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GOVERNANCE AND GETTING THE PRIVATE SECTOR TO PROVIDE BETTER WATER AND SANITATION SERVICES TO THE URBAN POOR

BY

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GOVERNANCE AND GETTING THE PRIVATE SECTOR TO PROVIDE BETTER WATER AND SANITATION SERVICES TO THE URBAN POOR

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Summary

Unlike much of what has been written about private sector participation in the water sector in recent decades, this paper is not concerned with the relative merits of public or private provision, or whether there should be more or less private sector participation. Rather, it focuses on whether better governance can improve water and sanitation provision by making private providers more responsive to the needs of the urban poor. This question is relevant to all sorts of private water and sanitation providers - the large multinational water companies whose concession contracts have attracted considerable controversy, the local companies whose role is increasing in a number of countries, and the small and informal providers that are ubiquitous in so many deprived urban settlements (these latter two types of private providers are examined in other IIED Discussion Papers: McGranahan and Owen, 2006; Kjellen and McGranahan, 2006).

Urban water and sanitation governance covers the full range of arrangements through which governments and other actors work together to develop and manage water and sanitation systems. Whether or not they involve private providers, these arrangements often fail the urban poor, who are at a disadvantage in both the market and the public policy arena, and often end up using water and sanitation systems that are unhealthy and even illegal. Sometimes, these arrangements also fail the more affluent urban dwellers, who receive intermittent or otherwise poor-quality services despite their economic and political advantages. Nevertheless, a disproportionate share of the health and welfare burden of inadequate water and sanitation undoubtedly falls on the poorest groups.

This paper begins with a brief review of urban water and sanitation issues and the Millennium Development Goals (Section 1). Governments almost invariably claim that one of their priorities is to ensure that all residents have adequate access to safe water and sanitation – implying that they have an obligation to address deficiencies in water and sanitation provision even where the government is not a provider. This obligation has been enshrined in the international commitment to meet the Millennium Development Goals, which include the target of halving the share of the population without adequate access to safe water and basic sanitation by the year 2015. There are important limitations to targets as a guide to policy. Moreover, in many countries, access to water and sanitation in urban areas is considerably worse than the indicators used to monitor progress towards the target would seem to imply. Nevertheless, these targets do provide a useful starting point for examining the role of governance and private sector provision.

During the 1990s, much international debate concerning urban water and sanitation provision focused on whether water and sanitation utilities were better run by private or the public operators. As described in Sections 2 and 3, this diverted attention from issues more important to water and sanitation provision in deprived urban areas, and presented an artificial choice. Proponents oversold the benefits of private sector participation, and the resulting controversy focused attention on a small number of concession contracts and the multinational companies that bid for them – contracts which, even if they had been successful, would not have made any difference to the majority of deprived urban dwellers. Moreover, from a governance perspective, it is misleading to draw a sharp distinction between private and public provision, but equally misleading to ignore the problems inherent in having international agencies promoting locally unpopular forms of water and sanitation governance.

Some of the commonly proposed principles of effective water governance are reviewed in section 4, and contrasted with actual characteristics these principles are meant to supplant. To put it briefly, actual governance has conventionally been: bureaucratic rather than open and transparent; expert-driven rather than inclusive and communicative; sectorally divided rather than integrated and coherent; and biased towards the affluent rather than equitable and ethical. This applies to water systems based on public utilities, as well as those based on privately operated utilities.

Section 5 develops a framework based on the notion that for better water and sanitation governance to be achieved in deprived urban areas, these principles need to be reflected in mechanisms that give these residents, and their representatives, more influence over the water and sanitation system. There are a wide range of means through which deprived urban groups can gain more influence, some increasing their own capacities (e.g. through higher incomes and better organization), and others increasing the responsiveness of public authorities or private providers. In many urban centres relations with small and often informal private water providers are important, while in a few other relations with large private utility operators are important. The governance challenges these different providers pose is, of course, very different.

The next two sections examine two potential threats to improved water and sanitation governance. Section 6 considers the General Agreement on Trade in Services, which in principle should help governments to make better use of private sector provisioning, but in practice could interfere with local water and sanitation governance. Section 7 examines the role of corruption, both in relations between utilities and their customers, and between governments and their private contractors.

Overall, what is striking is that the principles and governance tools that are important to getting private providers to improve provision to the urban poor are very similar to those needed to improve public provision. While there is no single model of good water and sanitation governance, and no reason to favour private providers, good local governance is critical to getting the best out of private as well as public providers. While there is an important role for international support in improving water and sanitation provision for low-income urban residents, from a governance perspective one of the major challenges is to prevent vested interests (many of which are international) from dominating local water sectors.

1. The Millennium Development Goals, water and sanitation provision, and the urban poor

Most of the world's governments and international agencies have committed themselves to the Millennium Development Goals, and more specifically to the target of halving, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation.[1] If this and related targets are achieved, billions of the world's poorest citizens will be able to live healthier and more fulfilling lives.

The water and sanitation target has helped to bring a greater focus on poverty to the international water and sanitation sector. During the 1990s, one of the international agendas promoted most vigorously in the water and sanitation sector was increasing private-sector participation in once predominantly public utilities (Finger and Allouche, 2002). This agenda was based on a broad economic critique of public-sector enterprises, and was accompanied by parallel efforts in communications, energy and transport utilities. Advocates claimed that greater private-sector participation would benefit those without adequate water and sanitation, most of whom also lived in poverty. These claims were hotly contested. The ensuing debates distracted attention from other less contentious means through which water and sanitation provision for low-income households could be improved. The water and sanitation target is intended to place deprived households at the centre of a new water and sanitation agenda, not only challenging the pro-poor credentials of existing reform efforts, but demanding a more coherent and focused approach to addressing the water and sanitation problems of the poor.

In effect, the internationally agreed upon water and sanitation target provides a benchmark against which local reforms, as well as international support for those reforms, can be assessed. The target does not in itself define an approach to improving water and sanitation for people living in poverty, let alone guarantee that these improvements will be achieved. Indeed, targets were central to the International Drinking Water Supply and Sanitation Decade (the 1980s), and the failure to achieve those targets convinced many people in the sector that promoting structural reform, through for example increasing private-sector participation, was more important than adopting new targets. Targets are perfectly consistent with structural reform, however. Moreover, local conditions and priorities are so different in different places that any attempt to define a single international agenda for reform of the water and sanitation sector is virtually bound to fail.

The successful application of the water target entails recognizing the limitations of targets as a guide to policy. Among these limitations are the following.

- *Targets can seem to favour top-down planning*, wherein government agencies adopt targets, detail the physical investments required to achieve them, request the necessary finance, and then implement the "plan". Care must be taken to ensure that the targets are used in such a way as to encourage the best approaches, rather than favouring approaches that assign a particular role to national governments and other actors, whether or not this is appropriate.

[1] The United Nations Millennium Declaration, adopted by the General Assembly of the United Nations on 18 September 2000, included the resolution to halve by 2015 "the proportion of people who are unable to reach or to afford safe drinking water" (page 5). The Johannesburg Plan of Implementation agreed to at the World Summit on Sustainable Development, Johannesburg, 26 August – 4 September 2002, reaffirmed the water target and turned it into a water and sanitation target, resolving to "halve, by the year 2015, the proportion of people who are unable to reach or to afford safe drinking water (as outlined in the Millennium Declaration) and the proportion of people who do not have access to basic sanitation".

- *Targets can miss the improvements in water (and sanitation) that happen or can happen outside the sector.* For instance, there are various routes by which urban poor households can get access to better water and sanitation – including upgrading programmes, savings and credit programmes that help finance home improvements, or developing new homes and measures to increase the possibilities of new-house construction, including ensuring that appropriately located land is available and affordable.

- *Targets can devalue important improvements that are still not up to the targeted standard.* Because of the indicators currently being used, for example, improvements in services provided by itinerant vendors will not register as progress towards the target because the water these vendors provide is defined as unimproved, whatever its source and price. Yet improvements in vendor services can make a big difference to deprived households, even if the service is still not "improved" or "adequate".

- *Targets based on misleading statistics can result in misguided policies.* Estimating the number of people in a country who have "sustainable access to safe drinking water" can be very difficult. The evidence-based approach of the recent Global Water Supply and Sanitation Assessment 2000 represents an important step forward from previous efforts, which relied primarily on the responses of government officials. As described below, however, the results of the assessment are all too easily misinterpreted to imply that household water-supply problems are rare in urban settlements.

Provided that these limitations can be overcome, the water target should provide a good basis for moving towards the Millennium Development Goals.

1.1. Underestimating urban water and sanitation deficiencies

Before considering the potential role of governance in relation to the private providers operating in urban areas, it is important to reconsider some of the statistics on water and sanitation provision in urban areas. For both water and sanitation, it is easy to misinterpret the official statistics, and to assume that serious problems arise almost exclusively in rural areas.

