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# Delhi Water Supply Reforms Public-Private Partnerships or Privatisation?

SUJITH KOONAN, PREETI SAMPAT

The manner of implementation of water supply reforms in three areas of Delhi based on the public-private partnership model has been a quiet and secret affair without proactive consultations with the people of the project areas. This account of the Delhi reforms examines the documents of one of the three PPPs and asks questions about the manner in which the projects are unfolding, the roles of the Delhi Jal Board and private entities as envisaged in the PPPs, as well as the overall implications for the right to water.

**D**ramatic reforms are being quietly introduced in water supply services in Delhi. The reforms focus on increasing the “efficiency” and “financial sustainability” of the water supply utility by reducing non-revenue water (NRW) and involving the private sector in various activities. The Delhi Jal Board (DJB), the agency responsible for water supply in Delhi, is implementing three pilot projects on a public-private partnership (PPP) basis and has introduced a number of reforms including outsourcing of meter reading and billing, privatisation of tanker water supply and the appointment of three special magistrates to deal with cases of “unauthorised” use of water.

The attempt to involve private companies in water supply is not new in Delhi. The DJB had commissioned the “Delhi Water Supply and Sewerage Project Preparation Study” in 2002 to Price Waterhouse Coopers (PWC) with the assistance of the World Bank. Vibrant campaign activity by citizen groups and DJB employees exposed the strong-arm tactics of the World Bank in ensuring the award of the consultancy contract to PWC; serious flaws in the design and cost of the project proposed by PWC; and the proposal to hire private management consultants for ostensibly improving service delivery efficiency, thereby raising water tariffs across the city. While the exposure of the details of the project led to a massive uproar that eventually resulted in a shelving of the project in 2005, what the DJB is now implementing in the form of PPPs has a lot of overlap in the objectives and intent of the shelved project of 2005 (for more details on the 2005 project see Parivartan (2005)).

The outsourcing of the responsibility of water supply to private companies is,

of course, not unique to Delhi. PPPs in water supply and sanitation have been promoted by the central government and various state governments and have been implemented in other urban centres in the country like Hubli-Dharwad (Karnataka) and Nagpur (Maharashtra). The recently released Draft National Water Policy 2012 also envisages the minimisation of the government’s role in water services and promotes the involvement of private parties through the PPP model, encouraging the commercialisation of water services (GOI 2012).

At the same time, however, the fundamental right to water<sup>1</sup> is a part of the right to life under the Constitution of India. Though the fundamental right to water is not explicitly recognised under the Constitution, it is made part of the fundamental right to life by the Supreme Court of India and various high court judgments.<sup>2</sup> At the international level, the human right to water is recognised under a number of binding as well as non-binding instruments such as Convention on the Elimination of All Forms of Discrimination against Women 1979 and United Nations General Assembly Resolution on the Human Right to Water and Sanitation 2010 (for a more detailed account of national and international instruments for the right to water relevant to India see Cullet and Koonan (2011)).

It is in this context that the implications of the reforms introduced in the water supply services in Delhi need to be examined. What follows is a critical account of the implementation of PPPs in Delhi. We examine in detail the documents for one of the three PPPs – the Malviya Nagar PPP – and believe that the issues and concerns emerging in its implementation are likely to be applicable to the other two PPPs underway (and any others likely to be taken up in the future by the DJB). We raise key questions regarding the PPPs, including the manner in which the projects are unfolding, the roles of the DJB and private entities as envisaged in the PPPs and the overall implications for the right to water, and hence the right to life for all people in Delhi.<sup>3</sup> Our analysis is based

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on information collected from the DJB through right to information (RTI) applications, web searches and meetings with concerned DJB officials. This has been a process of discovery and learning for us and we have retained many technical terms in an attempt to demystify them.

### PPP Pilot Projects

In January 2011, media reports regarding the privatisation of water supply in Delhi by the DJB began to appear. Intrigued by the newspaper reports, the authors along with some others filed RTI applications with the DJB for details on any privatisation projects undertaken by the DJB and were informed in a reply dated 13 July 2011 (RTI document available with the authors):

There is no such proposal for privatisation of water supply in Delhi. There are three proposal[s] under preparation with the name of Public-Private Partnership (PPP) to improve service delivery and achieve 24x7 water supply system on Public-Private Partnership (PPP) basis.

The RTI reply gave the details of the three pilot PPPs as follows:

- (i) Vasant Vihar and adjoining area – water distribution system.
- (ii) Malviya Nagar UGR (Underground Reservoir) and its command area.
- (iii) Nangloi (Water Treatment Plant).

