SECTION 1: INTRODUCTION

1. The report has been drafted as an input into the ongoing study on non-state provision of basic education, primary health and water and sanitation. The larger study is being undertaken by IDD, University of Birmingham, LSHTM, CIE (University of Sussex) and WEDC (University of Loughborough). While indepth case studies are being undertaken in the 5 main project sites of South Africa, Malawi and Nigeria, Pakistan and Bangladesh, in India the enquiry was limited to a desk-based study. The study is commissioned by DFID and its purpose is largely to assess whether and how governments, civil society organisations and donors can support non-state provision of basic services to the poor. Overall the project aims to develop frameworks and guidelines to facilitate donors to make appropriate interventions through NSPs in the different sectors.

2. In India, the scope of the study has been limited to a brief desk–based review of the existing scenario with specific reference to issues in government regulation or support to NSPs in the three sectors mentioned above. The study in India was to focus primarily on the selected states of Orissa, Madhya Pradesh, West Bengal and Andhra Pradesh in order to review the NSPs against the different backdrop of varying socio-economic and political dynamics. However, paucity of documented interventions in some of these states and the existence of interesting interventions in other states has resulted in a variation in the originally conceived project sites. This, however, has not detracted from the primary objective of the study, i.e. to understand how the government or CSOs have worked with NSPs by focusing on
   - Implementation of interventions by government and independent bodies to (a) regulate NSPs; (b) hold NSPs accountable to clients and
   - Implementation of interventions by government and CSOs to (a) facilitate or support NSPs; (b) commission service delivery through NSPs by contracting, licensing, partnership, joint ventures and co-production.

3. The study has also tried to obtain an overview of the federal government’s stand vis-à-vis NSPs in the three sectors and their influence on state level interventions. Recent examples have been identified and documented by way of brief case notes to illustrate the status of each sector.

4. The report is primarily based on published documents and reports of the central and state governments, donor agencies and NGOs and research institutes. A round of quick discussions was also held with a few experts in the various sectors.
SECTION 2: OVERVIEW / CROSS SECTORAL ANALYSIS

1. Historically, in India non-state providers in primary education and health emerged several decades back, even prior to the entry of the state into the sector. While at that time health had no specific pro-poor focus, education appears to have targeted the marginalized communities and was a result of widespread social reform movements. NSPs in the water sector are, however, of relatively recent origin, and sanitation even newer.

2. NGOs and the private sector are the predominant non-state providers found in India, especially in primary education and health. The size and range of non-state providers across sectors has primarily due to the inability of government services to effectively meet needs, on one hand, and the increasing need (and willingness) of households to pay for better services on the other. In the case of both primary education and health, a range of service providers catering to two ends of the economic spectrum have emerged. In the case of water and sanitation, their size and number is limited to small-scale informal vendors and larger construction and engineering companies. Small local production centres or rural sanitary marts and masons - primarily government programme supported - have also been making an appearance over the last few years. Poor performance of public delivery systems in the case of water and the urgency to radically improve sanitation coverage have been responsible for the emergence of NSPs in the water and sanitation sector.

3. The state’s engagement with non-state providers, more specifically NGOs, appears to have begun when the concept of community participation was first introduced into development programmes in the 1970s. Much later, the private sector was co-opted into the development process to bring resources and technical skills. Since the 1980s their involvement has grown further, not only in health, education and water and sanitation, but also other areas as a means to accelerate development and reduce poverty. Factors that have been responsible for the state’s apparent pro NSP stand in the development process are primarily the poor human development indicators, large fiscal gaps and the conditional financial and technical support provided by international and bilateral agencies and governments, wherein NGO and private sector involvement, cost recovery and reduction of subsidies are often preconditions. The liberalisation and structural reform agenda initiated by the federal government in the 1980s and 1990s also gave a boost to overall private sector participation, albeit with mixed results and continuing hiccups.

4. Together, these developments have seen the government evolving policy documents and plans that state its intention to encourage partnerships with NGOs and the private sector. The recent reforms process in the water and sanitation sector in fact envisages a critical role for NGOs with state agencies themselves taking the role of facilitator rather than provider. It has also sculpted out a role for local service providers, often village level water and sanitation committees or others to whom the community could contract out the services.

5. A reflection of the state’s move towards NGOs was the setting up of a number of special purpose organizations and apex bodies, co-opting NGOs and their representatives, and allowing for a more flexible approach to programme planning and management in the 1990s, in order to circumvent cumbersome bureaucratic procedures. Many states as well as the centre adopted a ‘mission mode’ to development in the 1980s-90s, which again widened the scope for NGO participation. In the health sector, the central government has constituted an Apex Resource Centre to support NGOs primarily working in the areas of reproductive and
child health. NGOs have, thus, gained visibility and benefited from resource as well as capacity building inputs from the state.

6. On the other side, however, the scope of NGO involvement is largely limited to community mobilisation and discharging certain specified activities like running community health centres or community learning centres - more as an extension arm of the state - within a specified project framework, thus failing to establish a sense of continuity and long term vision. Also of concern is the underlying element of mistrust and unease in the state-NGO collaboration across sectors. Instances of mis-utilisation of funds by NGOs, on one hand, and allegations of vested interests within the government agencies in allocating and disbursing funds, on the other, have contributed to this often uneasy relationship. This element of suspicion also exists amongst the rapidly increasing number of NGOs in the water and sanitation sector, where Sector Reforms has spawned a large number of NGOs. Thus, it is obvious that there is an urgent need to establish a proactive and independent regulatory framework and modalities for partnership with NGOs across states. Support organisations and NGO networks have been attempting to negotiate for a better working relationship with the state, but have been only marginally effective.

7. In the case of the private sector, the level and nature of state interventions to partner, support or regulate and control private service providers have been varied across sectors and states. In the case of health, the strategy adopted was to encourage private initiatives by way of tax incentives and land allocation at highly subsidized rates to private hospitals, subject to conditions of standards and norms for free services to the poor (an agreed percentage). Efforts are being made to build capacities of CBOs and NGOs to set up production centres for rural sanitary wares and promotion of household toilets, through skill development and provision of revolving funds. In the water sector, the services of private companies have been hired to build or manage some parts of service delivery. However, such projects have been largely restricted to urban areas where concession arrangements have sometimes been agreed. However, such contracts in the water sector have often failed because of a lack of political commitment, lack of an effective regulatory framework and guidelines, and lack of transparency. Besides, the legacy of subsidies and political interests has made it difficult for the sector to establish commercial viability. In education, support to private primary sector schools is minimal in most states; it primarily takes the form of highly conditional grant-in-aid. In spite of these anomalies, more and more poor households are resorting to private health care, while the number of private schools is also growing, indicating the community’s willingness to pay for better services.

8. The state has recognized the spread and potential influence of traditional service providers like birth attendants to reduce infant and maternal mortality rates in the rural areas, by building their capacity and mobilizing their influence. Donor-supported projects have also focused on mainstreaming the services of such NSPs. Similarly, some states have also been attempting to provide support to local teachers and religious based schools like madarsa in order to narrow the illiteracy gap.

9. Across sectors and states, regulations and controls are minimal or severely restrictive. In the case of health, regulations have been poorly implemented and have not been able to ensure equity and quality in services. It is only very recently that the central government and some of the states have initiated the process of seriously developing model accreditation norms and regulation for private clinics and establishments, with NGOs, civil society, organisations and external donors playing a significant role. Strong lobbying by the medical profession and large pharmaceutical companies have made this a difficult task. Besides, in the case of untrained, semi-
trained and traditional health practitioners their size and spread is so large that the state has not even been able to organize reliable data on the sector. In primary education, the system of control and regulation that has been established has not been able to regulate the number and functioning of private schools that are mostly exploitative and provide poor quality education, especially those catering to the lower economic category of households.

10. All this points to the fact that the state’s capacity to support as well as regulate NSPs across sectors needs to be strengthened. Capacity to develop and manage private contracts also needs to be built. In the mid-1980s the country re-entered a process of decentralisation, with all the three sectors under study being devolved to the smallest unit of local self-government. This indicates the need to restructure and realign functional linkages and roles of local government and state agencies, building their capacities to manage service providers and ensuring that service providers deliver with a focus on quality and equity. In a large country like India, where there are wide gaps and differences in both the economic and social structure and development as well as political environment, state strategies need to be developed to facilitate partnership with NSPs. The framework also needs to consider the fact that, while education, health, water and sanitation are state subjects, funding provisions and processes are needed to ensure that the central government plays an influencing and critical role in shaping strategies.
## Cases Studied in India

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1. OVERVIEW

1. The health care sector in India is generally defined as ‘complex’ as it includes various types of providers and various systems of medicines and facilities. Bhat (1993) uses a three dimensional criteria of ownership styles, systems of medicine and types of facilities, all of which are separate but not mutually exclusive, to arrive at a classification. The ownership criterion classifies the health sector into the public sector, the private not-for-profit sector, the organised private for-profit sector (including sole proprietorship clinics and hospitals) and the private informal sector.

