

SUMMARIES OF THE CASE STUDIES

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1. The Rural Case Studies (4 cases)

Uganda

Over the last year three years, the government of Uganda implemented a package of policies (devolution, PSP, etc.) that was able to connect at least 1 million rural Ugandans to a hand-dug well, borehole, or protected spring. In this set up, in three years, government played the role of facilitator and monitors, and private contractors became the 'front-line' implementers of the projects. The achievement sums up to around 935 people being connected each day, a feat that government would not have been able to accomplish by itself. The role of the private sector in delivering water services to the rural poor emerges as important.

However, this case study argues that while PSP has been a particularly useful tool for improving coverage targets and delivering water and sanitation services to the rural poor, its achievements are unlikely to be sustainable, and most importantly, it will tend to leave the poorest communities unserved. The key concern is that the emphasis of this form of PSP is the construction of the physical infrastructure (or 'hardware') while community participation and social mobilisation (or 'software') is de-emphasised. There is a danger that without the 'software' mechanisms in place, the 'hardware' will break down easily within six months to two years from construction. Already, evidence from the ground has started to confirm this. But sustainability is not the only issue. The other equally important concern is that the poorest communities may be left unserved. There are certain conditions under PSP mechanisms that exclude the poorest, such as the 10% community cash contribution managed in a 'poor-unfriendly' way and the preference of contractors to use quick-fix easy-to-install technology options, thus leaving those in rocky or less productive areas unserved. There are no specific programmes to address the needs of the poorest communities. The case study maps out the issues and problems related to PSP in rural areas in Uganda, using focus group discussions, interviews and field work four districts.

Mozambique

It was only from 1996-1998 when Niassa Province started to put itself together again after 26 years of war, starting with the repatriation and resettlement of refugees who now constitute many of its rural villages. The development of water and sanitation services has been particularly slow. Many of the villages do not have safe water sources, and residents are forced to use rivers and shallow hand-dug wells. It could be that as much as 550,000 of Niassa's estimated population of 800,000 does not have access to a safe water source, and as much 700,000 without access to adequate sanitation. Private sector participation was the policy tool supposed to speed up the process and expand coverage. But the results of the investigation reveal that PSP did not result in increased efficiencies or in intensified provision of services, especially to the poor. One simple explanation is that when the government 'moved out' of the market, there were not enough private sector players who 'moved in'. There are only 15 small-scale, largely inexperienced *empreteiros* operating in Niassa. Projects they have constructed are of such poor quality that most have broken down. There is equally no government capacity to do the job. Agua Rural, the former parastatal company that has now been partly privatised, admits it is not in a position to improve coverage targets. The government body tasked to facilitate, monitor and supervise projects is understaffed, under funded and under equipped.

This study argues that the situation in Niassa is characterised by a weak state and an extremely weak private sector. In short, there is not even a fairly developed 'market place' in Niassa. The ground has not yet been laid down properly in order for it to be conducive for any form of development activity. Niassa's problems are therefore more fundamental. The policy tool of PSP, which is perhaps applicable in other areas, will tend not to resolve anything in the province. What is needed in Niassa is not private sector participation, but the more fundamental *private enterprise development* in combination with state capacity-building and civil society building. Both the public and the private sector, as well as civil society need to be developed in Niassa, in order that progress can be made on the province's huge development problems. And donors need to understand and support these needs.

Philippines (Rural)

This case study, which compared experiences in two small rural towns and a rural village, demonstrates how self-help local water systems can deliver efficient service and good quality water, especially to the poor, that is priced in a socially-sensitive way. The case study also shows how ownership is a strong motivator for sustaining a local community water system, and how ownership guarantees access to the water service. Ownership also appears as the key factor behind consistent community participation. In Darangan, the local community invested their own money in a co-operative that built the water system. In New Bulatukan, the local water association has obtained the rights to the water source. These experiences were measured against what transpired in a rural small town with privatised delivery. The case thus presents an alternative to both state-owned/managed and privately-operated water systems – what the writers have termed 'social privatisation'.

Ghana (Rural)

Since the early 1990s, Ghana's water and sanitation sector has been undergoing considerable restructuring, the goal of which is to make it more efficient in both rural and urban areas. Private sector participation in its various forms appears as an important underlying theme in this restructuring. For the rural areas, government assumes the role of facilitator and monitor of projects, with most of the functions devolved to the local District Assemblies. Private construction companies, sometimes including nongovernment organisations, become the contractors who actually get to implement the projects. This study found out that there has not been much 'noise' regarding PSP in the rural areas, and that there is in fact widespread acceptance that coverage has been improving as a result of this policy. This means that more rural Ghanaians are being connected to a safe water source and adequate sanitation as a result of the package of policies -- PSP, devolution, etc. - that is being implemented.

