economies like China, Brazil, South Africa and other such countries it would have to create world-class infrastructure in sectors like water, energy, transport, and that too at a fast pace.

One of the models being used widely for infrastructure development is Public-Private Partnerships (PPPs). PPPs are being promoted as a key, if not the main, vehicle to achieve the required growth in infrastructure, including that in the water sector which is the focus of this booklet.

PPPs are supposed to provide solutions to most of the existing problems related to infrastructure projects - in both execution and operation. Currently, there are PPP projects in almost all the sectors including roads, ports, airports, water, sewerage, solid waste management and transport among others. It is, therefore, about time to do a reality check on PPP projects and their efficacy in addressing the problems faced by the public sector water supply services. (It may be pointed out here that many of these issues plague other infrastructure sectors as well.)

This booklet looks at various aspects of PPPs, beginning from why PPPs have come to be regarded as the major approach for infrastructure development in the country, the circumstances that lead to the change in approach from direct privatisation to public-private partnerships, the current status of the PPP projects that are being executed in India, especially in

the water sector, to the current estimates and projections of investment requirements for infrastructure development in India by governments and International Financial Institutions (IFIs).

In some of the later sections, the booklet investigates PPPs from different aspects-- the various ways in which PPPs have been defined by varied organisations and governments and what these definitions really mean in the practical sense; the differences between privatisation and PPPs in perceptions and real terms; and the various models that are being used under the PPP approach.

In the next section, the booklet analyses the arguments given in favor of PPPs, the structural issues with PPPs and the larger governance issues associated with PPPs like transparency, people's participation, access to information and regulation. It also looks for evidence and experiences of PPP projects in various parts of the world. It draws lessons that need to be learnt and cautions that need to be taken on board while implementing PPPs in public services like water and sanitation.

Further, the booklet studies the impact of the PPPs on some of the social obligation issues like the responsibility of provision, service delivery and equity when the private sector is involved in delivery of public services like water.

The booklet also provides an overview of the various projects and policies that are being implemented to promote PPPs. These projects and policies are being supported by IFIs, multi-lateral donor mechanisms and governments to encourage PPPs in infrastructure and public services delivery.

In the final section, the booklet examines other models that are being pursued in various parts of the world to provide better public services. In this section we would look at some of the basic parameters required for providing improved services like water and sanitation with low cost implications.

The experiences from the countries, including India, where PPPs have either been implemented or are under execution show that some of the serious issues related to PPPs have gone unaddressed while recommending

the model for public services. To be more specific, the disadvantages of the PPP model have not been discussed in the public domain.

Almost over the entire period that I have been associated with Manthan, I have had several great opportunities to learn and understand not only the nuances of the water sector but also a lot about life itself. The journey has been a phase of immense learning for me, and my interactions with numerous individuals, groups, organisations (the list would be quite long) during this period essentially form a big component of the learning process. I would like to take this opportunity to thank all the people associated with this work directly or indirectly. Special thanks are due to:

David Hall and Venu Govindu for their help in accessing reference documents without which this study might not have carried enough weight; team members at Manthan, specifically Shripad and Rehmat whose comments and suggestions have benefitted this study immensely, who always answered my calls of distress and pushed me ahead with their encouragement, enthusiasm, wisdom, time and support; the board members of Manthan for showing faith in our team and its work; since its inception, Manthan has been supported essentially by contributions of many individuals, and I would like to thank all of them, and in particular Arundhati Roy. Manthan is also currently being supported by Arghyam Trust, Bangalore, and I would like to express thanks for this. Finally, thanks to my wife, Chhaya, for bearing with me for all these months, while a lot of my effort was directed towards finalising this report and had, unknowingly, started taking a lot of things for granted.

Not to mention, I remain responsible for the interpretations and errors in this report.

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Background

THE WORLD Bank India Country Assistance Strategy¹ (CAS) 2004 noted, “The Bank Group’s **Program Priorities** will retain considerable continuity with the FY02-04 CAS and the emphasis would be on **Promoting Private-Sector Led Growth**”. (Emphasis in original).

The CAS 2009-2012 reiterates, “The main objectives of the 2004 CAS - promoting private sector-led growth - were appropriate and remain largely valid”.²

This observation comes in spite of the fact that the Bank realises that it has to face serious criticisms and disapproval from a large number of civil society groups and grass-roots movements in India regarding its priorities and strategies of promoting privatisation.

The CAS 2009 - 2012 observes, “A World Bank Independent Tribunal took place in September 2007, with the motto ‘World Bank out of India’, showing the strong feelings against the WB”. The reasons for such strong criticisms and feelings, the Bank report notes, are, “coming out of the structural adjustment experience and the [Bank’s] view of privatization as a panacea for all public sector ills”.³

Still, the Bank insists, “The WB [World Bank] is working on the policy framework, fiscal management, and viability gap funding, while the IFC [International Finance Corporation] is helping to ensure that **PPP frameworks** work for private companies and supports private sector companies in preparing transactions. This work, which has so far been strongest in infrastructure (power, transmission, roads, irrigation and rural infrastructure, urban development), will be extended to agribusiness, health

and education, and renewable energy.”⁴ (Emphasis added). Moreover, “work to further strengthen the financial sector and to promote private sector development will continue”.⁵

The Asian Development Bank (ADB) has adopted a similar strategy:

“To catalyze investment, ADB has been supporting the Government’s efforts toward **promoting public-private partnership (PPP)** in infrastructure. Technical assistance (TA) is being provided to several state governments and central (infrastructure) line ministries to build capacity for identifying and appraising projects for the **PPP mode** of finance”.⁶ (Emphasis added.)

Therefore, the original strategies for promoting privatisation “remain largely valid”, although the approach to promote privatisation seems to be shifting largely towards “Public-Private Partnership (PPP) frameworks”.

Googling⁷ for “public-private partnerships water” on the World Wide Web (www) yielded about 3,450,000 results in 0.18 seconds flat. The numbers cranked up by Google were impressive. But the more interesting point to be noted in this exercise was the varied kind of organisations that are working on PPPs. This showed the amount of interest in the subject among the various groups which included, among others, government overseas aid agencies, United Nations agencies, policy research institutes, government agencies and ministries, newspapers, educational institutes, non-profit groups, industry federations, PPP promoting agencies, water multinational corporations, World Economic Forum, international financial institutions, public sector unions and consultancy firms. The Google search is only one of the indicators of the extent and kind of interest as well as the hype that surrounds PPPs at present. But the question is - why Public-Private Partnerships?



Why PPPs?

AS THE World Bank CAS noted “privatization as a panacea for all public sector ills”, privatisation or Private Sector Participation (PSP) was promoted as a cure-all for providing efficient and financially sustainable public services in sectors like water, energy, transport, health, education, etc. For over a decade or so now, it has been a widely held belief that privatisation is the only solution to bringing improvements to the public services in terms of investments, efficiency, service delivery, accountability, etc.

Back in the 1990s, an IFC⁸ document concluded, may be a bit hastily at that time, “The word *privatization*, almost unknown a decade ago, is here to stay, whether as the necessary first step on the long road toward a competitive market economy in former socialist countries, or as the key to unlocking private sector-led growth in Latin America, Asia and elsewhere. IFC’s mandate is to further economic development by encouraging the growth of productive private enterprise in the developing world, and over the last decade privatization has become one of our staples. We have played a central role in the transfer to private ownership of enterprises in Russia and other countries of the former Soviet Union, and we are now playing that role in the privatization of large state farms in Russia”. (Emphasis in original). In the same document, there was also a beautiful story on how privatisation works, the factors involved and the kind of benefits it brings to the people. See **Box-1**.

However, close to a decade and half later, evidence from several privatised projects show that the privatisation model has failed to provide long-term and sustainable solutions to the existing problems, especially in

Box -1

Privatisation is a Two-Horse Cart*

“To privatize,” said an agency (IFC) official, “is to drive a two-horse cart. The cart is the enterprise in question. One horse is called Political Goals and is flighty and fickle; the other is called Economics, and is slow and steady. They have to pull the cart along the Road to Privatisation, which is a rough boulder-strewn track. The cart is full of cases of vintage wine, which is unfortunate because the horses, as often as not, are pulling in different directions. The bottles of wine, which can be enjoyed only when the cart reaches its goal, are labelled improved efficiency, high sales price, effective corporate governance, economic investment, and so on.”

“Only the most skilful driver can negotiate this track: up the hill of

Vested Interests (cases may have to be jettisoned here, and some horses aren't strong enough to make it), across the stream of Xenophobia (another case or two bumps off the back). Some carts are too weak and fall apart before they get to Privatisation. Sometimes it makes sense to give the flighty horse its head and fly the trail headlong, abandoning case after case on the way; sometimes it is possible to whip him into shape to follow his steadier partner. And many drivers simply give up, cut the horses loose, climb down and start back down the trail, hoping to find solace in the odd bottle that hasn't smashed.”

*International Finance Corporation (1995), Preface

the water sector. In fact, many of the high-profile privatisation projects have collapsed. This has happened due to severe political and social backlash that these privatisation projects have had to face because of steep increase in prices, inefficient operations and poor service quality.⁹

In fact, one of the officials of the World Bank who was involved with the Russian and Mexican privatisation programs has stated that “pushing privatisation was a mistake”.¹⁰ See **Box-2**.

And, another official had earlier realised that “The last decade has largely been a ‘lost decade’ - a naive view that ‘the private sector will take care of infrastructure’”.....John Briscoe, WB Water Specialist, Sept 2004.¹¹

On the other hand, the multi-national corporations in water business like Veolia, Suez and SAUR have started demanding more support from the IFIs and the developing country governments. For the support sought was in terms of assured revenues, intervention procedures from the IFIs to off-set risks, substantial grants and soft loans and partnership with private companies towards the goals of profit making from the water business. See **Box-3**.

The Admittance of a Mistake

More than a decade later, the World Bank official admits “privatisation was a mistake”. The former World Bank Country Head India, Isabel Guerrero, in an interview to Tehelka in October 2007, stated, “Well, probably we sometimes get accused for well-deserved reasons...There has been some truth in the past to allegations. We did push privatisation. I was myself part of the team that went to the former Soviet Union, post-collapse, and we all said privatisation is a very good way out. And then we realised that it was a mistake. First of all because there were no institutions in the post-collapse Soviet Union and we did not realise the importance of institutions. You don't have the right governance, privatisation gets captured by a few and then you create inequalities. Right before I left Mexico, I wrote a paper saying exactly that: privatisation of the early 1990s, probably supported by the World Bank, resulted in a few people becoming very rich, getting too much. And they hurt. Mexico has the highest telephone rates in the world because it is a monopoly and that was a result of poor privatisation”.*

*Privatisation puts too much wealth in too few hands’, Isabel Guerrero interview to Tehelka, 13th October 2007, Source URL - http://www.tehelka.com/story_main34.asp? filename=Bu131007 PRIVATISATION.asp

Still, in continuation of their approach of promoting the free market and commercialisation, the IFIs that were promoting privatisation as a solution realised that a different strategy would be needed to keep the privatisation model viable. The IFIs like the Asian Development Bank (ADB), the World Bank, International Finance Corporation (IFC) and Public-Private Infrastructure Advisory Facility (PPIAF) have made a shift from considering privatisation as a panacea for all public sector ills to adopting a “private sector led growth”, backed by the public sector investments in the form of Public-Private Partnerships (PPPs).

Indicating the above shift in the strategy a 2005 World Bank Progress Report on Infrastructure¹² and a later Bank study on Urban Infrastructure Finance from Private Operators¹³ found that the private sector would not be able to fill the investment gap in infrastructure and public sector funding would be important further emphasising the need for public sector investments.

The current infrastructure strategy of the Bank, hence, when compared to the 1980s and 1990s shows a clear shift from dependence on the private sector to deliver in terms of investments and services to encouraging public-private partnerships.

MNC Demands

“Veolia had expressed concerns regarding the financial viability of serving the poor in developing countries rather than in ‘big cities where the GDP/capita is not too low.’ The prospects of profit depend either on ‘sufficient and assured revenues from the users of the service’ - which excludes the poor - or on government guarantees of payments for the service, in effect subsidies.”*

The Suez CEO’s presentation during the Suez action plan 2003 - 2004 put the company’s approach towards developing country projects in the following terms:

- reduce investments,
- freeze financing in strong currencies,
- with multilateral institutions, perfect appropriate intervention procedures,
- and, ensure that concession granting authorities and partners

stick to their commitments, failing which prepare to depart”*.

- **Gerard Mestrallet**,
CEO Suez,
Suez Action Plan 2003 - 2004

The CEO of SAUR International made the following demands:

“Unreasonable contractual constraints ... Unreasonable Regulator power and involvement.... An emphasis on unrealistic service levels ... Attempts to apply European standards in developing countries The demand for “connections for all” in developing countries ... substantial grants and soft loans are unavoidable to meet required investment levels... The role of the World Bank is to coordinate the supply of these soft loans and subsidies, tell developing countries what to do, and act as a partner to private companies...”

- **J.F. Talbot**,
CEO SAUR International, the fourth largest water company in the world, 2002**

*Hall, David (2003a)

**“Is the Water Business Really a Business?” Mr J.F.Talbot, CEO Saur International World Bank Water and Sanitation Lecture Series 13th February 2002, Source URL - <http://www.worldbank.org/wbi/B-SPAN/docs/SAUR.pdf>



PPPs in India

THE PREFACE to the Eleventh Five Year Plan document states, “Poor quality of infrastructure seriously limits India’s growth potential in the medium term and the Eleventh Plan outlines a comprehensive strategy for development of both rural and urban infrastructure.”¹⁴ The Eleventh Plan estimates that to maintain an average annual growth rate of 9%, the investment in infrastructure would have to rise from Rs 2,59,839 crore in 2007-08 to Rs 5,74,096 crore in 2011-12 at constant 2006-07 prices, aggregating to Rs 20,11,521 crore over five years.¹⁵ In the terminal year, this works out to be 9% of the GDP, up from 5% of the GDP in 2006-07.

This is a huge amount, and the Government claims that it is not likely to be able to mobilise this without increased contributions from the private sector. Moreover, it argues that “Since various social sector and livelihood support programmes for the poor will have the first charge on public resources, the strategy for infrastructure development has been designed to rely as much as possible on private sector investment through various forms of PPPs.”^{16, 17}

At the time of writing this booklet (November 2009), there were around 450 PPP projects listed for implementation under Public-Private Partnerships database provided by the Department of Economic Affairs, Ministry of Finance, Government of India on its website.¹⁸ Out of these 450 projects, the majority of them, 271 projects, are under the road sector, 25 projects are listed under the energy sector, 43 under ports, 71 urban development, 5 airports and 4 under railways. The list places the water-related projects under the urban development sector, in which the number of water and sewerage projects is 9.

These projects are as follows:

1. Vishakhapatnam Industrial Water Supply Project, Andhra Pradesh
2. Adityapur Water Supply Phase I, Jharkhand
3. Karnataka Urban Water Sector Improvement Project
4. Dewas Industrial Water Supply Project, Madhya Pradesh
5. Water Supply Augmentation at Khandwa, Madhya Pradesh
6. Reuse of Recycled Water Tertiary Treatment Water Plant Rajasthan
7. 100 MLD Sea Water Desalination Plant Reverse Osmosis Chennai
8. Alandur Sewage Project, Tamil Nadu
9. Tiruppur Water Supply Project, Tamil Nadu

However, it is not clear as to why so few projects related to water sector have been listed on the ministry's website, even though there are quite a number of PPP projects currently under various stages of execution. If the earlier database of projects (May 2009) on the same website is compared with the database of October 2009, there are three new projects but the Vishakhapatnam Industrial Water Supply Project which was in the earlier database of May 2009 is however missing from the list of October 2009 without any reasons or clarifications for the removal. For a detailed list of PPP projects in water sector in India compiled by Manthan see **annexure-1**. The total project cost of all the projects in the PPP database comes to Rs 1,35,876 crore. The lion's share of the total projects as per the costs goes to the roads and the ports sectors, with urban development getting the least.

The list in the **annexure-1** shows the number and type of PPP projects that are coming up in the water sector. The adoption of the PPP model for project implementation is looked upon as one of the major reforms under various projects and schemes run by the Central government and the IFIs for improving the public sector water services. **Annexure-2** gives a list of policy level interventions to promote PPPs that are supported by IFIs like the World Bank and ADB, and by multi-donor mechanisms like PPIAF, IFC and WSP. There are also schemes like the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and the Urban Infrastructure Development Scheme in Small and Medium Towns (UIDSSMT) that encourage PPPs in varied urban services. □

PPPs - Estimates and Expectations

ESTIMATES OF projected investments in infrastructure for the 11th Plan period have been arrived at by various agencies in India like the Planning Commission of India and others like the World Bank. These estimates project huge investments to improve infrastructure. These estimates also expect the private sector to provide capital to fill in the crucial gaps in investments but with a note of caution because of earlier disappointments.

The Eleventh Plan document 2007-12 of the Planning Commission of India gives the sector-wise investment anticipated in the Tenth Plan and projected for the Eleventh Plan in **Table-1**.

For the water supply and sanitation and irrigation sectors specifically, the projected investment in infrastructure during the Eleventh Plan, and the share of public and private sector investments, the document gives figures shown in **Table-2**.

The World Bank too has provided its estimates for the investments required but gives a twist to projections in the wake of global economic downturn:

“Recognizing inadequate infrastructure as a crucial constraint to faster growth and inclusive development, the Plan foresees an increase in total investment in infrastructure to about 7.65% of GDP during the plan period. At the exchange rate used in the Plan (Rs 40/US\$), this amounts to a total of US\$ 515 billion, of which US\$ 155 billion, or 30%, expected to come from the private sector. The Eleventh Plan identifies as one of the risks a downturn in the global economy. This **risk** has now materialized and growth and investment projections are being revised downwards”.¹⁹ (Emphasis in original.)

Table-1: Sectorwise Investment Anticipated

| Sectors | Eleventh Plan (Projected Investment) | | |
|------------------------------|--------------------------------------|----------------------------|---------------|
| | Rs crore | US\$ billion @ Rs 40/\$ | Shares (%) |
| Electricity (incl. NCE)* | 666525 | 166.63 | 32.42 |
| Roads and Bridges | 314152 | 78.54 | 15.28 |
| Telecommunication | 258439 | 64.61 | 12.57 |
| Railways (incl. MRTS) | 261808 | 65.45 | 12.73 |
| Irrigation (incl. Watershed) | 253301 | 63.32 | 12.32 |
| Water Supply and Sanitation | 143730 | 35.93 | 6.99 |
| Ports | 87995 | 22.00 | 4.28 |
| Airports | 30968 | 7.74 | 1.51 |
| Storage | 22378 | 5.59 | 1.09 |
| Gas | 16855 | 4.21 | 0.82 |
| Total (Rs crore) | 2056150 | 514.04 | 100.00 |

*NCE - Non Conventional Energy

#Source-Government of India (2008), Table No-12.3, Page-257, (At 2006-07 prices)

Inspite of the global downturn, the Planning Commission of India²⁰ is optimistic on the sharing of investment by public and private sectors:

“the shares of public and private investment in total infrastructure investment during the Eleventh Plan are projected to be about 70 per cent and 30 per cent respectively; in contrast with 82 per cent and 18 per cent respectively, during the Tenth Plan. However, if we focus on the increment in investment in the Eleventh Plan over the Tenth Plan, increased private investment is expected to provide 38.3 per cent of the increase and the share of private sector in total investment will increase from 18.5 per cent to 29.7 per cent”.

It further states, “If these initiatives succeed, India would deliver a large programme of Public-Private Partnerships”.²¹

The urban sectors that are included for the development of such projects include sectors like electricity, roads, urban transport, water supply, sewerage, solid waste management and other physical infrastructure.²² The above-mentioned sectors are also the ones facing problems due to low existing capacity and resource crunch for further capacity increases. For instance, the World Bank notes, “over the last five years, while GDP

Table - 2: Share of Public and Private Sector Investments

| Sectors | Tenth Plan (Anticipated Expenditure.) | Total Eleventh Plan | Shares (%) |
|--|---|------------------------|---------------|
| Centre | 13617 | 24759 | 9.77 |
| States | 97886 | 228543 | 90.23 |
| Total Irrigation (Watershed Incl.) | 111503 | 253307 | 100.00 |
| | | | |
| Centre | 42316 | 42003 | 29.22 |
| States | 21465 | 96306 | 67.00 |
| Private | 1022 | 5421 | 3.77 |
| Total Water Supply & Sanitation | 64803 | 143730 | 100% |

*Source-Government of India (2008), Table No-12.4, Page-258. (At 2006-07 prices)

growth averaged about 8% per year, growth in electricity generation and supply averaged only 4.9% per year. The national and state highway networks have failed to keep pace with the tremendous growth in demand for road transport: only about 30% of state highways are two lane, more than 50% are in poor condition,only half the population has access to safe drinking water, less than a third has access to sanitation facilities and 40% of India's 600,000 villages are not connected to a road".²³

The current trends and projections suggest that the Government of India and the IFIs look to promote private participation through PPPs as the major model to achieve the goals of infrastructure development.