2. The data available on non-state providers of health are not comprehensive and adequate, although in the Ninth Five-Year Plan a Standing Technical Advisory Committee was set up and given the task of compiling data. However, studies estimate that about 80 percent of the qualified doctors in the allopathic system registered with various medical councils across the country are working in the private sector. In the other systems of medicine (homeopathic, ayurvedic and unani), which account for a large share of health care providers, most practitioners are in the private sector, with a large number having a rural base. Besides, there are a large number of unqualified rural medical practitioners, swelling the ranks of the private health care providers. In terms of facilities, about 57 percent of hospitals are in the private sector which, however, account only for about 32 percent of the total hospital bed capacity, signifying the generally smaller size of private hospitals.

3. In terms of regional distribution, while 69 percent of all hospitals are in the urban areas, private hospitals have a relatively lower urban bias with 36 percent of private hospitals and 29 percent of their bed capacity being in the rural areas as compared to only 25 percent of government hospitals and 10 percent of their bed capacity (Bhat, in Newbrander (ed), 1997). State variations also exist, with Kerala, Maharastra and Punjab reporting the highest percentage of private practitioners as compared to Himachal Pradesh and Madhya Pradesh. Kerala also has the highest percentage (95%) of hospitals in the private sector as compared to Himachal Pradesh (12%). Data from the 52nd National Sample Survey show that the proportion of people treated as outpatients in the rural private sector has increased from 74 percent in 1986-87 to 81 percent in 1995-96; in urban areas it has increased from 72 percent in 1986-87 to 80 percent in 1995-96. Even inpatient care showed an increase from 40 to 56 percent in rural areas and 40 to 57 in urban areas (NSSO 1998).

4. The private not-for-profit sector or the voluntary sector covers a wide range of activities categorised into (i) organisations implementing government programmes, (ii) organisations running community based health programmes, (iii) organisations delivering care and rehabilitation services to specific disadvantaged groups, (iv) organisations sponsoring health care, and (v) organisations advocating policies for health care (Misra, et al 2003). Advocacy is often an overarching activity and is undertaken by many of the voluntary sector organisations, irrespective of their category. Over 7000 NGOs are reported to be engaged in the provision of health care, although there are variations across states, with Uttar Pradesh reporting as little as 1.4 percent of the villages being covered by NGOs and Maharastra almost 35 percent.
2. THE POLICY ENVIRONMENT

5. The development of non-state providers in the health sector is generally traced back to pre-colonial days, when health care was a social responsibility and the state and philanthropists provided free service. However, facilities were concentrated in the towns. During the colonial period the traditional systems of medicine declined and was gradually replaced by a more organised medical establishment, largely catering to the British population. It was during this period that the Indian Medical Service was also established (1764). Over subsequent years facilities were extended to the civilian population, but again with an urban bias. It was only in 1919 when health was transferred to provincial governments under the Government of India Act 1919 and, subsequently, when the Rockefeller Foundation in collaboration with the government initiated preventive health care programmes in some regions, that the health care needs of the rural population received some attention. But then again interventions in the rural areas were more in the nature of preventive care while curative care continued to be the prerogative of urban settlements. Not only is the colonial government accused of having continued to neglect the rural areas but it is also supposed to have ignored the private sector. As a result the private sector grew without any control or regulations and also exhibited the first signs of ‘commodification’ much before the country gained independence (Duggal, 2000).

6. Health policy in India paid little attention to the private sector, until the early eighties when the government, recognizing the need to involve the private sector, articulated it in subsequent policies. However, the sector continued to grow at a rapid rate during the next two decades for various reasons, including the inability of the state to handle the health care needs of the population, a lack of resources and a vague strategy to encourage private, NGO and corporate sector participation, albeit without effectively implementing regulations and controls.

7. The Eighth Five Year Plan described a “new policy of the government to encourage private initiatives” (Government of India, 1992). The plan envisaged governmental support, mainly by way of tax incentives, to private hospitals and clinics subject to maintenance of minimum standards and suitable returns for tax incentives. The Eighth Plan also envisaged development of norms in minimal facilities and accreditation of private hospitals and clinics. During this period some states, accepting the existence and services of not formally qualified and unregistered rural practitioners of the Indian System of Medicines, introduced programmes to train them in essential primary health care in order to provide accessible and less expensive health care.

8. In 1982, the National Health Policy openly recommended that the states should encourage private practitioners and NGOs to establish curative centres in order to reduce the government’s burden. The Policy also recommended that every state should encourage voluntary agencies to set up health care facilities by providing, logistical, technical and financial support. Thus, during the Ninth Plan period, the centre as well as the states initiated a wide variety of public-private collaborations (Planning Commission, 2002):

- Most states allow state government doctors to undertake private practice. Contractual appointment and part time appointment of health care personnel and private practitioners to provide services in primary health centres were also tried out, with limited success;
- State and central governments and public sector undertakings reimburse the cost of medical care provided by recognized private health care providers and institutions, thus filling the gap in the public sector provision of health care;
• NGOs and private sector practitioners are involved in national programmes like leprosy eradication, blindness control and the HIV/AIDS control programme;
• Efforts were made to increase the involvement of private medical practitioners in Reproductive and Child Health (RCH) care by providing them orientation training and ensuring that they have ready access to contraceptives, drugs and vaccines, free of cost;
• Private sector institutions and industries (e.g. Tata Steel Company) have been encouraged to provide health care to the population living in a defined area;
• Private super-speciality, tertiary and secondary care hospitals are given land, and other basic services like water and electricity, at a concessional rate and allowed duty-free import of medical equipment with the condition that an agreed percentage of their services would be provided to poor patients free of charge. However, monitoring of these conditions is poor and hence most hospitals get away without following the agreement;
• Primary health centres in Karnataka and Orissa have been handed over to NGOs; only Karnataka however has reported some success;
• Private practitioners have been incorporated into programmes to provide information for disease surveillance in some districts in Kerala;
• A Tripartite National Committee on Family Welfare Planning consisting of representatives from industry, trade unions and government departments was constituted in 1991 in order to develop a family planning campaign as a people's movement;
• The government recently has been involving the NGOs in its health insurance schemes. Health insurance itself is a relatively new area in the country and GoI is piloting a scheme called Janarogya covering medical expenses towards hospitalisation, death due to accident and compensation due to loss of earnings. The public insurance companies have entrusted the marketing of this scheme to NGOs that could act as agents to reach the target market. The NGOs were trained on the features and benefits of the product. However the penetration in the rural areas has remained weak, one reason among others being the lack of NGOs participating in the scheme because health insurance was new to them.

9. The trend in the policy focus on NGOs has continued during subsequent decades. The National Population Policy 2000 envisaged an increasing role for NGOs in building up awareness and improving community participation. In an attempt to increase the participation of NGOs, the central government (Family Welfare Department) has contracted some large and established NGOs like the Family Planning Association of India (FPAI) and Voluntary Health Association of India (VHAI) to identify, train, support and monitor smaller, field-level NGOs for specific tasks like advocacy, to promote the concept of the small healthy family, improving community participation and to counsel and motivate adolescents and young couples in the advantages and methods of family planning. These NGOs were to act as a link between the community and health care providers. As a result, in 2002 the Department of Family Welfare was funding 97 mother NGOs and over 800 smaller NGOs covering 412 districts (Planning Commission, 2002).

10. The Tenth Plan concedes that NGOs should have a major role in promoting community participation and has identified certain areas for participation like:
• gender sensitisation and advocacy regarding the provision of adequate care for girl children; also regarding the adverse consequences of sex determination and sex selective abortions;
baby-friendly hospital initiatives and promotion of exclusive breast-feeding for six months;

social marketing of contraceptives and ORS.

11. The Tenth Plan also proposed to allow NGOs with adequate expertise and experience to participate in RCH service delivery. Besides, efforts were to be made to improve networking between the NGOs, state and district administration as well as panchayati raj institutions during the plan period. The Plan also saw an effective role for the corporate sector, especially with regard to its skills in problem-solving, which could improve the operational efficiency of health services. It thus proposes to enhance the quality and coverage of family welfare services through the involvement and participation of the organised and unorganised sectors of industry, agriculture and labour:

“They may take up an area-specific approach to improve services available in a block by adopting it. Smaller industries could form a cooperative group for providing health and family welfare services in collaboration with the government. Managerial and other skills available in industry can be made available to improve the efficiency of the government infrastructure. The marketing skills of industry may be useful in improving the IEC and motivation activities and in social marketing.” (Planning Commission, 2002, p203)

12. Similarly, efforts have also been proposed for improving health care interventions through needs based area-specific public-private collaborations. Incentives are to be provided to private practitioners to set up facilities in under-served areas. Besides, they are to be given access to updated protocols for the management of common illnesses and other diseases, and also allowed easy access to drugs, devices, and vaccines provided through national programmes. This strategy is expected to go a long way towards curbing costs and expanding coverage. Finally the Plan also envisages taking policy initiatives to define the role of government, private and voluntary sectors in meeting the growing health care needs of the population at an affordable cost. In this regard the public sector is to develop its institutional capability at the central, state and local levels to:

- evolve policies and strategies for planning and monitoring healthcare;
- increase public-private-voluntary sector collaborations to meet the health care needs of poor and vulnerable households;
- draw up standards for appropriate quality and cost;
- establish accreditation systems for individuals and institutions;
- monitor and enforce regulations and contractual obligations;
- promote excellence and ethics among professionals as well as punish professional misconduct; and
- set up an appropriate and speedy grievance redressal mechanism.