This positive development, however, is moderated by some reasons for worry. This includes widespread objections to the implementation of the 5-10% cash contribution from communities for community water and sanitation projects delivered by private contractors in the rural areas. There is also a lack of government commitment to sustain and support the rural water supply and sanitation sector, as reflected in the declining national and local budget allocations for the sector, and in the almost total reliance on external and donor funding with little consideration for sustainability. Furthermore, the pace of capacity-building within District Water and Sanitation Teams (DWSTs) is slow. Bidding processes at the local level are increasingly being undermined by charges -- whether valid or not -- that the companies getting the contracts are those with connections to the staff at the Community Water Supply Agency (CWSA). Lastly, the quality of partnership emerging at the local level is unsustainable. This is because it is dependent on short-term contractual rather than long-

term community-building relationships and is totally dependent on the availability of cash funding.

2. The Urban Case Studies (5 cases)

Tanzania (Dar es Salaam)

Dar es Salaam is grappling with huge infrastructure and efficiency problems. For over ten years now, the Tanzanian government has been trying to solve the perennial water and sanitation crisis in its capital city. Different reforms have been tried, but the problems proved too stubborn to be solved. Now, private sector participation is being considered, but the process remains hanging, bogged down by the complexity of the problems and the difficulties of sorting complex relationships between the different stakeholders. The provision of water and sanitation services was organised under the years of Tanzanian socialism. The services were originally provided for free, minimally charging only the high-income neighbourhoods for operation and maintenance. But over the years, it became evident that free water not only crippled the water system, it also pushed the country deeper into debt. Tanzania today is a Highly Indebted Poor Country (HIPC), one of the poorest countries in the world. At least 120,000 households in Temeke, Dar es Salaam's sprawling slums, remain *completely* unconnected to the failing water system. Unmanaged pit latrines are the main form of sanitation.

This study initially argued that getting a connection -- not who will run the utility and not even prices -- is the chief and most immediate concern of the poor in Dar es Salaam. This simply means that for the poor, it doesn't matter who delivers (whether public or private), and price is not such a big issue because they are actually now paying five times more for every litre of water than those consumers fortunate enough to have a connection. Other issues like ownership, connection costs, tariff rates, regulation, billing, technology choices, etc., while all important, are less of a priority than getting a connection or easier access to a standpipe immediately. Therefore, so this argument goes, private or public operation of DAWASA will be relevant to poor communities only if it brings in the taps.

Thus, the study focused on the voices from Temeke. Twenty community mapping sessions were held, and around 4000 households were visited for an enumeration exercise. But interminable confusion over what was going on in reforming DAWASA and in the PSP process kept bogging down the research. As such, an investigation was first conducted into what was going on. As it turns out, understanding the privatisation process was crucial in determining where the interests of the poor laid in the scheme of things. Understanding the different contexts and sorting out the confusion on what was going on was crucial in order that the messages from Temeke may be properly assessed.

Ghana (Accra and urban water systems)

PSP in urban Ghana has become extremely contentious and has turned into a politically intense and high profile international issue. Widespread opposition to PSP has developed on the basis of a number of arguments. Opponents to PSP maintain that access to water is a right and that water is not a commodity. They also maintain that private sector delivery is not the only available method of delivering safe, affordable and reliable water supply to poor people, and that there has been insufficient consultation with the people of Ghana on the privatisation process. While this study generally agrees with the foregoing arguments, it has not come across sufficient reason to *fundamentally* reject private sector participation. Given certain conditions, private sector participation may in fact be not only desirable but necessary. For example, the existing urban water systems of Ghana are in a state of

disrepair and are not sufficiently reaching the poor. Given the huge costs of rehabilitation and the even larger costs of constructing new supply and distribution lines to extend the system into the slum communities, the Government of Ghana has raised its hands and said that it could not do the work. Previous government attempts to rehabilitate and expand have been mere exercises in wasteful spending. Hence, there appears a need for more efficient private operators with sufficient experience and size to be called in. This situation is nearly no different from a household head hiring a private plumber to come in and repair a broken down plumbing system in the household. There is nothing fundamentally wrong with hiring a plumber -- it does not violate rights, and it does not turn water into a commodity. Problems only emerge when the plumber is chosen not on the basis of competitive bidding, and when there is no system to validate whether the work the plumber proposes to do is actually needed or not.