But for PPPs to achieve the stated goals, there are some hard questions that need to be asked. In the short-term context, some of these questions would be - would private sector be interested and have the appetite to invest in riskier projects in the developing countries?; are governments ready to handle the complex technical, financial and structural concerns that come with PPPs?; and what happens to the larger governance and social issues related to sectors like water and sanitation. We will look at some of these issues in the later sections.

For now, let us have a look at how some agencies have defined PPPs.



What is a PPP?

Some Definitions of Public-Private Partnerships

VARIOUS GOVERNMENTS, PPP agencies, academics, policy research institutes and non-profit groups have defined Public-Private Partnerships in different ways. Some of these definitions show the varied aspects related to PPPs.

The Government of India has defined PPPs thus:

“Public-Private Partnership (PPP) Project means a project based on a contract or concession agreement, between a Government or statutory entity on the one side and a private sector company on the other side, for delivering an infrastructure service on payment of user charges”.²⁴

The report of the PPP Sub-Group on Social Sector, Planning Commission of India, defines PPPs as follows:

“Public-private partnership (PPP), on the other hand, is an approach under which services are delivered by the private sector (non-profit/for-profit organizations) while the responsibility for providing the service rests with the government. This arrangement requires the government to either enter into a “contract” with the private partner or pay for the services (reimburse) rendered by the private sector. Contracting prompts a new activity, especially so, when neither the public sector nor the private sector existed to provide the service.”²⁵

The Canadian Council for P3s (a member-sponsored organisation involved in the promotion of P3s²⁶) defines P3s as “a cooperative venture between the public and private sectors, built on the expertise of each partner, that best meets clearly defined public needs through the appropriate allocation of resources, risks and rewards”.²⁷

Box - 4

Some Key Elements of PPPs

The above definitions explain some of the basic principles underlying PPPs. We identify some of the key elements of PPPs -

1. Contract/agreement between government and private players
2. Used in the delivery of infrastructure services by a private operator
3. Operates on commercial principles
4. Delivers services on payment of user charges
5. Payment by the public agency/government for bulk delivery of service
6. Full cost recovery, at least the O&M charges
7. Responsibility for providing services rests with the government
8. Division of risks, roles and responsibilities between the public and private
9. Need complex regulatory mechanisms.

But contrary to the definitions given by the PPP-promoting agencies, some of the academics and research studies have pointed out that “the term ‘public-private partnership’ is nothing more than an expression used to avoid the terms ‘contracting out’ or ‘privatization’ in favor of speaking about partnerships. That may be a part of a general trend within public management of needing to renew the buzzwords from time to time, or perhaps it reflects the practice of advancing the same policy but under a different and more catchy name”.²⁸

A study by the Canadian Centre for Policy Alternatives clarifies:

“P3s are a form of privatization in which a private company (or consortium) takes over the design, building, operation, and in many cases financing, of public infrastructure projects (hospitals, bridges, etc).”²⁹

For some of the key elements of PPPs see **Box-4**.

Let’s now consider the legal definition of partnership, according to the Indian Partnership Act, 1932, “Partnership” is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all .³⁰

The Collins English Dictionary defines partnership thus “a contractual relationship between two or more persons carrying on a joint business venture with a view to profit, each incurring liability for losses and the

Box - 5

Types of Public-Private Partnerships

Public-Private Partnership is a broad term and its different aspects may be implemented at various levels while executing a project. PPPs can be of various forms, right from construction and management contracts like Build - Own - Transfer (BOT), Build - Own - Operate (BOO), Build - Own - Operate - Transfer (BOOT) to specific contracts for service delivery like Operations and Maintenance contract, Design-Build-Maintain/Operate contract, Management contract, Turnkey contract and many other forms.

right to share in the profits.”

In fact, PPPs have been named differently in different places. For instance, in the UK PPPs are known as “Private Finance Initiatives”; in places like UK, Australia, New Zealand, PPPs have also been called as “alternative financing and procurement projects”, “alternative service delivery models”; and in Canada PPPs are popularly known as P3s. For some of the types of PPPs see **Box-5** and **annexure-6**.



Privatisation and PPPs-What is the Difference?

AS SEVERAL experiences and evidences demonstrate the problems and issues associated with privatisation or private sector participation, it is crucial to understand the differences between privatisation and Public-Private Partnership model. It is also important to understand whether the difference is literal or figurative or whether the models are practically different in their operational and structural aspects.

During the early years of the privatisation wave in the 1990s, the IFIs as well as the governments tried to implement the privatisation model widely for infrastructure development and service delivery. This model was presented as “the solution” for improving urban infrastructure, service quality, lower tariffs, bringing in new investments and other benefits in the developing countries where the public sector is generally seen as inefficient, corrupt, and lacking in managerial and technical skills with low investment capacity.

Later on, several places around the world witnessed an increasing number of incidents of public protests, social unrest and campaigns against privatisation in the water sector. There were huge losses to private companies in Argentina, the departure of the private company from Metro Manila Water Supply Project, crisis in Atlanta water concession, and social backlash and rioting in places like Cochabamba, Jakarta and El Alto. Such developments began to prove that the private sector participation (PSP) model in the water sector had failed in many of the developing as well as the developed countries. There were severe political and social backlashes that the private corporations had to face for failing to deliver on the promised contractual obligations in many countries. This also meant that the Private

Table - 3 Failures and Reasons - Some Cases

| S.N. | Failed Projects | Reason |
|-------------|-------------------------------|--|
| 1. | Buenos Aires (Argentina) | <ul style="list-style-type: none"> ● Frequent price increases, ● Poor service quality, ● Failure to honour contractual commitments, ● Financial problems. |
| 2. | Manila West (The Philippines) | <ul style="list-style-type: none"> ● Price hikes, ● Failure to extend water connections to poor areas, ● No investments, ● Increase in tariffs, ● Non-fulfillment of other contractual obligations. |
| 3. | Atlanta (USA) | <ul style="list-style-type: none"> ● Higher water rates, ● Deteriorating quality, ● Failure to make new investments. |
| 4. | El Alto (Bolivia) | <ul style="list-style-type: none"> ● Refusal to extend potable water supply to the poor areas of the city, ● Failure to fulfill contractual obligations |
| 5. | Varages (France) | <ul style="list-style-type: none"> ● Public complaints against rising water prices, ● Deterioration in Water Quality, ● Problems in water supply network |

Sector Development (PSD) strategy promoting private participation in public water services was failing. See **Table-3** for some cases. For more examples, please see failed privatisation projects database on www.manthan-india.org.

As discussed earlier, this was the period when private corporations, which were demanding profits, risk off-setting mechanisms, soft loans and grants, began retreating from many developing countries. It became clear that it would not be easy to earn assured revenues and profits from water operations without public funds - either from the IFIs or from the developing country governments. The private companies, hence, needed public sector support to run their businesses and earn profits. They realised

they would have to take the support of and work with the public sector to cut down on the risks and to guarantee revenue streams. Public sector support was also needed to avoid and mitigate the impacts of public backlash and political protests. It also meant that by taking the public sector on-board the private corporations would ensure that the public takes the risk and private takes the profits. This was the period when the PPP model began emerging as an alternative to exclusive Private Sector Participation (PSP) or privatisation of municipal services.

Even though it is suggested that there is a marked difference between privatisation and the PPP model, a detailed analysis and understanding of both these models shows that the difference is superficial and at the fundamental level both are similar.

The ADB acknowledges in one of its reports that there is, in fact, no difference between the two. It states, “This approach of developing and operating public utilities and infrastructure by the private sector under terms and conditions agreeable to both the government and the private sector is called PPP or P3 or private sector participation (PSP)”.³¹

The Report of the Working Group on Water Resources, Ministry of Water Resources, Government of India, takes a similar approach, “The National Water Policy of 2002 (NWP) recommends private sector participation, i.e., Public-Private Partnership”.³²

The ADB’s website lists under the “Champion Presentations - PPP projects and arrangements”, the PSP activities and projects that the bank promotes.³³

David Hall of PSIRU, University of Greenwich, UK, notes on PPPs, “As privatisation became politically controversial, even in the UK, new terms were introduced. ‘Public-private partnership’, abbreviated as PPP, was created to present the same forms of involvement of the private sector as more a collaborative, technical exercise rather than an aggressive transformation of relations. A similar term, ‘private sector participation’ (PSP) has also been widely used, especially by the World Bank and others in the context of developing countries. In both cases, the term is not a legal or technically exact phrase, but rather a replacement for the old

general Thatcherite use of the word ‘privatisation’. The vast majority of PPPs, for example, are not partnerships in any legal sense, but simply contractual relationships”.³⁴

Such categorisation of PSP activities under PPP arrangements clearly shows that, in fact, PSP and PPP are synonymous terms and there are no apparent differences.

Thus, despite the rhetoric for popular consumption which makes PPPs look more community-oriented, accountable, public-sector controlled and transparent, the terms ‘privatisation’ and ‘PPP’ remain same on the legal, operational and structural levels. Even the documents and presentations by the governments and international agencies use the terms synonymously, which goes on to show that there is apparently no difference between the two.



Arguments in favor of PPPs

IN THIS section, we will examine some of the arguments in favor of PPPs. The aim is to unravel the logic behind these arguments and, in this context, to consider the experiences of PPPs when they have been implemented without having been carefully thought of in the whole scheme of things.

PPPs are cheaper

The first major claim in favour of PPPs is that the projects implemented under this model provide a cheaper option for bringing in new private investments, thus allowing the governments to save money spent on infrastructure. However, in real cash terms this may not be the case for PPP projects. Albeit, it might be the case that PPPs are more expensive than traditional public procurement methods.³⁵ This can be explained with the help of following reasons³⁶ :

“profit margins are required to attract the private sector partners; the cumbersome procurement process involved with larger P3 contracts is more expensive than the direct government procurement would be; and the cost of capital (borrowing) is higher for the private sector. The rates of return from the project, to attract the private investors, are more than those that are applicable for the public operators”.

The private companies work to generate profits from their operations. Social obligations and welfare are not part of their scheme. Any private company that would work on a project would have profits included in the total cost of the project. For instance, the project company estimates the base project return from Tiruppur Water Supply and Sewerage Project (TWSSP), India’s first PPP project for industrial and domestic water supply, at 20% per annum.³⁷

private companies, the future of PPPs looks doubtful, with countries like South Africa, Australia, Middle East, the USA and Mexico cancelling PPP projects.

The World Bank report on India notes, “The global financial crisis has resulted in a tightening not only of international credit markets but also of domestic credit markets in India, an increased cost of debt (by at least 20-30% compared to earlier this year) for domestic investors, and a reduced availability of both debt and risk capital for infrastructure projects. Against this backdrop, the Eleventh Plan targets for increased private sector investments in infrastructure, including through PPPs, may not materialize to the extent desired. Even sovereign-backed entities such as IIFCL and PowerGrid are likely to face difficulties in accessing longer-term financing”.⁴⁰ In India, the difference between the lending rates on the capital borrowed from the banks by the public sector and the private sector can be at least 2-3%, and depending on the risk factors involved with the project the interest rates can increase further.⁴¹

The above reasons clearly show that PPPs cannot be cheaper and, apart from these, there are other reasons that contribute in pushing PPP project costs upwards. Some of these reasons are mentioned below.

- (i) PPPs involve higher construction costs due to the deadline for construction completion.
- (ii) The transaction costs for PPP projects are higher because of the longer gestation periods and procurement processes.
- (iii) There are also chances of cost escalation during the project implementation phase due to unknown factors and changing political and economic scenarios.

Consider the cost plus approach of the private hydro power projects in India for setting tariffs. In such an approach, the tariff is based on the recovery of all the costs incurred by the power generating company, plus an assured profit. On the face of it, it may seem reasonable to presume that an investor should recover the costs of establishing and operating the power plant, but in practice this can lead to cost-padding. Investors, certain that the approach to tariff-setting will cover their costs, can inflate their costs artificially, so as to be able to claim a higher tariff and thus siphon off funds.⁴² It should also be noted here that the cost plus approach might

be used in other water sector project also, not just for hydropower projects.

Private Corporations are more efficient

It is claimed that the major advantage of having PPPs in public projects is the superior efficiency that the private corporations bring with them in the design, construction and operation of the public services. It is argued that privatisation brings about greater efficiency in the operations, in order to save on project costs and to maximise the returns. The corollary to this argument is that efficiency would lead to cost savings, which in turn would lead to lower prices for the services delivered. But worldwide experiences, specifically in the water sector, show that efficiency of operation is not the monopoly of private sector - there are many examples of efficient public water utilities. Nevertheless, this is a different issue, which we will deal with later on. First let's see how efficient private companies are and what happens to the cost savings and lower prices that are usually associated with improved efficiency.

A 2009 Public Private Infrastructure Advisory Facility (PPIAF) study tries to address the debate on the improvement in performance of water and electricity distribution using the private sector participation (PSP) model "using a data set of more than 1200 utilities in 71 developing and transition economies. The sample includes 301 utilities with PSP and 926 state-owned enterprises (SOEs) over more than a decade of operation".⁴³ On PSP in water and sanitation sector, the study asks a question, "Because

Poor installation work done by the private operator in Nagpur's Dharampeth zone.



the efficiency gains from PSP would translate into lower costs for the operator, why is there no sign of the lower costs translating into greater investment or lower prices?" One of the possible answers to this question is likely to be that "the private operator may reap all the gains through profits, passing on none of the cost savings to consumers. Given the young regulatory environments in developing countries, which often lack sufficient capacity for supervising public-private contracts, this possibility needs to be considered."⁴⁴

On other parameters like collection rate, the study⁴⁵ states, "The study finds no evidence for the water sector that PSP leads to an improvement in the bill-collection rate over and above that for state-owned counterparts and finds inconclusive evidence on its impact on residential coverage".

On residential coverage, the study found, "In the estimation for the full sample, residential coverage either decreases significantly or shows no significant change across all types of PSP, regardless of the level of private incentive implied". On service quality and distribution losses, the study found that, "results for operational performance and service quality, measured by water distribution losses and daily water service, are similarly inconclusive".

On the debate on Private versus Public efficiency, a PSIRU study comparing relative efficiencies of both found, "There is a consistent stream of empirical evidence consistently and repeatedly showing that there is no systematic significant difference between public and private operators in terms of efficiency or other performance measures".⁴⁶

Various earlier studies, including those from the World Bank⁴⁷, IMF⁴⁸ and ADB⁴⁹, have also shown that there is not much difference in efficiency of the public and the private companies.

In fact, earlier studies⁵⁰ like from International Institute for Environment and Development (IIED), London have shown that there are numerous examples of efficiently managed public water and sanitation utilities across the world, and recent trends and studies⁵¹ like from Trans National Institute (TNI) and Corporate Europe Observatory (CEO) show that other models to improve water services like Public-Public Partnerships (PUPs) are better

Poor road resurfacing work done by the private operator after laying water supply pipelines in Nagpur.



in providing services to the people rather than PPPs in various countries. There are many examples of PUPs which have been participatory, cost effective, efficient and transparent in many cities such as El Alto, Santa Fe, Buenos Aires and in countries such as Honduras, South Africa, Brazil, Malaysia and Indonesia among others.

Apart from the above, the other aspect related to efficiency and incentives is the “risk-averse” behavior of the private companies. Since there are private investors involved who, obviously, do not want to risk their investments and returns, a private company is not interested in taking risks on board while executing a project. For instance, in the water sector, there can be resource risks, social risks and political risks apart from technical, operational and financial risks. These risks are intricately linked with efficiency and incentives aspects, in the sense that a private operator claims more incentives for better management of efficiencies and risks than the public sector does. However, when there aren’t any substantial risks that the private operator takes while executing a project, a major controlling and regulating mechanism is lost. And if the company does not have to manage risks, it would not be as efficient as it is required to be to improve service delivery, cut costs and bring down prices. The overall effect is that the private company has no incentives to work for in absence of the risks like improving services, reducing costs or being more productive. The risk transfer aspect of PPPs is dealt with in details later in this booklet.

One of the many examples that show how efficient private companies are is the case of the London Underground metro-rail system. This case debunks the private-is-efficient myth. A PPP contract was awarded for the London Metro to a private consortium to run the metro services in London. The consortium not only failed to deliver services and carry out maintenance works but also ran the metro into financial crisis, and then in 2007 went on to ask the UK Government to pay an extra £551 million to cover the next year's costs.⁵²

Various other studies and examples show that it should not be assumed *sine qua non* that private sector would bring in a superior efficiency in operations and service delivery as compared to the public sector.

PPPs bring in Private Investments

One of the major claims supporting the PPP model is that, since such a model uses private financing sources, the public resources that would have been invested in the project are freed. These freed public resources can then be spent on other policy priorities of the government.

David Hall writes in one of his reports, "...the 'budgetary constraints' on government borrowing are political decisions, not set in stone... The financial crisis of 2008 has shown how governments everywhere are increasing their spending and borrowing in order to support the financial sector and the economy in general. The scale of this is far greater than investments raised for public services through PPPs. **The nationalisation of one failed bank in the UK (Northern Rock) in 2008 increased the UK national debt by £87billion - a figure greater than the combined total value of all the PPPs and PFIs ever signed over the last 13 years in the UK (£60billion) and the whole of Europe (€32billion, equivalent to £26billion).**"⁵³ (Emphasis in original).

On the other hand, leaving the political angle aside, experiences with many PPP projects show that public sector resources are not freed but are sucked into PPPs for private profits, due to private sector inefficiencies, unaccountability and risk-averse behavior. Projects like Tiruppur, Nagpur and Metro Manila Water Project prove this beyond doubt. In Tiruppur the Government of Tamil Nadu has invested funds in the equity of the project company to the tune of Rs 50 crore, Rs 25 crore have been provided as a

Box - 6

Metro Manila Water Supply Project - Cost to the Government

In Manila the privatisation of water services to a consortium of companies led to huge cost consequences to the government of the Philippines. "Because of claiming to be financially incapacitated to run Maynilad and to deliver service targets, Maynilad filed for a notice of early termination, asking for the government to refund its investments amounting to US\$ 303 million."

Further, the government incurred other losses. "Because Maynilad ran away with its non-payment of concession fees amounting to PhP10 billion, which MWSS needs for its expenses and operations, the government was forced to incur more debts to suffice its needs: US\$ 21 million in 2001 from the Philippine National Bank and Banco de Oro; US\$ 260 million in 2003 from Keppel, Deutsche, First Metro Investment Corp., Rizal Commercial and Banking Corp., etc.; US\$ 150 million in 2004 from BNP Paribas; and P 780 million in 2004 MWSS bonds."*

*Freedom from Debt Coalition (2007)

sub-debt, Rs 71 crore in Water Shortage Period Fund and Rs 50 crore as Debt Service Reserve Fund apart from other guarantees and concessions. Similarly, in Nagpur, even though the project is a PPP, the full investment of Rs 22 crore over a period of 5 years would be provided by the Government of India and the Government of Maharashtra and the private operator, Veolia Water, is hired to provide services to the Nagpur Municipal Corporation for a fee of Rs 9 crore. In the Metro Manila Water Supply and Sewerage Project, the Philippines government had to bear huge costs once the private operator Suez terminated the contract when its demands were not fulfilled. See **Box-6**.

Again, in the case of highly controversial Rs 12,200 crore Hyderabad Metro Rail Project which was awarded to a consortium of Maytas Infra Ltd., Nav Bharat Ventures Ltd., Ital-Thai of Thailand and IL&FS Ltd, reports highlight the amount of public resources that were provided to the private operators to earn profits. See **Box-7**.

Even huge multinational corporations, like banks and financial corporations, that failed during, and to a large extent were even responsible for, the current global financial crisis across the world due to their own inefficiencies and corrupt practices have been now looking towards the public sector for bail-outs.

The Hyderabad Metro Project

A news report citing a letter of E. Sreedharan of Delhi Metro Rail Corporation (DMRC), the project consultant for the Hyderabad Metro Project, in which objections were raised to the Planning Commission of India on the tendering process, stated: "The Hyderabad Metro Project is being cited as a successful example of BOT approach. Here, I would like to caution that the example of Hyderabad Metro is quite misleading as the negative viability gap funding has resulted solely on account of 296 acres of prime land being made available to the BOT operator for commercial exploitation. This is like selling family silver".

"Apart from the fact that this might lead to a big political scandal sometime later, it is apparent that the BOT operator has a hidden agenda which appears to be to extend the Metro network to a large tract of his private land holdings so as to reap a windfall profit of four to five times the land price," the letter added".*

What happened later in the case related to Satyam Computers Limited, Maytas Infra's parent company, as they say, is history.