13. The draft National Health Policy 2002 has further set the tone for the private health sector. It primarily focuses on issues of implementation of statutory regulation, and the monitoring of minimum standards for diagnostic centres and medical institutions, and the establishment of a comprehensive information system. Based on this, it proposes the establishment of a regulatory mechanism to ensure the maintaining of adequate standards by diagnostic centres and medical institutions, as well as the proper conduct of clinical practice and delivery of medical services. In the case of NGOs, the policy proposes to correct problems arising out of the diverse and often inappropriate treatment regimens that the NGOs follow, while encouraging NGO participation. The Policy also encourages the setting up of private insurance instruments to increase the scope of the coverage of the secondary and tertiary
sectors under a private health insurance packages. In principle, this Policy welcomes the participation of the private sector in all areas of health activities – primary, secondary and tertiary.

14. Health is a state responsibility although a large percentage of funds, especially under the national programmes come from the state. There are variations across states in the extent of public-private partnership. These are largely dependent on the political leaning of the respective state governments and other inherent development factors. NGO interventions in the health sector appear to be relatively limited in the less developed states like Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh, as compared to the better-off states like Kerala or Maharashtra. States like Orissa (89%) and West Bengal (81%) have shown a higher relative use of public hospitals over private in the case of inpatient care.

15. In Andhra Pradesh the government, in line with its pro-private leanings and recognizing the capacity of the NGOs to provide health care, has articulated its policy towards public-private partnership in its 2020 Vision document, specifically in relation to private investment in tertiary public health care. Even as early as 1986, the state government brought secondary hospital services under the jurisdiction of an independent government agency, the AP Vaidya Vidhan Parishad, which encouraged a number of public-private collaborations including contracting-out of some of the non-clinical services and telemedicine partnerships with several large private hospitals.

16. NGOs have also been involved in service delivery, as in the case of provision of basic primary care through urban health centres (Ensor and Dey, 2003). An RCH project financed by the World Bank (1998–2002) established a mechanism for contracting with NGOs to provide health services at urban health centres. Subsequently, the India Population Project VIII, also handed over the management of a number of health posts to NGOs. This experiment is now extended to other urban areas and the contracting out of primary health care centres in rural areas to NGOs is also being considered. Furthermore, in order to ensure the provision of 24 hour care at primary health care centres, they are permitted to hire private practitioners to provide ante-natal care, normal deliveries, etc. However, some of these schemes have not been very effective as the incentive provided to the private practitioners is apparently not attractive enough. Group insurance schemes have also been promoted.

17. In West Bengal the government has recently taken a policy decision to welcome private sector participation. The interventions, however, have so far been few and not always successful. Under the health sector reforms, the state government initiated partnerships with the private and NGO sectors, which were largely in the form of allowing medical equipments to be installed by private agencies in the government medical colleges under a joint venture partnership. Besides, partnerships and concessions to private institutions are conditional, i.e. the institution has to provide free services to an agreed number of patients and also charge the government approved rates. Besides, cleaning and food services have also been contracted out in some cases. Under the State Health systems development projects II (World Bank funded), health care services in the remote Sunderban areas were contracted out to NGOs. But inexperience and low resources led to the failure of the experiment.

18. The Madhya Pradesh Population Policy 2000, defines the state’s stand on co-opting NGOs and the corporate sector into the health care delivery system of the state, especially for implementing the Reproductive Child Health Care programme. In the case of the private sector the policy stated that the state would encourage private
practitioners to set up centres, especially in urban areas, to provide essential reproductive and child health services. Soft loans were to be provided to medical practitioners, to open clinics in areas not effectively served by the government health institutions. Indigenous medical practitioners, particularly in rural areas, were to be trained to provide reproductive and child health services and also used as a network to sell contraceptives and other reproductive health products. Furthermore, NGO networks were to be created with the help of larger NGOs (Mother NGOs) for health care delivery and sustainability of efforts. The state was to help in building their capacities. Besides, NGO representatives were to be involved in government programmes, particularly in activities related to planning, strategy development and monitoring. Linkages with government health care institutions and industrial houses were also to be set up to improve the quality and access to health care.

19. These measures have, however, had limited success and, although no exhaustive evaluations have yet been carried out, evidence apparently indicates that the schemes succeeded only where well-defined committed groups were involved and where clear-cut memorandums of understanding were executed and implemented efficiently (Planning Commission, 2002). Besides, as little effort was made to regulate the private sector, it grew rapidly but showed all signs of having become ‘exploitative’ at the cost of the poor and marginalized sections of the community. The Government of India identified the major limitations in private sector participation as an almost exclusive focus on curative services, variable quality of service and inability of the poorer sections of population to pay for these services. Moreover, studies (World Bank, 1995) have also shown that in spite of stated intentions to involve NGOs, their participation has been limited, primarily because of low funds and delay in transfer of funds, weak financial management and accounting capacities, low levels of technical skills, bureaucratic rigidities in fund allocation, audit and disbursement, and inadequate capacity in the government to proactively manage the government-NGO relationship.

20. Thus, the efforts over the years have, on the one hand, promoted the growth of the private health sector; on the other they appear to have made quality care in the private sector at worst inaccessible or at best expensive for the poor. Hence, as a study on the health services for the poor concluded:

“The publicly financed and delivered curative health care services in India are more likely to service the richer segments of the population than the poor… The private sector for curative health care delivery is even more skewed towards the rich than the public sector. Those below the poverty line continue to rely heavily on the public sector (93 percent of immunizations, 74 percent of antenatal care, 66 percent of inpatient bed days, and 63 percent of delivery related inpatient bed days). The private sector dominates outpatient care (82 percent), represents a slight majority for hospitalizations (56 percent), accounts for 46 percent of institutional deliveries and 40 percent of antenatal care visits, and delivered only 10 percent of the immunization doses” (Mahal, et al, 2001).

21. The private sector is heavily subsidized by the state and at the same time its functioning deprives the state of critical revenues. As the Independent Commission on Health in India observed, medical education is almost entirely financed by the state; however, more than three-quarters of graduates join the private sector. Exempting private hospitals that function as trusts from paying taxes has on the one hand encouraged the setting up of such private hospitals; on the other it deprives the state of revenue in the form of taxes, although exorbitant fees are charged to the clients. Finally, while the private sector has been allowed to grow without any contracts or regulations, the extensive public health care system, right down to the
village level, functions poorly again pushing the rural communities as well as the poor in the urban areas to seek care from private practitioners (Duggal, R, 2000).

3. POLICY DIALOGUE

22. Misra et al (2003) observe that effective regulations require institutional arrangements for dialogue between the public and private sector in an environment of trust. Coordination mechanisms like public-private forums are one way of doing this as they could on one hand facilitate sharing of information and also address issues of common concern and co-ordinate the public-private partnership. However, there are few such examples in the country. The Karnataka Task Force comprising NGOs, for-profit organisations and the government is one. This forum was set up in 1999 under the chairmanship of a reputed medical professional and a member of the NGO Community Health Cell to address problems and make specific recommendations. The Task Force then constituted a sub-group of stakeholders and organised a series of wide ranging consultations. The response of the Task Force was finally submitted to the state government in 2001 and accepted by the government, which has already implemented some of the recommendations. The Task Force has also been given the responsibility of monitoring the implementation of the recommendations and evaluating the outcomes. Similar high-level committees of all professional bodies, stakeholder associations and the government were constituted in Andhra Pradesh and in Maharashtra with representatives of professional bodies and consumers.

23. Besides these few examples, the IMA (Indian Medical Association) and its state chapters are another group which have try to influence government policies from time to time. However, as these associations represent the interests of organised private health providers, mostly their engagement with the government is to promote their own professional interests. However, of late IMA in some states is taking interest in participating with other stakeholders and developing quality assurance measures for various medical services and activities.

24. The most promising possibilities for policy dialogue is presented by the panchayati (local) institutions with powers and structures that have devolved to them since the passing of the 73rd amendment. Technically the responsibility for planning and monitoring the health programmes has been devolved down to the panchayatis and their sub-committees (Village Health Committees) consisting of both elected and nominated representatives from the community and influential resource persons. As such, this should have ideally developed as a forum to enter into dialogue with the government as well as the private health care providers. However, since critical gaps exist in the devolution of powers, the village committees themselves have not been geared to handle the responsibilities as yet. In some states such as Madhya Pradesh elaborate district health planning exercises are being undertaken and District Health Societies have been constituted for the purposes.

25. The most effective tool so far has been the one generally adopted by NGOs and consumer forums - that of widespread campaigns through networks. NGOs in some cases have also effectively chosen the path of advocating through research and dissemination. The case of CEHAT and Tata Institute of Social Sciences, which together influenced the drafting of the Maharastra Clinical Establishment Act is recounted in the following box.
**CEHAT and TISS**

“The Tata Institute of Social Sciences and the Centre for Enquiry into Health and Allied Themes (CEHAT) in Bombay were actively involved in conducting research on various health issues relevant to the city. These institutions were proactive rather than reactive in the policy arena… CEHAT’s approach was participatory and involved government officials, health professionals and health facility owners.