It has been estimated that in the year 2000 there were "1.1 billion people without access to improved water supply", of which 16 per cent were urban dwellers (WHO and UNICEF, 2000). These widely quoted figures, taken from the *Global Water Supply and Sanitation Assessment 2000 Report*, are based upon national estimates of the rural and urban households with and without "reasonable" access to "improved" water supplies, meaning that at least 20 litres of water per person per day are available from a piped water connection, public standpipe, borehole, protected dug well, protected spring or rainwater collection within a kilometre of home. The report explicitly notes that this does not imply that the level of service or quality of water is "adequate", let alone "safe" as expressed in the water target. Nevertheless, the figures are almost inevitably treated as if they implied adequacy, and are often taken as identifying the people whose conditions must improve if the target is to be met.

In low-income urban settings, both practitioners and researchers tend to describe water-deprived neighbourhoods in terms of the depleted, saline or contaminated groundwater, unreliable or contaminated piped water supplies, queues at the public standpipes, or high prices charged by water vendors. Urban dwellers who have to travel anything like a kilometre to obtain water will almost certainly face serious water problems.

It has also been estimated that in the year 2000 there were "2.4 billion without access to improved sanitation", of which 17 per cent were urban (WHO and UNICEF, 2000). For sanitation, households are considered to have access to improved sanitation if they used private or shared pour-flush latrines or pit latrines with at least some minimal improvements over crude open pit latrines. Again, the report acknowledges that such sanitary facilities are not necessarily adequate or safe. Indeed, this is an understatement. In many low-income urban settings, such facilities are rarely adequate or safe, and especially for women and children having to walk even comparatively short distances to use latrines at night can be hazardous.

Thus, at least in the urban context, one would expect the number of people with access to "improved" water supplies and sanitation to be far more than the number with access to adequate or safe supplies. Indicative estimates of the number of urban dwellers without "adequate" water supplies and sanitation, presented in a recent UN-HABITAT report, *Water and Sanitation in the World's Cities* (see Table 1) confirm this fear. The indicative estimates are based on a review of the detailed studies of particular locations, available in most low-income countries, but not sufficiently comparable to translate directly into national or international statistics. Nevertheless, they suggest that the number of urban dwellers without *adequate* water supplies and sanitation may be several times greater than the number estimated to be without access to *improved* water and sanitation.

Table 1: Different estimates of the number of urban dwellers lacking provision for water and sanitation in 2000

Region	**Number (and proportion) of urban dwellers without "improved" provision for:**		**Indicative estimates for the number (and proportion) of urban dwellers without "adequate" provision for:**	
	Water	**Sanitation**	**Water**	**Sanitation**
Africa	44 million (15%)	46 million (16%)	100–150 million (c.35–50%)	150–180 million (c.50–60%)
Asia	98 million (7%)	297 million (22%)	500–700 million (c.35–50%)	600–800 million (c.45–60%)
Latin America and the Caribbean	29 million (7%)	51 million (13%)	80–120 million (c.20–30%)	100–150 million (c.25–40%)
	Source: WHO and UNICEF (2000), *Global Water Supply and Sanitation Assessment, 2000 Report*. World Health Organization, UNICEF and Water Supply and Sanitation Collaborative Council.		Source: UN-HABITAT (2003) *Water and Sanitation in the World's Cities: Local Action for Global Goals*. Earthscan, London.	

Even if there are many more urban dwellers without adequate water and sanitation than official statistics might seem to suggest, this does not imply that more water should be diverted from rural to urban uses. Many urban centres with plentiful water resources still have a large share of residents without adequate water and sanitation, while many urban centres facing severe water stress nevertheless ensure that all residents receive sufficient water and basic but adequate sanitation. The quantity of water actually required to meet basic needs – roughly 20 litres per capita per day – rarely accounts for more than a fraction of municipal water supplies. Urban coalitions often have the economic and political power to appropriate more than sufficient rural water resources. The problem is that water diverted to urban uses does not necessarily find its way to the poorest urban residents, and the sanitary facilities are not developed even where water is available.

The large numbers of urban dwellers without adequate water and sanitation, combined with continued urban population growth, do imply that improving water and sanitation provision in poor urban neighbourhoods will be important to achieving the Millennium Development Goals. The role of the private sector in reaching these households is also important, if controversial. Recent controversies over the role of the private sector have not been helpful, however. Too much attention has focused on whether public or private operators are more efficient, or whether public–private partnerships are the best means of providing water and sanitation. Too little attention has been devoted to getting public and private operators to be more responsive to the predominantly low-income urban households whose services need to improve if the target is to be met.

2. False starts: misleading controversies over private versus public provision of water and sanitation

At various times and places during the last two centuries, there have been controversies over the choice between public and private water provisioning, and these controversies have sometimes extended to sanitation. During the last decades of the 20th century, this controversy became global. At one extreme, proponents argued that increasing private- sector involvement would solve the many failures plaguing public water and sanitation utilities, including their failure to provide services to the urban poor. At the other extreme, critics argued that increasing private-sector participation was part of the problem – another step in the dismantling of the policies and institutions needed to achieve universal coverage of adequate water and sanitation.

It is unlikely that this controversy will be resolved. While increasing the role of the private sector in water delivery clearly benefits some stakeholders within the sector (and harms others), the implications for those without adequate water and sanitation depend upon the particular context. This section elaborates an intermediate position, presented in more detail in UN-HABITAT's report, *Water and Sanitation in the World's Cities: Local Action for Global Goals* (UN-HABITAT, 2003).

By over-emphasizing the choice between private and public, the controversy has diverted attention from what may well be a far more important issue concerning utilities; how to ensure that both private and public operators can be made to provide better services to low-income areas, and how to find other means for improving water and sanitation for deprived households.

2.1. Private providers – from pariah to panacea

For much of the 20th century, the received wisdom in public policy circles was that water and sewerage networks were natural monopolies and provided public-health benefits. Left to themselves, private monopolists would overcharge, under-provide, and ignore the public-health benefits of water and sanitation. The public sector had to take control to prevent the abuse of monopoly powers, and to take account of the public-health benefits of both water and sanitation. Moreover, governments making political commitments on universal coverage felt obliged to display this commitment in their plans, and to set water prices at levels considered affordable to all. As the century drew to a close, however, these assumptions came under attack.

In the 1990s, proponents of private-sector involvement launched a sustained critique of public utilities and their failures, and promoted a (regulated) private alternative. Especially in low-income settings, it was argued, public utilities are inclined to be inefficient, overstaffed, susceptible to corruption, open to manipulation by politicians pursuing short-term political ends, and unresponsive to consumer demands. Low water tariffs, far from ensuring that low-income households can afford piped water, turn water distribution into patronage and contribute to utilities' financial difficulties, often inhibiting investment, and preventing water and sanitation networks from being extended to low-income settlements (even when residents are willing to pay). Privately run utilities, according to their supporters, would be cost-conscious, apolitical and demand-responsive. Independent regulation, along with competition for concessions or other contracts, would prevent the abuse of monopoly powers. At least for water, cost recovery could be achieved through tariff reform. These private utilities, regulated in the public interest, would achieve what the public utilities had so manifestly failed to do.

Not surprisingly, when measures began to be taken to promote more private-sector participation, resistance emerged – in both words and in actions. Some opponents re-emphasized longstanding concerns about natural monopolies and the public interest, arguing that private participation

would lead to high water and sanitation prices and focus efforts on serving those who could afford to pay. Others argued that water and sanitation are human rights, and that it is inherently wrong for multinational corporations based in the affluent countries to make profits selling water or sanitation to people living in poverty. In the extreme, it was argued that efforts to privatise water amounted to, in the words of the title of a recently published book, the "corporate theft of the world's water" (Barlow and Clarke, 2003). More worrying for the proponents of private-sector participation, the perception that water "privatization" policies hurt the poor, and were being promoted in the interests of affluent foreigners, became widespread in the popular press of many countries. But, perhaps most worrying, actual experiences with increasing private-sector participation were far from the ideal that had been promoted.

2.2. Was private-sector participation oversold?

The strongly pro-private position was far easier to maintain when the messy realities of public utilities could be compared to idealized versions of private-sector participation. Once private-sector participation reached significant levels, some of the more ambitious claims became less convincing. Far from depoliticizing water and sanitation provision, it transpired that private-sector participation could heighten the politics, not only driving people onto the streets (as in Cochabamba, Bolivia) but also creating new opportunities for patronage and corruption. In the real world, the efficiency and consumer responsiveness of private water and sanitation providers is not guaranteed by the market but depends upon the nature of their contracts, and the quality of their regulation, as well as on the local context. Also, the major private companies themselves are no longer convinced, if they ever were, that the poor are willing to pay the full cost of safe water and sanitation provision.

Even those sympathetic to a greater private-sector role are beginning to question the strong case for private-sector participation, and the manner in which private participation has been promoted. This has contributed to various attempts at more "pro-poor" private participation. It has also contributed, in South Africa for example, to attempts to combine private-sector participation with more explicit recognition of human rights to enough water to meet basic needs. This has not, however, stopped private-sector participation from being highly controversial.