* DMRC chief had warned of 'scam' in Hyderabad Metro last year, dated - 8.01.2009, Source URL - http://www1.timesofindia.indiatimes.com/Business/DMRC_chief_warned_of_scam_in_Hyderabad_Metro_last_yr/articleshow/3948577.cms

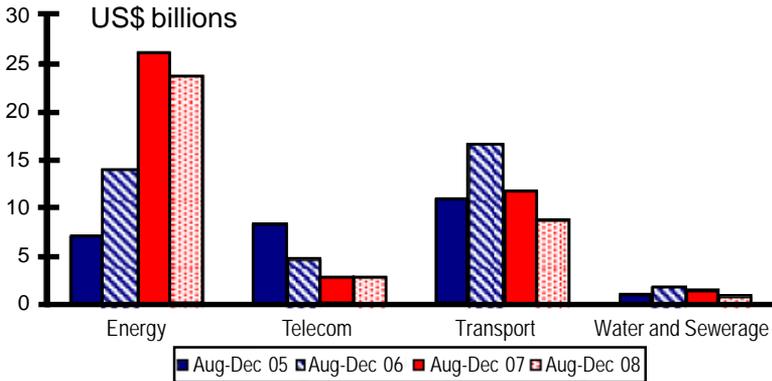
As a World Bank study points out, "This Latin American experience, which is the richest among all regions in terms of PPI (Private Participation in Infrastructure) in water, offers a sobering prospect for PPI for financing urban water around the world. Water is a "difficult" sector, and the risks involved for both sides are significant enough to make it difficult to mobilize substantial finance for water supply investments."⁵⁴

The PPIAF⁵⁵ study on PSP in water and sanitation sector states: "Proponents of PSP long hoped-and political leaders sometimes rashly promised-that greater private involvement in utility services would lead to vastly greater investment and thus to greater capacity and coverage. The study finds mixed evidence on this issue and so cannot conclude that investment always increases with PSP".

And the World Bank states, "The Eleventh Plan foresees a major role for the private sector through PPPs, but these may not materialize to the extent hoped for in the aftermath of the global financial crisis and there may be a shortfall in private sector initiatives"⁵⁶ and "because of tighter credit markets and the slowdown in global growth, private investment and consumption growth may be cut substantially".⁵⁷

The following chart from a World Bank update shows that “projects are being affected by the financial crisis”.⁵⁸

Figure-3 investment commitments to infrastructure projects that reached closure in developing countries in Aug-Dec by sector, 2005-08



Source: World Bank and PPIAF, PPI Project and impact of financial crisis on PPI databases.

The following **Table-4** provides a brief overview of the public resources that have been invested in some of the private-operated projects in India. The table shows the extent and the kind of public resources that have been invested in these projects which are contracted out to private companies for their own profits. The important thing to note is that the resources invested are not limited to capital itself; they include human resources, expertise, guarantees, incentives, etc.

Consider the newly privatised hydro power projects (quite a few of them appear in the Public-Private Partnerships database provided by the Department of Economic Affairs, Ministry of Finance, Government of India on its website⁵⁹) in India in the context of PPPs and private investments. The new regulations (January 2008) by the Central Electricity Regulatory Commission (CERC) can have significant implications in this regard. According to Shripad Dharmadhikary:

“The CERC has allowed project companies to be reimbursed for the tax that they have to pay on their income from return on equity. Whatever tax is to be paid by the hydropower companies on their return on equity is added to the amount to be recovered from the consumers of electricity, and loaded on to the tariff. In other words,

Table-4: Some PPP Projects and Public Public Resources involved

| Projects Resources | Tiruppur Water Supply and Sewerage Project Tiruppur (Tamil Nadu) | Dharampeth Uninterrupted Water Supply Project Nagpur (Maharashtra) | 24x7 Water Supply Project Mysore (Karnataka) | Maintenance and Leakage Reduction Project Bhopal (Madhya Pradesh) | Khandwa Water Supply Project (Madhya Pradesh) |
|---------------------------|--|---|---|---|--|
| Scope of the Project | Industrial and domestic water supply project in Tiruppur Municipality and Panchayats, 185 mid, Rs 1025 crore | Domestic water supply Rs 22 crore for uninterrupted water supply in part of one zone | Domestic water supply Rs 190 crore project 24x7 water supply to the city, | Domestic water supply Rs 2.2 crore for water network, maintenance contract for a few zones in the city, | Domestic water supply 45 mid Rs 116 crore for 24x7 water supply to the town |
| Private Operator | Concession to NTADCL | Management Contract with Veolia Water India | Management Contract with JUSCO | Leakage Reduction Contract with IUSCO | Concession Agreement with Vishwa Infrastructure |
| Capital Expenses | Public Funds as equity and debt for the project for capital expenses | Public Funds for Capital Investment, (80% from JNNURM grant, 10% from state govt. and 10% from ULB Sources) | Public Funds for Capital Investment, 90% of Total Project Cost from JNNURM Grant) | Public Funds for Capital Investment, full amount from ADB loan to Bhopal Municipality | Public Funds for Capital Investment, 90% of Total Project Cost from UIDSSMT Grant) |
| Management Fees | -- | Public Funds for Management Fees | Public Funds for Management Fees | Public Funds for Management Fees | -- |
| Guarantees | Government Guarantees | Public Guarantees | Public Guarantees | Public Guarantees | Public Guarantees |
| Payment of User Charges | User Charges for the Services provided | -- | User Charges/ Payment by Municipal Corporation for Services | -- | User Charges/ In case of a shortfall payment by Municipal Corporation |
| Performance Incentives | -- | Incentives from Public Funds for better performance | Incentives from Public Funds for better performance | -- | -- |
| Human Resources | Human Resources from Public Agencies in the form of engineers, staff, etc | Human Resources from Public Agencies in the form of engineers, staff, etc | -- | -- | -- |

the 16 per cent rate of return on equity is post-tax return. To ensure this, the CERC grosses up the rate of return on equity by the tax rate that is applicable to the company. Thus, for a company paying normal corporate tax at 33.99 per cent, the rate of return on equity that is allowed to be charged to the consumers is almost 23.5 per cent.

“The issue gets complicated when one considers that hydropower companies are eligible for income tax holiday. The CERC states that it wants the benefit of the income tax holiday to be available to the project developer and not passed on to the consumers. While the exact interpretation may require clarification, it appears that this provision will lead to the piquant situation where the tax amount is collected by the project from the consumers of electricity by loading the same on to the tariff, but not passed on to the Government but rather retained by them.”⁶⁰

PPPs are In-Budget and On-Time

The evidence from studies conducted on the performances of PPPs finds these projects as wanting in achieving their stated objectives. PPP projects have not been able to stand the test of time and money on the “on-time” and “in-budget” claims.

The main reasons behind PPP projects falling behind on their in-budget and on-time commitments are the long tendering and negotiation periods even before the project is actually awarded. These should be considered as the time and resulting costs spent during the tendering and negotiation periods, which would eventually be included into the total project cost.

For instance, the CAG audit report on PPP projects executed under the National Highways Authority of India (NHAI) found out how PPP projects deliver:

“Though the target date for completion of NHDP Phase-I projects was June 2004, the Authority was able to complete only five of the 17 PPP projects. There were inordinate delays in remaining projects ranging between two and 42 months.”⁶¹

Another case is the high-profile Mumbai Metro project which began after an inexplicable delay of 19 months and without any indication of a time-frame for its completion. The delay has escalated the cost of the project from Rs 1500 crore to Rs 2356 crore. There are bottlenecks that need to be resolved like land for various operations related to metro and

cost of shifting utility unmarked lines.⁶²

In the water sector, the Maheshwar Hydro Power Project on the river Narmada in Madhya Pradesh raises strong doubts of cost padding in the project. For details see **Box-8**.

The Australian Council for Infrastructure Development has expressed the view that “unless tendering processes are well run it is possible that the benefits of using a PPP for delivering the project may be outweighed by the tendering costs”. On the other hand “Under conventional procurement,⁶³ the sunk costs of private contractors are much smaller and contracts (e.g. for operations) often do not exceed 5 years”.⁶⁴

To add to this, if the project comes up for re-negotiation in view of changing circumstances, the costs go up further. And contracts come up for re-negotiations since the circumstances change quickly within the time span of the concession period. The current financial and economic upheavals are a classic case in point.

If all the costs and time spent on the pre-contract formalities and regulations are considered as part of the project costs, most of the PPP projects would come to be more expensive compared to the direct public procurement contracts.

Box - 8

Maheshwar Hydro Power Project

The Maheshwar Hydro Power Project is under construction on the river Narmada in Madhya Pradesh. According to the public finance analyst Himanshu Upadhyaya “It was to be built by Narmada Valley Development Authority (NVDA). But in 1989 it was transferred to the Madhya Pradesh Electricity Board (MPEB). However, the construction of bridges, the maintenance of a project hostel and the resettlement and rehabilitation works remained with the NVDA. The 400 MW project got the administrative approval in 1991 and the cost of the project was estimated to be Rs 456.63 crore to be executed by the MPEB. In 1996 S. Kumars promoted Shree Maheshwar Hydro Power Corporation Limited (SMHPCL) took over the project from the MPEB and NVDA. However, within these five years (1991 to 1996) the costs escalated from Rs 456.63 crore Rs 1569 crore. But after the takeover by the S Kumars, the financing of the Maheshwar Project became a convoluted tale of financial institutions risking public money and private promoters diverting and siphoning funds, inviting the CAG’s scathing indictment.”*

*This money grows on trees, Himanshu Upadhyaya, Source URL - <http://www.indiatogether.org/2004/aug/eco-mhepfin.htm>, Accessed on - 04th September 2009

Complicating the matters further is the unavailability of mechanisms in developing countries like India which compare and evaluate the PPP projects with the public sector procurement contracts. In most of the developed world, agencies use “Value for Money” mechanisms⁶⁵ which give an estimated idea of the time and cost advantages provided through the PPP model, if any.

On the other hand, in India, we also have public sector companies like the Delhi Metro Rail Corporation (DMRC), NHPC, NTPC, BHEL and others, which have a strong reputation for executing projects well within the resources and the deadlines. So, it is not a case that only private companies can provide the budget and time advantages, although they charge more for this.



Operational Issues with PPPs

IN THIS section we will look at some of the operational and structural benefits like risk transfer and division of roles that the PPPs claim to bring in for infrastructure development and the issues related to these benefits like post-contractual changes.

Risk Transfer

Risk transfer is one of the key arguments favouring PPP projects. The main idea is that once the public and private sectors come together in a partnership to execute a project, some of the risks like commercial, financial, operational, construction and force majeure would be shared, enabling the public sector to pass on some of the risks to the private operator.

So, now the question is - can the risks really be transferred to the private sector? There are instances which have found contradictory evidences in case of PPP benefits like risk transfer and value for money assessments. While negotiating deals for PPP projects, public agencies have found it tough to transfer risks to “risk-averse” private sector as discussed earlier. In case the public sector or the government pushes hard to shift the risks to the private company executing the project, the project cost goes up accordingly. It simply means that the more the private company takes on the risks related to the project, the more the costs related to the project are padded up to cover the risks. On the other hand to curb cost-padding if the government takes on the risks it would then do so by mitigating or covering private sector risks by spending more money for instruments like guarantees, loans, subsidies, equity participation, etc.

The UN Guidebook on Public-Private Partnerships notes, “There are various forms of support which the government can give to a project in

order to mitigate the risk to the private sector. To take one such example, guarantees may be an appropriate form of government intervention, in particular to shield the private sector from risks that it cannot anticipate or control. Indeed, many PPP contracts provide for minimum revenue guarantees that limit the private sector's exposure to demand risk".⁶⁶

An IMF study notes:

"An important issue in PPP arrangements is the sharing of risk between the public and the private sector or, more concretely, the transfer of risk from the public to the private sector ...much risk is exogenous, and the private partner neither is better informed about this risk than the public partner, nor can more efficiently manage or bear it. On the contrary, one may argue that the public sector is less risk-averse than the private partner, so that the former should bear all the exogenous risk".⁶⁷

A report commissioned by the European Federation of Public Service Unions demonstrates:

"It is possible to write contracts which transfer the risk of construction delays to the contractor, for example - but these contracts cost about 25% more than conventional contracts. An economic analysis of risks and PPPs concluded that it is most efficient for demand risk to remain with governments, rather than the private sector, even if a PPP is used - and so it would be a waste of money to pay for this risk to be transferred to the private sector".⁶⁸

Therefore, risk transfer under PPP projects is a tightrope walk for a government, since more of risk bearing on its part could lead to the private operator being totally risk free. And this would allow the private company to make excessive profits by pushing risks on the public. On the other hand, transferring more risks on the private operator could make the project costs go up or even render the project unviable.

For example let us look at the privatised hydro power projects and the hydrological risks associated with them. As Shripad Dharmadhikary has pointed out "A hydropower project is designed to generate a certain amount of energy, known as the 'design energy' of the project. The fundamental basis for calculating this energy is the flow in the river. Since the flow in the river can vary from year to year, the design energy is based on certain parameters derived from long term flow measurements.

“The new regulations now provide that in case the energy generation in any year in the first ten years of operation is less than the design energy, the project will still get paid for the full design energy. Since the actual energy dispatched is lesser, the consumers will end up paying at a higher rate for the electricity. In the process, the hydrological risk (of the water flow in the river being less than anticipated) is transferred to the consumer. And even after the 10th year, only 50 per cent of the hydrological risk is borne by the project developer. Significantly, the converse does not happen. In years when the flow in the river is higher, and the electricity generated is higher than the design energy, the project promoter gets to keep the charges recovered from the sale of the increased electricity generated.

“When the project is carried out by a public sector company, the increased profits are at least presumably used in larger public interest. In case of private sector generation companies, this represents a clear case of the public bearing the risks, while the private sector walks away with the profits.”⁶⁹

Division of Roles

The other operational argument in favour of PPPs that is closely linked with the risk-transfer argument is the suitable division of the roles between the public and the private sector. This means that the roles are assigned taking into consideration the strengths and weaknesses of both the sectors.

For example, while planning for the execution of a water supply project, say in Nagpur or Tiruppur, the roles were assigned depending on who-



The heavily polluted Noyyal river in Tiruppur. The PPP project which has increased industrial water supply will lead to its further pollution.

could-do-better-what. So the public sector got the role of providing and taking the risks for the resources for raw water supply, supporting the financing of the project, covering demand risks, providing legal and administrative support, being a service buyer at the pre-determined rates and also being accountable to the citizens of the project area. The private partner would at most take the role of covering construction, rehabilitation and maintenance risks and providing service delivery to the residents, but it would neither take demand risks, financing risks, resource risks or risks of accountability towards the residents. This kind of arrangement under PPPs indicates that the argument of risk and role transfer is at best superficial in stating that the private sector would take on major risks and roles to execute the project. In fact, various experiences show that the private sector still looks towards the government to play various roles and provide legal, administrative and financial support in cases like clearances, credit defaults, liquidity requirements, etc.

The approach of the current PPP model is to assign minimum roles and risks to the private sector and maximum to the public sector. This in effect means that the public sector takes up the majority of the burdens and the private sector is hired just as a service provider for the project. This kind of service provider without any accountability is based on the premise of better efficiency, even though it is beyond any doubt that the efficiency of private sector is not far superior than that of the public sector and that there are numerous examples of better-performing public sector utilities for various services including water sector.

The other important aspect that comes with the division of roles in PPPs is the huge conflict in the different roles that the government plays at the same time. As Hodge and Greve wrote in *Public Administration Review*:⁷⁰

“.....government has clearly moved from its traditional stewardship role to a louder policy advocacy role. As a consequence, we might reflect that government now finds itself in the middle of multiple conflicts of interest, acting in the roles of policy advocate, economic developer, steward of public funds, elected representative for decision making, regulator over the contract life, commercial signatory to the contract, and planner. Far more debate is needed to discuss the ways in which long-term public interests can best be protected and nurtured

in the light of experience, particularly noting citizen concerns around low PPP transparency and high deal complexity”.⁷¹

Also, the division of the operations and management and ownership role of the public services assets lead to serious conflicting situations between private companies, which seek to maximise their profits and returns to their shareholders and investors, and the public agencies which look to benefit communities through meeting their needs at lower costs, equitably spreading public services and delivering on the social responsibilities of the elected governments and the welfare state.

There could be conditions where public agencies might not be performing all the above stated responsibilities and duties but still, at the end of the day, elected representatives do need to face the electorate and are directly accountable to the people. There is definitely a need to reform public services and to make them more accountable to the people but this does not mean bringing in private operators, who are less likely to be accountable to the people than the public sector.

PPP promoters, in fact, give the same type of argument that the risks should be taken up by the appropriate partners in the project. This in effect shows the acknowledgement on their part of the public sector capabilities to take on larger and more risks. This also means that they explicitly wish the public sector to take more risks so that it is easy for the private company to generate profits from the public services.

The **Table-5** includes most of the generic risks involved with the PPP projects in the water sector. It shows, from various experiences and project agreements that most of the risks are borne by the public sector including ownership, financial, legal and force majeure. The private sector takes on the design, construction and operational risks. Even out of these, operational risks are covered in most cases by the government through bulk fees, guarantees, take-or-pay clauses, deemed revenue, etc.

From the above table it looks that even though fundamentally partnerships mean similarity of goals, sharing of profits, losses and risks and a shared commitment for each other. PPP model does not appear to stand the test of the basic concepts of partnership, as we understand it.

Table 5: A Generic Table of Risk Sharing
(Sectors - Water Supply, Irrigation and Hydro Power)

| Sr. No. | Risks Involved in PPPs | Public Risks | Private Risks |
|---------|------------------------|--------------|---------------|
| 1. | Finance / Sponsorships | ✓ | × |
| 2. | Land Acquisition | ✓ | × |
| 3. | Design | × | ✓ |
| 4. | Construction | × | ✓ |
| 5. | Operation | × | ✓ |
| 6. | Ownership | ✓ | × |
| 7. | Political | ✓ | × |
| 8. | Commercial / Demand | ✓ | × |
| 9. | Governance | ✓ | × |
| 10. | Water Resource | ✓ | × |
| 11. | Resettlement of PAFs | ✓ | × |
| 12. | Legal | ✓ | × |
| 13. | Force Majeure | ✓ | × |

Post-contractual changes

The above table also shows the extent to which public sources (government and user charges) are being used to provide capital and operating expenses to the private companies in the water supply projects. These are generally built into the project contracts as guarantees, incentives, etc.

However, it is also important to note in this context the kind of post-contractual changes that have been brought into effect in PPP projects in sectors like airports, power and water. These changes question the sanctity of competitive bidding, tariff bidding, etc. This also means that during the bidding phase the companies can underbid for the project, thus getting popular support for the project while at the same time retaining hopes to renegotiate the bids later on while executing or operating the project.

For instance, let's consider the privatised Delhi, Mumbai, Hyderabad and Bangalore Airport projects, which have been developed under the PPP model. News reports disclose that the new privatised Delhi and Mumbai International Airports would be charging Airport Development Fees (ADF) from every outbound domestic and international passenger, Rs 100 and Rs 600 respectively for Mumbai and Rs 200 and Rs 1300 respectively for Delhi Airport. This change in the contractual terms had been brought

about much after the contract for the projects had been signed between the government and the private companies.

Similar is the case with the new private Hyderabad and Bangalore International Airports which have started levying the User Development Fees (UDF) from every outbound domestic and international passenger, Rs 375 and Rs 1000 respectively for each passenger for Hyderabad⁷² and Rs 260 and Rs 1070 respectively for Bangalore Airport.⁷³

According to later news reports, the CEO of the International Air Transport Association (IATA), Giovanni Bersignani, speaking at the 65th IATA Annual General Meeting and World Air Transport Summit held in Kuala Lumpur, Malaysia, criticised the increase in airport development charges imposed by Mumbai and New Delhi. “Bersignani said Delhi and Mumbai airports had a special place on the ‘IATA wall of shame’. He said Delhi and Mumbai airports were one of the worst contributors to the crisis, for their 207 per cent hike in charges. There is no room for this nonsense in our future. When demand drops, suppliers cannot divide the same costs among fewer customers.”⁷⁴

What happened in Manila?

In the water sector there have been several cases of such post-contractual manipulations in favor of profit-seeking private companies. For instance, in the Metro Manila Water Supply and Sewerage Project, the company was contractually bound to reduce tariffs and it even claimed to have reduced water tariffs by 50% for one half of the city and 75% for the other. However, in August 1996, just before the privatisation contract was signed, the water tariffs in Manila were increased by 38%.⁷⁵ So, the reduction in real terms after the privatisation contract was signed in 1997 was less than what was claimed. Later on, the tariffs started rising sharply. By 2003, tariffs had gone up by about 500%. In the West Zone, the increase was from 4.96 Ph P (Philippine Peso) per cubic meter in 1997 to 24 Ph P, and in the East Zone from 2.32 Ph P in 1997 to 14 Ph P. The pre-privatisation rate was 8.78 Ph P.⁷⁶ Again, in 2002, one of the two private contractors asked for a 100 % tariff increase, and when this was refused, it gave a notice of termination in December 2002.⁷⁷

In Buenos Aires...

Similarly in Buenos Aires, it was claimed that privatisation led to a reduction of tariffs. But prices were hiked by the government before privatisation - in February 1991 by 25%, then again in April 1991 by 29%. In April 1992 a goods and services tax was added to water supply bills, which was set at 18%. This was further increased by 8% a few months before privatisation. These increases allowed the company to offer 27% manufactured reduction in costs to consumers within a few months of privatisation. In reality, the prices went up by 20%. Tariffs kept increasing even after this.⁷⁸

In El Alto and La Paz...