“…This understanding led the most important health research institutions to conduct a series of studies to gain a greater understanding of the private health sector, as a basis for setting criteria for accreditation… CEHAT went on to prepare minimum standards for private hospitals and medium-sized nursing homes providing medical, surgical and maternity services… CEHAT presented the study results and minimum standards to a range of stakeholders in 1997… The guidelines prepared by CEHAT were well received by the state government, and the Directorate of Public Health took the initiative of organizing a meeting to discuss and endorse the guidelines provided by CEHAT. By now, CEHAT could play an influencing role in legislation, as it had developed a good rapport with state government officials, as well as the Private Nursing Home Owners Association…

“The Consumer Forum and advocacy groups, nongovernmental organizations working in the field of health, and activist groups, such as Medico Friends Circle supported a comprehensive revision of the old Act, or even the passing of a new Act covering the whole state of Maharashtra.

“The state government became involved… recognized CEHAT’s involvement and capacity to deal with the private sector and requested it to prepare a draft Act for registering private healthcare facilities in the whole state of Maharashtra. After extensive discussion with stakeholders, draft legislation was completed in June 2001 under the title “Maharashtra Clinical Establishment Act”. Armed with this draft, the state government for the first time took the initiative of calling a consultation with stakeholders and experts, which took place on 1 July 2001…. The government was satisfied with the feedback received and proceeded to draft the final legal document for submission to the Legislative Assembly.

“The policy dialogue sustained during the revision of the Act established a consensus about the need for further mechanisms to ensure continuous and voluntary improvement of health care quality in the private health sector. CEHAT capitalized on this to develop the evidence base and conceptual framework for a state, or even national, accreditation agency for private health providers… With this continuous dialogue, CEHAT was able to form the Forum for Health Care Standards…..

“The main role of research findings in the development of new legislation was in the facilitation of the policy process, through a dialogue based on reliable evidence and facts. CEHAT proved capable of bringing both private-sector associations and their opponents together to thrash out their differences. CEHAT was very clear about the need to revise the legislation, and in this respect it endorsed the views of the advocates of change. Yet it was careful not to antagonize the private-sector associations, and enabled them to participate in a way that would simply not have been possible if the state government had followed the High Court ruling in a bureaucratic way, or if it had deployed only the technical capacity of the World Bank reform project. The trust between CEHAT and the state government was therefore a vital resource for success. This case study shows the importance not only of research findings, but of a trusted and institutionalised research process that enables multiple, complex and antagonistic actors to engage in a continuous policy dialogue.”

Extracted from; Yesudian, C.A.K (undated) Policy Research in India: The Case of Regulating Private Health Providers.
4. REGULATION AND CONTROL

26. Existing health care regulations in the country are generally divided into three broad categories (Bhat, R 1997):

- Drug related: controlling the sale, price and quality of drugs (Drug Control Act, Drugs and Cosmetics Act, Dangerous Drugs Act)
- Practice and consumer right related: defining a professional code of conduct and a minimum and uniform quality and standards (COPRA, Indian Medical Council Act, Human Organ Transplant Act, etc.)
- Facility related: controlling private clinics, hospitals and establishments (Nursing Home Registration Act, Nurses, Midwives and Health Visitors Act).

27. Studies indicate that there is hardly any effective regulatory framework for quality assurance in the health sector and regulation of private institutions is extremely varied across states. While medical practitioners across the country are required to register with their respective state Medical Councils, affiliated to the Indian Medical council, state laws for licensing of hospitals exist only in a few states (Bombay Nursing Home Registration Act, 1949, West Bengal Clinical establishment Act 1950, Delhi Nursing Homes Registration Act, 1953, Karnataka Private Nursing Homes Act, 1976, AP Private Medical Care Establishment Act 2002). In Madhya Pradesh, there is currently no legislation of private nursing homes and hospitals, since the relevant Nursing Homes and Medical Establishment legislation is sub-judice. Some of this existing legislation is at present being revised while at the same time several states (Tamil Nadu, Bihar, Madhya Pradesh, Sikkim, Manipur and Nagaland), in response to rising demands by health activists and the media, are seeking to put in place their own legislation to control private and voluntary health care institutions. The legislation, at different stages of enactment, mostly focuses on enforcement of registration and licence for private and voluntary hospitals for specified periods after verification by a competent authority. Violations may lead to fines or imprisonment. Madhya Pradesh, West Bengal and Tamil Nadu have shown some sensitivity and have adopted a socially and economically feasible approach. While Madhya Pradesh exempts hospitals set up in areas with populations of less than 50,000 from such rules, in West Bengal dispensaries without a bed are exempted from the purview of the legislation, and in Tamil Nadu clinics and dispensaries with less than two beds have been granted exemptions.

28. Recently the central government announced (Times of India, August 17, 2004) that it was working on legislation to regulate health establishments in the country in view of the number of unauthorised nursing homes and diagnostic centres that had come up. The Centre has developed a broad framework, in consultation with the states, for a proposed clinical establishment act and is awaiting approval from the Health Ministry. The proposed legislation would regulate nursing homes, hospitals and diagnostic facilities across the country. It would lay down certain minimum standards, and ensure that clinical establishments are registered to bring about some uniformity. The establishment of a body within or outside the Health Ministry to certify health facilities is also being considered. The legislation, when enacted, will be implemented by the states.
Regulation in Andhra Pradesh

In AP the three relevant state acts are:

- Andhra Pradesh Private Medical Care Establishments (Registration and Regulation) Act, 2002 and Draft Rules (passed but not yet implemented)
- Andhra Pradesh Medical Practitioners Registration (Amendment) Act, 1986 and Code of Medical Ethics
- Board of Indian Medicine Act 1312 Fasli, 1954 (homeopathy)

In addition to these state laws a number of central acts have also been adopted by the state:

- Medical Termination of Pregnancy (MTP) Act, 1971, makes termination legal where there is danger to the physical or mental health of the mother, in the case of rape or where there is substantial risk of the child being borne with a serious infirmity.
- Pre-Natal Diagnostic Techniques (PNDT) Act, 1994, which prohibits institutions registered under the act from undertaking pre-natal diagnostic techniques for the purpose of determining sex or communicating the sex of the baby to the pregnant women or relatives. PNDT is only permitted as a way of revealing genetic or other abnormalities.
- Consumer Protection Act 1986 (Amended 1993), which was shown by the Supreme court to apply to medical practice as a result of a ruling in 1995, now represents the main legal route for consumer redress. However, recently the Supreme Court has ruled that doctors will only be prosecuted under the Act if proved to be ‘criminally negligent’, a move that is being fiercely contested by activists and the media.

An interesting point to be noted is that AP (and Karnataka) held consultations on the draft legislation with a specially constituted committee chaired by reputed medical professional and representing all stakeholders. The committee has also formulated the minimum standards and rules for each type of medical establishment.


29. Accreditation and self-regulation is another control mechanism promoted by the government. Accreditation is extended through the state Medical Councils and is expected to help in maintaining high standards. There are separate Medical Councils for allopathic and ayurvedic practitioners. Those who violate the code of conduct as laid down by the Council are liable to be punished, in the extreme by striking off their names from the Council membership. While licensing is mandatory and aims at ensuring a basic minimum standard, accreditation is usually voluntary and envisaged as a means for practitioners to distinguish themselves and attract more business. The Indian Medical Association and various private hospitals have been actively pursuing ways of being accredited to international bodies or to a relevant Indian standards organization in order to market their services. The Bureau of Indian Standards (BIS) generally deals with standards and specifications of medical supplies and biomedical equipment.

30. Usually attempts to set up accreditation bodies for private sector health facilities have been unsuccessful, as the process did not involve key stakeholders. Hence, some voluntary efforts have also been initiated to develop standards for health care institutions. For instance, the Institute of Health Systems (IHS) in Hyderabad has developed standards for reproductive health care services and the Centre for Enquiry into Health and Allied Themes (CEHAT) in Mumbai has developed certain physical standards for private health care institutions based on case studies in Maharashtra. A Health Care Accreditation Council has been recently formed in Mumbai (by CEHAT) to help set quality standards for health and to create a more positive environment for the already well-established private sector. The Council includes representatives of
private hospital owners, professional bodies, consumer organisations and NGOs, and is in the process of developing standards for small private hospitals with regard to structural design, equipment, essential drugs, maintenance of medical records and waste management. It is also designing systems and processes including grading, related to assessment of hospitals and financing for the continued work of the Council. The Council is being registered as a non-profit body, with the initial funds for establishing the body raised from the founding members.