2.3. Has the public–private divide itself been exaggerated?

There is also a growing perception that too much attention has been paid to the relative merits of public and private providers. Private participation does not appear to have had much of an impact on water and sewerage coverage in Latin America, where many of the early privatization exercises were initiated (Clarke et al., 2004). Many of the obstacles to improving water and sanitation provision have nothing to do with whether utilities operators are private or public. A public sector having difficulties creating the right regulatory environment for public utilities is also likely to have trouble with private utilities. Residents with insecure tenure, living in difficult-to-reach locations, and lacking sufficient funds to invest in connections (to give just a few examples) can have just as much trouble convincing private as public utilities to connect them. Moreover, public utilities can be forced to face commercial principles, whereas privately operated utilities can be protected from these same pressures – the distinction between private and public utilities is not nearly so straightforward as is often implied. In any case, there is little indication that private companies that do have to face commercial pressures, and recover their costs from user charges, are interested in investing large sums of money in the deprived settlements and neighbourhoods where most of those without adequate water or sanitation

usually live. Indeed, as described below, private finance has not been nearly as forthcoming as many had hoped.

2.4. Are the large water companies interested in selling water and sanitation in low-income settlements?

Strong proponents and strong opponents of increasing private-sector participation usually agree that international water companies are interested in gaining access to the water markets in the urban settlements of Asia, Africa and Latin America – their differences centre on whether this should be viewed as a good thing. Yet despite having been promoted vigorously by international development agencies in the 1990s, the extent of private-sector participation in water and sanitation utilities remains small, particularly if one ignores the small and informal water and sanitation enterprises. Privately operated utilities supply only about 5 to 10 per cent of the world's population with water, and even less with sanitation. During the 1990s, private companies were given contracts to operate a number of utilities in African, Asian and Latin American cities, but since 1997 the number of new contracts has tailed off. Problems arose with a number of existing concessions. Events such as the Asian crisis of 1997 caused private investors to revise their risk assessments upwards and their profit assessments downwards. Many of the sites most attractive to private investors – large cities, in countries with large economies, with a large middle class – were "cherry picked" early on. The spread among regions and countries was uneven, and concentrated heavily in Latin America and Southeast Asia (Budds and McGranahan, 2003).

2.5. Does private-sector participation bring private finance to the sector?

In regions with mostly short-term non-investment contracts, such as sub-Saharan Africa, virtually all financing for water and sanitation utilities is still coming via the public sector and user charges, not from private investors. In the poorest areas, investment contracts are rare, and global investment in private-sector participation projects has not matched expectations. Even where long-term investment contracts have been agreed upon, international development assistance and public sources can still account for a large proportion of the finances invested (although since available figures rarely disaggregate different types of finance, it is very difficult to see exactly how much private finance is being committed (Budds and McGranahan, 2003)).

2.6. What about the small and informal enterprises?

The controversies over increasing private-sector involvement have focused attention on the large piped-water networks, which both private and public utilities tend to favour. However, a large share of those without adequate water and sanitation are not going to be able to access the large piped-water and sewerage networks in the foreseeable future. This is especially true of rural dwellers, but also applies to many of the urban poor, especially those living in small urban centres. Moreover, among the private enterprises that provide water and sanitation to the urban poor, small-scale water suppliers and informal vendors and service providers are more significant than the large private utility operators (Solo, 2003; McIntosh, 2003; Collignon and Vezina, 2000). These small enterprises may be private, and they often operate in far more competitive markets than do large private utility operators. But the public–private debates have mostly diverted attention, and quite possibly development assistance, to large water and sewerage networks.

Increasing (or suppressing) private-sector involvement in water delivery is inherently controversial, not primarily because people who lack adequate water and sanitation feel strongly

about it, but because of conflicting interests **within** the water sector and **within** the international development community. Efforts to get the private sector to help provide better services to low-income households should be less contentious. It may be difficult to generate political or economic support for improvements that will benefit only people with comparatively little political or economic power. Moreover, there is a danger that vested interests related to the public–private disputes will still intrude: proponents of private provisioning may want to claim that it is very easy to get private enterprises to provide adequate services to the urban poor (and advocate minimal intervention); opponents may want to claim that it is very difficult (and advocate the sort of regulations likely to suppress private enterprises altogether). In principle, however, everyone can agree that it is a good thing if private enterprises operating in low-income settlements provide better services to those who do not yet have adequate access to water and sanitation.

2.7. So why is it misleading to debate internationally whether public or private utilities are best for the poor?

- It raises questions internationally that can only be answered locally.
- Problems that afflict both public and private utilities get ignored.
- It focuses attention on (and attracts funding to) large networked utilities, when small systems may be more important to poor groups.
- It focuses attention on water, when sanitation may be more important to poor groups.
- It detracts attention from issues of water governance that span the public–private divide.
- It implies a far sharper distinction between public and private utilities than actually exists.

In particular places and at particular times, the choice between private and public utility operators may be a critical one. This does not justify an international agenda of promoting (or suppressing) private-sector participation in water and sanitation provision, however. Just as successful private enterprises are more likely to emerge from fair competition in the marketplace, so successful engagements with private enterprises are more likely to arise from fair competition in the local political arena. Increasing (or suppressing) private-sector involvement in service delivery is inherently controversial, and requires political resolution. Efforts to get the private sector to help provide better services to low-income households should be less contentious – though no less difficult.

3. The dangers of promoting specific models of water and sanitation governance

It is almost a tautology that better governance (see Box 1 for definitions) must result in better water and sanitation services, at least in those locations where everyone acknowledges that current conditions are inadequate. Unfortunately, claiming that the solution lies in better governance does not provide a clear agenda to pursue. Indeed, compared with promoting more investment in water and sanitation infrastructure, promoting better governance can seem very vague and ill defined. Perhaps partly as a result, there has long been a tendency to select a particular model of water and sanitation governance, and to promote that model as inherently better than the others. Not surprisingly, the models advocated have tended to follow political trends that have little to do with experience in the water sector..

Box 1: Sample definitions of governance and water governance

"Governance is the process by which stakeholders articulate their interests, their input is absorbed, decisions are taken and implemented, and decision makers are held accountable." (The Institute on Governance (based in Ottawa), quoted in Bakker (2003))

"The exercise of economic, political and administrative authority to manage a country's affairs at all levels. It comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences." (UNDP, see http://magnet.undp.org/policy/summary.htm, accessed June 2004)

"Governance is understood to include not only the political and administrative institutions of government (and their organization and interrelationships) but also the relationships between government and civil society." (McCarney, 1996)

Following from these, water governance:

"….refers to the range of political, organizational and administrative processes through which communities articulate their interests, their input is absorbed, decisions are made and implemented, and decision makers are held accountable in the development and management of water resources and delivery of water services." (Bakker, 2003)

The range of political, social, economic and administrative systems that are in place to develop and manage water resources, and the delivery of water services, at different levels of society." (The Global Water Partnership, http://www.gwpforum.org/gwp/library/Governance.pdf, accessed June 2004)

Many of the governance issues surrounding inadequate access to water and sanitation services are not sectoral issues, but relate to land tenure, housing security, the regulation of rental markets, environmental rights and responsibilities, the political basis for community organization and a number of other concerns that are well beyond the bounds of the water and sanitation sector *per se*. Similarly, there are numerous routes through which urban poor households can get access to better water and sanitation – including upgrading programmes, savings and credit programmes that help finance home improvements or developing new homes and measures to increase the possibilities of new-house construction, including ensuring appropriately located land is available and affordable. This paper emphasizes some of the more narrowly sectoral issues, and the role of private water and sanitation providers in particular.

Even when addressing these issues, however, it is clear that governance transcends sectoral boundaries.

Table 2: Stereotyped governance models for locally provided utility services

	Planning	**Market**	**Community**
Asset owner	Government	Private corporation	Users
Asset manager	Government	Private corporation	Users
Consumer role	Citizens	Customers	Community members
Organizational structure	Civil service	Customers	Association/network
Accountability mechanisms	Hierarchy	Contract	Community norms
Primary decision makers	Administrators, experts, public officials	Individual households, experts, companies	Leaders and members of community organizations
Primary goals of decision makers	Minimize risk Meet legal/policy requirements	Maximize profits Efficient performance	Serve community/leader interest Effective performance
Key incentives for good performance	Expert/managerial feedback in public policy process Voter/ratepayer opinion	Price signals (share movements or bond ratings) Customer opinions	Community norms and shared goals Community opinion/ sanctions
Key sanctions for failure to maintain services	State authority backed by coercion Political process via elections Litigation	Financial loss Takeover Litigation	Livelihood needs Social pressure Litigation (in some cases)
Participation of customers	Collective, top-down	Individualistic	Collective, bottom-up
Associated business model	Municipally owned utility	Private corporate utility	Community cooperative

Source: Bakker, K. (2003) *Good Governance in Restructuring Water Supply: a Handbook.* Federation of Canadian Municipalities, Ottawa, Canada, page 19; adapted from McGranahan, G., Jacobi, P., Songsore, J., Surjadi, C. and Kjellén, M. (2001) *The Citizens at Risk: from Urban Sanitation to Sustainable Cities.* Earthscan, London.

A broad emphasis on water governance should not only focus attention on the institutional forms through which water and sanitation are managed, but should also help to ensure that the institutional options are not reduced to the choice of public versus private, with community provision sometimes thrown in. Table 2 presents stereotyped models of public (planning),

private (market) and community approaches. While it is useful to recognize the somewhat different logics that operate in these three domains, it is just as important to recognize that many of the most important options combine two or more of these models. Moreover, while the market and community models may seem to be distinct from the government-led planning model, government and governance are central to all three.