The same thing also happened in El Alto and La Paz in Bolivia where French water company Suez was awarded the contract for water distribution. As Michael Goldman writes in *Imperial Nature*:

“To wriggle out of their existing contractual (and ethical) commitments to provide water for all, water service companies are redefining the language of their legal contracts. For instance, in its contract with the city of La Paz, Bolivia, to connect the shantytown of El Alto to the water system, Suez recently argued that ‘connection’ would no longer mean a ‘piped connection’ but ‘access to a standpipe or tanker’- precisely the condition that CEOs and elite transnational policy networks once called deplorable under public regimes.”⁷⁹

And in Tiruppur...

In the Indian context, the Tiruppur project, which was the first PPP project for both industrial and domestic water supply, began operations in mid-2005 and is already showing signs of a crisis. The project started with much fanfare and was supposed to supply 185 mld water to industries and households in Tiruppur area. However, recent news reports by *The Hindu* observe, “New Tirupur Area Development Corporation Ltd (NTADCL), the public-private water and sewerage utility, is seeking a debt restructure as low capacity utilisation has hit revenues”. The report further states, “NTADCL lost Rs 70 crore in 2008-09, taking the accumulated losses to Rs 177 crore. It has sought a Rs 65-crore assistance from the State Government to support its debt restructuring by a consortium led by IDBI.”

The news report further states:

“The water supply started in mid-2005, but has not crossed half its capacity. Against a capacity of 185 million litres a day (mld), industrial units were to take 130 mld of water at Rs 55 a kilolitre while the balance was to be supplied to the residents at a subsidised rate of Rs 3.50 a kl. For the NTADCL, the cost of pumping, treating and supplying the water is Rs 41.70 a kl. But the NTADCL supplies about 100 mld with the domestic segment consuming the planned capacity of about 45 mld while industry’s consumption is yet to reach a third of estimates. This means the NTADCL loses about Rs 5.2 crore a month, say sources. The economic slowdown which has hit exports is the reason for the low capacity utilisation.”⁸⁰

Similarly, in the case of Sasan Ultra Mega Power Project (UMPP) in Madhya Pradesh which was awarded to Reliance Power Limited, serious controversies have emerged on the issues of post-contractual concessions that the government has awarded the company for operating the project. See **Box-9**.

Box - 9

Reliance Sasan Ultra Mega Power Project

The 4,000 MW Sasan Ultra Mega-thermal Power Project in Madhya Pradesh has been awarded to Reliance Power, an Anil Dhirubhai Ambani Group (ADAG) company. This awarding of the project has now become controversial because of the government’s decision to allow Reliance Power to divert excess coal from the captive mines of Sasan power projects to its other power projects. The Rs 24,000 crore Sasan project has been allocated three coal blocks for captive use.

The other competitors for the project are seeking rebidding of the project. They allege that the government’s decision was arbitrary and illegal. It is also said that the decision to allow the use of the excess coal after awarding the project to Reliance Power would amount to a violation of bidding norms. Hence, there should be retendering for Sasan project with explicit provision for diversion of excess coal from captive blocks to other power projects. It is also said that the government’s decision to award the project to RPL would give the company a windfall gain of about Rs 50,000 crore over a period of next 25 years.

As per existing regulations captive coal mines are given to specific end users. Surplus coal generated from such blocks becomes the property of Coal India Ltd.*

*The Economic Times (Print Edition), Tatas to move SC as HC dismisses petition against Reliance Power, dated - 14.04.08

The above events highlight that the sanctity of the competitive bidding process does not hold much ground. Even contractual clauses are not binding enough to keep the private profit interests under control and act against the contractual obligations. This is much more fearsome in the case of essential public services like water where, with threats like sudden termination of the contract or withdrawal of services or stopping the operations if their demands are not met, the private companies can hold the governments to ransom any time.

As a recent article in *The Economic Times* succinctly notes, “These contract renegotiations send out an unmistakable signal: The government allows not only gaming with contractual clauses, it is open to renegotiating the contract itself. So, investors can bargain for fiscal and other benefits before and also after the signing of PPP contracts. Of course, such renegotiations entail increased burden on users of infrastructure facility and the tax payers at large”.⁸¹



Governance Issues - Real Concerns

THE UNITED Nations Guidebook on Good Governance in Public-Private Partnerships⁸² notes that Good Governance plays a huge role in making PPPs successful. This process requires putting into place the enabling institutions, procedures and processes surrounding PPPs in order to fully benefit from PPPs. This means also helping governments to play a critical role in the process and involving citizens as well as other stakeholders.

It further notes that Good Governance involves widely accepted key principles like Participation, Decency, Transparency, Accountability, Fairness and Efficiency. The point here is that these are principles just on paper and not implemented in most of the projects. We look at some of these principles, which have become serious concerns for the larger community.

Transparency and Accountability

One of the most significant problems that PPP projects create is their impact on the democratic structure and control of the society. Such projects demand and get secrecy on grounds of their commercial aspects and due to the nature of their for-profit operations. During the negotiations for the project, there are rarely any consultations with the residents. Post project finalisation also, citizens have serious troubles accessing information about the project. These barriers deny the common people, the ones to be directly impacted by the projects, the access to critical information about the project and about the decision-making process that decided in favour of the project.

A World Bank report of 2006 noted at that time, “Despite the fact that there are nearly 90 PPPs in India under construction and operation, there

is no publicly accessible database providing even the most straightforward information on them”.⁸³

Take for instance the 24x7 water supply pilot project in one of the zones of Nagpur. The project is under implementation at a fast pace but people around the zone are not aware about even the basic details of the project, leave alone the issue of consultations during the project planning phase. Local people interviewed during our field visit claimed that there have been public consultations and awareness campaigns but they have remained exercises mostly on paper. The data and information that should have been shared *suo moto* in such cases of public interest projects have to be procured using the Right to Information (RTI) Act, that too with much difficulty, effort and money. And in the case of Tiruppur water supply project the information has not been provided even under the RTI.

When people seek information and data related to a project or a decision awarding the project, they wish the governments and the project operators to be transparent enough to share critical project information. There may be some project documents and information that could apparently be left out of the public domain to protect commercial and trade secrets but this secrecy surrounding the projects should not come at the expense of the people’s right to know and proper disclosure of information. The project authorities need to be careful in maintaining the transparent and open information disclosure systems.

PPPs are promoted also on the basis that they are more accountable than the traditional public contractual arrangements. The Institut National de Recherche Scientifique - Urbanisation (INRS), Montreal study found, “With lives equal to several periods of electoral office, P3s limit the accountability of elected officers, who can no longer be held responsible for day-to-day operations. To tell the truth, that is just what some people would like”.⁸⁴

Our experience in the Tiruppur Water Supply and Sewerage Project (TWSSP) shows that it is very difficult to access information related to a project. We were unable to get answers to even basic questions related to the actual average daily quantity of bulk water that the company is supplying; the schedules for water supply to the industry, municipality

and villages; and details of project operations, equity sharing, financial planning, debts and interest paid on debts, expenses incurred, profits earned, etc. Eventually, we had to file an application under the RTI Act, for information with NTADCL. However, the corporation stated that it did not come under the purview of the RTI Act and was not liable to give information since it was not a public authority. The whole scenario raises serious questions about the transparency and openness of PPP projects.

Let's consider the natural gas sector which, too, has been hit by many such controversies recently. There have been an increasing number of incidents that raise several governance issues regarding the contracts awarded under the NELP (New Exploration Licensing Policy), including the one awarded to Reliance Industries Limited in the Krishna-Godavari basin. In a recent article titled *Shortcomings in Governance of Natural Gas Sector* in *Economic & Political Weekly*, the authors⁸⁵, Ashok Sreenivas and Girish Sant have analysed some of these concerns. On the issue of transparency in contract awards, they write, "There have been serious concerns about transparency of NELP contracts, which are worth billions of dollars. The model PSC (production sharing contract) and bid evaluation criteria for the first NELP were not public, while for later rounds no information is publicly available about the winning bids and final PSCs for any block!"⁸⁶

A UN report on Good Governance and PPPs writes, "PPPs are not privatization. Under PPPs, accountability for delivery of the public service is retained by the public sector whereas under a privatization, accountability moves across to the private sector (the public sector might retain some regulatory price control). Under PPPs, there is no transfer of ownership and the public sector remains accountable."⁸⁷ This is in direct contradiction with the stated objectives of the PPPs that they improve the service delivery through holding the service deliverer directly accountable to the users.

Public Participation and Public Policy

The decision-making structures of PPP projects are such that they deeply involve bureaucratic agencies and private corporations. Such structures ignore the need for public consultation and consent during the project development and implementation stages. This disregard for public

consent often leads to protests and resistance from user groups which in turn cause an increase in the project gestation period and cost over-runs.

The importance of public consent cannot be denied even for public projects. In the case of PPP projects such consent becomes all the more important because of the involvement of the private company and the profit motive in the delivery of public services. The users of any service are the ones better placed to take a decision on the value of the service to their community. In fact, the involvement of the community during the decision-making process for any project would lead to a happy situation in that either the community would reject the project or it would stand firmly behind the project if the project in question truly fulfills their needs and demands. Such a prospect would also lead to increased accountability and trust and acceptance for the benefits and impacts accruing from the project. The above procedures are also applicable to public sector projects.

The process of public consultation keeps in place the system of democratic controls and ensures that public participation is not bypassed to push projects through. Also, since huge amounts of taxpayers' money is committed to such projects, public involvement is obligatory to ensure that the project goes on without hiccups. This would also make sure that the project responds to specific local needs.⁸⁸

Another major concern with PPPs is related to government terms and public policy. Given the fact that PPP contracts are long term, 20 - 30

A low income locality in Khandwa town, where water supply has been recently handed over to a private company. People living in such areas have not been consulted before finalising this project.



years generally, they can pose hurdles if there is a much needed change in the public policy. And over a period of time, even if the elected representatives change, the new representatives cannot change the terms of the contract or repeal them. This is because changes in the contractual terms at the later stage or termination of contract would certainly lead to further cost escalations.

An example is the Mysore PPP project for water supply which was awarded in December 2008 by the Karnataka Urban Water Supply and Drainage Board (KUWSDB) to Jamshedpur Utilities and Services Company (JUSCO). Since the time project had been awarded to JUSCO it has been facing serious protests from the people of the city, including unions, academics, various local groups and corporators. All these people have been opposing the project since there was no people's participation in the process. There are reports that not even the mayor of the city was aware of the signing of the agreement between the Mysore City Corporation (MCC), KUWSDB and JUSCO. There have been signature campaigns and protests during meetings to oppose the secretive and non-participatory processes.

An INRS, Montreal report summarises this as, "One thing is certain: P3s limit the accountability of elected officials, as they can no longer be held responsible for day-to-day operations. Given a 30-year P3, governed by an agreement signed in 1985 and expiring in 2015, a new municipal council elected in the fall of 2006 for a four-year term would have no flexibility at all".⁸⁹

Access to information

Governments that took the PPP route for infrastructure development before India did stress that access to information, transparency and accountability form the fundamental principles of PPP framework. That is, transparency and openness are important requirements of all government procurements.⁹⁰

For instance, for the Tiruppur Project the only available sources of information are the project agencies that have only positive stories for the media and the larger audience. This provides a one-sided picture of the project. This also prevents independent assessments of the project.

The author of this booklet tried to communicate with the project officials in several ways including personal contact, phone calls, post and e-mails but without any response. We visited their offices but were not given appointment for interviews. In fact, the project officials at NTADCL's offices were averse to talking about the project. It is only when we sent them an application under the RTI Act were they forced to respond. The response was a terse one as mentioned earlier. This stand is a negation of one of the basic claimed principles of PPP, that of transparency and accountability.

As the World Bank observes that the ground realities are quite different when one is trying to access information on a PPP project in spite of “the enactment of the Right-to-Information Act (RTI) in 2005 which requires ‘suo motu’ (‘on their own initiative’) disclosures and foresees universal access to information wherever in the public interest”.⁹¹

An appeal was filed with the Tamil Nadu State Information Commission (TNSIC) subsequently against the NTADCL arguing that since it has substantial amount of funding from public resources, it is a public authority, and as the project, it is executing, is for the benefit of the community it should divulge information about the project.

On the 24th of March, 2008 the TNSIC ordered NTADCL to provide the information sought by declaring that it is a public authority and to comply with the order within the next 15 days. But we did not hear from NTADCL even after a month since the order was passed. Later on, we got summons from the Chennai High Court to file our affidavit in the appeal filed by the NTADCL against the order passed by the TNSIC. The Chennai High Court has stayed the TNSIC order and the matter is sub-judice and is pending for hearing in the High Court.

With reference to the disclosure of PPP agreements the recent Central Information Commission (CIC) order⁹² dated - 03.09.2009 in the case of Shri Navroz Mody Vs. Mumbai Port Trust clearly states, after taking into account the submissions of the respondents and all the other aspects “It is, therefore, imperative, that the PPP Agreements are made to embrace transparency rather than be kept cloaked in secrecy”.

The CIC also sought the advice of the Planning Commission and the CAG in this matter and noted:

“We are also not persuaded by the respondents' plea that disclosure of PPP Agreement would discourage private parties from entering into such agreements with the Government in future. This proposition is not borne out by any evidence produced before us and seems to be more a surmise than fact. It flies in the face of the categorical assertion of both the Planning Commission and the C&AG that there was nothing inappropriate about disclosure of PPP Agreements and that there was a distinct public interest to be served by making these Agreements public”.

The CIC further noted:

“We note that respondents have stated that the PPP Agreements are likely to become progressively common. In other words, a substantial part of the commercial and infrastructure development role of the Government shall now be entrusted to private parties, who in conjunction with the Government agencies, would deliver on specific projects. These Agreements would involve commitment of the Government's financial and physical resources. If PPPs were not the mode of project execution, the entire operation would then be conducted by the Government and would have been subject to the provisions of the RTI Act and all information thereof would be disclosable. It would be vain to argue that functions which were earlier transparent when performed by Government exclusively, should become opaque now that these are to be performed through PPP. This will amount to reversal of transparency and would be antithetical to public interest”.

Equality and Social Justice

It is also observed that PPPs lead to inequalities in society by increasing the salaries and perks for PPP consultants, officials and lawyers of the private companies. This often translates into decreasing salaries and benefits to public sector employees, sometimes even leading to retrenchment of lower grade public sector employees, who are then again hired by private corporations at lower salaries without benefits.

With the inclusion and insistence on payment of high user charges for the services delivered, PPPs also lead to reduced access to services for the poor and the marginalised sections of the society.

A report by the Ontario Health Coalition notes, “P3s have also increased inequality, boosting salaries for executives and remuneration for expensive consultants and lawyers while decreasing pay and working conditions and reducing access to services. Democratic control has been sacrificed to commercial secrecy and private for-profit management. High costs have led to service cuts and diminished access.”⁹³

The PPIAF⁹⁴ study also found out that due to private participation in water and sanitation sector there has been a loss of employment. The study states, “In the water and sanitation sector, just as in the electricity sector, utilities with PSP exhibit the employment attrition effect predicted by the privatization literature, and the effect is strongest for full and partial divestitures”.

Lack of Credible Oversight and Regulatory Mechanisms

A Government of India document elaborates the problems that the government faces on developing PPPs in the country. Similar problems were mentioned in the Economic Survey 2007-08⁹⁵ by the Union Finance Minister concerning the PPPs. It is stated that:

“While encouraging PPPs, six constraints have been identified:

- (i) Policy and regulatory gaps, specially relating to specific sector policies and regulations;
- (ii) Inadequate availability of long term finance (10 year plus tenor) - both equity and debt;
- (iii) Inadequate capacity in public institutions and public officials to

A market in the mofussil town of Khandwa.



- manage PPP processes;
- (iv) Inadequate capacity in the private sector - both in the form of developer/investor and technical manpower; and
 - (v) Inadequate shelf of bankable infrastructure projects that can be bid out to the private sector.
 - (vi) Inadequate advocacy to create greater acceptance of PPPs by the public.”

The Union Finance Ministry at least acknowledges the gaps in regulating PPPs. However, in the context of regulation it is not clear if these gaps are referred to as too much or too little regulation. The World Bank view on this issue is “The private sector is an essential partner in releasing these binding constraints to growth, but policy changes are required for the private sector to play this role. These include reforms in the functioning of land, labor, and financial markets, as well as the removal of restrictive regulation”.⁹⁶

In this context, let us look at the road development sector in India that has the maximum number of PPP projects; 186 projects have been listed on the Government of India’s PPP website, and have been highlighted as one of the successful examples for implementing PPP projects.

The Comptroller and Auditor General’s (CAG) audit report on some of the PPP projects executed under the National Highways Authority of India (NHAI), the highways regulator, should be noticed in this case. The report’s highlights begin with the following observations:

“Between March 1998 and April 2003, 930 km. of these road stretches representing 15 per cent were sought to be executed through a new mode of delivery plan known as ‘Public-Private Partnership’ (PPP). These road projects to be developed under PPP were split into 17 individual projects; nine of which were meant to be delivered through Build Operate and Transfer (BOT)-Toll mode and eight projects via BOT-Annuity mode.”⁹⁷

It further states:

“An overriding consideration for the Government in deciding PPP as an alternative financing and service delivery model was to secure ‘timely’ and ‘cost-effective’ service delivery besides leveraging scarce budgetary resources.”⁹⁸

And:

“This report examines various aspects of project implementation and assesses whether these PPP deals have effectively delivered a good value for money, taking into account the Government’s objectives.”

On the planning aspect, the report says, “At the start of NHDP Phase-I, the Authority did not prepare a corporate/strategic plan which indicated the project priorities and scheduling and could be used as a monitoring mechanism. Their informal system of concurrent review could not provide adequate assurance for project monitoring.”

The report states that for two specific projects, the Detailed Project Reports (DPRs) had deficiencies in design, cost estimates and traffic projections. The audit estimated that the concessions unduly extended over long periods even though they should have ended much earlier, resulting in gains to the concessionaires to the tune of Rs 121.63 crore and Rs 187.77 crore.

The CAG report also notes that on issues like scrutinizing the escrow accounts and appointment of independent auditors, the Authority failed to take benefits of these important control tools.

A news article based on the CAG report wrote, “The government will also lose revenue of about Rs 384 crore from projects due to irregularities by the National Highways Authority of India (NHAI), according to the [CAG] report”.⁹⁹

This is the evaluation by a credible third party of PPPs in the context of the road sector, one of the sectors considered most advanced in India in developing and executing the PPP concept and having a regulator and an oversight agency as well. Now consider those sectors where there isn’t any regulator or an oversight agency. The private companies there would be having a free run. Nevertheless, the crucial question here is that even if there were a regulatory agency, generally composed of public servants and retired bureaucrats, can we realistically expect it to hold a tight leash over the operations of private companies? Would such member-officials, who probably had failed to run the public services properly while they were within the public sector departments/ agencies, be capable of

overseeing and monitoring the private operator from the outside? Would this situation not lead to something called ‘croony capitalism’ as has been witnessed in various other countries?

The CAG report highlights some of the concerns with PPPs and also the serious limitations that government agencies face while regulating and controlling private companies. It also highlights that the PPP model and the private operators cannot be trusted to operate in good faith, and that it would be mandatory to have a regulatory agency to control and monitor the private companies. It must, however, also be noted here that the CAG itself is like a ‘Caged Tiger’¹⁰⁰ for the moment in India - it cannot ensure compliance from the auditee for information within a reasonable time, nor can it enforce its right to access accounts, leave alone the question of enforcing corrective measures on the basis of its findings.

Some recent reports suggest that the CAG would be given the responsibility to verify the concession agreements and check if undue benefits have been given to the private company “that are beyond the norms”. It remains to be seen how effective this step turns out to be in monitoring and controlling PPPs.¹⁰¹

The article titled *Shortcomings in Governance of Natural Gas Sector* as referred to earlier also raises concerns regarding the performance of another existing regulatory body, the Petroleum and Natural Gas Regulatory Board (PNGRB). It says that the procedure for appointing regulators is highly non-transparent, making it susceptible to political patronage or capture. It further states that the effectiveness of the PNGRB in regulating the sector has been questionable. It cites several incidents and controversies and states that these suggest that the regulatory processes are not functioning effectively.¹⁰²

In sectors like water, transport, sewage treatment, solid waste management, etc., PPPs are coming up at a fast pace but do not have a regulator or an oversight agency to monitor the projects under execution or operation. The important thing to understand is that without public control and oversight, the model can play havoc with the lives of the common people if the private companies are given a free rein to operate in the ways they want.

In the water sector, there have been efforts to form quasi-judicial bodies to regulate and control the sector through the creation of Water Regulatory Authorities (WRAs). Different states like Maharashtra, Uttar Pradesh and Arunchal Pradesh have passed laws to this effect. The WRAs so formed have been given the responsibilities of tariff setting, setting up water entitlement regimes, trading of water entitlements and cost recovery provisions among others. A WRA has already begun working in Maharashtra but there is still a lot of confusion about its roles and responsibilities, to whom the authority is accountable and how the authority would work on setting up the water entitlements regime. Such bodies are also low on people's participation, are far removed from the people's concerns and are not easily accessible to the masses for redressal of various issues. Such a situation, then, again questions the objectives behind the formation of a body which is not transparent about its operations.