31. Some states like Madhya Pradesh and Himachal Pradesh have resorted to setting up autonomous, registered societies with representatives of civil society, NGOs, etc., even in government run hospitals for quality assurance and efficient management, as well as to generate resources. Besides, states like Madhya Pradesh, Rajasthan, Andhra Pradesh and Haryana have implemented their own models for the involvement of the *panhāyatī raj* institutions in the health sector. It is assumed that they can play a vital role in programme advocacy and in monitoring the availability, accessibility and quality of services in government primary health care centres, NGOs and private practitioners, and in monitoring the cost of services provided by the latter. Madhya Pradesh is in the process of setting up District Health Societies with representatives from civil society and NGOs. These societies are going to be responsible for the planning and oversight of health care in districts.

32. Another relatively new area serviced by private providers is health insurance. In India, as in many other developing countries, private health insurance is a supplementary service instead of the main source of health care financing. Besides, the extent and coverage of private health insurance is extremely limited. Schemes may be mandatory, private voluntary schemes, employer based insurance or run by NGOs, including Community Based Health Insurance (CBHI). CBHI schemes for the poor are of two types: in one case an NGO acts as an intermediary between a formal insurer ad the community (e.g. SEWA, ACCORD DHAN), and in the other the NGO itself provides insurance, usually funded under a project. Together they cover around 11 percent of the total population. Studies (Ahuja 2004) indicate that the sector at large has remained underdeveloped because of government policies regarding private insurance and the health care sector. Ahuja observes that the private health insurance market is underdeveloped because of the want of regulation of the supply of health services and the lack of demand for health insurance. The recent social and rural sector obligations imposed by the Insurance Regulatory and Development Authority (IRDA Act 1999) is general to insurance and does not specifically cover health insurance. Neither does it require insurance companies to subsidize premiums. Besides, the Act also does not acknowledge the existence of the CBHI schemes and their role in providing support to poor communities. As a result many of the new schemes, which have entered the market after the liberalization process, have linked up with formal insurance companies in order to legitimize their activities.

33. In spite of these existing measures for the regulation of the private sector provision of health care, studies indicate that because regulations are often patchy and unenforceable, because some of them are inadequate and outdated and because in most cases the state and central governments have failed to enforce or implement the regulation, the persistent anomalies in the private provisions of health care have not been rectified. The various Medical Councils have also not played an effective role in improving practices. In many instances, powerful medical lobbies have opposed the government’s efforts to regulate. In Gujarat individual practitioners opposed the Nursing Home Act of Gujarat because it was only a copy of Delhi’s Nursing Home Act. The COPRA (Consumer Protection Act), which was promulgated in 1986 to protect the interest of consumers in general, was extended to cover medical services as a result of active campaigning by consumer groups. The Indian
Medical Association, however, opposed this move in court on the grounds that it reduced medical services to a seller-buyer relationship (Bhat, 1997). At that time the Supreme Court, overruled the objection and stated that COPRA was applicable to any paid medical services. However, subsequent appeals led to more hearings and very recently the Court has qualified the provisions by stating that difference between ‘negligence’ and ‘error in judgment’ has to be maintained with the practitioner being liable to legal action only when the case is that of negligence. This has raised loud protest amongst consumer forums and the media as they rightly suspect that the move would provide more loopholes for practitioners.

34. Studies have pointed out that often the Medical Councils and similar bodies themselves lack motivation, operate according to self-interest and do not have control over their members. Besides, they are also constrained by a lack of autonomy and vested political interests (Muraleedharan, V.R. and S. Nadaraj 2003). The Councils have small budgets and their election expenses are borne by the states and central government. Often, due to shortage of funds, elections have not been held for years. Besides, the Councils are also vulnerable to political pressures. The government’s role in overseeing the Councils is limited. In an assessment of regulations conducted in Ahmedabad, Bhat (1997) found that the private practitioners themselves were of the opinion that:

- regulations had been ineffective because enforcement of the laws varied from state to state;
- regulation and enforcement were weak; there was resistance from various professional groups;
- the medical profession had not developed standards and self regulatory enforcement mechanisms; and
- directing private sector growth was not an important policy objective.

Thus, often because of the inability of the Medical Councils to function, the judiciary has to intervene in areas that should have been handled by the Councils. It is thought that a voluntary body, which includes a broader representation including consumers, NGOs, government, legal representatives as well as groups that are directly involved in health care activities, may be better able to effectively function as a quality assurance group.
A study undertaken by DFID in Madhya Pradesh found that the sheer size of the non-formal and traditional health sectors in the state made it impossible to effectively implement conventional legal accreditation and regulatory rules. A number of Rural Medical Practitioners (RMP) are officially registered as qualified Indian System Of Medicine and Health (ISMH) after acquiring a Diploma or Licentiate certificate from institutions in the neighbouring states. And because of the divide between the formally trained practitioners and the RMPs (as also the Dais also known as Traditional Birth Attendants), there is no effective body to support and lobby for their interests. The study concludes that, given the size and spread of this group, it may be difficult to create such a support structure.

The state medical council and Indian Medical Association have limited influence on the day-to-day operations of the profession and have almost no impact on the non-formal system. And what is of more concern is that the study also found that the awareness of regulatory measures, even amongst formally trained health care providers in the state was very low, leading to low compliance and the emergence of irregular practices. Other reasons why existing rules were not complied with included poor support infrastructure, the large investments required, and conflict between the Nursing Home Associations and GoMP on provisions of legislation.

On the other hand the private health care system has been almost completely supported and indirectly subsidised because of the state’s policy or the lack of an effective policy. The state has supported the non formal sector in two ways: by allowing government doctors to practice privately and by subsidies provided to higher medical education. Hence, the study observes, that the private sector has grown to effectively compete with the public sector.

35. Thus, the government’s capacity to regulate the private sector has generally been found to be lacking. Most state governments are handicapped by a lack of information on the private sector and the registered bodies. Ensor and Dey (2003) observe that the size and diversity of the private sector in India makes it difficult to regulate the constituents in the legal sense, through accreditation, registration and legal protections. They state that while the consumer protection act provides a route to a regulatory structure, it is such a slow legal process that it loses its effectiveness. Voluntary accreditation, on the other hand, is promising but generally for larger urban hospitals. However, they are of the opinion that for the large number of allopathic and traditional practitioners a different approach is called for. They recommend the creation of partnerships with small local practitioners in order to recognise and nurture better practitioners.

**Different Approaches to Regulation and Examples in Andhra Pradesh**

<table>
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<tr>
<th>Type of regulation</th>
<th>Examples in AP</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Command &amp; control - Standards backed by criminal sanctions.</td>
<td>Licensing - MTP act and private hospitals act (not yet implemented) to ensure minimum standards.</td>
<td>Many private practitioners do not register. There is little capacity (resources) to monitor even those that do register.</td>
</tr>
<tr>
<td>3 Incentives to improve behavior</td>
<td>User charges in public facilities as a way of ensuring/making transparent charges and influencing prices in private sector. Sukhibava scheme to encourage women to deliver in institutions.</td>
<td>Evidence that this is not working and those informal charges are still being accepted and in any case the market is segmented. Regulation is addressing consumer behavior but not supply - no guarantee that the institutional delivery will be safe.</td>
</tr>
<tr>
<td>4 Market-harnessing controls</td>
<td>Contracting for anesthetists and gynecologists to work in PHCS. NGO contracting in urban health centers. Capitation funding for accredited public and private facilities under poverty reduction project implemented by the Society for Reduction of Rural Poverty (SERP)</td>
<td>PHCS do not have sufficient resources to attract these doctors to work in their facility. Successful experience under project. Key question is whether Government has sufficient contracting experience. Accreditation of facilities required to join scheme - lower level of accreditation, to be able to supply basic package under scheme.</td>
</tr>
<tr>
<td>5 Disclosure - 'naming and shaming' of offenders. Could also be used to publicise good practice.</td>
<td>Newspapers - e.g. reports on unofficial payments at several public hospitals, reports on number of RMPs practicing. May also be green light when reflecting good practice. Sample surveys - confirm or deny statistical returns.</td>
<td>Tends to be negative, anecdotal and in areas where there (are) reporters. May be biased by influential pressure groups and individuals. Recent examples include user charges in government hospitals and reported numbers of 'fake' doctors in Andhra Pradesh. Indicates levels and patterns of activity, outputs and outcomes. Could be used in a positive or negative sense</td>
</tr>
<tr>
<td>6 Direct action - enforcement of standards through ownership of facilities.</td>
<td>Public facilities already owned and funded by government.</td>
<td>Plenty of evidence that direct ownership does not ensure standards. Individual objectives differ from institutional objectives so that private practice continues within public facilities.</td>
</tr>
</tbody>
</table>
5. PARTNERSHIPS, CONTRACTING AND AGREEMENTS

36. Contracting identifies private sector tools and mechanisms to improve delivery of public sector services. Contracting has been defined as a normal market exchange process, which is formalised in advance on the basis of a contract. In the health sector in India, contracting takes different forms for different health services. The process of contracting varies. For instance in Tamil Nadu bids for laundry services, are advertised in newspapers while for high-tech equipment and maintenance they are negotiated directly with providers. For AIDS advertisements, competitors are selected on the basis of experience and the quality and value of the bids. (Bennett and Muraleedharan, 1998).