To the query “Are these projects wholly or partly in continuation with the Delhi Water Supply and Sewerage Project 2005? If yes, please provide details of these continuing components or features,” we got the reply: “No such information is available”.

### Rationale for PPP

The DJB estimates the current population of Delhi at 190 lakh, expected to rise to 230 lakh by 2021. The city is spread over 1,484 sq km and rapidly urbanising. The present water supply in the city managed by the DJB is 810 million gallons per day (MGD) and it caters to a population of 160 lakh. While 30 lakh of the population are without formal water supply services, the DJB notes that a large quantum of water is “lost” due to various reasons and the share of NRW stands at 65% of the city’s entire water supply. Having prepared

an “efficiency improvement plan for [the] existing water supply infrastructure” with “reduction in water losses” and by “improving [the] energy efficiency of the system”, the DJB claims it has undertaken the PPP pilot projects “to improve and revamp the existing water supply system”.<sup>4</sup> Given existing “losses”, the DJB notes that any incremental addition to water availability would amount to “filling a leaking bucket” and such increments through big dam projects are expensive and time-consuming propositions. Thus the need for the reduction of water losses (i.e., NRW) is emphasised along with improved management of distribution. The DJB maintains that private sector entities will deliver these priorities efficiently and is hence entering into PPPs such that the assets are owned by the DJB, while operation and maintenance (O&M) is the responsibility of private entities.

The detailed project report (DRA and STC 2011: 115-16) prepared by the consultants for the Malviya Nagar PPP explains that “real losses” in water supply occur because of a number of reasons:

Leaks at raw water transmission, Evaporation losses, Water treatment losses, Leaks/seepage of reservoirs, Overflow of reservoirs, Leakages of distribution mains, Leakages from valves and air valves, Leakages from service connections up to meter, and Leakages in consumer premises after the meter.

It adds that “apparent losses” of water supply also occur because of “violations” of the water supply service rules and may involve “illegal” connections to the network, “illegal reconnections” after disconnection for non-payment and tampering with metres. The PPPs are thus designed with the expectation of reducing the NRW in Delhi from the current 65% to 15% in five to eight years! The DJB notes that “enormous” investment is required for this which is not likely to be raised by the public sector alone and requires the involvement of the private sector. The extent of private sector involvement through the PPPs in the case of Malviya Nagar covers the following activities: (1) project feasibility studies; (2) project engineering design; (3) specialised survey; (4) construction works; (5) supervision consultant; and (6) quality assurance.

For the PPP consultancies, tenders were invited from firms with relevant expertise, i.e., prior involvement in similar projects elsewhere in the country. Of the three PPPs, in Malviya Nagar, DRA Consultancy Services has been awarded the consultancy for “Reduction of NRW/ UFW [unaccounted for water] with Improvement in Level of Service to the Water Consumers and Improvement of Uninterrupted Water Supply under the command area of GR & BPS,<sup>5</sup> Malviya Nagar”; in Vasant Vihar Jalakam Solutions has been awarded the consultancy for “PPP Project for reduction in NRW and Improvement in Service Standards to ensure uninterrupted Water Supply in Vasant Vihar”; while in Nangloi a consultant is yet to be appointed for “Improvement and Revamping of Existing Water Supply, Transmission and Distribution Network under the Command area of Nangloi Water Treatment Plant, Delhi”. The titles of these consultancy contracts again underline the overwhelming consensus regarding the concerns of the DJB for entering into these PPPs: (a) reduction in NRW, and (b) improvement of uninterrupted water supply.<sup>6</sup>

The Malviya Nagar consultancy contract was for Rs 285 lakh. The objectives of the contract are telling in their detailed and long-term scope: to establish baseline conditions through a detailed study including an evaluation of the present water supply system with respect to underground reservoirs, transmission and distribution network; bulk and consumer metering; creating a consumer database for all categories; identification of unauthorised use and 100% measuring through good metres. The contract also covers formulating a system improvement plan; building and calibration of a network model with techno-economic investigations; rehabilitation work; reducing NRW from the existing over 60% to 15% in five to eight years; feasibility study for the PPPs and the preparation of a detailed project report (DPR) in the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) format; getting necessary approvals at the state and central levels; assistance in pre-bid meetings, clarifications, tendering, evaluation and

award process of the tender with a transition period framework; stakeholder participation in planning and implementation for proper disclosure and consultation with all stakeholders; developing a legal structure for the performance management and regulatory structure; and project management consultancy with performance assessment.