Also, many of the PPP projects are in advanced stages and some of the companies involved in these projects are huge, have long years of experience and differ vastly in terms of human resources and technology. This raises concerns about the capability of these authorities to control and regulate the private companies in PPP projects. Even though we are yet to come across any such experiences in the water sector, but as the CAG report highlights, there are apprehensions related to public bodies regulating private companies.

Studies in other countries have found that PPP contracts create situations which are complicated and tough to monitor, often leading to a different set of problems. It is not easy to monitor the performance and manage the PPP processes for a public agency since this increases the work load while the public systems are not capable to handle such complicated models of project execution. The House of Commons Committee of Public Accounts, UK, notes in one of its reports of 2007, "There is a continuing lack of PFI experience and skills within public procurement teams across the public sector".¹⁰³ Just to remind this is in the UK, the country which pioneered the concept of PFI, and has a record of executing PFI projects for around two decades.

In a United Nations Research Institute for Social Development

(UNRISD) study, Narendra Prasad notes from a World Bank document on regulatory systems, *Handbook for Evaluating Infrastructure Regulatory Systems*, “...recognized that after the creation of over 200 regulatory entities worldwide during the past 15 years, there is now ample evidence to show that regulatory systems have failed to achieve the expected sector outcomes. Very often, regulation becomes an end in itself rather than a means of achieving social, economic and environmental objectives for the well-being of the population”.¹⁰⁴

Regulation has always existed in earlier and current systems with checks and balances within various departments and agencies. It is an important aspect of public services delivery mechanism. It also depends a lot on the existing policy framework and the laws of the existing regimes. The problem is with the current model of regulation promoted by IFIs like the World Bank. The current model of regulation has problems like self-regulation; it needs to separate the regulator from the regulated, and do away with the centralised approach to regulatory mechanism for all sorts of issues and levels. The current regulation models are problematic also on count of lack of accessibility, transparency, accountability and participation of the common people.

Finally, to summarise, it needs to be brought to the notice the fact that regulatory mechanisms in developing countries are not foolproof methods for controlling and regulating private operations. On the other hand, in the complete absence of any credible regulatory mechanism, PPPs could be very risky, particularly when the public or public representatives have little role or control over these projects. However, even in cases where regulatory authorities do exist, the record does not seem to be impressive in protecting the socio-economic-environmental interests of the larger community. The jury is still out on how regulatory authorities perform in controlling and regulating the private companies, especially in the developing countries.

Gol Guidelines for Sector Reform and Successful PPPs

The current approach of encouraging and executing PPPs in water sector is quite different from what has been envisaged in the Government of India Guidelines for Sector Reform and Successful Public Private

Partnerships of January 2004. These guidelines state, “Water and sanitation are local issues with predominantly local solutions, but failure to tackle them successfully can have regional and national implications. Reforms must be properly sequenced and managed, applying key lessons from reforms in other sectors. The private sector has a positive role to play in this process.”

On the institutional and policy framework, the guidelines state, “a publicly endorsed policy framework that embraced private participation would provide a broad mandate for systematic reform.” The document further says that the state sector policy should be founded on the key principles of - public service obligations and institutional accountability, financial sustainability, autonomous and competent regulation, incentives to improve services for the poor, among others.

It further states, “the water distribution network operator should be given the responsibility for system and investment planning (under appropriate regulatory framework), and the incentives to meet demand at the least cost. Such incentives should be designed to reverse the dominant preference for new construction as opposed to proper maintenance and operation of the existing assets.”

Most of the policies it seems are being formed on an ad hoc basis; there has not even been any proper and detailed public discussion or debate on them, leave alone their endorsement. The guidelines also make clear that the network operator should be given the responsibility and the incentives to meet demand at the least cost and incentives should be so designed as to reverse the dominant preference for new construction as opposed to proper maintenance and operation of the existing assets. From the experiences it is known that the exact opposite of this is happening in most of the places. ULBs, para-statal bodies are going for new capital-intensive infrastructure and neglecting the existing assets over creation of new ones.

On the legal and regulatory frameworks, the guidelines state that:

“the regulatory framework should clearly delineate state and local-level regulatory roles, and remain sensitive to authorities vested in the ULB under the 74th Constitutional Amendment. Because

independent regulators are costly to set up and have limited success in reforming or regulating public sector operators, a Reform Facilitation Team at the state level, empowered to influence fiscal and other support flows to ULBs, could initially drive the reform agenda and create the platform for effective regulation. A state-level regulatory body would be better placed (than ULBs) to benchmark performance of different service providers, provide methodological support, and develop the competence and reputation to resolve disputes between service providers and consumers. ULBs could also opt to delegate tariff-setting authority to the state regulator (if permissible under state law). Drawing from experience in the power sector, if a state regulator is envisaged, state policy should clearly define the reasons for setting it up and the instruments available for effective regulation.”¹⁰⁵

On the regulation aspect, even though the guidelines make it clear that a proper regulatory framework should be in place before these reforms steps are taken, the reality on ground is very different. In the states where regulatory authorities have already been formed, the scenario is that of an opaque process and an unclear definition of roles and responsibilities, which certainly does not inspire any confidence in these steps. Without these frameworks and mechanisms in place it is not understandable why there is so much hurry in accepting and implementing PPPs as the only and right option, that too without detailed studies and discussions.

These are some of the points that the guidelines elaborate on. If we study the current trends in implementing PPPs in the light of these guidelines, we would find that most of these guidelines are not being followed. The guidelines regard that key lessons have to be learnt from the experiences of reforms in other sectors. But these lessons, for instance the implications of reforms and privatisation in the power sector, have not been taken into consideration while initiating reforms in the water sector.¹⁰⁶



Social Obligations and PPPs

IN THIS section we would try to look at some of the crucial social aspects of public services and how PPPs might impact social-welfare obligations in the water sector. Social-welfare obligations are a significant consideration here, especially since water is a unique natural resource and essentially a form of public good. Water, thus, has immense socio-cultural value and economic and political importance. The water supply systems are a 'natural monopoly'¹⁰⁷ - since very high initial fixed costs are involved in setting up systems like transmission and distribution pipelines, there is very low probability of competition in the market. The absence of competition might lead to the abuse and exploitation of the users by the private company. From the social perspective, water as a public good also retains 'non-rival' and 'non-excludability'¹⁰⁸ characteristics. Water holds a unique and vital position for humans, especially for the poor and marginalised sections of the society. Hence, there is an increasing demand and application to consider water as a human right from various civil society groups and governments.

Responsibility of Provision/ Service Delivery

The responsibility of provision of public services under public-private partnership shifts to the private partner, but in some cases this may remain with the public authority, depending on the exact contractual terms agreed between the two. For instance, in the case of Tiruppur water supply project, the private operator provides the services and charges the public body for the bulk supplies. In such cases the responsibility and accountability of provision to the residents depends on the public body, which, in turn, depends on a contracted private operator to deliver services. In other cases, the responsibility of service provision shifts to the private operator like in water supply projects in Mysore, Khandwa, Nagpur, Hubli-Dharwad, etc. This is the recommended route since it is hoped that through

this route the much-hyped efficiency gains from the private operator in water distribution would materialise. This technically and financially means that a private company takes up the responsibility of provision to generate profits from its operations of the public water services.

PPPs are attractive to the private sector because such projects provide private players with a steady stream of guaranteed revenues and profits for longer periods, like a concession agreement for 25 years. With inherent profit motives, the private sector usually focuses on the well-off segments of the society which are able to pay the user charges for the services. And providing essential services to the common public, more so to the marginalised and economically weaker sections of the society, becomes a less desired task because of the lack of capacity of these sections to pay. Several cities where private operators have taken over water supply responsibilities are witness to such events; examples include Tucuman, Santa Fe (Argentina), Conakry (Guinea), Kelantan (Malaysia), Puerto Rico, Nkonkobe (South Africa) and others. It has been experienced that private corporations have bypassed, ignored or refused to fulfill contractual obligations to provide essential services to the poor because of their lack of paying capacity.

The situation may be grimmer in a country like India where income disparities across the society are so evident despite high GDP growth rates. Recent analyses of the World Bank¹⁰⁹ show that even though the number of people living below a dollar a day had decreased from 296

Water supply in panchayats adjoining Tiruppur is strictly rationed, ever after claims of augmentation by the PPP project.



million in 1981 to 267 million in 2005, still the number of people living below US\$ 1.25 a day increased from 421 million to 456 million in 2005.

It has been observed in projects like Tiruppur that the private operator has in most cases overlooked and refused to fulfill the water demands of the village panchayats, and yet water for industrial use is being supplied round the clock.

Studies¹¹⁰ of Tiruppur water supply and sewerage project show that the project stands in violation of “international norms of [water] availability, quality, non-discriminatory accessibility and information dissemination”.

It is also interesting to note the way the re-allocation of water is structured in the concession contract for the Tiruppur project. “The NTADCL has the absolute right to re-allocate the above mentioned quantities of Raw Water in the event that stated quantities for Domestic purposes are not off-taken or not paid for by the TM (Tiruppur Municipality) and Way-sided villages to other Purchasers within the service area.” Furthermore, “the NTADCL shall at its sole discretion supply or otherwise dispose of the potable water remaining after the off-take of the contracted quantity of Potable water by TM, Way-side villages and the Industrial Units”.¹¹¹ This means that in case there is excess water left after supply to Tiruppur Municipality and the wayside villages, the NTADCL under the contract can re-allocate the water or dispose of the remaining water the way it deems fit. In effect, the contract does not bind the NTADCL to use the available excess water to supply it to the water stressed people of Tiruppur and the surrounding villages. The contract provides the private operator total liberty to trade-off responsibility of service provision with private profits by supplying excess water for profitable purposes but not to the people.

Other studies¹¹² have shown that, “in terms of participation in decision making, getting adequate water, grievance redressal mechanism, transparency and accountability, the PPP model fares very poorly which the community members in most of the study villages are displeased about”.

Recent reports state that now NTADCL has offered to share surplus water with the industries located in and around Coimbatore which are

facing water shortages. The report quoted an official of the company stating that it is ready to supply 30 million litres of water per day.¹¹³

Community Welfare and Equity

Within the PPP model the service delivery option shifts to the private company based on the market principles of user-pay charges and full cost recovery. Since the private company has to recover all the capital investment and running costs, the services are delivered on user charges, meaning whosoever can pay shall be able to use the services provided. This model for providing services is fine with the private goods in the market, but can be very contentious and socially disruptive when applied to the delivery of public services like water and sanitation. This is more so in a developing country like India where the demographics, paying capacity, social, religious and cultural values are very different from those in the western countries. Here, throw in factors like class, caste, community and religion and the situation could get out of control rapidly.

In such diverse settings, therefore, the implementation of PPPs requires careful examination and evaluation. Privatising water and sanitation services could deprive a large number of people from a vital source of life and a human right. Privatised water supply projects in places like Nelspruit and Capetown in South Africa, Manila in the Philippines and El Alto and La Paz in Bolivia have shown the general unwillingness of the private operators to extend water connections to poor areas because of the higher connection

Water supply in a low income locality in Indore.



and water tariffs that these operators charge. It is in the interest of the communities and the larger good that such essential services remain as public good and be provided as a public service. In fact, examples of public utilities like those in Dhaka, Phnom Penh and Porto Alegre have shown that public utilities have been able to extend water connections to and charge low connection charges and tariffs from poor households.

From the perspective of the social obligations of a welfare state, it is also required that public services like water supply and sanitation should be developed towards the larger goal of equitable, just and dignified lives of its citizens. But with models like PPPs which are obsessed with financial sustainability, the poor and the marginalised sections could be thrown out of the system because of their low paying capacity. How such models can contribute towards creating an equitable and just water supply and sanitation systems is highly questionable. And how such models can help the state fulfill the Target 10 of Millennium Development Goals (MDG) set by the United Nations is also highly doubtful. The prime focus of such models is to make the water systems financially sustainable through user-pay charges and full cost recovery principles, in the midst of which the more important issues of rights, equity and justice, essential for larger community and social welfare, are not addressed.

How India fares in terms of its community welfare?

Universal water and sanitation services are crucial for progress in terms of larger community welfare, equity and human development. The Human Development Index (HDI), brought out by the United Nations Development Program (UNDP) every year, “looks beyond GDP to a broader definition of well-being. The HDI provides a composite measure of three dimensions of human development: a long and healthy life (measured by life expectancy at birth). Being educated (measured by adult literacy and enrolment in primary, secondary and tertiary education). And third: GDP per capita measured in U.S. dollars at Purchasing Power Parity (PPP).”¹¹⁴

The HDI rankings show that India has fallen from rank 128 in 2007-08 to 132 currently out of 179 nations. The rankings also show that India lags behind countries like Bhutan, Congo, Botswana, Bolivia, Vietnam, Sri Lanka and the Occupied Territories of Palestine.

As P. Sainath writes about India's fall in UN HDI rankings:

“The bad news about the bad news is that these figures reflect the good news days. They relate to the year 2006. (The Sensex was booming. It breached the 10,000 and even 14,000-mark for the first time ever. The Indian economy also grew at 9.6 per cent in 2006-07 and 9.4 per cent in 2005-06.) Those were the glory days our 132nd rank is rooted in. The same period when we churned out 53 dollar billionaires. So the updated HDI numbers do not begin to capture the economic downturn. The picture will be even less pretty when those factors kick in”.¹¹⁵

One of the main arguments behind promoting PPPs is that this would help the country achieve higher GDP growth rates by faster infrastructure development. However, to reiterate, higher GDP and economic growth rates are fine as long as this income is converted into larger equitable community development. Unless this happens the development of millions of marginalised and poor in terms of better life, better education and better purchasing power parity would remain, as they say, a pipe dream.



Projects and Policies Promoting PPPs in India

THE PPP projects that are coming up in India are being amply supported by the policies of the governments. These projects also draw support from various projects funded by International Financial Institutions to promote PPPs in infrastructure development in the country. We look at some of the projects and policies in this section that are encouraging PPPs.

Government of India - Steps Promoting PPPs

- I. Establishing a PPP cell in the Department of Economic Affairs (DEA) in the Ministry of Finance; the Government is also guiding state governments to establish PPP cells for mainstreaming PPPs;
- II. Setting up the India Infrastructure Finance Company Limited (IIFCL) to facilitate access to long-term resources for infrastructure development;
- III. Creating a Viability Gap Fund (VGF) with a current annual allocation of approximately US\$ 340 million to promote PPPs;
- IV. Forming an inter-ministerial group to determine pre-qualification of bidders under PPP;
- V. Preparing PPP tool kits and model concession agreements by DEA for use by various state governments; and
- VI. Establishing India Infrastructure Project Development Fund (IIPDF) for funding the project development expenses.

Role of the IFIs in promoting PPPs

The World Bank and the Asian Development Bank (ADB) are playing an active role in promoting PPPs in different sectors in India, especially water. For the water sector, the World Bank CAS 2009 - 2012 recognises that India's water sector is "deeply under stress". To address the stress factors the Bank proposes several solutions in its country strategy:

“Cross-cutting priority reforms where activities are already underway include - Restructuring of public sector institutions (including through capacity building and the strategic realignment of incentive structures and skills mixes) and the establishment of new institutions (including regulatory authorities, water users associations, river basin agencies, and **public-private partnerships**)Financial sustainability of resource management and service delivery through rational charges and tariffs and improved financial management, including removing distorting subsidies and moving towards user charges that reflect at least O&M costs”.¹¹⁶ (Emphasis added)

World Bank supported PPP projects

One of the projects through which the World Bank is promoting PPP projects in India is Financing Public-Private Partnerships (PPPs) in Infrastructure through Support to the India Infrastructure Finance Corporation Ltd. (IIFCL). Through this project the Bank is considering an IBRD loan (line of credit) of about US\$ 500 million to support IIFC.

The International Finance Corporation (IFC) has also had preliminary discussions with the IIFC on a line of credit from the IFC to the IIFC, for on-lending to private sector infrastructure developers to enable longer-term funding for such projects, with the IFC taking the end-borrower risk on its own balance sheet.

The IIFC has tied up for financing of Euros 100 million (US\$ 132 million equivalent) from KfW, and JP¥ 20 billion (US\$ 170 million equivalent) under the Japan Bank for International Cooperation’s (JBIC) guaranteed ‘Untied Loan Program’. The IIFC has also approached the ADB for a line of credit of US\$ 500 million.

Box - 10

Viability Gap Funding

The Viability Gap Fund (VGF) can provide catalytic grant assistance of up to 20 per cent of the capital costs, through which it expects several projects to become bankable, attract private capital, and mobilise private sector efficiencies. It is estimated that if the entire Viability Gap Fund were utilised, it would lead to investments of \$1.6 billion annually at minimum leverage. Further, the “Government or statutory entity that owns the project may, if it so decides, provide additional grants out of its budget, but not exceeding a further twenty percent of the Total Project Cost”.*

*Government of India (2005), Section - 4

The objectives are to (i) support the IIFC in its role to facilitate private participation in infrastructure through the provision of long-term financing, and through this (ii) stimulate the development of a long-term debt financing market for infrastructure in India.

The key performance indicators will include:

- Increase in the number of PPPs achieving financial closure through long-term debt financing from IIFC;
- Increase in the number of infrastructure projects and financial intermediaries accessing the capital markets for long-term debt;
- Increase in the volume of long-term infrastructure bonds outstanding

Several other World Bank projects look to promote PPPs in water sector like the Karnataka Urban Water Sector Improvement and Tamil Nadu Irrigated Agriculture Modernization and Water Resources Management Project, among others.

Box - 11

Institutional Support

IIFCL -The India Infrastructure Finance Company Limited (IIFCL) has been corporatised and operationalised. It will provide financial assistance through long-term debt; either by way of refinance to banks and financial institutions or by direct lending to project companies. It will lend up to 20 per cent of the capital costs of a project. For project appraisal and lending operations, the IIFC would rely on the lead banks associated with the respective projects. Built into this scheme is a preference for Public-Private Partnership (PPP) projects that are awarded to private companies selected through a competitive bidding process. Such projects will be eligible for direct lending by the IIFC, and will also receive overriding priority. The IIFC will raise funds from both domestic as well as external markets on the strength of government guarantees, which will be extended as necessary. In the first year of its operation, a guarantee limit of Rs 10,000 crore (US\$ 2.2 billion) has been specified by the Government.*

The IIFCL has a paid-up capital of approximately \$2.27 million and an authorised capital of about \$227 million.

IIPDF -The India Infrastructure Project Development Fund (IIPDF) is being set up with an initial contribution of Rs 100 crore. Although it is envisaged as a revolving fund and would get replenished by the reimbursement of 'investment' through success fee earned from successfully bid projects, should there be a need, it can be supplemented in subsequent years through budget support. The IIPDF would assist ordinarily up to 75 per cent of the project development expenses. The assistance from IIPDF would ordinarily be in the form of interest free loan.**

*Government of India (2006 b), Section-4

**Government of India (Undated b)

ADB-supported PPP projects

The ADB is funding two Technical Assistance (TA) projects at the central line ministries as well as the state levels for mainstreaming public-private partnerships. Under the TAs, the ADB is ensuring the formation of PPP cells in each state to push PPPs. This would be for capacity development in the PPP cell within the Department of Economic Affairs (DEA) to help implement PPP schemes effectively and efficiently and for enhanced capacity of PPP cells in participating entities to prepare, evaluate, and appraise PPPs in infrastructure.

Others like PPIAF, IFC and WSP

The World Bank is also funding several other PPP projects through its multilateral funding mechanisms like the PPIAF, IFC and WSP. For example, the PPIAF is funding projects like Facilitating Public-Private Partnership in Infrastructure Sectors with the Planning Commission and Private Partnership for Improving Service Delivery in WSS in Gujarat.

Similarly, the IFC and WSP are also implementing various projects to promote PPPs in India. The IFC is the lead advisor to the Infrastructure Corporation of Andhra Pradesh (INCAP). It is also providing support to the India Infrastructure Fund with the IDFC and to projects like Tiruppur in terms of equity participation. The IFC is also financing an irrigation project in Maharashtra and would also help in preparing the bid documents to privatise the project.¹¹⁷

The WSP is working with Central government ministries, state governments and other departments for promoting urban and rural reforms in water and sanitation services. It is working with the Government of Gujarat, the Ministry of Urban Development, the Ministry of Panchayati Raj, the Department of Economic Affairs and the Department for Drinking Water Supply. The major thrust of its projects is towards evaluating and promoting PPP options for provision of WSS services, willingness to pay, institutional reforms, etc. It is also partnering with other aid agencies for project implementation like the DFID, AusAID, SIDA, UNICEF, WaterAid, etc. For a detailed list of the IFI projects promoting PPPs in India see **annexure-2**.



Alternatives to PPP model

THIS STUDY largely deals with the issues related to Public-Private Partnership and tries to evaluate the efficacy of PPPs in providing solutions to the existing problems within the water sector. However, in this section we would also try to look at some of the possible alternatives to the PPP model in the water sector. This is because, as a model, PPP is skewed in the interests of the private profits and often ignores the aim of creating an equitable, just and sustainable water distribution system. These alternatives need to be studied in details and are out of the scope of this study, but we would still like to provide some indicators and the directions in which the evaluation and study of alternatives can be taken up in the near future.