- Contracting has been attempted in various national programmes like blindness control and AIDS control programmes. In the AIDS programme the management of high-risk groups has been handed over to NGOs because of their better ability to interact with communities.
- In the DFID funded AIDS control initiatives in Andhra Pradesh and Kerala, state management agencies have been contracted to manage NGO interventions with high-risk groups.
- Franchising arrangements have been made with private providers under the revised national tuberculosis control programme in order to provide specialist services to an under-served area or targeted group as in the case of providing TB treatment and control through a hospital in Hyderabad, where the public sector infrastructure is weak.
- Essential health services like primary health care in remote slums and primary health care centres have been contracted out in some states in recent years. Management of public health facilities has been transferred to private agencies - mostly NGOs or voluntary organizations - to improve the efficiency of service delivery. A case in point is that of SEWA in Gujarat where the entire responsibility for one district has been handed over to the NGO. In Andhra Pradesh, 192 newly created urban health posts were handed over to NGOs in selected municipalities, leading to savings on capital investments, beside increased efficiency in service delivery.
- Some states have also contracted out non-clinical services. For instance in Maharashtra, ancillary services are often contracted out. The Bombay
Municipal Corporation contracts out services such as catering, laundry, and hospital maintenance.

- In West Bengal (Maharastra is also attempting to work on similar lines), the government is experimenting with handing over the management of hospitals to the private sector. Initial steps have been taken in this direction in Kolkata where, in a large number of cases, the majority ownership and management of hospitals is with private firms with government being representatives on the Boards. A condition is that an agreed percentage of poor patients is treated free (Misra et al 2003). In Mumbai, the Municipal Corporation took a policy decision to hand over many of the peripheral hospital to the private sector. Prior to that, the state had already transferred the majority ownership of a public tertiary care hospital to a private firm under a state health system project funded by the World Bank. In Madhya Pradesh the state has initiated the process of setting up Patient Welfare Societies.

- Under the West Bengal Population Programme, services have been decentralised where ownership of facilities is with the urban local bodies and the clinical services have been outsourced. 23 maternity homes around Kolkata are working on the same strategy. (Nadraj et al 2001)

- In Andhra Pradesh the concept of a ‘comprehensive basic package’ utilising accredited networks of private providers has been initiated to increase coverage and services at rates below those prevailing in the market for a mother-and-child health care package. The package has been negotiated with the Andhra Pradesh Private Nursing Homes Association and the state branch of the Indian Medical Association and is being implemented by the Society for Reduction of Rural Poverty (SERPS). It is expected establish a system of accreditation for facilities.

- Standards must be met and maintained in order to be financed under the scheme. This is a potentially important development since the standards developed are likely to be much more relevant to the majority needs of private maternity care providers than the much more ambitious accreditation desired by the larger hospitals.

- The government has also promoted social marketing of certain products, mainly contraceptive pills and condoms, oral rehydration salts and vitamin A.

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Madhya Pradesh: Rogi Kalyan Samitis or Patient Welfare Committee

“...a pilot project was undertaken in the city of Indore located in the Central Indian State of Madhya Pradesh to vastly improve the primary health delivery system. Following its success, the system was replicated in hundreds of hospitals across the state...(and) a unique structure of management was introduced. This was called the ROGI KALYAN SAMITI (RKS) or THE PATIENT WELFARE COMMITTEE. .....The RKS is constituted by including people’s representatives with a few government officials and was given control over all the assets of the hospital and the mandate to take any policy decision to improve its functioning. To augment its finances, the RKS was authorized to levy user charges for the services provided by the hospital. The resources generated by the RKS could be used by it for improvement of the functioning of the hospital.... The experiment has since been replicated in over 450 government owned hospitals in all the 61 districts of the state. The results of this innovative project have been almost miraculous. In many hospitals in the backward districts and outlying rural areas, where often the very most basic amenities were not available, the Patient Welfare Committees have carried out physical improvements and provided equipment as well as upgradation in services which could not have been imagined earlier.

“...The basic structure of the Rogi Kalyan Samitis is as follows:

- RKS would be a registered society and be set up in all medical colleges, district hospitals, and community health centers.
- The RKS would have people’s representative, health officials, local district officials,
leading members of the community, representatives of the Indian Medical Association, members of the urban local bodies and Panchayat Raj representative as well as leading donors as their members.

- The RKS shall be deemed not as a government agency but almost as an NGO.
- The RKS could utilize all government assets and services to impose user charges. It would be free to determine the quantum of charges on the basis of the local circumstances.
- The RKS could raise funds additionally through donations, loans from financial institutions, grants from government as well as other donor agencies.
- The RKS could utilize surplus land available in the hospital for commercial purposes or to construct shops and lease them out (subject to some broad guidelines issued by the government).
- The RKS could take over and manage canteens, Rest Houses, Stands, Ambulance services, and other facilities within the hospital complex owned or managed by the govt.
- Private organizations offering high tech services like Pathology, MRI, CAT SCAN, Sonography etc could be permitted to set up their units within the hospital premises in return for providing their services at a rate fixed by the RKS.
- The funds received by the RKS will not be deposited in the state exchequer but will be available to be spent by the executive committee constituted by the RKS.
- As a result of the RKS system coming into effect, the government would not reduce the budgetary allocation traditionally received by the hospital.

"...The RKS is free to use the funds according to its best judgment. Different RKS bodies have used these funds for a diverse set of purposes...

"....In the last two or three years Rogi Kalyan Samitis have been set-up in all the districts of the State. In over 450 hospitals spanning 61 districts of the state, user charges have been levied by the Rogi Kalyan Samitis. "

37. Studies have, however, pointed out certain problem areas in the process of government contracting out health care services in India:

- Misra, et al (2003) note that most governments are weary of joint ventures primarily because of the possibilities of the collaboration not meeting the social equity mandate. They add that most of the joint ventures are in any case supported under an external aided programme raising a question of sustainability once the programme ends.
- Government capacity to assess needs, design contracts, manage negotiations and manage the implementation of the contract has generally been found to be weak. Moreover, information services to monitor performance of contracts are also weak. In Andhra Pradesh (AP), for instance, with no monitoring by either contractors or the hospital management, there has been evidence of informal payments to contractual staff. Studies indicate that Family Welfare in AP, which has contracts with private doctors to work in health centres, appears to have relatively little capacity to monitor the contracts. End of project reports suggest that the NGO contracting of urban health centres in AP was a success, but it depended on considerable effort and resources being made available through the World Bank funded project (Muraleedharan and Nadaraj, 2003). Ensor and Dey (2003) in their study of private maternity homes in AP have concluded that this was successful because the NGO contract was financed through specific projects managed by dedicated project units with a significant training, monitoring and administration budget.
- Further, Muraleedharan and Nadaraj in their study of policy challenges and options for partnership concluded that the style of functioning of the
bureaucracy is another factor affecting contracting-out arrangements. Generally there are few bidders for contracts for specialized services for several reasons including the low credibility of the government and also because of the strong opposition of public sector unions.

- While Misra et al (2003) note that there is hardly any evidence on the impact of contracting out on savings, equity or quality, Nadaraj et al (2001) are of the opinion that a government that fails to deliver quality health services due to a lack of ‘basic administrative’ capabilities is unlikely to plan and execute clinical or non-clinical contracts effectively. They recommend that powers should be transferred to local authorities as, being closer to the local project, they would be in a better position to monitor contracts.

- In the case of the transfer of public facilities to the private sector, Nadaraj et al (2001) caution that the cost of transfer should be examined in relation to the benefits that would be generated to the public. Moreover, transparency issues also need to be addressed. Vested interests creeping in are a highly possible risk.

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**NGO in Urban Health Care Provisions**

“In the area of reproductive health much of the activity has been to involve NGOs in service delivery. One of the most notable examples is the provision of basic primary care through urban health centres. A project financed by the World Bank (RCH-1) between 1998 and 2002 established a mechanism for contracting with NGOs to provide health services at urban health centres. Centres were managed by NGOs selected in a competitive process by a district level committee. Each UHC set up an advisory council to take decisions on the management of services and decide on the level of user charges (if any). A detailed manual was developed to provide information on management and operational issues including basic levels of equipment required for centres and reporting requirements (Commissionerate_of_Family_Welfare, 2001). Finance was provided to cover mainly staffing and some maintenance costs while equipment and supplies were provided through project procurement. A district committee later ratified these decisions. The performance of the NGOs was assessed each year and those with low performance were either warned or lost their contract. During the project considerable improvement in basic health process indicators was found. Since 2002, when the project finished, the directorate of family welfare took back control for financing, contracting and monitoring the clinics.

“A separate project has, under the Indian Population Project VIII, handed over the management of a number of health posts to NGOs. This experiment, which began in Hyderabad municipality, is now being extended to other urban areas (Rao, 2003). In addition proposals have now been put forward to contract out primary health care centres in rural areas to NGOs in a similar way to the urban RCH project. This has yet to be implemented.”