The analytical task that this case study seeks to achieve therefore is to first ask, "What are the reasons why the poor pay more for their water?" Only after sufficient answers are found to this question will the study then go into a discussion of "Will the formal take over of the state-owned Ghana Water Company Limited by private operators under a lease contract solve the problem and be beneficial for the urban poor?" The study demonstrates that the key concerns that should be focused on in urban PSP are the following:

- The reduction in what the poor is currently spending for their water. For instance, will private operation and management contribute to such a reduction?
- The need to look at the specific technical and economic reasons behind price increases. Forms of privatisation for instance have often resulted in price rises for the consumer. But in the case of Ghana, the price rises are driven more by the costs of having to invest heavily to repair and upgrade the water network.
- The choice of packages or technology options for the poor urban areas.
- The conditions and commitments provided for in the contracts.

Nepal (Kathmandu)

In the past two years, a three-step reform program of Kathmandu's water supply and distribution network has been proposed. The first part involves contracting the management of the water utility assets to a private operator under a 10-year "management lease contract", which will cost around US\$10 million. The second part involves the replacement and rehabilitation of the water supply network and associated equipment, costing around US\$135 million. The third and main part is the construction of 26-kilometer tunnel from the Melamchi River, costing around US\$323 million. Funding for this package will come from a variety of sources: the Nepal government (29.7%); loans (59%); and grant financing (11.2%). Donors have made their support to the Melamchi tunnel conditional on a management lease contract signed and the private operator in place before construction of the tunnel commences.

Civil society groups have begun to take an interest in this package of expensive reforms. They have formed the Kathmandu Coalition of NGOs for Water and Sanitation. The coalition's goal is to scrutinise the reform package and ensure that the water stress of poor people is reduced and that attention is paid to the larger environmental conditions of the Kathmandu valley. For the past months, the coalition has been so far successful in engaging government and donors. This paper argues that while it is too early to know how the reform package will play out, engagement with government and donors is essential in order that poor people will be informed. Also, this will provide an opportunity to comment on proposals while still in draft form, and is a step towards drawing government and donors' attention to equity issues. The costs of such involvement are high in terms of the time and

energy required. For most NGOs, this does not cleanly fit within their mandates, many of the subject areas are new and complicated, and many data are missing, ambiguous or incomplete. But what is now coming out from Kathmandu is a case of preparing for PSP by mobilising civil society.

Argentina (Buenos Aires)

This case study focuses on a particular issue – the link between land tenure security in urban slums and the poor's access to services like water and sanitation. Even when individuals and families are guaranteed rights to decent housing and access to essential services, access to water and sanitation rights could not be realised until they have gained land tenure security. In the slums of Buenos Aires, the concession agreements awarded to private companies clearly states the obligation to connect all those living within the concession to water and sanitation services. Yet, as shown by the investigation in this research, lack of land tenure is preventing the poor from realising these entitlements. Being an illegal occupant presents a series of administrative and technical inconveniences that must be circumvented in order to access services. Interesting paradoxes have emerged from the research. For instance, in the regulatory frame, in order for one to access water and sanitation services, they must first live in a registered and identifiable building (i.e. registered real estate, with approved property surveys). But in order that such a building may be registered or legalised, it must first have access to complete sanitation services. The two requirements contradict and disqualify each other. This case study demonstrates -- using an analysis of the legal regime as well as life stories of three women who have lived their lives in the slums -- the ways and means of securing land tenure security and therefore access to services for the urban poor of Buenos Aires. Land tenure security is acquired through different means – from a formal recognition by municipal and state authorities, the regularisation of an illegal land occupation, or through a negotiated settlement with whoever has property rights over the land in question.

Mexico (Mexico City)

El Piru (inside Mexcio City) and Huicholes (outside city boundaries) are two urban poor communities experiencing typical problems around the lack of water and sanitation: intermittent epidemics of cholera, chronic failure of water supply, and unmanaged pit latrines. A number of issues are identified that build up the problems faced by the two communities: seasonality of water supply, pollution, unaccounted for water; increasing lack of financing for investments; national debates on whether to go through the route of PSP or not; the lack of decisive political leadership on these issues; the lack of community leadership that can put pressure on authorities to deal with these issues; and so on.

