

PRIVATE SPACE IN PUBLIC WATER

THE PRIVATE–PUBLIC INTERFACE

The private sector plays significant roles in water infrastructure financing, development and management while industry and agriculture require reliable supplies of water.

The private sector has a strong interest in improving integrity in the sector. More than a quarter of business people claimed that their company had failed to win a contract in the previous year because a competitor had paid a bribe.¹ For utilities and for public works, contracts and construction this figure was well over a third (37 per cent and 38 per cent respectively).

THE PROVISION OF FINANCE²

Benefits The public sector has limited funds and a restricted ability to borrow. The private sector fills the investment gap through loans or equity finance. This can accelerate the development of infrastructure and services, without which communities may suffer long delays or shortages. Attracting private investment at a reasonable interest rate requires countries to minimize their perceived risk, including the risk of corruption.

Integrity concerns Under many arrangements, the public sector bears the financial risk for large water sector projects through government guarantees, while the public voice in the development and cost of vital services can be lost. Public–private partnership (PPP) can commit future payers to significant long-term debt, without sufficient attention being paid to the impact on the next generation.³

CONTRACTORS AND SUPPLIERS⁴

Benefits Large-scale civil engineering works procured by the public sector, such as dams, reservoirs, water treatment plants and piped systems, can benefit from the technical and managerial expertise of the private sector.

Integrity concerns Large public sector contracts can be a magnet for corrupt practices. It takes only a few unscrupulous companies or public officials to make the process vulnerable to major fraud. Power asymmetries weaken the ability of communities to influence decisions.

CORPORATE USE OF WATER RESOURCES

Benefits Water is a critical input for food and drink production, industry and large-scale agriculture. The private sector requires security of provision to meet people's needs.

Integrity concerns Unsustainable consumption, pollution and environmental damage are all concerns, along with a loss of water amenity.

In Cameroon, a contract signed in 2009 between the Government and US-based investor SG Sustainable Oils Cameroon PLC shows how the rights of foreign investors can take precedence over those of water users in a country (Republic of Cameroon and SG Sustainable Oils Cameroon PLC, 2009). The contract gives the foreign investor water rights over the production area for 99 years. Further, the Government cannot take action that would lessen the amount of water available in the area or restrict access to the investor in any way. A further provision overrides any claims to water or land by local communities based on customary law. If there are conflicting claims, the investor's rights will prevail (Achobang et al., 2013). The company has reacted by highlighting measures that will help in handling some of the concerns. (RSPO, 2012). This agreement undermines Cameroon's obligations under international and human rights law because of the impact on downstream countries and local communities (Mbengue and Waltman, 2015).

¹ TI: <http://www.transparency.org/research/bps2011>.

² This topic is covered in Chapter 3.

³ CEE Bankwatch Network: <http://bankwatch.org/public-private-partnerships/background-on-ppps/build-now-pay-heavily-later>.

WATER SERVICES

Large-scale privatizations of water services have been introduced in cities as a way to increase provision and cost efficiency, especially where governments have failed to deliver reliable services (Lessmann and Markwardt, 2010; Asthana, 2004).

Water privatization in Manila, the Philippines, began in 1997, covering 11 million people. The concession in Eastern Manila led to significant improvements in access, service quality and efficiency. The company that ran the service in Western Manila went bankrupt, and the city had to find a new provider. By 2014 more than 98 per cent of households were receiving water 24 hours a day, and water losses had decreased from 45 per cent to 12 per cent in Eastern Manila and from 66 per cent to 39 per cent in Western Manila (Verougstraete and Enders, 2014). Efficiency gains resulted from extending coverage and reducing staffing. In 1997 the governmental Metropolitan Waterworks and Sewerage System (MWSS) employed 13 people for every 1,000 connections; by 2014 Manila Water required just 1.4 employees for every 1,000 connections.

According to a Global Water Intelligence report, in 2013, the number of people being served by services contracted to the private sector exceeded one billion⁴ for the first time. On the other hand, between 2000 and 2014, around 180 cities in 35 countries either terminated or did not renew contracts after their normal conclusion. The reasons for these decisions included concerns over rising prices, transparency and fulfilment of the human rights to water. Cities that have gone back to public management of their water systems over the past 15 years include Buenos Aires, Johannesburg, Paris, Accra, Berlin, La Paz, Maputo and Kuala Lumpur (Lobina et al., 2014). In March 2015 Jakarta District Court ordered two private companies (offshoots of British and French multinationals) to hand back what is said to be the world's largest water privatization contract to the city-owned water operator Pam Jaya (SixDegrees, 2015a; *The Jakarta Post*, 2015).

PRIVATE SECTOR IMPROVING INTEGRITY

Robust incentives and sanctions are needed, internally (for example, through compliance management systems) and externally (for example, through anti-corruption laws), to protect integrity.

Many companies realize the need to avoid reputational damage and legal risks. The Alliance for Water Stewardship is a multi-stakeholder body with a broad private sector and NGO membership that works through standard setting, verification and training to promote socially and economically beneficial use of freshwater that is environmentally sustainable.⁶

In 2013, GIZ commissioned the CEO Water Mandate, WIN, Water Witness International, Pegasys and Partnership in Practice to develop the Guide for Managing Integrity in Water Stewardship Initiatives. This guide responds to the integrity challenges facing water stewardship initiatives that were identified during field research in 18 WSIs in three countries (CEO Water Mandate, 2015). To put these guidelines into practice, WIN, GIZ and WWF are providing capacity development on community engagement and advocacy for water resources user associations in the Lake Naivasha basin in Kenya. The initiative is supported by DGIS, DFID and BMZ.

The 2030 Water Resources Group was established on the initiative of the International Finance Corporation and has a membership including PepsiCo, SAB Miller and the Coca-Cola Company, as well as the Swiss Agency for Development and Cooperation, the Global Green Growth Institute and the US Agency for International Development. In 2009 the Group published *Charting Our Water Future*, drawing attention to global water security challenges. A central theme was the need for transparency about costs, demand and supply. 'A lack of transparency on the economics of water resources makes it difficult to answer a series of fundamental questions: What will the total demand for water be in the coming decades? How much supply will there still be? What technical options for supply and water productivity exist to close the "water gap"?' (2030 Water Resources Group, 2009).

⁴ This topic is covered in Chapter 4.

⁵ AquaFed: www.aquafed.org/page-6-124.html.

⁶ Alliance for Water Stewardship: www.allianceforwaterstewardship.org.