In practice, the decision can be made to expose publicly owned and operated utilities to market pressures, or to compel privately owned and operated utilities to adhere to government plans (Hukka and Katko, 2003; Blokland et al., 1999). Hybrid systems are the norm in many parts of the world. Indeed, private ownership of large water and sanitation networks is rare, and even in England where most of the water networks were divested, government regulation ensures that market pressures are supplemented by planning targets. In any case, large private water companies use planning procedures to help organize their own operations, and their decision-making can be as hierarchical as in any government bureaucracy.

In other words, municipal water and sanitation governance typically involves planning processes, market mechanisms and organized local initiatives that combine to determine whether the urban poor can expect to obtain improvements in their water and sanitation services. To complicate matters still further, the planning processes are not the monopoly of government, the market mechanisms are not the monopoly of private enterprises and the organized local initiatives are not the monopoly of communities.

Ideally, governments should be responsible for supporting governance processes that deliver for their citizens. The purpose of this paper, however, is not to identify a particular combination likely to improve water and sanitation services for the urban poor, but to consider how more effective governance can get the private sector to improve water and sanitation services in low-income areas.

4. Principles of water governance

There is widespread agreement that inadequate water and sanitation provision is at least in part a failure of governance, and the definitions of water and sanitation governance are reasonably consistent. At least superficially, there is also widespread agreement on a number of the critical features that good water and sanitation governance must have.

A recent paper commissioned by the Global Water Partnership identified the following principles of effective water governance, generally (Rogers and Hall, 2003).

Approaches should be:

- open and transparent
- inclusive and communicative
- coherent and integrative
- equitable and ethical.

Performance and operation should be:

- accountable
- efficient
- responsive and sustainable.

To some degree at least, these principles reflect the prevailing wisdom in the water sector, and respond to widely perceived weaknesses in pre-existing water and sanitation governance systems. For most of the 20th century the conventional governmental approach to water (and sanitation) management was as follows.

- **Bureaucratic and labyrinthine, rather than open and transparent**

In the 19th century, water and sanitation were widely debated in many parts of the world, in public fora as well as academic halls and government chambers. When cities were considering whether they could afford a major new water or sanitation project, it was not uncommon to hold a referendum (Jacobson, 2000). As the responses to water and sanitation became more standardized, the decision-making process also became less open and transparent, however, and increasingly became the preserve of bureaucracies, removed from any public engagement. This did not pose a serious problem in countries where public utilities were effectively providing adequate water and sanitation services to all those who could not provide it for themselves. In many parts of the world, however, water and sanitation coverage remains far from complete, trust between users and their (predominantly public) utilities is poor, and the lack of open and transparent decision-making is a serious impediment to improving service delivery in low-income areas.

- **Exclusive and expert-driven, rather than inclusive and communicative**

In addition to not being open and transparent about their own decision-making, water and sanitation utilities have tended to be expert-driven and not very responsive to their customers' requests and demands, let alone those of people not connected to the network. Again, this is less of a problem when everyone is connected to a high-quality piped-water and sewerage connection, and can pay a monthly bill based on the water tariff. When a large share of the residents of an urban area are unconnected, and are likely to remain unconnected unless standards and connection procedures are adjusted or relaxed in some way, then exclusive and expert-driven approaches can create serious problems. This holds especially for the urban poor, who tend to be the most excluded and the least able to understand or influence utility procedures. It is indicative of the lack of inclusive and communicative approaches that even

residents in areas on or near the network are often unaware of how the connection procedures are meant to operate, or their of rights in relation to the utilities. Similarly, residents are often not informed about even planned interruptions to water supply, although such information is often important to a household's own planning (Thomas et al., 1999).

- **Sectoral and segmented, rather than coherent and integrative**

Water and sanitation utilities have often developed with very clearly defined sectoral responsibilities, that do not extend to the water-resource issues created by excessive water withdrawals, or the water-related health problems created by inadequate access to safe water and sanitation. For example, most water utilities are, formally at least, responsible for ensuring that the water is uncontaminated when it comes out of the utility's own pipes, but have no obligation to provide a service such that the water people actually consume – in many cases after carrying it home – is of good quality, although it is known that, where indoor piping is not the norm, water quality often declines appreciably between tap and mouth (Wright et al., 2004).

- **Biased in favour of those able to access the large water and sanitation networks, rather than equitable and ethical**

In urban settlements where a large share of the population is not connected to the piped water-supply network, it is common for utilities to provide subsidized water and sometimes sanitation to the middle classes, even as the least well off are forced to buy scarce water on secondary markets at high prices. Price controls, ostensibly designed to make water and sanitation affordable to those living on low incomes, have often contributed to the financial insolvency of public utilities, which cannot achieve their expansion plans on the basis of their revenue. (In many cases the income from water sales is not allocated to the utilities, but even so the fact that expanding the water network is a long-run financial drain on the government undoubtedly contributes to the slow expansion.)

Similarly, the criticisms levelled at the performance and operation of public utilities typically centred on their being either unaccountable, inefficient and unresponsive to consumer demands, or environmentally unsustainable.

Some advocates of private-sector participation claimed that bringing in the private sector was in itself a means of resolving most of these problems. Private operators would be non-bureaucratic and responsive to consumer demands, and government agencies not directly involved in water and sanitation provision could focus on creating a more coherent and integrative water and sanitation system that was environmentally sustainable and served all residents, not just the well off. Moreover, not only would the private operators increase efficiency, but they could also be made accountable to the public interest through contractual agreement and regulation, and accountable to individual interests through market mechanisms. Private-sector participation has not proved to be this panacea, however, and getting private operators to provide adequate services to low-income residents is a particular challenge.

Pro-poor water governance is usually facilitated by, if not dependent on, poor groups gaining more power and influence either through representative political structures or through more direct participation in provision – whether in planning, installing, managing and/or monitoring provision. The interests of urban poor groups arise at many different levels. They may be affected by how the water utilities are regulated, and whether the utilities operators are public or private, but not have the information needed to determine which option will serve their interests best. In such circumstances, local residents are largely dependent on their "representatives" in government. The more open, inclusive coherent and equitable the decision-making process, the more likely it is that the interests of the poor can be brought to bear. Those without adequate

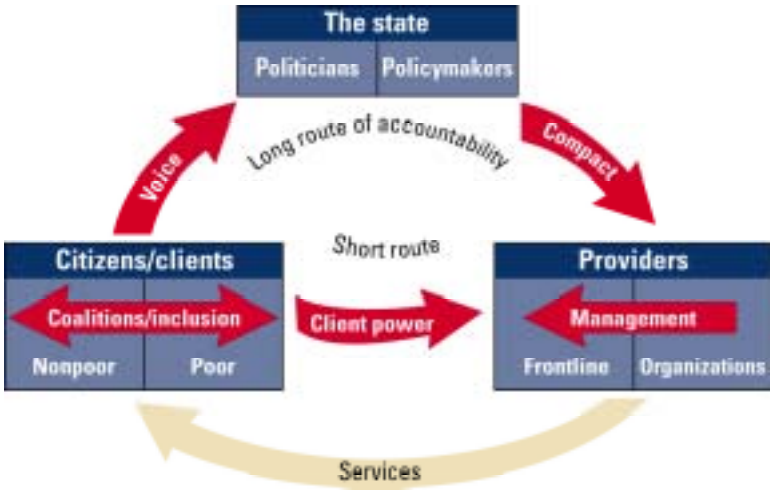
provision also have a more direct interest in whether a piped-water network is extended to their neighbourhood, or what sort of sanitation systems are made available. Here, the underlying issue is whether the providers themselves can be made accountable to the demands of low-income residents, and responsive to their needs.

5. Water governance and serving the urban poor

A framework for water governance, emphasizing how the different elements of good management need to be linked to the needs and priorities of citizens, was elaborated in the recent UN-HABITAT report: *Water and Sanitation in the World's Cities: Local Action for Global Goals* (UN-HABITAT, 2003). A similar framework that emphasizes the role of negotiation in ensuring that services such as water services work better for poor people was developed for the 2004 World Development Report, *Making Services Work for Poor People* (World Bank, 2003). These frameworks are based on the notion that the demands for improvement need to come from the deprived people themselves, and that the level of improvement will depend upon the influence that deprived residents can bring to bear on the service providers, either directly or via the government. There is no presumption that the providers are or should be private or public, although by emphasizing the importance of making policy decisions more accountable to deprived residents, they do imply that changes in the role of the private sector should not be driven by an international agenda, but by local processes. Indeed, just as successful private enterprises are more likely to emerge from fair competition in the marketplace, so successful engagements with private enterprises are more likely to arise from fair competition in the local political arena.

The following sections combine these two frameworks. As displayed in Figure 1, the focus is on the relations between "clients/citizens", "providers" and "the state". It distinguishes between two routes of accountability: the short route whereby the water- deprived exert an influence directly on the provider, and the long route whereby they influence politicians and policy makers, who in turn influence the providers. By placing the influence of the poor themselves at the centre, the framework provides a useful corrective to the tendency for other stakeholders in the water and sanitation sector to claim that their interests coincide with those of poor groups.