**Table 1: Project Population Details**

SNo	Name of Colony	Population
1	Malviya Nagar	27,454*
2	Saket	40,997
3	Shivalik	6,164
4	Geetanjali	2,721
5	Sarvodaya Enclave	6,521
6	Navjeevan Vihar	1,690
7	MMTC STC Colony	5,169
8	Panchsheel Park	3,257
9	Swami Nagar	1,107
10	Sadhna Enclave	1,744
11	Sarvpriyavihar	5,680
12	Sheikh Sarai Phase-I	8,851
13	Sheikh Sarai Phase-II	6,922
14	Khirkhi Village + Khirki Extension+ DDA Flats	43,567
15	Hauz Rani	15,626
16	Begampur	6,543
17	Chirag Delhi	16,394
18	Savitri Nagar	7,940
19	Kalu Sarai (including Vijay Mandal)	3,975
20	Pushp Vihar	35,908
21	Lado Sarai	17,425
22	Katwaria Sarai	17,966
23	Qutub Institutional Area	5,395
24	Adhichini	1,699
25	Saiyad-ul-Ajab Inc Paryavaran Colony	79,066
26	Nab Sarai including Harijan Basti	12,572
Total residential population		3,82,353

\* IGNOU excluded. \* Resident.

Source: Data abstracted from consumer demand survey report.

The work of the consultant is divided into three phases:

Phase – I: Consultancy services for preparation and approval of DPR as per JNNURM toolkit.

Phase – II: Preparation of bid document and evaluation criteria for implementation of project through PPP options upto execution of contract agreement with transaction adviser.

Phase – III: Project management consultancy for construction/rehabilitation and monitoring during O&M for specified period (DRA and STC 2011: 65).

The Malviya Nagar and Vasant Vihar PPP consultancies have moved to the

second phase with the submission of the DPR by the consultant, while the Nangloi PPP is still in a nascent stage. The bidding process for the Malviya Nagar PPP project is now ongoing and likely to be finalised by the middle of 2012.

### Proposed PPP in Malviya Nagar

The PPP covers an area of 14 sq km comprising 26 medium to large colonies (excluding Indira Gandhi National Open University (IGNOU)). According to the household survey conducted by the consultant, the present population of the project area is 3,82,353. The number of registered water connections in the project area is 32,148. The project envisages the construction of the Malaviya Nagar Underground Reservoir and booster pumping station which is to eventually receive filtered water supply from Sonia Vihar treatment plant through the Greater Kailash south reservoir which is the main feeder. A second source of water is from the Greater Kailash main reservoir via Vasant Vihar. Table 1 gives the details of the colony-wise project population.

As of now the coverage of water supply in the project area according to the DPR is 84% and the per capita supply of water is 286 litres per day. The continuity of supply is three to eight hours with the extent of NRW at 65-70%. Key targets to be achieved through the project are shown in Table 2. The efficiency of collection of water charges is 81%.

### What Are the Project Activities?

The DPR (ibid: 65) argues that a “holistic” approach is needed for removing system deficiencies and achieving the desired

service level (24×7 water supply) and this requires reforms in three areas:

(1) **Supply-side Management:** Ensuring the adequacy of supply and the repair and rehabilitation of infrastructure to reduce water leakage.

(2) **Demand-side Management:** Imposition of water charges as per consumption; efficient metre reading and billing system; proactive connection policy for unconnected population; and prevention of unauthorised consumption.

(3) **Managerial Reforms:** PPP implementation through long-term performance based contracts.

There are thus three core activities to be carried out in a period of 12 years:

(1) Rehabilitation of the existing infrastructure which includes replacement and upgradation of pipes, metres, etc;

(2) Expansion of water supply network; and

(3) O&M of the water supply network.

The first two core activities are to be completed in the first two years of the project and the third activity will carry on for the rest of the project period, i.e., 10 years. Thus, the core activities of the project are divided over 2+10 years.

While the DPR claims that no DJB employees will be transferred to the operator for the project activities, a DJB official we met was of the opinion that 50% of the project staff will be transferred from the DJB to the operator (DRA and STC 2011: 148)!