Using fieldwork and interviews, this case study provides a comparison of the contexts and how the two communities deal with their water and sanitation problems. It also makes a comparative assessment of municipal water delivery in El Piru and private sector delivery in Huicholes. The results provide a varied and nuanced picture. For instance, private delivery in the poorer Huicholes community brought higher prices. However, Huicholes clearly valued their water supply more than El Piru, and community members were better informed and had a deeper consciousness about water-related issues. They have clearly associated health problems with water and sanitation problems, and thus appear as better poised to resolve the problems than community members in El Piru.

3. The Desk Studies (5 cases)

Manila

This desk study discusses an intricate and complex debate on the status of the world's biggest privatisation. The bottom line is that the PSP process, which initially appeared as an extremely successful solution to the efficiency problems in Manila, now appears as a muddled process that was not the 'win-win' solution it has hyped to be after all. Rather, Manila's PSP is a case involving street-smart companies making unrealistic and unsustainable bids just to win the tender, and then gambling on the possibility that the rules of the game may be changed later on in their favour, given the weakness of regulation in the country and the state's historical permeability to private interests.

This study argues a number of points to untangle this 'corporate muddle'. First, the two companies submitted bids for high service qualities at a low price, and then once the contract was written, tried to re-negotiate, to chisel down quality, to scale down and postpone targets, and to exploit the loosely defined regulatory rules for price adjustments. Second, Maynilad's inability to contain costs and to realise the revenue potential of the assets assigned to it is more a *cause*, rather than an *effect* as it claims to be, of the problems of credit-worthiness and cash flow of the firm. It tried to put the blame on the Asian financial crisis, which while no doubt led to serious foreign exchange losses, had little to do with for instance water delivered to customers that is not billed due to metering mistakes, stealing, tampering, etc. These losses accounted for nearly half the non-revenue water the company was trying to reduce. In short, the Asian financial crisis merely provided the smokescreen to the more real problems created by the company's own inefficiency and dive-bidding. Third, Manila Water was in a better position financially, but also had the same efficiency problems. For instance, it had equally serious problems of inability to deal with non-revenue water. Manila Water used a legal challenge in the Appeals Panel to change the rules of regulation in its favour. Finally, both companies, in striving to move out of the contract terms they originally agreed to, have in effect caused long-term damage to the credibility and viability not only of regulatory processes that were mandated when the concession agreements were signed, but also of private sector participation in general. The study maintains that PSP fundamentally remains as a "desirable mechanism for efficiency" but that this could be subverted by a private sector that is after its own interests and a government that fails to distinguish the boundaries of what is public interest and what is private interest.

This case study presents a stinging critique of both the water companies and the government. The companies, it argues, got an undeserved bailout for problems that are of the companies' own making. And government allowed it to happen. This case study provides thoughtful recommendations on how the companies should pay for their bailout, how regulatory functions should be regarded, and how the public and civil society can guard against a 'misbehaving' private sector.

Porto Alegre

Porto Alegre City prides itself for having the best quality of life in Brazil. The city for instance, has one of the lowest rates of infant death in the whole country: 13.8, as compared to the national infant mortality rate of 65 deaths per thousand births. The city water system is able to serve 99.5% of the population today, at a price of US\$ 0.3084 per 1000 litres, one of the cheapest in the country. Porto Alegre City's water and sewerage services thus, presents itself as a unique case of an efficient, publicly-owned and managed utility in a developing country.

This study argues that the unique system for participatory democracy that has been put in place in Porto Alegre is the central factor that explains the city's efficient services. These

participatory mechanism, as reflected most prominently in the city's *Orçamento Participativo* (OP) or participatory budgeting processes, has led to the creation of a non-state public sphere, where there is constant interaction between citizens and institutions of government. This interaction tear down the distance that often builds up between a bureaucracy and social reality – it allows the bureaucracy to keep an active role and remain as a change agent in society. It also insures against citizen non-participation and apathy, since it provides them with specific and regular venues with which to influence the course of politics and decision-making in their city.

A number of assumptions are evident in this argument. It is quite clear that state-building in Porto Alegre has followed a different path. Rather than the creation and strengthening of the usual systems of democratic representation (e.g. election of city council members, the mayor, etc.), Porto Alegre has strengthened its systems of direct democratic participation. The key idea for Porto Alegre's critique of representative systems is that public bodies can be "captured" by vested interests. Institutions of the state become easy prey to private interests coming from within (clients or technocrats) or without (corporate or class lobbyists). Participatory mechanisms reverse this malaise of representative structures, and open up a whole new set of roles for the state. In a market society with predominantly *representative* systems of government, the debate is about reducing the role of the state in the market. Particularly for water and sewerage, it is argued that the state should move out of the task of direct delivery of services and limit itself to the facilitation, monitoring and regulation of private sector involvement. But in a market society with predominantly *participatory* systems of government, the debate changes. Because of the existence of a non-state public sphere, the chances of capture of the state or its institutions by private interests are significantly reduced. Or even if these were captured, they could not perform in a way that gives undue rewards or preference to particularistic interests. The public good and the general public interest, not particularistic private interests, is thus constantly served.