Figure 1: Key relationships of power and accountability



Source: World Bank (2003) *World Development Report 2004: Making Services Work for Poor People*. The World Bank and Oxford University Press, Washington D.C.

5.1. Increasing the power and voice of the urban poor to demand water and sanitation improvements

The urban poor often lack the resources needed to yield much influence over government policies or over water and sanitation providers directly. Influencing the state typically involves different actions from those needed to influence providers – voting or lobbying rather than paying, for example. Nevertheless, many of the changes that help people rise out of poverty, from receiving a good education to gaining income-earning opportunities, can simultaneously help them to influence governments and to make stronger demands on providers, be they private or public. Three particularly relevant changes are:

1 **higher incomes** – which allow people to pay more for services, and to live in better-served locations, as well as often contributing to their political influence
2 **greater housing legality and security** – which can not only confer political legitimacy, but can also increase residents' capacity to negotiate with water and sanitation providers, and their willingness to invest their own time and resources in water and sanitation infrastructure
3 **better organized communities** – who are in a stronger position to negotiate with both government and water and sanitation providers (and in some cases are in a better position to make local investments in infrastructure).

The importance of such changes depends on local circumstances, but in aggregate they undoubtedly have a major influence on whether the urban poor gain access to adequate water and sanitation. Moreover, when the urban poor do manage to address their poverty through these routes, and particularly the latter two, they often also address water and sanitation issues explicitly. Indeed, the installation of water and sanitation infrastructure can be an integral part, or even the first step, in achieving housing security. Similarly, better organized communities are not only more likely to negotiate for and invest in better water and sanitation, but combining their efforts to get better water and then sanitation can be first steps in becoming a better organized community.

In most examples of urban poor groups increasing their capacity to negotiate water and sanitary improvements, the providers have been public utilities or small enterprises rather than large, privately operated utilities. This is probably because privately operated utilities are rare in comparison. Also, while the strategy needed to negotiate with private operators may be different, these differences should not be exaggerated. Even if public utilities are not profit-making enterprises, greater income and savings can undoubtedly help residents get public utilities to respond to their needs, particularly when the public utilities are operated along close-to-commercial principles. Alternatively, while private operators are motivated by the search for profits, they are more likely to respond to better organized communities living in settlements with secure land tenure.

While a greater capacity to influence water and sanitation providers is not always accompanied by a greater capacity to influence public polices, or *vice versa*, many of the more successful cases of urban poor negotiating water and sanitation improvements have combined negotiation with local government and with providers. In terms of Figure 1, this effectively combines the long and short routes, and raises questions about how the "long" route is sometimes made far shorter than at other times. Box 2 summarizes some lessons in negotiation from the Slum Dwellers Federations and Mahila Milan in India. This negotiation has produced municipal government support in Mumbai and Pune for hundreds of toilets designed, built and managed by communities, that now serve hundreds of thousands of "slum" dwellers in both cities. It also encouraged both the federal government and many state governments to set up special funds to

support such community provision. This kind of negotiation may not always be applicable but, on the other hand, it is not specific to negotiations involving public utilities.

Box 2: Notes on the art of gentle negotiation for better water and sanitation

A necessary step in building sanitation partnerships between community organizations and local governments is convincing some reluctant and often suspicious government agencies to stop seeing poor communities as problems and start seeing them as contributors to good solutions to city-side issues. That means negotiation. The increasingly confident negotiating skills of Slum Dwellers Federations and *Mahila Milan* in Mumbai, Kanpur, Bangalore and Lucknow have obtained commitments to sanitation in slum settlements from many officials in the municipal corporations and state governments. Here are some of their negotiating strategies.

Start small and keep pressing. *Mahila Milan* in Kanpur and Bangalore started small – negotiating for the municipal corporations to provide hand pumps and water taps in slums. Through those negotiations they gradually gained the confidence, persistence and visibility to press for the next level – community toilets. Starting with small initiatives can show both government and communities that change is possible. Convince the officials that they can use their limited powers to make a little change. First, they might only give a limited consent, but later, when they see things change, even in small ways, that consent might become support. Support is the first step in the creation of a genuine partnership.

Paint beautiful pictures. Sometimes, grassroots activism involves a great deal of scolding and finger-pointing: "Isn't this awful!", "Isn't that shameful!". If you're serious about exploring new ways to bring the poor and the state together to solve the city's problems, this kind of approach has limited utility. People in power are more likely to retreat into their bureaucratic shells when you start pelting them with awfuls and shamefuls. A better approach is to kindle their imaginations by describing possibilities in ways that make clear how they can contribute.

Know more than they do. When your community organization comes into negotiations prepared, with enumeration reports with data on all households in the settlement, with toilet-construction costs worked out and tested, with knowledge of city infrastructure grids, and with examples of community–state partnerships in other cities, it becomes much harder for government officials to argue against the proposals you are making.

Cut an attractive deal. The Slum Dwellers Federations/ *Mahila Milan* around India have developed skills of persuasion in showing local governments that entering into an unconventional toilet-building partnership with a well-organized community organization is a realistic, even attractive proposition for solving big problems that confound municipalities up and down the subcontinent. A sharp city administrator would have difficulties passing up these features:

- sharing costs with a community reduces the city's sanitation cost burden;
- when communities build toilets, the city's construction burden is eliminated;
- when communities maintain the toilets, the city's maintenance costs are eliminated;
- community-built toilets often cost less than those the city builds, so a city's infrastructure budgets can be spread further, increasing service delivery.

Source: Burra, S., Patel, S. and Kerr, T. (2003), Community-designed, built and managed toilet blocks in Indian cities, *Environment and Urbanization*, Vol 15, No 2, pages 11-32.

The capacity of urban poor groups to influence water and sanitation policies and providers also depends, of course, on how responsive the government and the providers are. Politicians often

promise better water services. Democracy should help to increase the accountability of politicians, and help make governments more responsive to the demands of their less-well-off citizens. Ideally, democratization and decentralization ought to be particularly effective means of getting governments to be more responsive to water and sanitation demands. Indeed, this combination may well have been a factor explaining why public water and sanitation services improved in many urban centres in Latin America even when their economies were not improving during the 1980s and 1990s.

Similarly, the capacity of urban poor groups to influence providers directly depends on how responsive these providers are, and what they are responsive to. This depends in turn on the compact that they have with the state – whether this takes the form of a contract, an agreed-upon regulatory regime, or simply the rule of law. Yet again, it is important not to exaggerate the distinction between a privately and publicly operated utility. Under many circumstances, the distinction between negotiating with large utilities as opposed to small enterprises is more significant, especially since large, private utility operators are almost always working under contract.

Many contracts with large water companies involve fees that are paid to the company for providing water (and in some cases sanitation facilities), that are distinct from the fees paid by users. Moreover, like a public utility, large companies are usually officially prohibited from accepting above-tariff payments for better services (with good reason). If the company's contract gives it a strong incentive to do so, it is likely to be very responsive to the demands of the urban poor. If the contract does not give such incentives, it will be less responsive. Market conditions matter, but are mediated by the state.

A small-scale vendor earning revenue only from sales has different motivations for responding to demands. In this case, much will depend on the level of competition in the market (rather than *for* the market, as is the case with competition for large concessions), and other factors that determine whether the vendor needs to be concerned about losing sales. But small-scale water and sanitation vendors include such a large variety of enterprises that it is hard even to begin to generalize. The following two sections look at issues concerning private-sector participation in water utilities, and then at issues concerning the small-scale enterprises. The second section is shorter, not because private utility operators are more important, but because small scale enterprises are examined in more detail in other IIED discussion papers (Kjellén and McGranahan, 2006; McGranahan and Owen, 2006).

5.2. Developing compacts with (private) water and sanitation utilities that serve the urban poor better

Whether the water utility is public, private or some combination, the state plays the lead role in setting the rules by which a water and/or sanitation utility operates. In the case of long-term lease and concession contracts, this includes negotiating the contract and creating the regulatory framework. (However, these two roles may be played by different state agencies, and at different scales – thus the contract could be negotiated at the level of a municipality, while the regulatory framework could be national.)

In terms of the framework presented above, for the urban poor to benefit from negotiations for private water and sanitation contracts, it is important that:

- water and sanitation issues of concern to the urban poor be part of the negotiations
- information pertaining to these issues be available
- the interests of the water- and sanitation-deprived be effectively represented.

Indications are that none of these conditions were typically met for most of the contacts negotiated in the 1990s. In many instances, there was pressure to appoint an operator in a timely fashion. Technical and financial issues were given considerable attention. Tariffs and, in the case of investment contracts, expansion plans were often subject to negotiation. Bidders were not, however, required to outline their strategy for improving services to low-income residents. Measures were not taken to ensure that information about conditions and problems in low-income areas was collected and made available to bidders. Few efforts were made to represent the interests of the urban poor in the process, let alone to involve representatives from urban poor groups directly.