*Extracted: Ensor,T and R Dey (2003), Private For Profit Maternity Services- Andhra Pradesh Case Study; Exploring the Role of Private Maternity Services in India, Nepal and Tanzania, Final Report, Options Consultancy Services and King’s College London*

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### 6. FACILITATION AND INCENTIVES

38. Incentives to private providers in the health sector include direct and indirect subsidies covering private services, facilities and products. Land subsidies, custom duty exemptions, fiscal concessions, and institutional finance at low rates are some of the instruments used for encouraging private sector participation. As the 1986 National Health Plan recommended, the promotion of private investments has been directed primarily to tertiary care.
39. Land at subsidised rates is a common incentive. In almost all cases such incentives are conditional on the providers ensuring a percentage of free services to the poor. However, studies have shown that this condition is largely flouted (Bhat, Ramesh, 1999). In Andhra Pradesh, a House Committee on Corporate Hospitals set up by the Legislative Assembly of the state to probe into related issues found that the hospitals, which were given conditional concessions, were actually not providing free treatment to the poor. And moreover, the Committee observed that there was no effective system to monitor the implementation of these agreed conditions. Bhat’s study reveals that land is generally offered in the urban areas rather than rural, inadequate information is provided to participants, there is a lack of co-ordination between departments responsible for providing facilities and services, and inadequate management structures to handle new tasks. Generally this has resulted in delays and often to legal cases and the failure of the joint venture even before it could take off. Thus, it is concluded that while concessions act as incentives, critical equity issues are not monitored and hence not implemented.

40. Apart from incentives, various state governments, often under externally funded programmes have recently been providing structured trainings to service providers in the non-formal sector. For instance, in Madhya Pradesh, dais or local birth attendants have been trained by the state under a DANIDA support programme and provided with basic delivery kits for home deliveries. Similar training has also been given to dais in many other states and the government has also tried to fix minimum payment rates to them. However, while they have not been able to ensure the implementation of rates, the training has led to a marginal improvement in delivery care in some states. In AP, where about 36 percent of the deliveries in the rural areas and 11 percent in the urban areas are conducted at home, the Academy of Nursing Studies has tried to organise the dais into cooperatives to ensure that their interests are taken care of. The Academy has also provided some basic training and tools to the dais.

7. CONCLUSIONS

41. In India a variety of private sector service providers exist in the primary health sector, especially in the rural areas. Most of them are traditional practitioners and untrained. Their numbers and spread are vast and complex, making it difficult for government to develop a system of regulations that is appropriate to the size and heterogeneity of the private sector.

42. Large private hospitals and smaller, but better, nursing homes exist largely in the urban centres. The cost of health care here is so prohibitive that it excludes poorer households.

43. Licensing and accreditation mechanisms are required not only for the larger hospitals which are trying to follow international standards but also for the numerous small nursing homes offering more modest services.

44. Contracting is being increasingly seen as a positive mechanism for encouraging better practice. However, weak capacities to develop and manage contracts need to be addressed. Considerable investments need to be made in the mechanisms for contracting so that the overall impact on quality is more positive. Improved monitoring and evaluation will be required in order to ensure that these mechanisms function effectively.
45. NGOs and the voluntary sector are increasingly becoming involved, not only in community mobilization and health advocacy, but also in the provision of health cares services, although often only on a project basis.

46. As in the other sectors, the devolution of powers to the institutions of the panchayati raj and its health sub-committees needs to be pursued in earnest to ensure better regulation and services in the rural areas.
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SECTION 4: PRIMARY EDUCATION

1. OVERVIEW

1. The most debated issue in the education sector in India over the last decade has been the nature of change in the educational profile and status of the country, as a result of stronger policy commitments and significant reforms initiated in the mid-eighties. The profile, however, offers a mixed bag of success and critical gaps. On one hand the literacy rate has shown a dramatic increase during 1991-2001 as compared to the previous decades (from 52% in 1991 to 65% in 2001). In 1991, while there were only eight states with a literacy rate of more than 60 percent, by 2001 the number of states in this category had gone up to 19; for the first time a faster growth in female literacy was witnessed across the country, narrowing the gender gap; and, finally, converging trends have narrowed the rural–urban literacy gap. Similar positive trends, as a result of widespread efforts to get children into schools, are also reflected in official statistics showing increases in school enrolment and retention rates, a decrease in drop out rates, increases in the number of schools as well as teachers, and an overall increase in budgetary allocations. For instance, the retention rate in Madhya Pradesh is stated to have increased from 48 to 84 percent over a period of three years as a result of investment in schools under the Education Guarantee Scheme (EGS) and alternative schools under the District Primary Education Programme. These developments are more obvious in the case of states where serious reform processes have been initiated.

2. However, in spite of the significant progress reflected by the macro indicators, India lags behind several other developing countries of the region with nearly 35 million children still remaining out of school and an equal number unable to complete even 5 years of schooling. This is despite the fact that official estimates indicate the existence of over 800,000 schools providing primary education to children within 1 km of their residence in 95 percent of the country.

3. Furthermore, a state-wise disaggregated analysis strikes a discordant note. There are striking regional disparities in educational achievement, largely due to historical factors and the ideologies of successive federal and state governments. Kerala registers the highest overall literacy rate (+ 90%) and Bihar the lowest (less than 50%), with other states like Madhya Pradesh, Andhra Pradesh, Orissa and West Bengal positioned somewhere in between. The state variations are more obvious when disaggregated by gender, or rural–urban literacy percentages. What is more disturbing is the fact that regional differences become hazy when we look at the quality of learning achievements. Low qualitative achievements and high disparities thus mar the impressive overall progress in literacy levels.

4. Within this scenario the three key sets of players are (i) the state with its policies and programmes, often influenced by political considerations and at times donor mandates, (ii) civil society organisations including NGOs, private schools and the corporate sector, motivated by a combination of commitment to education and profit, and (iii) the community, mostly at the receiving end of outcomes. The community, over the years, has to an extent confounded policy makers and professionals compelling them to take a fresh look at issues of effective demand for education and parental responses, hitherto stereotypically assumed to be of little interest to poor and vulnerable households.

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1 Economic Survey 2003-2004
5. This section will look at the position of non-state providers of primary education in India, especially citing examples from the states of Madhya Pradesh, Andhra Pradesh, West Bengal and Kerala as cases in point. The primary focus of this section is on the forms of government intervention and client control that exist to regulate or facilitate these providers. The political and economic compulsions that have shaped government or client intervention to regulate or support non-state providers are discussed, together with the intervening body’s capacity to do so.

2. POLICY ENVIRONMENT: THE CONTEXT IN WHICH NSPs HAVE EVOLVED

6. In India, the responsibility for providing primary education in principle rests with the respective state governments. In most states, almost 90 percent of the funds come from the state government and over 80 percent of the children are enrolled in government schools. However, since 1976, when education was brought under the Concurrent List of the Indian Constitution (46th amendment), the control and management of primary schools became the joint responsibility of both the Centre and the states. Both levels of government now have the right to legislate, finance and develop policies and programmes, within the overall guidelines provided by the Centre, with the states being specifically responsible for expansion and growth of education within their respective administrative areas. However, as most of the funds come from the Centre, states are mostly constrained to follow the central government’s policy and programme mandates. Additionally, the historical context of education in the state and the political ideology of successive governments have also shaped state specific educational strategies and profile.

7. In reality, however, a ‘pluralistic’ framework of education and range of service providers have been operative in the country for several decades and individuals, community groups and leaders of various religious and social reform movements have worked alongside the government (De et al 2000). In fact, the social reform movement of the 19th century is credited to have paved the way for NGO interventions, especially focusing on basic education for the marginalized sections of the community.

8. Since the 1980s, NSPs have acquired new dimensions as well as increased prominence, attributable partly to the failure of government systems to deliver, to differentiated market demand and to emerging policies and programmes. Over the last decade the Government of India (GoI) and many of the states have shown apparent receptivity to NGOs in education. Their participation is especially sought in community mobilisation, local level planning and capacity building and development of innovative and cost effective curricula. In fact, the central government has been adopting and scaling a number of NGO experiments focusing on alternative and ‘second chance’ education (Rifkin, et al, 2001).

9. Two major policy decisions have influenced the increasing involvement of NGOs. NGOs gained major government support in 1986 when the GoI formulated the National Policy on Education 1986 (NPE) and thereafter translated the policy into a framework for action in 1992. The NPE visualised starting an extensive non-formal programme to meet the needs of out of school children, which the state alone, it was assumed, would be unable to handle. While the overall responsibility for planning and managing this programme was to be the vested in the central and state governments, the responsibility of running the Non Formal Education (NFE) centres was given to the voluntary and non-profit sector and the Panchayat Raj institutions
The scheme aimed at establishing a partnership between the government and voluntary agencies, public trust, non-profit making companies, social activist groups, etc. Obstacles to the effective participation of the voluntary sector were to be removed and eligible agencies were given grants to run NFE centres and to cover the costs involved in supervision and management. Educationally backward states, including Andhra Pradesh (AP), Madhya Pradesh (MP), Orissa and West Bengal (WB) were initially covered. Subsequently, it was extended to cover urban slums, hilly, tribal and desert areas, and areas with a concentration of working children in the other states as well. The NFE oriented support to NGOs continued under different programmes till almost the end of the 1990s.