South Africa

This case study offers four thoughtful analytical points that explain why South Africa, given its plethora of laws mandating state responsibility in the provision of water and sanitation services, has encouraged the policy of private sector participation. These are:

- The poor are seen as mere recipients of development projects that is designed and decided elsewhere. There is little confidence that the poor could become the main and principal actors for development.
- While ample attention is directed to recovering the costs of investments, scant attention is provided, if there is any at all, towards the costs of *not* providing water and sanitation services.
- There is diminution of citizen entitlements, and that the rights to water have been circumscribed by legal interpretations that downgraded riparian rights.
- The institutional reforms and public management discourse refer to the consumer (those with the capacity to pay) more than the citizen (those with entitlements).

These four points are very useful for the analysis of the other case studies.

Washington DC

In the early 1990s, the problems of Washington DC's water utility took a turn for the worse. Breakdowns in its century-old network of pipes and sewers became more frequent. Contaminated water seeped through and the utility was found violating safe drinking water

laws. Then cash flow problems became acute, compounded even further by the sheer lack of resources needed to upgrade the infrastructure. A great debate took place on what to do with these problems. A number of solutions were considered, the most prominent of which was privatization. Months of discussions ensued that involved numerous public hearings, the commissioning of feasibility studies and the involvement of the federal government. Finally in August 1996, the US Congress passed a law that created a new body and authorised the selling of bonds to raise funds. This new body that emerged was still publicly owned and governed by elected officials. Nevertheless, it now had financial autonomy and was mandated to operate under more commercial principles to ensure that it was able to pay the hundreds of millions of dollars in liabilities it assumed. Selling the wastewater treatment plant and sewerage services to the private sector was then considered, in order to gain financial solvency for the troubled utility. Again, the decision taken was *not to* privatize.

This set of decisions have potentially enormous policy consequences, not only because of Washington DC's prominence as the seat of the US federal government and also of the World Bank, but also because of the nature of the alternative that was proposed. A "Continuous Improvement Program" was put in motion, a scheme that aimed to deliver the same efficiency gains that privatization would have otherwise brought to the water utility. This study describes the Continuous Improvement Program that was put in place to maximise efficiency gains that traditional economic thinking argues only markets can provide.

England and Wales

The privatisation of water and sanitation in England and Wales was an immensely complex undertaking by government that was not undertaken with adequate forethought or public consultation. This resulted in a decision to fully privatize which was not necessarily the correct solution. Other models do not seem to have been considered. The government had a clear responsibility to make sure that taxpayers received an adequate price for the sale of the industry. Yet City of London consultants, shareholders both in the UK and overseas seem to have been delivered most of the financial benefits of what was a very cheap sale. The government knew that it was easy to sell any industry cheaply – this was its main motive, to relieve itself of the financial responsibility.

However, reflecting on whether consumers have had a good deal since privatisation and whether poorer customers have been particularly badly affected, the picture is unclear. Previous to privatization, customers were receiving a poor service and the environment was suffering. Crucially there was no independent regulation and it is the strong regulatory system in this case that has ensured consumers have received a better service and have eventually had bills cut. Customer service, drinking water quality have improved and arguably customers have not had to pay as much as they would have had to under a public management for the large capital investment programme that was needed.

Yet, all but the latter benefits may have been achievable under public management and ownership. The key delivery mechanism has been regulation. The contribution companies have made is to make the industry much more efficient, thereby reducing the amount customers bills may have had to increase under public management. However there have been pay-offs, shareholders have been the major benefactors, especially in the early years and there were major redundancies in the drive for efficiency. The government have strengthened the links between social exclusion and water services thus limiting metering and removing the power of companies to disconnect domestic customers for reasons of non-payment. Without strong, complex, well-organised regulation privatisation could have been a disaster for consumers generally and particularly lower-income households. The

natural environment has also improved as important legislation has been enacted and the polluter pays principle put in place. As for the future, the government and the industry appear to have diverging ideas. Both want more competition but have different understanding of how this should be achieved. It is too early to know for sure which is best for the consumer but it is hoped that an agreement can be reached which puts consumer interests at its heart and safeguards the interests of the poorest.

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