For a discussion on the alternative models of water supply, we need to look at some of the fundamental issues in this regard. We feel that the question is not just of understanding the PPP model for water supply, it also means understanding the decision-making processes, people's participation, transparency, the power equations, the political economy and the socio-economic context of the communities where such models are being implemented. So, it means not only discussing the model as such but also debating the processes involved in deciding and executing such models.

The other important aspect is the governance issue related to PPPs. This largely means evaluating the processes that lead to PPPs as a solution to the problems and issues in the water sector. It further leads us to question once again the very need for PPPs, the process that decides in their favour, and the filters that were used for evaluating PPPs and other alternative options to fulfill the demands and the needs of the local people.

What also needs to be asked is whether any thought was given to the alternative options before finalising a PPP, whether there was any kind of alternative decision-making process available, whether such decision-making processes were community-participatory and transparent in nature? These are all important questions because they set the real parameters on which the success or failure of a project can be decided. Most of the alternatives being considered in this section fulfill these parameters, which is what makes them successfully serve the communities better in their respective areas.

Some of the Other Models

Basically, what we found on this front were various kinds of systems being used. We have tried to categorise these systems on the basis of the specific characteristics that they represent. The following types of models are predominantly used as alternative options to privatisation or PPPs in the water sector -

- Community Participatory models like in Recife, Porto Alegre - Brazil,
- Water co-operatives like Santa Cruz - Bolivia, Buenos Aires - Argentina,
- Workers Union oriented models like in Dhaka - Bangladesh, Phnom Penh - Cambodia,
- Public-Public Partnerships/ Water Operators Partnerships like in South Africa, Baltic States,
- Internal Reforms model like in Sao Paulo - Brazil, Colombo - Sri Lanka,
- Community managed systems in rural areas like in Tamil Nadu, Rajasthan - India

The effort here is not to write a case study of some of the above-mentioned models but to try and find out the factors which make them effective as alternatives to privatisation and commercialisation practices in water sector. Each example may show some elements of a good water supply system.

Major Factors in Alternative Models

Some of the factors that we came across during this brief water alternatives mapping exercise that are being practically implemented at

different places are as given below:

- The status of an Autonomous Public Body, for instance the *Departamento Municipal do Agua e Esgoto (DMAE)*, Porto Alegre, capital of Rio Grande do Sul, Brazil. A University of Greenwich and DMAE study notes “As an autonomous public body, it is a separate entity from the municipal government, and can make its own decisions on how to invest revenues it collected, and such decisions are not directly subject to interference or deliberation by the municipality. But the city government retains significant power, since the Mayor appoints the Director-General of DMAE, and the representatives on its Deliberative Council.”

It further states “DMAE’s institutional status as an autonomous but wholly municipally owned organisation is similar to that found in a number of European countries, including Germany, Italy and France. It is close to the French municipally- owned *régies à personnalité morale et autonomie financière*, for example, which are also accountable to civil society through the representation of different groups and organisations within its governing bodies. In the terminology of the European Union, it would be regarded as a trading body, and so its borrowing and debts would not be counted as government debts for the purposes of monetary control.”¹¹⁸

- Financial independence, for instance the *Cooperativa de Servicios Publicos Santa Cruz Ltda (SAGUAPAC)*, Santa Cruz, Bolivia. The SAGUAPAC runs on a co-operative model for providing water services to the city of Santa Cruz in Bolivia where all the customers



The 100 years old Nagchun Talab which has been neglected in favour of new PPP project pumping water from 52 KMs for supply to Khandwa town.

are members of the co-operative and have the right to vote in the General Assembly. The SAGUAPAC is financially independent and ensures that all costs are recovered from the water users. The water supply tariffs are based on lower prices for the first 15 cubic meters of water consumed by each household. The utility also follows a no disconnection policy.¹¹⁹ After studying the Santa Cruz experience, even the World Bank has admitted “that cooperative solutions can be superior to either public or private approaches to utility management.”¹²⁰

- Participatory management structure, for instance in Cordoba, Spain. A TNI and CEO study notes “Since 1979, the company has developed a widely accepted and well-functioning structure of participatory co-management. The Board of Directors is responsible for all main decisions in the company and has a diverse membership. Independently of municipal election results and majorities, each of the three political groups in the council nominates two members to the board. The two major trade unions each nominate an additional two members, and one is nominated by a council of civil society movements (neighbourhood associations which organise around 13% of the citizens play an especially important role). The manager of EMACSA as well as the general secretary and the general financial controller of the city council take part in the board meetings without voting rights. This participatory structure is characterised by a broad transparency that allows citizens who are not delegated to follow the decision making process and intervene, for instance by raising alternative opinions.”¹²¹
- People’s participation, participatory budgeting process, for instance the *Departamento Municipal do Agua e Esgoto* (DMAE), Porto Alegre, capital of Rio Grande do Sul, Brazil. Since the time of its establishment in 1961, the DMAE has been able to work with high level of people’s participation and democratic control over its operations and financial investments. The day-to-day work and operations of the DMAE are controlled by a council of local civil society representatives. The operations and investment decisions of the DMAE are discussed through a participatory budgeting process - “a unique and profoundly democratic process in which the budget priorities and investments are decided by the

community representatives”. As Helio Maltz notes “The implementation of the participatory budget, in particular, brought the DMAE even closer to society and established a new level in control over the utility. This was not only because it was the point at which the demands began being heard, but also because people began to be involved in checking the quality of the services done”.¹²²

Similar participatory budgeting process is followed in the *Municipality of Recife* in Brazil too, where the service provider is a state government agency, Compesa, but under strict regulation and control of the municipality. The municipal council for water and sanitation has been democratically constituted as a body for strategic decisions, management and sustainability of services.¹²³

- In a similar context but different setting, *Tarun Bharat Sangh* (TBS) has worked for more than two decades in the rural areas of Rajasthan. The focus of TBS work has been towards rural watershed development and environmental conservation with people’s participation. As a Kalpvriksh study notes, the TBS work in “the villages of Bhaonta-Kolyala where the combined efforts of the village community and TBS has worked wonders for the people and ecology of the region. This effort is not only indicative of the potential of local institutions in protecting natural resources but also provides an example of the role NGOs can play in strengthening communities and conservation initiatives”.¹²⁴ It further states, “Bhaonta-Kolyala lie in the upper catchment of a recently revived rivulet, Arvari. There are 70 villages in the Arvari catchment and some 200 water harvesting structures have been built along its catchment over a period of 10 years, these structures have replenished ground water and increased the water table, enabling the Arvari to flow perennially again”¹²⁵. This kind of work in the villages has had huge effects on local communities in raising the self-awareness, self-sufficiency and understanding the natural resources of their surroundings. The local water-harvesting work in the villages has also meant ensuring the water availability for drinking and irrigation, thus securing the livelihoods of the villages farmers.
- Transparency, accountability and participation, for instance, the *Tamil Nadu Water and Drainage* (TWAD) Board,¹²⁶ Tamil Nadu,

India. This public water utility has undergone reforms in the last few years. The public utility is committed to share information about its new water supply schemes, about how the various departments are being managed, about the expenditures of the utility and the departments, etc. The focus of TWAD work has been mostly in ensuring water supply in the rural areas of Tamil Nadu. The Change Management process has also changed the way the workers of the utility used to see themselves, mostly as water engineers with infrastructure, pipes and taps, etc. But now they think more about the people, their needs and demands. This aspect has brought in the much-needed accountability aspect in the public utility. The participation of the diverse set of groups has been enabled through the use of a Tamil concept called 'Koodam'. In 'Koodam' everyone comes together to make decisions. This has not only enabled the rural communities to participate in the decision-making process of the water supply systems but also brought about the participation of the 'dalit' groups in the villages.¹²⁷

- Labour issues, for instance, the *Servicio Autonomo Nacional de Acueductos y Alcantarillados* (SANAA), Honduras. "Since 1994, the management of (SANAA) obtained full support from the trade unions in a bid to reorganise the company by adopting a two-pronged strategy. Workers were motivated by promoting their dedication, enthusiasm, integrity, pride and unity. Also, employees were involved in auto-diagnostic exercises on key organisational aspects. Restructuring took place through decentralisation, contracting out and reduction of overstaffing. As a result, finances improved and the company's capacity to build pipeline networks increased three-fold in three years. In the same period, the capacity to supply water to the capital city Tegucigalpa increased five-fold. Leaks were also reduced so that in Tegucigalpa savings amounted to 100 litres per second. The continuity and reliability of supply also improved allowing the majority of the population to receive piped water 24 hours a day".¹²⁸

Similarly, in *Ho Chi Minh City*, Vietnam, "about 184 staff received training in corporate planning, organisation development, water supply maintenance and management, financial management and accounting, computer systems, and English language skills. It was provided through a mixture of in-house training, external training, and overseas training".¹²⁹

- Financial management, for instance, the *Empresa de Acueducto y Alcantarillado de Bogotá* (EAAB), Bogotá, Columbia. In the 1990's, progressive mayors in Bogotá, the capital of Colombia, resisted privatisation of water, despite continued pressure from the World Bank. Instead, they successfully reformed the Water and Sewerage Company of Bogotá (EAAB), transforming it into one of the most efficient and equitable utilities in Colombia, if not Latin America. Expanding water delivery to the poorer neighbourhoods received the highest priority. By 2001, 95% of the population had clean tap water, while 87% were connected to the sewage system, an impressive achievement considering the rapidly growing population of the city. The expansion was financed by introducing a progressive tariff system, so the city's wealthy pay up to 200% of the real cost of their water. The poorest pay affordable, subsidised rates.¹³⁰

Similar is the case with the DMAE, Porto Alegre, Brazil, where the tariff system is progressive: "people who use water only for basic needs (consumption up to 20 cubic meters per month) are strongly subsidised by people who use between 20 and 1,000 cubic liter per month. Tariffs in the second rate go up exponentially and after this it is very expensive. With this tariff structure we are able to do all of our investments in maintenance and expansion of the water and sanitation services. This tariff structure allows us to generate yearly a surplus of about 20-25 percent of our annual budget, which goes straight to new investments".¹³¹ The DMAE is publicly owned, but financially independent of the state, self-financed



A community consultation during Reclaiming Public Water yatra in Indore in 2007

through the water tariffs paid by approximately 1.4 million city residents. It is a not-for-profit utility that re-invests the excess funds generated into improving the water supply and sanitation systems in the city.

- Performance measurement, for instance, the *Phnom Penh Water Supply Authority* (PPWSA), the Kingdom of Cambodia. There are many public water utilities that have performed exceptionally on the service parameters like expansion of coverage, reduction in NRW, quality of water services, improved billing, water supply timings, etc. Here we will look at PPWSA performance on some of these parameters. The PPWSA has performed outstandingly on most of these parameters. To cite an example, in 1996 when the utility was still newly formed the NRW was around 70% due to various reasons but in 2007 the rate of NRW stands at 10% which is because of many progressive steps that the PPWSA had taken during these years to reduce the NRW. These include compulsory metering for all connections, an inspection team to stop illegal connections, a repair team on stand-by 24 hours, programme to repair and replace the pipe network, etc. Similarly, on the expansion of the coverage, during the early years the utility served only 20% of the down town residents; now the utility serves almost 90% of the whole city. The PPWSA has also replaced and rehabilitated old pipe networks and water treatment plants in order to improve the quality of water supply. It has also established an education team, an information desk and a phone line to serve the customers free. The utility has also improved on the collection ratio of the issued bills to the collected bills from 48% in 1993 to 99% in 2000.¹³²
- Labour Union's participation, for instance the *Dhaka Water and Sanitation Authority* (DWASA) Employees Co-operative, Dhaka, Bangladesh. The DWASA contracted out water supply management of a zone to the Employees Co-operative in response to the strong opposition to the privatisation attempts in 1997; another zone was given to a private company on trial basis for one year. The results after the first year showed that employees co-operative's performance was far better than the private company in terms of increasing access of water to the poor and economically weaker communities and in reducing the amount of water losses. So much so that DWASA handed over the private company's zone to the employee's co-operative.¹³³

- Re-municipalisation, for instance *Grenoble*, France. After huge corruption scandals and fraudulent practices the water supply services of the city of Grenoble in France were privatised to a subsidiary of SUEZ, a water services MNC. A strong campaign by a local water movement and a series of lawsuits later, the city finally decided to take its water back into its own hands. The re-municipalisation led to a stabilisation of water prices and a significant increase in investment. The replacement of outsourcing by own provision of services saved money, and the company is no longer designed to generate profits. Along with the re-municipalisation, a process of democratisation of the company took place. In the new company, along with six representatives elected by the city council, five experts from civil society (*personnes qualifiées*) are members of the board, appointed by the city council. The originally envisaged composition, with only one third of board members elected by the city council, could not be enforced due to a new national law on the structure of companies in *régie municipale*.¹³⁴ ‘Regie municipale’ is a general term in French for any municipal ‘trading’ operation which has its own income and expenditure accounts. *Régie à autonomie financière et personnalité morale* is a specific French legal form of such a company.

There are many other such factors which establish several existing public utilities as better providers of water and sewerage services like universal coverage commitments, low tariffs, re-investment of profits into the system, improved benefits for workers, participatory budgeting, etc than the private companies across the world.

In India, we have seen that in places like Delhi and Mumbai where privatisation was proposed as a major step towards reforming the water supply services in the urban areas, practical proposals and suggestions came from grass roots groups for improving the services without incurring huge costs by contracting water services to the private companies. In Delhi, after public protests from all the quarters stalled the privatisation of the Delhi Jal Board, local grass roots organisations like Parivartan offered suggestions to improve the water supply by implementing steps like bulk metering, leakage reduction, rain water harvesting, etc. These proposals stand out because of the simplicity in their execution compared to the

privatisation process and also because they present a low-cost solution both on the supply side and the demand side augmentation on water.

There were similar protests by local groups when there were indications from the project consultants Castalia of France that the water supply in Mumbai's K-East ward could be privatised. There was strong dissent at the stakeholders' meet in which the consultants proposed private sector participation as the only option for improving water services. The uproar led to the consultants presenting other options as well in the next stakeholders meet, showing that there were indeed options that could be managed and operated by the Brihan Mumbai Municipal Corporation's water supply department.

Such examples show that there are alternatives to privatisation which can prove better in terms of cost, quality, efficiency and service delivery in the local conditions. The need is to explore, evaluate and then choose the best from what is available, keeping in mind the technical, economic and social constraints.

The other advantage of adopting alternative systems is related to the projects being implemented for improving water supply to the rural populations. If we study the TWAD experiences in Tamil Nadu, the TBS in Rajasthan, and also in Kutch Gujarat, we will notice that most of them are less capital intensive, which means that they cost less in terms of resources like funds, raw material, etc. This, in turn, implies that the cost that needs to be recovered through water tariffs would be drastically lower in comparison to the capital-intensive projects executed under the PPP model. Also, such alternative systems do not supply water for profit motive, thereby lowering the water rates further. In addition, they would have genuine people's participation so that whatever is required from the utility would come directly from the people and not decided by the officials of the utility in a top-down manner. Therefore, alternative models would be not-for-profit and participatory in nature, accountable, publicly managed and good quality water systems.

More often than not, the water systems under PPP projects are such that they desire to bring water for urban populations from distant sources, such that they require considerable capital for their execution. In the

process, such projects lose on the opportunities provided by the local water systems to provide at least partial supply to towns and cities even if they are not able to meet the full demand. The local option would certainly bring down the costs, the local resources would not be neglected, and there would be a genuine attempt to revive them. In fact, this should be a strategy for not just PPP projects, but should be applicable even to the public projects.

To summarise, we find that in the approach to alternative models for water supply, various mechanisms will always be dependent for their performance on issues like ethos, discretion, checks and balances, level of autonomy, accountability, transparency etc. Certain principles like decentralisation, autonomy, co-operatives, participation, etc will work in some places and not in others. Still, we would need to create structures and spaces for such processes like people's participation, so that the change can kick in even though it may take some time to manifest. It also needs to be emphasised here that some of the approaches like full-cost recovery, cross-subsidisation, tariffs based on costs, reduction in over-staffing are important to make water systems sustainable with improved services to the residents. But these approaches should be seen in the context of the private profits versus public good, in which the greater goal of public benefits should always have predominance over the corporate profits. For instance, full cost recovery can be a principle but should not become the paramount objective of a system. The full cost recovery principle and its impacts on water tariffs for a public system would have a substantial difference with a private system in terms of costs and prices because of private profits involved.



Looking Beyond PPPs

THIS BOOKLET tries to give a bird's eye view of some of the major issues involved with PPPs, projects and policies promoting PPPs and the alternative models to PPPs. There are a lot of other issues with PPPs which might need to be explored in the future, some of these issues being the effect of PPPs on decision-making mechanisms and on the democratic structure of the local bodies, the role of the governments in promoting PPPs rather than initiating public sector reforms, the subsidies and financial assistance provided to the private corporations by governments and IFIs, and the evaluation process of the options/alternatives before selecting PPPs. This in fact also sets the tone for the future work for us on two major aspects - understanding the aspect of subsidies and financial assistance to the private corporations for developing infrastructure and exploring the alternatives in terms of models and in the decision-making processes.

The future course of action therefore would be to look beyond PPPs as an alternative to provide equitable and sustainable water systems in the country. As briefly discussed in some of the sections of this booklet, it is required that we explore, study and understand in detail the working of the various models that are used for water distribution in various places across the world. The idea is to put in place some of the basic parameters or factors that should be present in any water system anywhere to make it successful in terms of providing environmentally sustainable, socially equitable, accountable, participatory, transparent and public sector-controlled, and not-for-profit services. Only such a system would be able to deliver a better public service that meets the expectations of the larger community.



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List of PPP Projects under execution in India

| S.N. | Name of Entity | State | Type of PSP | Purpose |
|------|--|----------------|---------------------|--|
| 1. | Greater Visakhapatnam Municipal Corporation | Andhra Pradesh | BOT-PPP(EOI) | Wireless digital metering to all bulk water supply connections in G.V.M.C |
| 2. | Vishakhapattanam Industrial Water Supply Company Limited (VIWSCo) | Andhra Pradesh | BOOT-PPP | Water Supply & Sanitation |
| 3. | Hyderabad Metropolitan Water Supply and Sewerage Board | Andhra Pradesh | PPP | Sewage Treatment |
| 4. | Hyderabad Metropolitan Water Supply and Sewerage Board | Andhra Pradesh | PPP | Water Supply (24x7) |
| 5. | Hyderabad Metropolitan Water Supply and Sewerage Board | Andhra Pradesh | PPP | Water and Sanitation |
| 6. | Guwahati Municipal Corporation | Assam | BOOT-PPP | Solid Waste Management-JNNURM Scheme |
| 7. | Guwahati | Assam | PPP-BOT | Water Supply |
| 8. | Guwahati | Assam | PPP-BOOT | Water Supply |
| 9. | Guwahati | Assam | PPP | Water Supply |
| 10. | Guwahati | Assam | PPP | Urban Water Supply System |
| 11. | Guwahati Development Department and Guwahati Municipal-Corporation (GMC) | Assam | PPP | Operation and Maintenance of Drinking Water Supply |
| 12. | Amreli Municipality and Gujarat Urban Development Corporation-(GUDC) | Gujarat | PPP | Improvement of water supply and sewerage system of Amreli |
| 13. | Anand and Mehasana Municipality and Gujarat Urban Development Corporation (GUDC) | Gujarat | PPP | Improvement of water supply and sewerage system of Anand, and Mehsana town |
| 14. | Bharuch Municipality and Gujarat Urban Development corporation (GUDC) | Gujarat | PPP | Improvement of water supply and sewerage system of Bharuch |
| 15. | Gujarat Urban Development Corporation (GUDC) | Gujarat | PPP-BOOT(EOI Stage) | 24x7 Water Supply |
| 16. | Gujarat Urban Development Corporation (GUDC) | Gujrat | BOT-PPP(EOI Stage) | Himmatnagar Municipal Solid Waste Management Project |

| S.N. | Name of Entity | State | Type of PSP | Purpose |
|------|--|----------------|--|---|
| 17. | Gujarat Water Infrastructure Ltd.(GWIL) & Gujarat water Supply & Sewerage Board(GWSSB) | Gujrat | Design, Build, Finance, Operate, Maintain and Transfer-PPP | 150 MLD sea water based desalination Plant for Industrial water supply in Kutch/Anjar |
| 18. | Surat Municipal Corporation (SMC) | Gujrat | EOI-BOOT Contract PPP | Solid waste Management |
| 19. | Surat Municipal Corporation | Gujrat | PPP(EOI) | Solid Waste Management |
| 20. | Department of Industries, Govt. of Jharkhand (GoJ) | Jharkhand | BOOT-PPP | Augmentation, Rehabilitation & O&M of Water Supply & Sanitation System(WSS) at Adityapur |
| 21. | Drinking water and sanitation department (DWSD) | Jharkhand | PPP-RFP | Operation and maintenance of existing water supply system; WTP and other assets |
| 22. | Bangalore | Karnataka | PPP-Proposed | Increase Water supplies and add further treatment capacity |
| 23. | Bangalore Mahanagara Palike | Karnataka | BOOT -PPP | Integrated Municipal solid waste treatment Mavalipura |
| 24. | Bangalore Mahanagara Palike | Karnataka | BOOT-PPP | Integrated Municipal solid waste treatment Kannahalli |
| 25. | Bangalore Water Supply & Sewerage Board (BWSSB) | Karnataka | EOI for PPP | Intergrated Water Resources Management Project (IWRM) in Vrishabhavathi Valley under JNNURM |
| 26. | Karnataka Urban Infrastructure Development and Finance Corporation (KUIDFC) / Directorate of Municipal Administration (DMA) / Bijapur City Municipal Council (CMC) | Karnataka | PPP-Proposed | Water Supply and Sanitation |
| 27. | Mangalore City Corporation | Karnataka | PPP | 24x7 Water supply scheme |
| 28. | Mysore | Karnataka | PPP | Water Supply |
| 29. | Mysore City Corporation | Karnataka | PPP | Integrated Municipal Solid Waste Management |
| 30. | Shimoga City Municipal Council | Karnataka | PPP/BOT-Toll | Integrated Municipal Solid Waste Management |
| 31. | Bhopal Municipal Corporation | Madhya Pradesh | PPP | Water supply and metering |
| 32. | Dewas Industrial Water Supply Project (Off-take from River Narmada) | Madhya Pradesh | PPP-BOT contract | Industrial Water Supply |
| 33. | Khandwa Nagar Nigam | Madhya Pradesh | PPP/BOT- Annuity | Water Supply |
| 34. | Shivpuri Nagar Palika | Madhya Pradesh | BOT | Water Supply |
| 35. | Aurangabad Municipal Corporation | Maharashtra | PPP | Water and Sanitation |
| 36. | Aurangabad Municipal Corporation (AMC) | Maharashtra | PPP-Build, refurbish, operate and maintain-RFQ | Water supply system |