Another point of interest is that the DPR proposes the division of the project area indicated earlier into three hydraulic

**Table 2: Malviya Nagar PPP Targets**

Particulars	Present Status	Target	Target Year
Coverage	84%	100%	2014
Per capita supply of water (lpcd)	286	150*	2021
Continuity of supply	3-8 hrs	24 hrs	2014
Extent of metering of water connections	41%	100	2014
Extent of non-revenue water	65-70%	15%	2021
Quality of water	Not meeting	100%	2016
Efficiency in collection of water-related charges	81%	95%	2021
Operating cost recovery in water supply services	30.96%	100%	2016
Efficiency in collection of water-related charges	81%	95%	2021

\* The DPR explains that the existing supply of 286 lpcd for 84% of the population includes the present extent of NRW at 65-70% and is therefore inefficient. Since one primary objective of the project is to reduce NRW to 15% within the project period, the projected supply of 150 lpcd for 100% population by 2021 reflects the reduced NRW and improved water supply. 150 lpcd is the benchmark of the Ministry of Urban Development (DRA and STC 2011: 149).

Source: Compiled by authors from the consultant's DPR (DRA and STC 2011).

zones. The Zone III area comprising Parvavaran Colony, Freedom Fighter Colony, Western Avenue Colony, part of Indira Enclave and part of Saduljab vilage are not covered under the existing metered water supply network of the DJB (ibid: 95). The population in these areas excluding IGNOU roughly comes to 91,500 – nearly a quarter of the project areas population. We assume that these colonies are likely to have standposts or other sources such as tube wells that supply water to the residents in these colonies. The DPR strangely notes that piped water demand for this area shall arise only after 2015. Assuming that the project begins in 2012, the first two core activities, i e, rehabilitation and expansion, will be over by 2014. As a result, it emerges that the Zone III colonies are not covered in the network expansion core activity of the project at all. The DPR makes no mention of how or when piped water will reach these colonies. On the other hand, what is remarkable is that all public standposts are to be removed as part of the rehabilitation activities. While it is not absolutely clear whether the standposts and other existing sources of water will be removed from Zone III areas, if they are removed to establish the extent of piped water demand, this would imply that the Zone III areas will be left with no provision of water for the entire project period!

### Who Are the Actors Involved in the Project and What Are Their Roles?

There are four main actors involved in the PPP project and their roles are:

**(1) DJB:** (a) Decide the level of subsidy versus tariff; (b) establish the tariff structure; (c) secure availability of required water at the underground reservoir; (d) pay energy bills to energy providers; (e) manage existing projects; (f) repay own loans and liabilities; and (g) pay subsidies (if any).

**(2) Consultant:** Project management consultancy for construction/rehabilitation and monitoring during O&M for specified period (15 months)<sup>7</sup> after the project begins.

**(3) Operator:** (a) O&M, (b) management of the project, and (c) partial investments.

**(4) Monitoring Committee:** Hundred per cent controlled by the DJB and composed of officials, elected representatives and residence welfare associations: (a) call for external assistance whenever required (tariff rebasing, auditing, monitoring, etc); (b) monitor the key performance indicators; (c) monitor the operator's technical and financial performance and legal and contractual obligations; (d) approve the rebasing of tariff as per contract; (e) make decisions regarding new projects; and (f) minor dispute resolution.

Apart from these, private contractors can be hired for undertaking activities such as rehabilitation, expansion, metering, billing, etc.

### What Is the Financial Arrangement of the Project?

The total estimated cost of the project is Rs 143.04 crore, out of which Rs 77.84 crore is for rehabilitation, upgradation and expansion activities which are to be carried out in first two years of the project by the operator. An amount of Rs 65.20 crore is for road restoration activities which will be carried out by the DJB.

Table 3 gives the detailed break-up of the project cost. The DPR explains that the road restoration has been excluded from the ambit of the operator since the

clearances from Municipal Corporation of Delhi (MCD) are required for this and DJB is better equipped to handle this risk.

The estimated project cost has two basic components: the bill on quantity (BOQ) and the road restoration costs. This division is made since it is likely that the MCD will be expected to carry out the road restoration as the task comes under its jurisdiction. The operator's fee is not calculated as part of this project cost as it is considered an operating expense for the DJB and is thus reflected in its income and expenditure statement.

### Cost Recovery and Operator's Remuneration:

The revenue of the project accruing to the DJB is a product of the water tariff and the volume of water billed. The collected revenue will increase as the volume of water billed increases over the project years (DRA and STC 2011: 132). The remuneration of the operator is to be deducted from the revenue collected with the assumption that the operator will earn an internal rate of return (IRR) of 15% from his investment. The operator will be paid for 25 MLD during the rehabilitation period of two years even if the volume billed and collected is less. Thereafter, the operator will be paid according to the actual volume billed and revenue collected (ibid).

