

UN Committee on the Rights of Child

Day of Discussion on

**THE PRIVATE SECTOR AS SERVICE PROVIDER
AND ITS ROLE IN IMPLEMENTING CHILD RIGHTS**

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Submission by

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CELEBRATING
21 YEARS OF
water for life



‘ The private sector as service provider and its role in achieving child rights’

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About WaterAid

WaterAid is the UK's only major charity dedicated exclusively to the provision of safe domestic water, sanitation, and hygiene promotion to the world's poorest people.

Since 1981, WaterAid has been working through partner organisations to help poor communities in developing countries achieve sustainable improvements in their quality of life by improved domestic water supply, sanitation and associated hygiene practices.

WaterAid works through local partner organisations, using low-cost technologies appropriate to local conditions, and involves communities in the planning and construction of their new water supplies. Through these integrated projects WaterAid has, to date, helped over six and a half million people achieve lasting health improvements and a better quality of life.

WaterAid's vision is of a world in which all people have access to safe water and effective sanitation.

WaterAid's work does not focus on children, but on the eradication of poverty in families, households and communities. This paper will not deal specifically with the impact of private sector operators on children, but on poor communities, in the assumption that this includes children. However, from a rights-based perspective, children's rights are better protected with respect to water and sanitation than are those of adults, as water and sanitation are specifically mentioned in the Convention of the Rights of the Child.

Provision of Water and Sanitation

Safe water, sanitation and hygiene are essential for the well being of children. The fulfilment of many of the rights of the child are dependent on access to water and sanitation, such as education, health, safety at play, a clean environment, nutrition and shelter.

A significant proportion of the 1.1 billion people in the world without access to safe water and the 2.4 billion people without access to adequate sanitation are children. A child dies every 15 seconds from diseases associated with a lack of access to safe drinking water, inadequate sanitation and poor hygiene. Girl children, along with women, are the main collectors of water, burdened with walking several kilometres everyday in search of water, or waiting for long hours in queues for the bare minimum water requirement. It is this chore that often keeps children, especially girls from schools and classes. Lack of sanitation facilities also affects girl children most. It has been shown that the presence of sanitation facilities at school helps to ensure the continued school attendance of girls. This highlights the importance of finding a sustainable and appropriate way of delivering services to communities that are currently unserved, and the children that live within them.

Clearly, current provision is highly inadequate, often inequitable, and is in need of significant reorganisation and prioritisation in order to meet the millennium water targets that have been set. This is to halve the proportion of people without access to water by 2015. A similar target has just been agreed for sanitation at the World Summit on Sustainable Development.

Private Sector Participation in the provision of services

In order to improve provision, the World Bank and the donor community are pushing for sector reform. The reform agenda includes: the development and strengthening of legislation around water services and water resources; development of water supply and water resource management strategies and guidelines; institutional reform that emphasises the changing of government's role from provider to enabler/facilitator; the reform of public water utilities to make them more efficient in running the business and the facilitation of private sector interest in investing in water services. At the moment, only 5% of the world's water and sanitation services are delivered through the formal (multinational) private sector. However, with much of development assistance and loans conditional on the reform of the water sector, and specifically the involvement of the private sector, the role of the international, national and local private sector is set to increase.

Three reasons are usually given by the donor community and many international water agencies for involving the private sector in water service delivery: a) to address the lack of finance to invest in expanding services to those without access and rehabilitating old supply systems; b) to improve the efficiency of water services delivery; and c) to enable government to do what it is supposed to do – to govern – instead of run a service.

The recognised investment gap is huge. To reach the millennium target of only halving the proportion of people without access to water and a similar target for sanitation, it is estimated that \$11-25 billion per year for 12 years on top of current annual investments of around \$27 billion is needed. The water sector has historically suffered from a lack of investments and from the skewing of investment priorities towards improving services for cities (for drinking water supply) and dam building for irrigation and energy production. Indeed only 1-2 per cent of developing country income is allocated to water and only 6 percent of development aid goes to water. Of this, only 1.7 percent of the total investment is allocated to low-cost water and sanitation that directly serves the poor. In a time of reduced levels of aid, the donor community are keen to find alternative sources of financing.

Improvements in efficiency are long-standing needs across all the public water utilities. This includes efficiencies in tariff collection, in rehabilitation of leaking pipe networks and streamlining of management. The donor community believes that the private sector (particularly the multinationals) is more efficient and better able to manage services.