The concerns of low-income residents also tended to be neglected within the regulatory regimes. The initial focus was almost invariably on contract deliverables such as investment activity, service standards and payments. As long as there are problems with these "fundamentals", the regulatory activity is unlikely to extend beyond these concerns. In the words of a recent review of water and sanitation regulation and the poor, "Unless the regulatory framework properly contemplates issues in relation to services to the poor and confers on the regulator authority for acting, it is unlikely that pro-poor policies can be implemented in the early stages of a PSP (Private Sector Participation) contract" (Halcrow Management Services, 2002).

Even comparatively well-designed concession agreements were inclined to neglect basic issues concerning low-income residents, since the primary goal was to create an economically viable and efficient operation. Thus, two of the best known obstacles to extending water and sanitation to low-income settlements are that: (i) low-income households rarely have large sums of money available or access to market-rate loans, and hence find it particularly difficult to pay high connection costs; and (ii) many low-income households live in squatter settlements with insecure tenure. Nevertheless, the initial concession agreement for Buenos Aires specified connection fees of up to US$ 600 for water and up to US $1,000 for sanitation, and did not make provisions for water extensions to be extended to squatter settlements (Schusterman et al., 2002; Loftus and McDonald, 2001). The connection costs were reduced in a later renegotiation, and localized negotiations between civil-society organizations, local government and Aguas Argentinas helped to extend provision to at least some settlements on disputed lands. Until the economic crisis undermined much of the basis for reform, some progress was being made. Generally, however, it is more difficult to negotiate with concessionaires once they are in place, and leaving the concerns of the poorest households out of the original negotiations adds to their already considerable disadvantages.

There are many areas where the interests of the urban poor could be better represented in public–private partnerships (Water and Sanitation Program, 2001). The urban poor are likely to have a particular interest in the expansion plans, and the mechanisms through which these plans will be realized. Among other issues likely to be of particular concern are:

- connection costs and procedures – where the urban poor are unconnected, high connection costs and complex procedures can be a major barrier
- disconnection procedures; and rights and procedures of appeal – the urban poor often lack the means of recourse in the case of disconnection
- rights to water abstraction – granting the utility operator exclusive rights to water abstraction can undermine the alternatives available to the urban poor
- secondary water markets – the urban poor often depend on secondary and often informal water markets, and the utilities operations affect these secondary markets (which in some cases are a form of competition, and in others represent an extension of the utility's operations)

- standards – standards that are too low may leave the urban poor at risk, while standards that are too high may exclude the poor.

In addition, there may be a number of identifiable measures that could be combined to form a strategy for improving provision in low-income areas. Which of these measures are most appropriate to a given locality cannot be determined in the abstract. Moreover, as the framework of power and accountability relations indicates, a central question is how the interests of the urban poor are brought to bear on these negotiations. This is not a simple question to answer. Most parties to the negotiation will be ignorant of the water and sanitation conditions in low-income neighbourhoods. Residents of low-income neighbourhoods will typically be ignorant of the costs and requirements of operating a water or sewerage network, and have no obvious representatives in the negotiations – except for government officials who are unlikely to view the urban poor as their primary sponsors, and civil-society groups whose legitimacy may be doubtful.

Such inadequacies should not be taken to imply that improvements cannot be achieved, but that there are many opportunities for improvement. There are also many lessons that can be learned from recent experiences with water and sanitation contracts, and from experiences with public utilities. Indeed, as indicated above, it is not clear that the public–private distinction is the most important one when it comes to improving water services in urban areas.

5.3. Getting better services from small-scale providers

If insufficient attention has been devoted to getting the most for the urban poor from privately operated utilities, it is still far more than has been devoted to getting better services for the urban poor from small-scale and informal vendors of water and sanitation services (Kjellén and McGranahan, 2006; McGranahan, Njiru, Albu, Smith and Mitlin, 2006). Yet small-scale and informal water enterprises are important for at least three reasons. Firstly, they provide water and sanitation services to a large proportion of low-income urban households, and particularly those living in areas difficult to service with conventional water distribution and sewerage networks. Without them, many of the poorly served would be even worse off. Secondly, informal vendors and providers generally operate without a subsidy and with prices and/or services that compare favourably with what official providers make available; if they did not, they would not be able to operate. Thirdly, there is increasing evidence to suggest that, in many locations, working with and through such independent providers can be a cheaper, more effective way of improving and extending provision for water and sanitation than conventional public-sector provision or reliance on large-scale private (often international) companies.

The informal sector is unregulated, virtually by definition. In any case, the issue is not one of deciding whether, how much or in what manner small-scale providers should be regulated. What are needed, as in other parts of the water sector, are effective, accountable local governance structures that can encourage and support effective local action and innovation, particularly when it will benefit the urban poor. The appropriate responses by local or national governments and international agencies need to be rooted in the specifics of each city or even neighbourhood.

Not all informal water or sanitation vendor systems deserve support. In some cases, the profits to be made from reselling scarce water have led key suppliers to create non-competitive markets, and the water supplies are in effect restricted in order to drive up prices. (This rarely applies to the itinerant vendors, however, who are unlikely to be able to affect market prices through their actions.) In such cases, good water governance may require working with low-income groups and with vendors to determine how best to make the market function more

effectively in the interests of users. Simply trying to close down the vendors on the grounds that they do not meet some official standard is in danger of restricting water supplies and driving prices up even further. (Sanitation vendors are less likely to drive down supplies to achieve monopoly prices, but may be selling services that simply address one household's sanitation problems at the cost of others – releasing the waste in hazardous locations.)

In other cases, the markets are highly competitive, but supplies may be restricted by the water utility's practices. There may be insufficient water hydrants to supply the vendors, or they may be located without any consideration of the convenience of the vendors, or the concerns of the users themselves. In some urban centres, itinerant vending is actively discouraged in a variety of ways, at least in the informal sector. There is comparatively little experience of working with local residents to design a strategy for improving water supplies that takes account of how the secondary water markets are functioning. On the other hand, in the course of participatory processes surrounding more conventional improvement projects, residents do sometimes develop strategies for addressing problems that arise in the secondary water markets. In Kibera (Nairobi), for example, residents proposed a strategy involving the formation of a water vendors' association, and a collective bargaining process that would address the concerns of both vendors and users (Katui-Katua and McGranahan, 2002).

As with large-scale utilities, there is the challenge of ensuring that the interests of the urban poor are brought to bear on policy discussions involving small-scale enterprises and informal-sector operators. Perhaps even more important is the challenge of responding directly to the legitimate demands of low-income residents. Even itinerant water vendors operating in the informal sector are subject to pressures from the government as well as from local residents and residents' associations. Often, even the very small-scale enterprises are regulated, and are required to have licences to operate. Yet this does not necessarily mean that local residents have any recourse when they suspect that vendors are engaging in monopolistic behaviour, selling contaminated water, providing hazardous sanitation services, or engaging in otherwise dubious practices.

And while the services that small-scale water and sanitation enterprises provide should not be forgotten, nor should it be assumed that they are appropriate. There are usually very large returns to scale in water delivery and in sewerage provision. In many circumstances, the prevalence of itinerant water vendors or water tankers is a symptom of a failure to provide larger, lower-cost systems. Attacking the symptom, and making it harder for the small enterprises to perform their role, will usually make matters worse. But the presence of small water and sanitation enterprises is no excuse for neglecting the task of finding less costly alternatives, which may not emerge spontaneously, and may require replacing the small enterprises with a large-scale water network. The appropriate choices are more likely to emerge where local government is responsive to the concerns of low-income residents, and the residents themselves are able to articulate and negotiate for their interests – taking us back to the issue of increasing the power of the urban poor to demand better water and sanitation.

6. The General Agreement on Trade in Services and water and sanitation governance

Many of the early networks for water supply (and to a lesser extent sewerage) were operated by private companies. The late 19th and early 20th centuries saw governments, particularly in the more affluent countries, raising concerns about private operators, and increasing the dominance of public utilities. The late 20th century saw the re-emergence of private utility operators. Again the impetus came from the more affluent countries. Throughout the 1990s, private-sector participation was promoted by international development agencies dominated by the more affluent countries, and most notably the World Bank (Finger and Allouche, 2002; Budds and McGranahan, 2003). While most water and sanitation utilities are still operated as public entities, private participation has increased considerably, and in a great many other locations an expanded role for the private sector is at least under consideration.

This process has been controversial. The "Washington Consensus", a term coined to refer to those elements of economic policy advice that Washington-based international development organizations were broadly agreed upon at the start of the 1990s, included privatization (Williamson, 1993). John Williamson, the economist who coined the term, has since qualified his own support for privatization, and may never have intended to claim that the consensus encompassed public services such as water and sanitation. In any case, whether or not there was or is a broad consensus in Washington, there has never been a consensus in the world at large, and water privatization in particular has received sharp criticisms from many quarters, and has become a particular concern of the anti-globalization movement (Barlow and Clarke, 2003; Shiva, 2002).

From a governance perspective, a central issue raised is the scale at which decisions about local water and sanitation governance should be made. Should decisions about the role of private enterprises, public agencies and civil-society organizations in a municipality's water and sanitation provision be made locally, nationally or internationally? More specifically, under what conditions, if any, is it acceptable for development assistance from international donors for improved water provision to be made contingent on private-sector participation? When does the promotion of private-sector participation, and in particular the participation of multinationals, become an infringement on sovereignty, and/or the promotion of self-interest on the part of donor countries?