The fee of the operator is calculated according to each cubic metres unit (m<sup>3</sup>) of water supplied. In case of any supply not paid by the consumers as a result of

**Table 3: Estimated Project Cost**

Sr No	Name of Particulars	Unit	Rehabilitation and Upgradation		Expansion		Total	
			Qty	Cost in Crore	Qty	Cost in Crore	Qty	Cost in Crore
1	Replacement and upgradation of pipeline	RMT	97,938	20.39	23,097	4.2	1,21,035	24.59
2	Replacement of existing house service connection	Nos	34,000	24.08	7,200	4.67	41,200	28.75
3	Valves and specials			5.51		3.031		8.55
4	Trench less	M	800	2.22	200	0.57	1,000	2.79
5	Repair works	Nos		0.62		0		0.62
6	Electro magnetic metre	Nos		0.78		0.35		1.13
7	Developing billing software	Nos	1	0.2		0	1	0.2
8	Automation	Nos	1	2		0	1	2
9	Construction of office and CFC centre	Nos	1	1.05		0	1	1.05
10	Civil works			2.24	0	1.12	0	3.36
11	Other works			0.69	0	0.36	0	1.05
12	Cutting of bituminous road and cement road	cum	52,228	2.77	20,247	0.981		3.76
	Total BOQ (in Rs)			62.56		15.28		77.84
13	Restoration and cutting of bituminous road	sqm	3,70,624	52.02	84,014	13.18		65.2
	Total project cost			114.58		28.46		143.04

Source: DRA and STC (2011: 131).

subsidy, the water will be billed and it will be the responsibility of the DJB to pay the fees to the operator for such water supplied. As there will no unbilled and unmetered water supply, the operator will be free from any commercial risk of non-payment by the consumers or because of any "free water" policies of the DJB.

A DJB official claimed that the water tariff will not be increased to cover the operator's fee. This indicates that the existing tariff structure of the DJB is already high enough to bear the operator's fee. However, these are moot points. Since 2009 the water tariffs have been raised annually: (a) Residential from Rs 5 to Rs 7.19 per m<sup>3</sup>, (b) Mixed from Rs 5 to Rs 14.32 per m<sup>3</sup>, (c) Commercial from Rs 34 to Rs 41.76 per m<sup>3</sup>, (d) Government institutions from Rs 33 to Rs 41.76 per m<sup>3</sup>.

The total increase amounts to from Rs 19.17 to Rs 26.26 for 32,148 connections. The DJB revenue increased from 2009-10 to 2010-11 is from Rs 6.812 crore to Rs 13.632 crore (ibid).

**Sources of Finance:** While the sources of finance for the project have not been finalised, the DPR indicates the following break-up (ibid: 131): (1) Government of India: Rs 71.52 lakh (50%), (2) State: Rs 28.61 lakh (20%), (3) DJB: Rs 30%.

- (a) Bank loan: Rs 21.46 lakh (15%)
- (b) PPP: Rs 21.46 lakh (15%)

As per the information received from a concerned DJB official, one source of finance could be JNNURM. Given that the suggested component of funding from the Government of India for the project is 50% and the DPR has been submitted in the format prescribed under JNNURM, this further corroborates the likelihood of JNNURM as a major source of funding.

While we are not experts in the area, common sense indicates that the private sector investment in the project explained in the break-up mentioned earlier as "PPP" is only 15% of the total project cost (Rs 21.46 lakh). Given that a major justification for the PPP is the investment by the private party/operator for the scale of improvement of services sought (see section Rationale for PPPs mentioned earlier), the sum of Rs 21.46 lakh in an overall project of Rs 143.04 crore seems too paltry for any significant

investment risk. Along with the assured fees of the operator, in fact, it turns the "reward for risk" argument for profits for private investment on its head, where the reward seems to be tied to the investment itself, rather than a result of any risk undertaken!

**Issues and Concerns**

The proposed PPP raises several issues and concerns of importance to the people of Delhi and the Indian public at large.

**Hiring Private Consultants:** The DJB claims that this is the first time it is engaging in such a consultancy project. While this is untrue given the award of the previous consultancy to PWC in 2002, the need for a private consultant to design the reforms needed in Delhi's water supply itself is questionable, especially at considerable public cost. It is indeed worth asking why the many universities and research centres in the capital region, including the esteemed Indian Institute of Technology, were not deemed worthy of offering expertise for improvements in the delivery of a service so vital to the right to life for all.