Inadequate governance of water services and water resources is universally recognised as the main cause of water scarcity across the world. In this, the role of government to set the legislative framework and investment plans, facilitate investments, set standards, monitor and hold accountable is crucial and currently inadequately addressed. The donor community believes that governments should leave the running of services to others and concentrate on governing.

All of these reasons are contentious.

In terms of the investment gap, the low priority given to water and sanitation services by developing country governments and the donor community is partly to blame. Where governments have prioritised water and sanitation, as in South Africa and in Uganda – particularly in the use of debt relief money – the governments are able to address financing needs. This also underscores the importance of making water and sanitation priorities in poverty reduction strategies, economic and development plans and/or national strategies for sustainable development.

Research conducted by WaterAid and Tearfund into experiences of private sector participation and into financing issues shows that efficiencies can also be achieved in public water utilities. But this is conditional on public utilities having financial independence, clear and relevant performance standards, accountability to the public and protection from undue political interference. Efficiency is not the monopoly of the private sector.

The argument for releasing government resources for governance is valid and important, but in many municipalities in the developing world, when government gets out of water services delivery, there are no other local actors able to take their place, leaving communities in a worse situation. This situation needs to be resolved.

Effects of private sector participation on poor people's access to water

WaterAid, in collaboration with Tearfund, another UK charity, has been carrying out research on the impact that this emphasis on the private sector will have on access for the poor women, men and children, in developing countries. This research has been carried out in twelve countries¹ and has included studying public sector provision as well as private sector.

Our research reveals that the policy of engaging the private sector is well embedded in the new national water strategies and policies of governments. This is regardless of the state of the market – the existence or not of any private sector capacity to provide or run and capitalise services; regardless of whether existing publicly-run services are inefficient or not; and regardless of the levels of poverty and real capacity of poor people to pay for services, without this impacting negatively on their ability to buy food and other essentials for survival, thus on their enjoyment of other rights.

¹ Dar es Salaam, Tanzania; Niassa Province, Mozambique; Four rural districts in Uganda, Accra and eight rural districts in Ghana; Buenos Aires, Argentina; Two districts in Mexico City, Mexico; Manila, New Bulatukan and Magdalena, the Philippines; Kathmandu, Nepal, Porto Alegre, Brazil; Washington DC; South Africa and England and Wales,

What effect does private sector delivery of water services have on the access of poor people to basic services? Answers to this question are necessary to assess whether the policy of involving the private sector will help achieve the water and sanitation targets.

Our research reveals that in rural areas where generally local, small-scale private sector is engaged in the building of water facilities, communities often are not informed of the contractual arrangement between the government and the private contractor and are not involved in determining the terms of the contract, nor of the service to be provided. Some do not even know who the private contractor is, and often have no means of direct redress over the private sector should they need this (for faulty or deficient workmanship). The contracting is often undertaken by government agencies at regional or provincial level, and therefore inaccessible to communities who may have complaints against the private contractor. Because people have not been involved, they do not have a sense of ownership over the facility, which affects their willingness to ensure its long-term operation and maintenance.

In these rural areas, there is minimal monitoring of private contractor activities by government, due to low capacities and resources so the contractors do not necessarily feel compelled to stick to the letter of the contractual arrangements. The summary effect is that water facilities are not sustainable from design to execution, nor are they responsive to the needs of those who lack services.

In urban areas, it is generally multinational private sector involvement which becomes involved in urban municipal services. Again, national governments' capacity to negotiate with the private sector is weak. The research that WaterAid and Tearfund have carried out in Kathmandu and Dar es Salaam suggests that in order for national governments and municipalities to negotiate contracts which fully reflect the needs of the population, more information and training is needed. This is also reflected in governments' current lack of capacity to regulate and monitor existing water and sanitation provision. This will be a crucial role for governments as the private sector is increasingly involved in provision of basic services, and should be a focus of contracts with the private sector. Again, issues of transparency and accountability both to governments and to the communities to be served can only be achieved if all stakeholders are fully aware of the options for service delivery, and are involved in making decisions which impact on this delivery.

However, the role of regulating and monitoring the delivery of services is frequently one of the problems that governments have when services are held in public control. The issues that governments constantly struggle with - such as who is receiving services and who is not, what level of services people are receiving, whether they are affordable, what kind of tariff systems are in place to ensure that the poorest are able to access the water they need - are still issues for the government to resolve with a private supplier.

The resolution of these issues is a matter of political will rather than a matter of who is the provider. Is the government prepared to provide services to those who are living in informal settlements? Can the government afford to provide services for free - and if so how will they be paid for? How can the government provide services for those living in remote area?