The former chief economist of the World Bank has questioned the motivation and manner of private-sector promotion by the international financial institutions (Stiglitz, 2002). But even in cases where the motives are good, and the private-sector participation beneficial, it is doubtful whether countries should ever be forced to increase private-sector participation in order to secure loans, particularly when there are alternative means of developing financially viable water and sanitation services. (And even if there are no alternatives, viability should be a sufficient financial condition, whether or not it is achieved with private sector participation.)

A less direct, but equally contentious way in which decisions about the roles of private enterprises could be determined through international negotiations is via trade liberalization, and more specifically the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO). Countries that sign up to a liberalization regime under GATS agree not to protect national enterprises against foreign competition. The Agreement is extremely complex, with countries negotiating the degree of openness they permit in each of 12 sectors, one of which is currently environmental services. These sectors are further sub-divided into about 160 sub-sectors of service activities.

GATS is as much a framework for negotiation on the liberalization of trade in services as an outcome of such negotiations, and it allows for considerable flexibility (Chanda, 2002). Counties are under no obligation to open up a particular sector or sub-sector. If a country does decide to open a particular sector, it can impose various restrictions on market access. At least in principle, governments can make no commitments or limited commitments in sectors where they are concerned that liberalization would result in inequitable or less extensive access to basic services. Water distribution services were not listed in the GATS sectoral classification list.

On the other hand, precisely because GATS is a framework for negotiation, countries could eventually be put under pressure to liberalize their water and sanitation services in return for concessions in other areas. When the European Commission submitted its initial requests for improved market access in service sectors to 109 WTO members, 72 requests reportedly included references to the water sub-sector. Since the framework is not flexible when it comes to reversing decisions to liberalize, governments that did make commitments to liberalize would face difficulties if unpredicted outcomes developed. Moreover, it is doubtful whether international trade negotiators are in a good position to judge the relative costs and benefits of liberalizing local water and sanitation systems. In terms of the framework for accountability illustrated in Figure 1 above, shifting responsibilities for decisions about how to organize water and sanitation provision to international negotiation would seem to make the "long route of accountability" exceedingly long.

One of the problems with allowing international negotiations to come to decisions on whether to open the water and sanitation sector to market competition is that it could limit the scope for improving water and sanitation provision through better local governance. From the perspective of a local municipality, and its low-income residents in particular, it is difficult to see how decision-making through GATS could be made open, inclusive, coherent and equitable. There is a legitimate question as to whether the decision on how water and sanitation provision should be organized, and in particular the role of the private sector, is an appropriate concern for local governance. If so, it is hard to see why water and sanitation provision should be negotiated within the GATS framework.

There are several water and sanitation issues that are of particular relevance to the urban poor, and which could be affected by GATS, undermining the potential role of local governance. A large number of low-income urban dwellers receive community-managed or informal-sector water and sanitation services, for example. Having liberalization regulated by the requirements of GATS could undermine the scope for local governments to give support to such provision (Mitlin, 2004 draft). In principle, governments could impose restrictions on market access, allowing community-managed service delivery or informal-sector provision to receive what would have to be termed "preferential" treatment. These alternative providers are often critical to the urban poor, and should not necessarily be seen as second best. It is difficult to see how open competition between these different providers could be created in such a way as to satisfy an international agreement.

It is very difficult to say where and whether such problems are likely to arise, and who will be affected. But that is not sufficient reason for accepting the negotiation of water or sanitation services under GATS. The characteristics of water and sanitation may not always favour public provision, but they do raise serious questions about the possible impacts of open international competition, and whether international trade negotiators are in a position to make appropriate decisions. In addition to the public-health benefits and tendencies towards monopolization of water and sanitation networks, there is widespread international agreement that the share of the

world's population without reasonable access to safe water and basic sanitation should be reduced progressively over the coming decades. Under such conditions, decisions about how to organize water and sanitation provision are inherently political and not just economic.

There are almost certainly urban centres where opening the market to international competition would improve service delivery for the currently unserved. There are almost certainly urban centres where opening the market would, to the contrary, harm the unserved. It is not at all clear that GATS provides an appropriate framework for economically efficient or equitable competition between such diverse actors as large water and sanitation companies, small and often informal providers, and community-managed systems. It is even less clear that GATS provides the appropriate governance framework for deciding what the role of the private sector should be, and how decisions about water and sanitation delivery will be organized.

7. Corruption and water and sanitation governance for the urban poor

Corruption can be said to occur when people violate their duties for personal or political gain, either at their own instigation (e.g. embezzlement) or in response to improper inducements (e.g. bribes).[2] Corruption is poorly documented, but widely discussed. In many ways, corruption is the antithesis of good governance: inherently covert rather than open and transparent; exclusive rather than inclusive and communicative; divisive rather than coherent and integrative; and immoral rather than equitable and ethical. Where corruption is widespread, it can seem inevitable. The concept of corruption includes the notion that once it starts it tends to persist or worsen unless it is combated – people and institutions do not just engage in corrupt actions, they themselves become corrupt. There are, however, numerous different forms of corruption, and their dynamics remain poorly understood.

Under some circumstances, corruption can be more efficient or more equitable than the rules it flouts, and over the years a number of researchers have actually claimed that the net effect of corruption on efficiency is positive (Leff, 1964; Rashid, 1981). Bribes can, in effect, create a market for breaking the rules. When rules are unduly onerous and officials underpaid, corruption can appear to be a necessary evil: wrong in principle, but acceptable in practice.

Needless to say, however, corruption is rarely confined to breaking unjustifiable rules, and the rewards of corruption are rarely confined to the underpaid. Perhaps more important, from a governance perspective bad rules need to be changed and officials need to the paid appropriate salaries. Even when its proximate effects are harmless, corruption undermines good governance by allowing inappropriate regulations and policies to persist unchallenged. Moreover, there is a danger that more "acceptable" forms of corruption will convey a degree of legitimacy to the more damaging forms of corruption.

American urban political machines were renowned for their corruption in the late 19th and early 20th centuries: "the rapid influx of new populations for whom family and ethnicity were the central identifications, when coupled with the award of important monopoly privileges (traction, electricity, etc.) and the universal franchise, seemed to provide ideal soil for the emergence of corrupt 'bosses'" (Scott, 1969). Some historians have claimed that urban development would have been far less rapid in the absence of corruption.

The last two decades have seen a shift in attitude towards corruption in international development circles (Brown and Cloke, 2004). Recent research has emphasized the costs that corruption can impose. It is no longer so common to have corruption dismissed as a necessary evil, or still less as a necessary corrective to inappropriate rules and regulations – as when, for example, Samuel Huntington claimed that "In terms of economic growth, the only thing worse than a society with a rigid over-centralized dishonest bureaucracy is one with a rigid, over-centralized, honest bureaucracy" (cited in Bardhan, 1997).

Corruption remains poorly understood, and the popularity of anti-corruption initiatives reflects changing political attitudes towards the role of the state as much as better understandings of the nature and costs of corruption. Efforts to fight corruption suffer as a result. While corruption is always a symptom of governance problems, it can be counterproductive to respond by admonishing governments to clamp down on corruption, ignoring the different forms that

[2] Corruption is often taken to apply only to public officials, so that a public utility worker who takes a bribe is corrupt, while a private utility official who does the same is not. A broader definition is employed here, to avoid perverse conclusions, such as that shifting responsibilities to the private sector reduces corruption even if the private actors engage in behaviour identical to or worse than that of their public predecessors. A broad definition is also consistent with the focus on governance rather than government, and the implicit recognition that when private actors take on public services they also take on public responsibilities.

corruption can take, the multiple instigators of corruption, and the different responses that can be effective. Moreover, while corruption is often seen as indicative of the debility of governments, cutting back on government does not necessarily reduce corruption, and may even increase it. Indeed, some would argue that in the water and sanitation sector, increasing the role of the private sector can increase the scope for corruption (Hall, 1999), just as did monopolies in American cities in the past.

Corrupt practices in water and sanitation governance range from corrupt relations between utility field staff and individual customers, to corrupt relations between national politicians and multinational companies. Two of the most important categories when it comes to water and sanitation provision in low-income areas are corrupt relations between water and sanitation utilities and their customers, and corrupt relations between public agencies or water and sanitation utilities and their contractors.

7.1. Corrupt relations between water and sanitation utilities and their customers

A recent study of corruption in South Asia's water and sanitation sector found widespread experience of corruption on the part of utility staff, customers and contractors in nine locations (Davis, 2004). More surprising than the rates of corruption uncovered, was the extent to which people were willing to acknowledge and discuss, in the course of interviews and focus-group discussions, their own or their associates' involvement in corruption (measures were taken to protect the identities of the respondents and institutions). To some degree this openness probably reflects the extent to which corruption is endemic – one contractor, for example, "produced a laminated card upon which he had written the payment schedule for kickbacks". On the other hand, even such limited forms of openness may also reflect opportunities for reducing this form of corruption and improving water and sanitation governance. Notably, one of the conclusions of the study was that open processes such as staff meetings and meetings with customers were an important element to the more successful attempts to curb corruption.