The award of the consultancy contract to DRA consultants also raises accountability concerns. The budget approval of the consultancy contract is an interesting example in this regard. File-notings<sup>8</sup> obtained through RTI reveal that *there was no approval by the planning division for the estimate of Rs 335*

*lakh drawn up by the DJB for the contract.* On 16 April 2010 the executive engineer (EE) referred DRA Consultants for award of the consultancy, noting that it quoted

the lowest rate for Rs 2.85 crore against departmental justification of Rs 3.35 crore. No such work has been done in this division in the past. Since the rates of DRA Consultants are lower than the justification, hence, "...for acceptance pl" (sic) (RTI document available with the authors).

On 28 April 2010 the EE, assistant engineer (AE) and superintendent engineer (SE) further recommended according post facto approval to estimate and approve of award of the work to DRA Consultants noting:

Estimated cost of the work is Rs 283 lacs against the suggestive cost of Rs 335 lacs, which have been seen by planning with the comment that the rates are on purely tentative basis and there is no authenticity of rates taken, so it cannot be checked by planning. ...Sub technical committee examined the case on 26.04.10 and decided to recommend the case for award in favour of M/s DRA Consultants Pvt Ltd and also for administrative approval of the estimate. Technical committee in its meeting held on 27.04.10 also decided to recommend the case for award of work to L-1 bidder and post facto administrative approval of the estimate (ibid).

To the observation made by the finance division that the suggestive cost "has not been checked by the planning department on the ground that rates are purely on tentative basis and there is no authenticity of rates taken", the reply on 6 May 2010 signed by the EE, AE and SE



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noted that the suggestive cost has been accepted by the chief engineer (south) as also the sub-technical committee and the technical committee and that this is consultancy work and this type of work has not been done so far in the division. On the basis of this reply, the award was recommended for further approval of the chief executive officer of DJB and concurrence of finance at the appropriate level – member (finance) of the DJB. Finance finally concurred with the observation that:

This consultancy work almost is touching Rs 3 crore. Project is concurred subject to:

- (i) Benchmarks to be achieved during consultancy work be clearly defined.
- (ii) SLA's [Service Level Agreements] for each benchmark may also be specified while signing the agreement... (ibid).

It seems inappropriate that the suggestive estimate of nearly Rs 3 crore was approved by the DJB without adequate checks, on the claim that such work has not been carried out by the division before. Why was the estimate and hence the lowest bid against it approved by level after level of concerned authorities in the DJB? At the very least this indicates an irresponsible and unjustifiable hurry in the implementation of the project undertaken for public good with public money. The dispensation of public money clearly needs much more vigilant processes and checks built into estimate approvals. They indicate systemic inefficiencies that might be causing additional revenue loss to the DJB!

### Improved Water Supply for Whom?

The proposed PPP project aims to provide improved water supply to the project area round the clock (24×7). However, this does not mean that everyone living in the project area will get water for 24 hours a day. The project area has been divided into three zones and Zone III areas (Paryavaran Colony, Freedom Fighter Colony, Western Avenue Colony) are not covered under the existing water supply network. The DPR does not talk about the improvement of water supply in these areas. Instead, the DPR concludes that “piped water demand for this zone will arise only after 2015”. However, there is no clear procedure for

assessment of this demand in 2015. As we noted earlier, with the removal of public standposts, their situation would only be further exacerbated. If the period of the O&M contract is taken as 12 years starting in 2012 (the bidding process is already underway), the operator's mandate would not cover provision of water to these areas. The DJB is yet to decide on whether it will undertake expansion of the existing network. Through our discussion with a DJB official we are given to believe that there is no such plan for expansion and the focus of the PPP is solely to contain leakages and improve existing supply. Therefore, it is clear that the people living in these areas will not get any benefit of the “improved water supply” promised by the Malviya Nagar PPP project at least in the next 12-13 years, defeating the objective of securing access to water for the poor.

**Removal of Public Standposts:** Removal of all public standposts has been suggested as one of the strategies to improve the water supply infrastructure. The rationale for this action is the “finding” that:

waste water from public stand-post generally discharged into roadside drains or discharge directly in nearby (sic) are creating stagnation of water. The filthy waters stagnate in the area giving rise to unsightly appearance, foul smell and breeding of culex mosquitoes (which are the vectors for filariasis), pollution of groundwater, due to back-siphonage (which may lead to increased incidence of faecal – oral diseases such as diarrhoeas, enteric fevers and viral hepatitis) (DRA and STC 2011: 118).