Once these issues have been resolved, then the question becomes one of finding the most appropriate service provider. In some cases, the private sector, whether an international, local, large- or small- scale organisation, will be the best suited to provide essential services. This can be seen in rural areas, where private contractors are frequently used to dig wells, as the role of local governments moves from one of implementation to one of facilitation, monitoring, setting

and enforcing standards. Unfortunately, in this process, issues of community participation and management, which are essential for long-term sustainability, are bypassed in the interest of digging more wells. Small-scale private sector businesses are struggling to meet their commitments of involving communities, or carrying out crucial hygiene promotion work. In a rights-based development context, this is a serious omission.

Can the poor afford to pay?

An argument that is frequently made against private sector involvement in the delivery of basic services, such as water and sanitation, is that private companies are profit-driven, and therefore do not have the interests of the poor at heart. For many critics of private sector involvement in services, there is a principle that profits should not be made from the provision of basic needs.

When the private sector first starts to manage a previously public municipal supply services will only be delivered to those who are already receiving services, and expansion of the services is likely to be focussed initially on the communities that are guaranteed to be able to pay for the services. Poor communities living in informal settlements face several barriers to gain access - frequently these communities lack any security of tenure, and so are seen as a financial risk, due to the risk of eviction. They are also seen as too poor to pay for their services and also the level of service that they would be able to pay for demands a reduction in the standard of services that the government is prepared to supply. The first issue here, that of delivering services to informal settlements that lack land tenure, is not one that a private sector operator can resolve. This is a question for political decision-making over the right of landless people to basic services, which governments have to make, for either a municipal supplier or a private sector supplier. This is a crucial issue for poor communities, as there is clear evidence of a connection between a lack of land tenure and limited access to water and sanitation services. Likewise, a reduction in standards is dependent on political will - if a government is committed to delivering water and sanitation services to all citizens, then they need to find a way of doing this in a manner which is affordable and appropriate. This may include lowering standards of delivery, from VIP latrines to other forms of latrine, or from a fully piped sewerage system to a small-bore system, managed at community level. Alternatively, the government needs to provide subsidies targeted for the poor.

With respect to ability to pay, low-income communities who currently get their scant water supplies from small-scale vendors, or from contaminated water sources, tend to pay a far higher cost per litre than their middle-income neighbours who are receiving piped supplies into their homes do. They also pay higher associated costs in terms of lost productive time for queuing for water and costs of healthcare due to water-borne illnesses. However, the fact that the poor are paying more than the non-poor and therefore could afford to pay for water must be balanced with the fact of what the poor cannot afford because of the costs of water. Because water is essential for life, people will pay any price to get access to it, but at the cost of their enjoyment of other rights and needs such as education, health, food.

Conclusions

In conclusion, private sector involvement at a small scale is already a reality for the delivery of services to the poor, from water vendors in cities, to small-scale contractors in rural areas digging wells or latrines. In rural areas particularly, this is likely to continue to be one of the methods of delivery of services.

In cities with a public municipal supplier, the privatisation, or private sector involvement in the municipal supply is unlikely to have an impact on the poorest residents, who are outside existing systems. Only if delivery of services to the poor is made a firm condition of any contract with the private sector, and there is a good regulatory body to ensure that these conditions are met, will the poor benefit from a contract with the private sector. Bearing in mind the cost to the poor of buying water from water vendors, and the health costs of inadequate sanitation, the cost of buying water from a municipal supplier whether publicly or privately run is unlikely to be an increase on what is already being paid.

If private sector participation is simply a replacement for a failing public service provider, without clarity on why the public sector has been failing, there are no guarantees that the private sector will improve services.

The responsibility for the delivery of services rests with national governments, whatever institution is put in place to implement the delivery. This means that with the participation of the private sector in the delivery of water and sanitation, the government has an important role to play in monitoring and regulating the private company. This will include ensuring that the needs and entitlements of the poor are met - including the right to water, which is enshrined in the Convention on the Rights of the Child.

An objection to private sector involvement in basic services is often stated to be one of principle - profit should not be made from the provision of basic needs. However, on a practical level, people are presently paying high costs to realise their basic rights. If the contract for private sector involvement is well designed and adequate services are supplied at a price that the government and the poorest residents can afford, then the fact that profit is being made is irrelevant. It is surely better for profit to be made on an efficient service, which ensures its sustainability, than for a loss to be made on a public service which is inadequate and serves only the middle-income residents.

The question, then, is not so much whether the provision is public or private, but who is gaining access to services, and are they run efficiently and affordably, so as not to impact negatively on the enjoyment of other rights?

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