Consumers of water and sanitation services may encounter various forms of corruption, most of which require them to make payments to utility officials. Of the 411 customers interviewed for the study mentioned in the previous paragraph, 41 per cent admitted that they had made payments in the past six months to reduce their bills through false meter readings, 30 per cent admitted they had made payments to expedite repair work, and 12 per cent had at one time or another made a payment to expedite a new connection. Staff members of water and sanitation agencies gave broadly consistent responses. In at least one location there was a private market for illegal connections, and an appreciable share of those with illegal connections reportedly made payments to line workers to avoid being reported. For the most part the payments involved were very small. The median reported payment per transaction was $0.45 for false meter readings, $1.90 for expediting repair work and $22 for expediting a new connection. While such payments can be onerous for a very low-income household, they represent only a small share of the cost of the activities in question.

These forms of petty corruption can undermine good water and sanitation governance, but can rarely be addressed simply by enforcing the formal rules and regulations more rigorously. With fluctuating water pressures and faulty meters, inaccurate meter readings are not detectable. If the utility relies on unofficial private repairs to keep the services running, it is difficult to discern when field personnel are selling their services to the same end. It can even be difficult to discern illegal connections. In a great many settings, petty corruption is as much a consequence as a

cause of ineffective water governance. How corruption is addressed is as important as whether it is addressed.

Low-income residents without adequate water and sanitation services may well be among the worst-affected by corruption, but they are also at risk from measures to curb corruption. If a private (or public) operator sets out to curb illegal connections, and takes measures to ensure that its staff has the incentive to prevent or close down illegal connections, rather than collect illegal payments from users, many more low-income households may find themselves with even less access to water. If the authorities clamp down on sanitation facilities that are not up to standard, rather than looking the other way in return for a nominal payment, many low-income households may find themselves being prosecuted for sanitary offences. This is not to say that petty corruption should be considered acceptable, but that good governance requires not only that corruption be tackled, but that it be tackled in an open, inclusive and equitable manner.

Petty corruption can affect private as well as public utility operators, although according to some definitions it is not truly corruption if public officials are not involved. Private utility operators may have a stronger incentive to curb such activities, but only insomuch as they are losing revenues as the result. If this petty corruption provides an additional source of revenue in a price-controlled market, private operating companies are less likely to be concerned. More generally, whether or not private efforts to curb such corruption are more vigorous than public efforts, without the cooperation of customers and local government, such efforts have limited potential.

7.2. Corrupt relations between public agencies and private water and sanitation contractors

Corruption that affects the relations between public agencies and private water and sanitation contractors can also affect the incentives that the private contractors have to provide services to low-income consumers. On the one hand, corruption increases costs. On the other hand, it undermines the capacity of the public agency to demand adherence to the contract. In the extreme case, corruption could take the form of an implicit agreement by the public and private partners to share the savings from providing less-than-adequate services in low-income areas. This is, as it were, public–private partnership at its worst. Even if the impact on provision in low-income areas is less direct, corrupt relations between public agencies and their contractors are clearly inimical to the principles of good governance, and undermine the potential role of the public sector in promoting better service delivery, in low-income areas as elsewhere.

One of the most evident forms of corruption involving contractors is when politicians or public officials influence the choice of contractors or the nature of the contract in exchange for bribes, kickbacks or other personal/political gains. Corrupt relations can be instigated by either side, and where corruption is endemic it may simply be a question of which side raises the issue first. In cases of nepotism, the contractor has a direct and long-term relation to an influential politician or official. In other cases, the relationship may be strictly short term and financial.

Such corruption arises at many scales, from multimillion-dollar concession contracts down to informal contracts for water kiosks – or from what has been termed *grand* to *petty* corruption. The different scales of corruption tend to be mutually reinforcing. At every scale, this form of corruption will tend to reduce the likelihood that water provision and sanitary conditions improve in the more deprived neighbourhoods.

Corruption in large water (and sanitation) concessions can itself take many forms, and the sums of money involved make these concessions an attractive target. When consortia are formed to bid for large concessions, multinationals and local companies can be expected to bring different technical skills to their consortium. Ideally, the local partners should bring the skills and knowledge needed to negotiate improvements in water and sanitation services in under-served communities, and longstanding relations to some of these communities. After all, the multinational companies are unlikely to have such skills. Unfortunately, if the consortium plans to engage in corrupt practices, what the local company may bring is their skills in negotiating with corrupt local politicians, and their longstanding relations to some of these politicians. Such practices are extremely sensitive politically, and may come to the public's attention only when the politicians involved lose power, as for example with the water concessions in Jakarta after the fall of President Suharto. There is no reason to assume that corruption in these large contracts is any more or any less common than in the smaller contracts.

The study of corruption in water and sanitation services in Asia referred to in the previous section (Davis, 2004) examined problems with competitive contracting and kickbacks in the relations between water and sanitation authorities and local contractors. Despite the use of competitive bidding, cartels were operating, subverting the competitive process by deciding among themselves who would win the bid, and organizing the bids accordingly. Kickbacks were also common:

> "Contractors work together or with politicians to win projects with their local W&S service providers on favourable terms. They also cooperate with technical staff to increase their profit margin once a contract is secured. Through complex arrangements funds budgeted for construction are "skimmed" and shared by a number of different actors. Contractors often pay either a percentage of the contract value or a lump-sum amount to one or more actors within the agency. The payments are almost always made in cash, in the W&S offices or in the field." (Davis, 2004, pages 58–59)

The data indicated that kickbacks were involved in about half of the contracts issued, and that the scale of the kickbacks tended to be of the order of 5–10 per cent of the value of the contract.

Such forms of corruption can affect all water and sanitation customers. Low-income neighbourhoods may be somewhat more vulnerable, but in financial terms probably lose less per capita than more affluent neighbourhoods where the numbers of projects are considerably higher. There are, however, certain types of projects where the costs of corruption clearly burden disproportionately the groups with the worst water and sanitary conditions.

In some deprived neighbourhoods, people rely on water that they purchase from vendors or water kiosks. When corruption reduces the number of kiosks or prevents the piped-water network from expanding into these neighbourhoods, it is the poorest urban dwellers who are likely to suffer most. In Jakarta in the 1990s, it was alleged that the public utility was holding back on improving water supplies in the areas where the kiosks (or hydrants) operated, for fear of losing the side-payments that the hydrant operators paid to utility officials (Lovei and Whittington, 1993). It is extremely difficult to verify such claims, but just as large contracts are likely to be a magnet for corrupt practices, so are the high prices that low-income households pay for vendor water.

7.3. Good governance, tackling corruption and getting private companies to provide better services to the urban poor

Many of the conventional characteristics of "good" governance, such as accountability, transparency and the rule of law, are meant to be checks on corruption. Many of the "good governance" initiatives that have received widespread recognition, such as participatory budgeting, have at their centre a commitment by government not only to allow citizens more scope for influencing priorities but also greater transparency and accountability with regard to what funds are available and how they are used (Cabannes, 2004; Menegat, 2002).

Narrowly conceived anti-corruption initiatives, that rely on increased oversight achieved through external audits and reduced staff discretion, are unlikely to be sufficient to curb corruption in water and sanitation provision. The Asian review identified two elements common to all of the successful strategies encountered: changes that increased accountability, and changes that increased the cost of misconduct (or the moral benefits of good conduct) (Davis, 2004). The most successful strategies in low-income areas often involve the low-income residents themselves in what amounts to quality control, and the results seem to suggest that, just like any good manager, local residents are capable of giving very positive reinforcement.

8. Conclusions

The relevant issues and options extend beyond the mechanisms embedded within a particular institutional framework (e.g. how do the interests of the urban poor get represented in the context of a private water concession), and extend to the selection and evolution of institutional frameworks (e.g. how do the interests of the urban poor get represented when the decision is made to grant a concession). Moreover, water governance cannot be disassociated from other governance issues. There are, as it were, strong returns to good governance. Good governance in one sector typically implies good governance in other sectors, not only because all sectors draw on the same governance institutions, practices and relationships but also because any good governance helps to create the aspirations and political strategies that can help address water and other issues of importance to poorer groups. “Better” governance, much influenced by decentralization and stronger local democracies (including elected mayors), has provided the context for more attention to water and sanitation in many urban centres (Hardoy et al., 2001; Follegatti and Hordijk, 1996; Velasquez, 1998).

While there is no single model or set of models for good water and sanitation governance, there are principles of water governance that provide the basis for taking some first steps towards using water and sanitation governance to get private enterprises to provide better services for the urban poor. It is not clear whether better governance would generally result in more or less private-sector involvement in water and sanitation provision. It is hard to see how international governance processes designed to increase private-sector participation (including liberalization through GATS) can be considered consistent with good local governance, whether or not this results in improved provision. There are, however, many other ways in which good governance can contribute to improved service provision for the currently deprived. This could include, for example, attempts to curb corruption, strengthening the capacity of communities to organize and negotiate with water and sanitation providers, and regulatory regimes that respond to the concerns of low-income groups.

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