A-2 / PPPs In Water Sector

| S.N. | Name of Entity | State | Type of PSP | Purpose |
|------|---|-------------|--|--|
| 37. | Bhiwandi - Nizampur Municipal Corporation | Maharashtra | PPP-Management Contract | Integrated Water Supply Project |
| 38. | Bhiwandi - Nizampur Municipal Corporation | Maharashtra | PPP-Management Contract | Water Management for Bhiwandi Nizampur Municipal Corporation |
| 39. | Kolhapur Municipal Corporation | Maharashtra | PPP | Water and Sanitation |
| 40. | Maharashtra Jeevan Pradhikaran (MJP), Latur | Maharashtra | RfQ for Management Contract | Operation, maintenance and repairs |
| 41. | Municipal Council of Chandrapur | Maharashtra | Management Contract | Water Supply |
| 42. | Municipal Corporation of Greater Mumbai (MCGM) | Maharashtra | DBOOT-PPP | Waste Management |
| 43. | Nagpur Municipal Coporation (NMC) | Maharashtra | O&M and Uninterrupted Water Supply (24x7)-PPP in a Demo Zone | Urban Water Supply |
| 44. | Nagpur Municipal Coporation | Maharashtra | PPP | Water Reuse |
| 45. | Nanded Waghala City Municipal Corporation | Maharashtra | PPP-BOOT | Solid Waste Management |
| 46. | Nashik Municipal Corporation | Maharashtra | PPP | Water and Sanitation |
| 47. | Government of Punjab | Punjab | PPP | Integrated Municipal Solid Waste Management |
| 48. | Bhilwara and Soniyana Textile | Rajasthan | PPP | Water supply and effluent treatment system for local industry |
| 49. | Jalore Municipality | Rajasthan | PPP | Develop a water system for villages |
| 50. | Rajasthan Government | Rajasthan | BOOT-PPP | Reuse of recycled water tertiary treatment water plant |
| 51. | Alandur Municipality | Tamil Nadu | PPP-BOOT | Sewage disposal and treatment |
| 52. | Chennai Metropolitan Water Supply and Sanitation Board (CMWSSB) | Tamil Nadu | DBOOT | Water Treatment Plant |
| 53. | Coimbatore Municipal Corporation | Tamil Nadu | BOOT | Solid Waste Management |
| 54. | Madurai Municipal Corporation | Tamil Nadu | PPP- Operation & Maintenance | Implementation of 24x7 water supply distribution under JNNURM scheme |
| 55. | Madurai Municipal Corporation | Tamil Nadu | BOT-PPP | Integrated municipal solid waste management facility |
| 56. | Tiruppur Water Supply Project | Tamil Nadu | BOT-PPP | Multipurpose |
| 57. | The Pallavapuram Municipality (PMC) | Tamil Nadu | PPP-DBOT | Solid Waste Management |

| S.N. | Name of Entity | State | Type of PSP | Purpose |
|------|--|---------------|--|---|
| 58. | Awas Bandhu, Uttar Pradesh, Housing & Urban Planning Department, Government Of Uttar Pradesh | Uttar Pradesh | Design, Finance, Construct, Operate And Maintain Basis Under PPP | Solid Waste Management system in Lucknow |
| 59. | Awas Bandhu, Uttar Pradesh, Housing & Urban Planning Department, Government Of Uttar Pradesh | Uttar Pradesh | DBFOT-PPP (Agra) | Integrated municipal solid waste management |
| 60. | Construction and Design Services and Uttar Pradesh Jal Nigam | Uttar Pradesh | PPP-BOT(EOI) | Solid Waste Management in 9 cities |
| 61. | Meerut Nagar Nigam | Uttar Pradesh | Develop, Build, Finance, Operate and Transfer-PPP | Integrated municipal solid waste management |
| 62. | Deharadun Municipal Corporation | Uttaranchal | PPP | Construction, Operation and Maintenance of treatment facility and landfill site under JNNURM Scheme(Solid Waste Management) |
| 63. | Haldia Development Authority | West Bengal | DBFO-PPP | Water Supply & Distribution |
| 64. | Kolkata Metropolitan Development Authority (KMDA) | West Bengal | BOOT-PPP | Development & Management of Water Supply & Sewerage Systems |





Annexure 2

Reforms Projects Promoting PPPs in India by IFIs

| S.N. | Entity | IFI Involved | IFI Projects for PPP |
|------|---------------------|--------------|---|
| 1. | Govt. of India | ADB | ADB-TA-Support to Jawaharlal Nehru National Urban Renewal Mission (JNNURM) - Phase II US\$ 30.0 million, Project Number-31588- 03, Approval Date - 17 Dec 1999 |
| 2. | Govt. of India | ADB | ADB- TA-Municipal Finance Study Rep of Korea e-Asia and Knowledge Partnership Fund- US\$500, 000 , Project Number-43214- 01, Approval Date-24 Aug 2009 |
| 3. | Govt. of India | ADB | ADB-TA- Cluster for Advanced Project Preparedness for Poverty Reduction - Support for the Jawaharlal Nehru National Urban Renewal Mission [Phase II] (Component TA 12) Technical Assistance Special Fund- US\$2. 20 million, Project Number-43166- 13, Board Approval- 10 Sep 2009 |
| 4. | IIPFF | ADB | ADB-MFF Second India Infrastructure Project Financing Facility (IIPFF) II (Facility Concept). TA Amount - US\$ 700.00 million, Project Number - 41036- 01, Approval Date 17 Nov 2009 |
| 5. | Government of India | ADB | ADB-TA-Developing a National Policy Framework for PPP (formerly National Institute for Contract Management (for PPP), Technical Assistance Special Fund- US\$ 1.0 million, Project Number-43013- 01, Approval Date- 04 Dec 2009 |
| 6. | Government of India | ADB | ADB TA-Mainstreaming Public-Private Partnerships at Central Line Ministries of the Government of India, TA special fund -US\$ 2 m, TA No - 4993, Project No - 41575- 01, Approval-16 Nov. 2007 |
| 7. | State Governments | ADB | ADB TA-Mainstreaming Public-Private Partnerships at State Level, TA special fund - US\$ 1.2 m, Japan special fund - US\$ 1.8 m, TA No - 4890, Project No- 40243- 01, Approval-11 Dec 2006 |
| 8. | State Governments | ADB | ADB TA-Mainstreaming Public-Private Partnerships at State Level (Supplementary), TA special fund - US\$ 2 m, TA No - 4890, Project No - 40243- 02, Approval-8 Aug 2008. |
| 9. | Karnataka | ADB | ADB - North Karnataka Urban Sector Investment Program (NKUSIP), Loan Amount - US\$ 270 m, Approval Date - Dec 2006, Project No. 38254-01 |

| S.N. | Entity | IFI Involved | IFI Projects for PPP |
|------|--|--------------|---|
| 10. | Uttarakhand | ADB | ADB-MFF-Uttarakhand Urban Sector Development Investment Program - Project 1, Loan Amount - US\$ 60 m, Ordinary Capital Resources, Project Loan-2410 IND, Project No-38272- 02, Board approval - 01 Feb 2008 |
| 11. | Infrastructure Corporation | IFC | IFC-Assist Andhra Pradesh with Public Private Partnerships for Infrastructure Development |
| 12. | IDFC | IFC | Loan to Infrastructure Development Finance Company |
| 13. | Mahindra Infrastructure | IFC | Tiruppur Water Supply and Sewerage Project |
| 14. | Gujarat | PPIAF | PPIAF - Public-Private Partnership for Improving Service Delivery in Water Supply and Sanitation in Gujarat, Technical Assistance - Grant Amount - US\$ 78, 400, Co-financing from Other Sources: US\$ 109, 900. Status - Ongoing, Approval Date 12/30/2005 |
| 15. | Department of Economic Affairs | PPIAF | PPIAF-Guidance for Empanelment of Advisors for Developing and Implementing Public-Private Partnership (PPP) Program, Approval Date: 2 March 2007, PPIAF Grant Amount: US\$ 40,000, Co-financing: \$5,000 Sector: Multisector, Status - Ongoing |
| 16. | Govt. of India | PPIAF | PPIAF- Infrastructure Public Private Partnership (PPP) Financing Approval Date: 01 March 2006, PPIAF Grant Amount: \$ 356,250, Co-financing: \$18,750, Sector: Multisector, Status - Ongoing |
| 17. | Maharashtra Urban Infrastructure Development Company | PPIAF | PPIAF-Preparation of Business Plan for Maharashtra Urban Infrastructure Development Company (MUIDCL), Approval Date: April 15th, 2008, PPIAF Grant Amount: \$ 75,000, Co-financing: \$ 48,000, Sector: Multisector, Status - Ongoing |
| 18. | Visakhapatnam - Kakinada Coastal Growth Corridor Project | PPIAF | PPIAF-Visakhapatnam-Kakinada Coastal Growth Corridor Project - Preparation of an Infrastructure Development and Public Private Partnership (PPP), Strategy Approval Date: May 15th, 2008, PPIAF Grant Amount: \$ 75,000, Co-financing: \$ 85,000, Sector: Multisector, Status - Ongoing |
| 19. | Tamilnadu Economic Affairs | PPIAF | PPIAF - Public-Private Partnership in Infrastructure Services Provision in Tamil Nadu, TA Grant amount : US\$ 390,300, Cofinancing from Other Sources: US\$ 54,000, Approval Date - 29 June 2004, Status - Approved / Ongoing |
| 20. | Planning Commission | PPIAF | PPIAF-PLANNING COMMISSION: Facilitating Public-Private Partnership in infrastructure sectors. PPIAF Grant Amount: \$265,000, Co-financing: \$180,000, Approval Date: January 31st, 2006, Sector: Multisector, Status - Ongoing |
| 21. | National Council of Applied Economic Research | PPIAF | PPIAF-NCAER Workshop on PPP and Regulation in Infrastructure Services PPIAF, Grant Amount: \$ 13,886, Co-financing: \$ 31,114, Approval Date: March 31st, 2006 Sector: Multisector, Status -Completed |
| 22. | Department of Economic Affairs | PPIAF | PPIAF-Institutions, Processes and Capacity Review to facilitate Public Private Partnerships (PPPs). PPIAF Grant Amount: \$ 107,800, Co-financing: \$60,000. Approval Date: September 12th, 2007, Sector: Multisector, Status Completed |

| S.N. | Entity | IFI Involved | IFI Projects for PPP |
|------|----------------------------|--------------|--|
| 23. | Government of India | PPIAF | PPIAF-International Conference on Meeting India's Infrastructure Needs with Public-Private Partnerships : International Experience and Perspective [Feb 5-6, 2007], PPIAF Grant Amount: US\$ 67,000, Co-financing: US\$ 82,000 Approval Date: January 04th, 2007, Sector: Multisector, Status - Completed |
| 24. | IIFCL | WB | WB - Financing Public Private Partnerships (PPPs) in Infrastructure through Support to IIFCL, Loan Amount - US\$ 600m, Approval Date - NA, Project ID - P102771 |
| 25. | Karnataka | WB | WB - Karnataka Urban Water Sector Improvement, Loan Amount- US\$ 39.5 m, Project ID- P082510, Approval Date- 8 April 2004, |
| 26. | Gujarat | WSP | WSP-UWSS Reform Frameworks Activity 7 - Assistance to Govt. of Gujarat (GoG) in promoting Public-Private Partnerships (PPPs) in the WSS sector across the state Partners-PPIAF, IFC, DFID |
| 27. | MOUD | WSP | WSP-UWSS Reform frame Works Activity 7 - Demand Responsive Reform Implementation Support, Partners-SASEI, SASPR, SIDA Client-MoUD, State and City governments; Water Utilities; Civil Society |
| 28. | MOUD | WSP | WSP-Improving urban sanitation and municipal solid waste management services, Partners-SASEI, SIDA, World Bank (SASSD), Cities Alliance, NGOs (SPARC), ASCI, YASHADA. Client-Govt. of India - Ministry of Urban Development & Ministry of Housing and Urban Poverty Alleviation, state and local governments. |
| 29. | MOUD | WSP | WSP-Improving urban water service delivery; Partners - DFID, AUSAID, World Bank (SASSD), Cities Alliance, State and Administrative Institutions (ASCI, YASHADA). Client-Ministry of Urban Development, Ministry of Housing and Urban Poverty Alleviation, Department of Economic Affairs, State Governments, Local Governments, Community Based Organisations and Rural NGOs and Civil Society. |
| 30. | Ministry of Panchayati Raj | WSP | WSP-Improving sustainability of rural drinking water supply, Partners-DFID, AUSAID, World Bank (SASSD), UNICEF, WaterAid, WHO, WES-NET, National Institute for Rural Development, State Institutes for Rural Development, YASHADA Client-Department of Drinking Water Supply, Ministry of Panchayati Raj, State Governments, Local Governments, Community Based Organisations and Rural NGOs, Private Sector service providers, and Civil Society. |
| 31. | Government of India | WSP | WSP-Enabling Environment and Incentives, Partners-SASSD/Water & Urban, AusAID, DFID UNICEF, Danida Client-Government of India (GoI)/ Rajiv Gandhi National Drinking Water Mission (RGNDWM). Start Date: Jul 03, End Date: Jun 10 |
| 32. | Government of India | | Jawaharlal Nehru National Urban Renewal Mission |





Annexure 3

Note to Ministry of Water Resources on PPPs in the Water Sector

PUBLIC-PRIVATE Partnerships (PPP) is a major policy thrust currently adopted by the Government of India as well as various State governments. Two key reasons given for this push for PPPs are to bring in financing in addition to public funds, and better and more efficient management. For example, the Scheme for Support to Public Private Partnerships in Infrastructure, July 2005 by the Department of Economic Affairs, Ministry of Finance, Government of India, states that

“Whereas the Government of India recognizes that there is significant deficit in the availability of physical infrastructure...whereas the development of infrastructure requires large investments that cannot be undertaken out of public financing alone, and that in order to attract private capital as well as the techno-managerial efficiencies associated with it, the Government is committed to promoting Public Private Partnerships (PPPs) in infrastructure development..” (Emphasis added)

While this is stated in the context of Infrastructure, similar reasons are put forward for introducing PPPs in other areas like the social sector. (*See The Report of the PPP Sub-Group on Social Sector*, Planning Commission, Government of India, Nov 2004)

These advantages of PPPs need to be assessed on two counts (1) To what extent do these advantages really materialise and (2) What is the cost that the Government and the public pay to get these advantages.

Further, it should be noted that there is an inherent contradiction in the very structure of PPP. A true partnership demands that the objectives of

the partners are in alignment. In the case of the PPPs, however, the basic objective of the Government is to provide a public or merit good (in other words, meet its social obligations); while the basic objective of the private entity is to maximise its own profits and minimise its risks. With this basic difference, reconciliation and alignment of the interests of the partners becomes one of the biggest challenge.

PPP in Water Sector

PPP is being pushed forward in many sectors; however, the water sector is different from other sectors in that it is far more fundamental to the survival, health and livelihoods of the people. Hence, it is a highly sensitive sector and the social responsibility and obligation of the state in providing water is much higher than in other sectors.

This is why the contradiction inherent to the PPPs is manifested far more sharply in the case of water sector. This is also why PPPs are so difficult to design and implement in the water sector. The issue is that if there is emphasis on meeting the social obligations, then the project turns out to be non-remunerative for the the private partner. On the other hand, if profits are to be ensured for the private entity, the social obligations are likely to suffer. It is not surprising that the PPP projects in the water sector that have taken off are mostly industrial water supply projects like Sheonath in Chhatisgadh and Tiruppur in Tamil Nadu, where the consumers can pay high prices for the water supplied.

Issues and Concerns

Some of the issues and concerns that need to be kept in mind while formulating a PPP project in the water sector are outlined below.

Is the project need based?

PPPs are being promoted because of some presumed advantages, including getting access to additional resources and to gain better efficiency of operation and management. However, in taking up individual projects, which of the specific advantages of the PPP are being sought should be well-defined. Further, it is important to be clear exactly why the PPP model is being chosen over any other way of executing this particular project. In other words, the selection of the PPP model should be need based, and emerge from a specifically perceived requirement.

The promise of additional resources

Moreover, it is important to assess how realistic are these advantages of the PPP that are sought. Even if the advantages described for PPPs may be there in PPPs in general, it does not automatically follow that the same advantages will be available in individual projects. A case by case assessment is necessary.

For example, the advantage of additionality of resource may not be available or available only to a limited extent, as often PPP projects require heavy government support or funding from other public sources including public sector financial institutions, international financial institutions etc.

They also require a host of guarantees, payment security, assured rates of return and so on. If these are factored in, it is likely that the additional resources brought in by the private entity may be very limited. With similar incentives, it is possible for the public sector also to access the same funds.

Here, one should keep in mind that PPPs would actually be more expensive in real terms than traditional public contracts for the following reasons - (1) profit margins are required to attract the private sector partners; (2) the cumbersome procurement process involved with larger PPP contracts is more expensive than direct government procurement would be; and (3) the cost of capital (borrowing) is higher for the private sector. The rate of return from the project, to attract the private investors is more than those that are applicable for the public operators.¹

Efficient and Better Management

There is ample global evidence to show that the private sector is not always more efficient than the public sector. There are many examples of efficient public sector water utilities (as also inefficient ones!) while performance of private sector is not always better. Studies by both, the International Monetary Fund (IMF) and the World Bank, show that there

1. See, for example, Murray, Stuart, 2006, Value for Money - Cautionary Lessons from P3s from British Columbia, Canadian Center for Policy Alternatives (CCPA), British Columbia, pp 19; 20, Source URL - http://www.policyalternatives.ca/documents/BC_Office_Pubs/bc_2006/P3_value_for_money.pdf

is little to support any inherent superiority of the private sector over the public as far as efficiency is concerned. The IMF study says²:

“It cannot be taken for granted that PPPs [Public-Private Partnerships] are more efficient than public investment and government supply of services ... Much of the case for PPPs rests on the relative efficiency of the private sector. While there is an extensive literature on this subject, the theory is ambiguous and the empirical evidence is mixed.”

Research for the World Bank Economic Review says that studies on water utilities in Asia “show that efficiency is not significantly different in private companies than in public ones³”

This means that just the promise of more efficient operation should not be the criteria for opting for a PPP model.

More efficient operation from a PPP project cannot be taken for granted but rather needs to be built into the terms of the contract. It is equally important to build in monitoring mechanisms for this.

It should also be pointed out that the efficiencies of a private company may work well in delivering services where it can make profits, but it may be reluctant to commit to any other area where the Government sees social responsibility, but where the possibility of profits is absent. For example, in the Tiruppur Project, the biggest PPP project in water in the country, the main purpose of the project is to supply water to the industries in Tiruppur Industrial Area, where it charges from Rs 25/- to Rs. 45/- per KL. The project also showcases a component for domestic water supply to Tiruppur Municipality (TM) and 21 wayside village panchayats. But in the latter case, it only gives the bulk water to the respective municipal and panchayat authorities; and while the industrial water supply is being delivered well, the supply to the TM and village panchayats is erratic and inadequate.