While the concerns regarding “unsightly appearance”, public health and environmental quality are worth appreciating, the adverse implications of the removal of public standposts also need to be considered. Public standposts are the source of free water for the poor and the homeless. It is an extremely unrealistic expectation that the poor and the homeless will get water from an “improved piped network” that will bill them for water provided. As of now there are no indications of free or even subsidised water supply for any segment of Delhi's population. The removal of public standposts thus means the denial of water to the poor, the homeless and pavement dwellers. In other words, the removal of public standposts seems a

strategy to exert pressure on all residents to connect to piped water supply so that the DJB can generate more revenue. This would be of particular interest to the private operator because the remuneration of the private operator depends upon the revenue generated from the project area. In this predominantly revenue-oriented reform approach, public standposts are seen as a source and reason of revenue loss and public health and environmental concerns are cited to justify the removal of such “loss-making” facilities.

We would like to clarify that we are not against individual piped water supply per se and recognise that most people would readily sign up for such connections. However, public standposts serve an important purpose in providing access to water for the poor and the homeless. Any improvement in water services including the provisioning of individual piped water connections should be based on the principle that safe and adequate water is a right for all and the government must secure it for all without the commodification of this precious resource. Any decisions on the best manner of securing this right must conform to the principles of the right to water, the right to life and the right to decentralised democratic decision-making.

### Public Participation

It is recognised in the DPR that at present there is limited confidence in the technical feasibility and financial viability of implementing 24/7 water supply in Delhi amongst stakeholders because of lack of communication (DRA and STC 2011: 14). Therefore, as a next step, it is recommended that the project shall be implemented with the involvement of all stakeholders through effective communication strategies in pilot zones. The project considers it the duty of the consultant to convince the stakeholders with effective communication. In a pre-bid consultation meeting for the consultancy contract held on 24 February 2010, the DJB replied to a query about it as:

the consultant will ensure proper media and press interface, track the development in press and media regarding the project, positively influence the public opinion and bring consensus on the project through proper

structural communication and media management plan. The consultant will execute all the components of communication and media management plan, assist employer in handling press conference, RTI, etc. The consultant should develop proactive public campaign for success of the project (RTI document available with the authors).

This reveals some fundamental flaws that go against the spirit of democratic decision-making as envisaged under the 74th constitutional amendment. It establishes that the DJB and the Delhi government have not consulted the public before introducing such drastic reforms in water supply and are in fact depending on a private consultant to “convince” the public instead of the DJB proactively consulting the people of Delhi regarding the changes needed to improve and ensure access to water for all.

While the consultant’s DPR elaborates the methodology of a 100% household survey to determine the population of the project area, there is no mention of any “public campaign” to convince the residents of the project area of the need for the PPP. This transfer of accountability to a private entity is as unacceptable as the

lack of public consultations prior to undertaking the PPP. Interestingly, the objective of improving “customer services” to the urban poor finds no mention in the details of the initial consultancy Terms of Reference studied by us but found its way in the project summaries and the DPR; we wonder if the point was added as an afterthought and question how these concerns have been determined as a priority area by the DJB. What was the involvement of the citizens of Delhi, specifically the “urban poor customers” in determining the “improvements” for a service as vital as water supply?

#### Commercialisation of Water?

DJB documents repeatedly use the term “consumers”, not “residents”, or even “citizens”, underlining the emphasis on water as a revenue generating economic good rather than a fundamental right. The Malviya Nagar PPP project accordingly aims to improve the levels of service to “water consumers”. Thus, the objective of the PPP project is to redefine the relationship between the DJB and citizens to make it a relationship between a

“service provider” and “consumers”. The overwhelming objective of the PPPs is the reduction in NRW, a term that again emphasises water as an economic good, rather than a right. This commodification of a resource so vital to life reflects a dangerous trend that will potentially result in denial of access to water for those who cannot afford it. At the very least it shifts the focus from the obligation of the government to ensure water for all to an overseer of an “efficient revenue-generating service delivery to consumers” through PPPs.