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2. IMF (2004): ‘Public-Private Partnerships’; Fiscal Affairs Department, International Monetary Fund, Washington DC. Source URL- <http://www.imf.org/external/np/fad/2004/pifp/eng/031204.pdf>, Accessed 4 Sept. 2006
 3. Estache, A. and Rossi, M. (2002): ‘How different is the efficiency of public and private water companies in Asia?’; in The World Bank Economic Review Vol. 1, No. 1, Oxford University Press, Oxford. June 2002.

Social Goals

The most important concern in a PPP project is whether the social goals desired by the Government are being achieved, or are likely to be achieved. Most PPP projects tend to be problematic in this area, especially in the case of delivering services to the weaker sections of society. This is what Lyonnaise des Eaux (Suez) - one of the biggest water companies in the World has to say on meeting the financial needs for extending water supply to the poor.⁴

“It is best to spread the cost of the work in disadvantaged areas among customers who are already connected, municipalities, developers, future customers, and any donor institutions.”

In other words, mostly all public sources. Private partners in a PPP project often perceive a trade-off between meeting social obligations and their profits, and hence the extent to which they are ready to commit to the former is limited.

Assessment of Projects

It is important to assess the PPP projects with respect to the above stated concerns. Manthan is willing to assist in such an assessment of proposed or ongoing PPP projects.

Other Suggestions

Moreover, given the clear trade-offs involved in PPP projects, it is important to think of other options and other models for undertaking projects with social obligations. There is a need to develop models whereby the public sector itself can deliver services in a transparent, accountable, participatory and efficient (TAPE) way. This will involve first and foremost the involvement of the community in planning, monitoring and holding the service provider accountable. It will need the laying down of standards for transparency and service delivery, and mechanisms to achieve these. One of the important means to this can be the Public-Public Partnerships, where efficient public agencies help other public agencies to deliver.

For example, the Tamilnadu Water and Drainage Board (TWAD) has initiated a process for drinking water supply projects in the rural areas of

4. McIntosh Arthur C. (2003): ‘Asian Water Supplies Reaching the Urban Poor’; Asian Development Bank, Manila. Page 34

some districts, that tries to develop water supply schemes in the villages that are need-based, participatory, accountable and transparent. This has resulted in building schemes that deliver improved services to the villagers at low-costs. TWAD could help other agencies build similar programs.

Manthan will be willing to be a part of the process of developing such alternative models.

22 Jan 2009

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Annexure 4

A Note on JNNURM

JAWAHARLAL NEHRU National Urban Renewal Mission (JNNURM) is meant to encourage reforms in urban governance and service delivery by enhancing private sector participation in urban areas. The rationale for JNNURM is to give focused attention to the improvement of infrastructure by facilitating investments in the urban sector and strengthening the existing policies for development and expansion of physical infrastructure.¹

The Government of India is providing substantial assistance through JNNURM over the seven-year mission period (2005-2011). Currently sixty three (63) cities are eligible for JNNURM grants. The eligibility criterion is: all state capitals, urban areas/ cities of religious/ historic and tourist importance and metropolitan cities (over 4 million population).

The mission comprises of two sub missions: (1) Sub-Mission for Urban Infrastructure and Governance: The main thrust would be on infrastructure projects relating to water supply and sanitation, sewerage, solid waste management, urban transport and redevelopment of old city areas with a view to upgrading infrastructure, shifting industrial and commercial establishments to conforming areas, etc.

(2) Sub-Mission for Basic Services to the Urban Poor: The main thrust would be on integrated development of slums for providing shelter, basic services and other related civic amenities with a view to providing utilities to the urban poor.

Memorandum of Agreement (MoA) between States/ ULBs/ Parastatal agencies and the Government of India is a prerequisite for accessing the

1. Jawaharlal Nehru National Urban Renewal Mission Overview; Government of India.

central assistance. There are two types of reform activities under JNNURM.

The first is mandatory reforms at the ULB and Parastatal Agency level like - double entry system of accounting, e-governance, reform of property tax, user charges to collect full cost of O&M or recurring costs, internal earmarking of budgets for basic services to urban poor and provision of basic services to urban poor, and mandatory reforms at the state level like - repeal of Urban Land Ceiling Regulation Act, reform of rent control laws, rationalisation of stamp duty, enactment of public disclosure law, enactment of community participation law, assigning elected ULBs with city planning function.

The other is optional reforms like - revision of bye-laws, simplification of legal and procedural frameworks for conversion of land from agricultural to non-agricultural purposes, introduction of property title certification system, earmarking developed land in all housing projects for Economically Weaker Sections (EWS) and Low Income Group (LIG) category with cross subsidisation, computerised process of registration of land and property, revision of byelaws to make rain-water harvesting mandatory, byelaws for reuse of recycled water, administrative reforms i.e. reduction in establishment costs by adopting the Voluntary Retirement Scheme (VRS) and other methods, structural reforms and encouraging Public Private Partnerships (PPPs).

All mandatory and optional reforms shall be completed within the mission period. Therefore, implementation of both mandatory and optional reforms is necessary for States/ ULBs/ Parastatal agencies within the mission period.

According to a JNNURM report published in June 2007 on “Summary and Analysis of Capital Investment Plans presented by Mission Cities in their CDPs” the total investment sought by all 63 cities under JNNURM is expected to be around Rs 3,35,347 crore.²

The above report also reveals; out of total investment under JNNURM,

2. Source URL - <http://jnnurm.nic.in/nurmodweb/what%27snew/1.%20FinancialAnalysisTrends.pdf>

82.5% of funds are allocated to urban infrastructure and governance, 16.9% for basic services to the urban poor and 0.6% for capacity building and institutional development. Central Government share of investment in this mission would be 49%, State Government share would be 16% and Urban Local Bodies would invest 35%.³

At present 442 projects in water sector (156 water supply projects, 236 sewerage projects and 40 solid waste management projects) have been sanctioned under JNNURM and the total cost of these projects is Rs 33928.51 crore. From the year 2005 to 2009 the overall total amount sanctioned under JNNURM is Rs 51127.17 crore.⁴

Out of overall total amount sanctioned under JNNURM, 36.49% of funds are sanctioned to water supply projects, 25.58% to sewerage projects, 4.27% is sanctioned to solid waste management projects, 0.8% is sanctioned to urban renewal, 6.8% is sanctioned to roads/ flyovers/ ROB, 0.2% is sanctioned to preservation of water bodies, 0.2 % is sanctioned to parking, 1.38 % is sanctioned to other urban transport, 9.33 % is sanctioned to mass rapid transport system, 14.65 % is sanctioned to drainage/ storm water drains and 0.09% is sanctioned to development of heritage areas.⁵

As mentioned above, out of 442 projects more than 90% of the projects are related to construction work. Out of these 442 projects, for 24 projects operation and maintenance is handed over to private companies under JNNURM. Out of these 24 projects, 11 projects are implemented on PPP basis where the word PPP is clearly indicated in various reports in 6 States (Assam, Karnataka, Maharashtra, Madhya Pradesh, Tamil Nadu and West Bengal). More detailed information on privatised water sector projects and their current status is available on Manthan's website.⁶

According to JNNURM reforms status report, full cost recovery in operation and maintenance in water supply has been implemented in five project cities (Vishakapatnam, Nashik, Pune, Greater Mumbai, Chennai

3. *ibid*

4. Source URL - <http://jnnurm.nic.in/nurmudweb/Project/AppProj.pdf>

5. *ibid*

6. Source URL - <http://www.manthan-india.org/>

and Madurai), full cost recovery in solid waste management has been implemented in three project cities (Vishakhapatnam, Nashik and Greater Mumbai) and PPP is encouraged in 41 cities.⁷

Most of the above mentioned 24 projects are in bidding / tendering stage and there are currently only 10 projects where private companies have started construction and other works.

In Nagpur management and distribution contract for continuous water supply in one pilot zone has been handed over to a subsidiary of a French Water Company, Veolia Water (India) Pvt. Ltd. in 2008. According to news report water tariffs in Nagpur have been revised and are now five times higher than the earlier water tariffs charged by the Nagpur Municipal Corporation.⁸

In Mysore, Jamshedpur Utilities and Services Company (JUSCO), a Tata enterprise has been awarded Rs 190 crores project, a PPP contract to operate and maintain the water distribution system for 6 years for 24x7 Water Supply in Mysore city, financed through JNNURM. According to the reports the contract with JUSCO is to operate and maintain the water distribution system for 6 years. The Mysore City Corporation (MCC) is now facing opposition from municipal corporators. This comes after protests at the MCC where prominent citizens voiced their opposition to the contract. In planned areas, water is supplied 24x7 and the bill would be a minimum of Rs 200 a month. At slums, bore well water is supplied through public taps. In case water connection is required by the slum dwellers, they need to pay Rs 10,000 for a connection.⁹

Similarly, in places like Guwahati - Assam, Ranchi- Jharkhand, Madurai and Coimbatore - Tamilnadu, Nanded - Maharashtra and Kolkatta - West Bengal PPP projects are under various stages of bidding and execution through JNNURM to private corporations. In Kolkatta a PPP project has been awarded to JUSCO and Voltas joint venture, in Ranchi the appointed

7. Source URL- http://jnnurm.nic.in/nurmudweb/Reforms/overall_status.pdf

8. Source URL- <http://timesofindia.indiatimes.com/home/city/nagpur/HC-refuses-to-stay-water-tax-hike-by-NMC/articleshow/5108656.cms>

9. Source URL- http://timesofindia.indiatimes.com/articleshow/msid-4156515_prtpage-1.cms

contractor (AC) would take over operation and maintenance of Water Treatment Plant (WTP) under Ranchi water supply project, in Guwahati Tahal Consulting Engineers is providing consultancy for a water supply scheme to South Guwahati and Ramky Enviro Engineers has been handed over a solid waste management project.

ADB is providing a technical assistance fund of US\$ 2.00 million as support to the JNNURM for “implementation of 90 projects which are due for completion in the year and identify measures which need to be taken by mission cities to address the delays, facilitate Public Private Partnerships under JNNURM and review and monitor the status of the institutional mechanisms put up by the Mission Directorate.”¹⁰

A proposed World Bank loan of US\$ 60 m will be provided to India for capacity building of 20 ULBs in the implementation of policy framework of financial and financial management reform under JNNURM and UIDSSMT. The project would support institutional design in ULBs for service delivery (including supplier management and regulatory agencies), tariff and subsidy design, the financing framework (including access to capital markets, public private partnerships, and carbon finance). A National Project Management Unit (PMU) will be established for providing overall technical and managerial support during implementation.¹¹



10. Source URL- <http://pid.adb.org/pid/TaView.htm?projNo=39645&seqNo=01&typeCd=2>

11. Source URL- <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P099979>



Annexure 5

A Note on UIDSSMT

URBAN INFRASTRUCTURE Development Schemes for Small and Medium Towns (UIDSSMT) aims at improvement in urban infrastructure in small and medium towns. It would subsume the existing schemes of Integrated Development of Small and Medium Towns (IDSMT) and Accelerated Urban Water Supply Programme (AUWSP). The objectives of the scheme are to improve infrastructural facilities and help create durable public assets and quality oriented services, enhance public-private-partnerships (PPPs) in infrastructural development and promote planned integrated development of towns and cities.¹ The duration of the scheme will be for seven years beginning from 2005-06.

The scheme will apply to all cities/ towns as per 2001 census, excepting cities/ towns covered under JNNURM. Allocation of funds among states will be on the basis of the state's urban population to total urban population in the country. Funds would be provided to only those towns and cities where elections to local bodies have been held and elected bodies are in position.

The components for assistance under the scheme will include all urban infrastructure development projects including water supply and sewerage. The sharing of funds would be in the ratio of 80:10 between Central and State governments and the balance 10% could be raised by the nodal/ implementing agencies from the financial institutions. Implementing agencies may substitute internal resources for funds to be raised from financial institutions. However, in case of cities/ towns in North Eastern

1. Source URL - http://urbanindia.nic.in/moud/programme/ud/uidssmt_guidelines.htm

States and Jammu & Kashmir sharing of funds would be in the ratio of 90:10 between Central and State Government.

The state level sanctioning committee may sanction projects upto 3 times of central share subject to availability of funds. The committee would assign higher priority to projects of (i) Water Supply (including desalination plants) and sanitation, (ii) Sewerage and Solid Waste Management, (iii) Road Network and (iv) Construction and improvement of drains/ storm water drains.

The local bodies are now being attracted towards this centrally supported scheme in increasing numbers. As of March 2009, for the last 4 years, under this scheme 968 projects costing a total of Rs 19860.80 crore have been approved in the country. Out of 968 projects 521 projects (53%) costing Rs 10473 crore are in the water sector. In Madhya Pradesh out of the total 34 projects - 32 are related to water sector costing Rs 678 crore.

Under this scheme the local bodies have got an easy way out of their current poor financial condition, most of the ULBs are now opting for PPPs to receive the grant from the central government under this scheme and inviting private companies to invest 10% of their contribution as per the scheme guidelines.

As of March 2009, in 6 major states of Tamilnadu, Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh and Uttar Pradesh, total 439 ULBs have been covered under UIDSSMT.² As of September 2008, 234 ULBs had achieved the PPP target by implementing PPP projects in municipal services³. This is around 53% of the total number of ULBs covered in these states.

Release of Central Assistance

Central assistance released will go directly to the nodal agencies identified by the state government as Additional Central Assistance (ACA). The grant from Government of India and state government will flow to the nodal agency designated by the state government. The nodal agency

2. Source URL - www.urbanindia.nic.in/moud/.../ud/uidssmt.../statewise_town.xls

3. State Wise Status of Uidssmt as on 3st March 2009, downloaded from Urban Development Department website.

will disburse central assistance to ULBs or para-statal agencies as the case may be, as soft loan or grant-cum-loan or grant. However, in case of sanction of loan or grant-cum-loan, the same may be sanctioned in such a manner that 25% of central and state grant put together is recovered and ploughed into revolving fund to leverage market funds for financing further investment in infrastructure projects. At the end of the scheme period, the revolving fund may be graduated to a State Urban Infrastructure Fund.

State Level Sanctioning Committee would decide period of plough back of grant into the revolving fund. It would sanction projects for infrastructural development of cities and towns out of revolving fund in the same manner as projects are sanctioned out of corpus created out of central and state grants.

Incentives

After due assessment of status of implementation of activities for which incentives are sought, State Level Sanctioning Committee may sanction additional central grant up to a maximum of 5% to incentivise implementing agencies as indicated below:

- 1.5% for preparation of Detailed Project Report
- 1.5% for training and capacity building relating to project/ scheme
- 1% for bringing about efficiencies in the projects
- 1% for adoption of innovative approaches and adoption of proven and appropriate technologies

Urban Reforms

ULBs and para-statal agencies will be required to accept implementation of an agenda of reforms. The proposed reforms shall broadly fall into two categories: i) Mandatory reforms and ii) Optional reform.

All the mandatory and optional reforms shall be implemented by the State/ULB/Para-Statals within the scheme period and are similar to the reforms under JNNURM.

In Madhya Pradesh out of the total 33 ULBs, 17 have opted for PPPs in municipal services. Out of these in the towns of Khandwa and Shivpuri the privatisation of water supply under this scheme has been started.

In Khandwa, a medium town in western MP, the private concession has been awarded to a private infrastructure company from Hyderabad, Vishwa Infrastructures and Services Pvt. Ltd. The project would supply 42 MLD water to the town at the end of completion. The estimated project cost is Rs 115.32 crore, however the approved total cost of the project by the state level nodal agency fro UIDSSMT is Rs 106.72 crore, and out of this approved cost the private company would get a subsidy of Rs. 93.25 crore from the central government, the rest Rs 22.06 crore would be invested by the company. The annual operation and maintenance cost projected by the private operator is approx. Rs 7.62 crore.⁴

It seems likely that cost recovery and profits would lead to water tariff hikes in this town. The employees of the water supply department of the municipal council would be retrenched. There are also other clauses in the contract like “there shall be no comission of any parallel competing facility whether way of construction of a new facility or augmentation of capacities of existing facilities for a period of 25 years”⁴ and a no-complaint clause against the private company by the residents.⁶

In Shivpuri, also a medium town, a Rs 59.64 crore project for Shivpuri Water Augmentation has been awarded to a private company, Doshion Limited. Out of the total cost of the project the central and state government would invest Rs 53.68 crore, the remaining cost would be borne by the concessionaire. The private operator would undertake O&M in lieu for its investment and recover costs from user charges.⁷

The project would supply 42 MLD water to the town population of 1,70,000. The cost of the water would be Rs. 15.40/KL. It remains to be seen how the people would be able to cope with the high costs of water or in other case if the local body would be subsidising the water to its citizens and paying to the private operator how it would manage its finances.⁸



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4. As quoted in financial bid submitted by Vishwa Infrastructures and Services Pvt. Ltd.
 5. Khandwa Water Supply Concession Agreement, Vol. III, page 55
 6. Khandwa Water Supply Concession Agreement, Vol. V
 7. Personal communication with an official of Shivpuri Municipal Corporation
 8. Shivpuri Water Supply Augmentation Project and Tender documents



Annexure

6

Types of PPPs

Public Private Partnership is a broad term and can be implemented at various levels and can be of various types. A brief summary of some of the types are given as following -

Build/Operate/Transfer (BOT) or Build/Transfer/Operate (BTO)

The private partner builds a facility to the specifications agreed to by the public agency, operates the facility for a specified time period under a contract or franchise agreement with the agency, and then transfers the facility to the agency at the end of the specified period of time.

Build-Own-Operate (BOO)

The contractor constructs and operates a facility without transferring ownership to the public sector. Legal title to the facility remains in the private sector, and there is no obligation for the public sector to purchase the facility or take title.

Buy-Build-Operate (BBO)

A BBO is a form of asset sale that includes a rehabilitation or expansion of an existing facility. The government sells the asset to the private sector entity, which then makes the improvements necessary to operate the facility in a profitable manner.

Contract Services

A. Operations and Maintenance

A public partner (federal, state, or local government agency or authority) contracts with a private partner to provide and/or maintain a specific

*This note is based on National Council for Public Private Partnerships, Washington, Website - <http://ncppp.org/howpart/ppptypes.shtml>, Accessed on - 10.03.2008

service. Under the private operation and maintenance option, the public partner retains ownership and overall management of the public facility or system.

B. Operations, Maintenance, & Management

A public partner contracts with a private partner to operate, maintain, and manage a facility or system providing a service. Under this contract option, the public partner retains ownership of the public facility or system, but the private party may invest its own capital in the facility or system.

C. Design-Build (DB)

A DB is when the private partner provides both design and construction of a project to the public agency. The public sector partner owns the assets and has the responsibility for the operation and maintenance.

D. Design-Build-Maintain (DBM)

A DBM is similar to a DB except the maintenance of the facility for some period of time becomes the responsibility of the private sector partner. The public sector partner owns and operates the assets.

E. Design-Build-Operate (DBO)

A single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the public sector unless the project is a design/build/operate/transfer or design/build/own/operate project.

F. Lease/Develop/Operate (LDO) or Build/Develop/Operate (BDO)

Under these partnerships arrangements, the private party leases or buys an existing facility from a public agency; invests its own capital to renovate, modernise, and/or expand the facility; and then operates it under a contract with the public agency. A number of different types of municipal transit facilities have been leased and developed under LDO and BDO arrangements.

G. Lease/Purchase

A lease/purchase is an installment-purchase contract. Under this model, the private sector finances and builds a new facility, which it then leases to a public agency. The public agency makes scheduled lease payments to

the private party. The public agency accrues equity in the facility with each payment. At the end of the lease term, the public agency owns the facility or purchases it at the cost of any remaining unpaid balance in the lease.

H. Turnkey

A public agency contracts with a private investor/vendor to design and build a complete facility in accordance with specified performance standards and criteria agreed to between the agency and the vendor.



“This booklet should be read by everyone concerned with the development of infrastructure. It patiently lays out the detailed reality of what happens when public works and services are handed over to the private sector in the shape of public-private partnerships (PPPs).”

David Hall

**Director, Public Services International Research Unit
(PSIRU)**

University of Greenwich, London

About the Book

Public-Private Partnerships (PPPs) are supposed to provide solutions to many of the existing problems related to infrastructure projects in both execution and operation. Currently, there are PPP projects in almost all the sectors including roads, ports, airports, water, sewerage, solid waste management and transport among others. It is, therefore, important to do a reality check on PPP projects and their efficacy in addressing the problems faced by the public sector water supply services and other infrastructure sectors as well.

The report looks at various aspects of PPPs, beginning from why PPPs have come to be regarded as the major approach for infrastructure development in the country, the circumstances that lead to the change in approach from direct privatisation to public-private partnerships, the current status of the PPP projects that are being executed in India, especially in the water sector, to the current estimates and projections of investment requirements for infrastructure development in India by governments and International Financial Institutions (IFIs).

The report analyses the arguments given in favour of PPPs, the structural issues with PPPs and the larger governance issues associated with PPPs like transparency, people's participation, access to information and regulation. It also looks for evidence and experiences of PPP projects in various parts of the world. It draws lessons that need to be learnt and cautions that need to be taken on board when advocating PPPs in public services like water and sanitation.

The report also studies the impact of the PPPs on some of the social obligation issues like the responsibility of provision, service delivery and equity when the private sector is involved in delivery of public services like water.