The idea of treating people as consumers in the case of water supply is inappropriate ethically as well as legally. Ethically, water arises from nature and is essential to life; it is inappropriate to convert it into a “good” or “service” to be exchanged for money. It is unethical to restrict access to this gift of nature essential for survival of all living beings to those who can pay for it or “possess” it as owners of land. From a legal point of view, the linking access to water to economic capacity of an individual is contrary to the concept of the fundamental

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right to water. As noted earlier, the fundamental right to water is part of the fundamental right to life as recognised by various legal instruments nationally and internationally. It is the duty of the government to take all possible measures and use all available resources to ensure the implementation of this fundamental right without any discrimination. This ideal of non-discrimination would be the first to be violated by the implementation of a consumer-oriented water service delivery mechanism.

As a result of ineffective action towards securing the right to water, several residents living in the so-called “unauthorised” colonies of the city are at the mercy of private water mafias and/or the local political elite. This means that there is no check on the quality, quantity and frequency of water to these residents. Rather than mitigating these serious issues of access, the creation of a revenue-oriented service delivery mechanism for water would allow the Delhi government to shrug its hands off provision of water to these colonies altogether. Indeed, the removal of public stand-posts is a critical step in this direction as most poor colonies, whether under “authorised” or “unauthorised” status, depend on a combination of these stand-posts and private suppliers. A field visit conducted by one of the authors in August 2010 in Hubli-Dharwad, Karnataka revealed that the removal of public stand-posts was part of the implementation of the 24×7 water supply project in the city. This has forced the residents to either pay for every drop of water including for livestock or rely on any other source of water which is not charged (for details on the 24×7 project in Hubli-Dharwad see Sangameswaran et al 2008)!

The argument that a private operator would not be bothered about the status of the colony and would be interested in expanding revenue generation through an expanded “market” is a moot point: (a) Expansion of services to these areas is only envisaged after the pilot project is over; (b) if revenue generation is the overarching concern, the water would be supplied first to those who can afford to pay for as much as they need, given

that there is no minimal criteria of supply to all; and (c) evidence from across the world whether in Bolivia or Italy, where such initiatives have been undertaken through private participation reveal that tariffs rose exorbitantly and the poorest were the hardest hit for access to water leading to popular uprisings that eventually wrested control over water supply from the private sector to public or collective control (see Prasad 2006; Lobina 2000; Dwivedi et al 2007; Wolfw 2011). These experiences are extremely pertinent to the Indian context and their lessons must be taken into account while formulating policy and implementing projects for the fundamental right to water.

The water supply reforms in Delhi are significant and far-reaching in their scope and are being undertaken without any public debate, discussion and inputs. The implementation of the PPPs has been a quiet and secret affair without proactive consultations with the people of the project areas they claim to benefit. The manner of implementation of the reforms and PPPs are undermining the democratic principles of transparency, accountability and people’s participation in decision-making in an area as vital as the fundamental right to water. This right is also repeatedly recognised by the higher judiciary in India and by a number of international instruments. The PPPs do not address the availability, quantity and quality issues with water supply for all the people of the project areas and instead focus on “improving” water supply round the clock (24×7). The removal of public stand-posts further threatens to undermine the fundamental right to water for the poor and the homeless in the project areas and the obligation of the government to provide water for all. The generation of revenue through water is being made the foremost reform priority in the name of “efficiency”, leading to the commercialisation of this vital resource. The critical issues and concerns that emerge from the ongoing PPP initiatives need to be analysed, debated and discussed widely with all the people of Delhi. Appropriate changes that secure the fundamental right to water for all through decentralised and democratic decision-making

methods need to be introduced within the binding framework of the government’s obligation to provide water for all.

#### NOTES

- 1 The term fundamental right to water in the constitutional context denotes the inalienable right of every individual to water and imposes obligations upon the government to take all possible measures to secure it.
- 2 See *Subhash Kumar vs State of Bihar 1991*; *Hamid Khan vs State of Madhya Pradesh 1997*; *Vishala Kochi Kudivella Samrakshana Samiti vs State of Kerala 2006*.
- 3 The term “people” includes all residents and those who come to Delhi for work or for other purposes but do not reside in Delhi.
- 4 A master plan for Delhi’s water supply is also under preparation by Japan International Co-operation Agency (JICA) which addresses non-revenue losses; inadequate distribution system; loss of water in transit; inadequate infrastructure; and the supply of large quantity of non-revenue water.
- 5 Ground reservoir and booster pumping station, respectively.
- 6 The controversial 2005 water privatisation initiative undertaken by the DJB with a World Bank loan also claimed as its principal objectives the “24/7” provision of water, efficiency and reduction of NRW.
- 7 This is separate from the role of the monitoring committee.
- 8 These are handwritten comments, observations and criticisms by various concerned officials pertaining to approvals and decisions in any government file.

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