10. In the 1980s and 90s several large state-specific programmes for the universalisation of elementary education and externally assisted programmes intensified NGO and private sector participation. Various government policy and programme documents increasingly focused on NGO involvement or partnership with NGOs to further the cause of universal primary education. Innovative strategies were actualised with the active and 'unprecedented' collaboration of the central government, various state governments and donor agencies, on one hand, and private and non-governmental sector, on the other (Rifkin, et al, 2001). All these programmes were run through registered societies created by the government and also had NGOs as members of the Board. Lessons from these were integrated into the District Primary Education Programme (994) and the Sarva Siksha Abhiyan (SSA, this is the Education for All Programme).

11. While the District Primary Education Programme set up planning and oversight bodies at the national and state levels that for the first time included NGOs and private sector experts, the framework document of SSA emphatically encouraged partnership with NGOs, the private sector and civil society organisations in planning and executing programme interventions. In Madhya Pradesh, the government took the initiative of constituting a state level Technical Resource Support Group (TRSG), an apex policy-making body whose jurisdiction was to cover the entire elementary education of the state. Eminent practitioners and educationists, supportive of innovations, were co-opted as members of TRSG, which resulted in some radical policy initiatives. One of the most significant of such initiatives was the decision to open the development of teaching-learning materials to both governmental and non-governmental organisations that were to undertake field work in experimental schools and with the active participation of the teachers (Raina, undated). Further, the emergence of external funding through bilateral arrangements and International NGOs and, of late, the domestic corporate sector focusing on primary education per se or often as a critical component of child labour elimination programmes, gave a further boost to the evolution of NGOs in the sector. This support, often providing direct assistance to NGOs, has given them more flexibility to innovate and to advocate policy change. The result of these policy decisions was the emergence of an estimated 20,000 education-focused NGOs around the country over the last 20 years.

12. The National Tenth Five-Year Plan followed this trend and confirmed the need to enlist the participation of the NGOs. The Approach Paper to the Plan acknowledges

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2 The Andhra Pradesh Primary Education Programme, the Shiksha Karmi Project, Lok Jumbish (Rajasthan), Bihar Education Project, Uttar Pradesh Basic Education Project, the Education Guarantee Scheme (MP), and Janshala, covering urban slums were some of the series of experiments.

3 Madhya Pradesh even went into a ‘Mission Mode’ to achieve the objective of UEE and set up the “Rajiv Gandhi Shiksha” (education) Mission.
that laws, rules and procedures for the participation of non-profit, private and cooperative organisation in the supply of education need to be simplified. It further states that the oppressive regulatory system needs to be modernised and informed by global best practices and the ‘economy of information’. However, it appears to define regulatory measures more in terms of the need to check fraud and corruption, rather than ensuring quality and equity. Although, the major focus in this regard appears to be the higher and technical education sector, primary education too has been brought within the scope of this mandate. Partnership with NGOs and civil society organisation is sought in order to reach the hard-to-reach pockets of the country and make education affordable and accessible. In 2001 the Prime Minister’s Economic Advisory Council suggested that the budgetary allocation for education could also be used to facilitate private schools to provide services, limiting the state’s role in direct delivery. In fact, the Council advised that education should be ‘liberalised’ and bureaucratic hurdles for their effective functioning should be removed.

13. Another policy pronouncement that saw some increase in the activities of NGOs was the NPE’s proposal to adopt the Eleventh Schedule of the Constitution, giving more powers to the Panchayat Raj institutions for education, including primary education. The 73rd and 74th Constitutional Amendments (1993) decentralising the planning and management of the development interventions to the rural and urban local bodies, including primary education, further energised the process. The transfer of political and administrative powers - albeit only on paper in most of the states - revealed a need to provide support to the community institutions and again a role for the NGOs emerged. NGOs were either contracted by the state to help build capacities of the Village Education Committees under the decentralised system or themselves initiated the process with funding from other sources.4

14. In spite of these developments, critics argue, that the NGOs play a minor role in the education system in India and their significance in such a large country as India is relatively small. The number of effective government-NGO partnerships is at present limited to a handful of NGOs, indicating the less than serious efforts made to establish genuine partnerships in spite of the documented intentions. The PROBE survey (1999) found that, although there is an increasing tendency for government to look at NGOs as ‘crucial institutional resource’ or as ‘low-cost alternatives’ to government schools for achieving the goals of Universal Elementary Education (UEE), the government has largely restricted its contribution to improving classroom pedagogy, teacher training and school management, rather than to developing partnerships in the process of universalisation of elementary education. Nawani (2001) has described the government–NGO partnership as one which constrains the latter’s activities within a limited framework of action towards a ‘pre-determined goal’ leading to under-utilisation of NGOs’ potential. A relationship of ‘control’ and ‘mistrust’ is said to exist between the two.

15. The other main category of NSPs - the private schools5 - has been in existence since colonial times and a system of government subsidies to private educational institutions was prevalent even then. The sector, however, received a big boost when the Constitution was drafted, wherein Article 28, 29 and 30, provided for minority

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4 In Kerala a people’s planning campaign was initiated with the help of the Kerala Shastra Sahitya Parishad, an NGO, together with the PRIs to achieve a much quoted level of primary education.

5 2 categories have evolved in India: those that have been established by private persons and continue to be managed privately and receive no government support (Private Unaided) and those that are managed privately but with government aid (Private aided). Subsuming these categories is the ‘recognised’ or ‘unrecognised’ schools, with the former being aided or otherwise.
communities to set up schools to preserve their language and culture. Since then, most of the states have been expanding access to secondary and higher education by giving subsidies to the private sector; however, in the case of primary schools, only some states like Kerala and Maharashtra are reported to have almost fully supported them as a policy for extending access to primary education. States like Madhya Pradesh, Rajasthan and Tamil Nadu, on the other hand, finding the whole process of recognition of private schools to be cumbersome, have removed restrictions in opening schools at the primary level. Uttar Pradesh presents another facet of the policy. According to Kingdon (1996), the UP government’s policy to bring upper primary and secondary private schools into the aided list has led to an increase in the number of unrecognised private schools. In Orissa there is a negligible private sector at the primary level but a large aided one at the secondary level. PROBE has attributed the growth of private unaided schools in both the rural and urban areas primarily to a rising demand for education and the falling quality of government schools. In fact, it is often pointed out that in the 1990s a political decision was taken all over India to privatise the primary education sector, but in an invisible manner which thus did not attract much attention until fairly recently. As well as being a state response to a daunting task, this was supported by the process of liberalization

16. In recent years however, most perennially budget deficit states have made efforts to curtail subsidies (grants-in-aid) to private schools, primarily because of fiscal compulsions to reduce expenditure, rather than to promote educational goals of equity, quality and accountability (World Bank, 2003). They have shown a distinct preference for direct state funding of low cost, and as often pointed out, low quality non-formal education, to meet targets. Thus, some states have stopped the inclusion of new private institutions in the prevalent grant-in-aid (GIA) system, some have made exceptions for the Schedule Caste and Schedule Tribe managed schools, some have stopped or reduced maintenance grants and only allow grants for teachers’ salaries. The reform initiatives have been generally ad hoc and contested, and hence have seen many retractions.

17. States like Madhya Pradesh are gradually withdrawing their grants-in-aid (at the rate of 20 percent per year for five years) to private schools, at the same time lifting restrictions on opening and recognizing new private schools, thus in a way encouraging the growth of private unaided schools (PUA). A study undertaken by the French Research Institute in India (Leclercq, 2002) found that in Madhya Pradesh, while the focus has been on expanding the public sector schools, privatisation has been cautiously introduced by allowing new private schools to open against payment of a deposit. The argument given by the state for privatisation was, firstly, that the rules for recognition of private schools were no longer effective and corruption was rampant and, secondly, given the current trend towards public-private participation, it was politically correct to reduce the burden on the public sector and utilise the funds thus released to focus on children who did not have access to the private sector. On the other hand, Kerala subsidises the highest percent of children in private primary schools, in addition to providing direct scholarships and transportation subsidies. The result is that Kerala today accounts for the highest percentage of children in primary schools. In spite of this, the World Bank study indicates that: at the primary level the aided private schools have a higher proportion of poor students than the unaided private schools, although the proportion is lower as compared to government schools; in almost 50 percent of the states in the country, aided primary institutions primarily serve the urban children. Hence, government schools serve the poor to a greater extent than the private aided or unaided schools (WB, 2003, p22).
18. The religious and caste-based schools in the private category are more subject to political ministrations. For instance, Article 337 of the Constitution prescribed that aided institutions managed by the Anglo-India community would draw aid on a reducing basis for 10 years. Aid was thereafter stopped altogether. The Central government's modernisation scheme for Madarsa (Muslim) education is extended to all voluntary, organisations and trusts registered with the Central or state governments and provides financial aid for Madarsa/Maqtabs with an enrolment of at least 40 students. In December 2001, the pro-Muslim state government in Uttar Pradesh issued an ordinance for the qualitative and quantitative upgradation of education in these institutions, mostly preferred for primary education of poor Muslim children, and a Madarsa Education Board was set up for the purpose. However, out of the almost 20,000 Madarsas in the state only 120 have been registered so far, as they fear that registration may lead to excessive government control (Thakore, 2002). The state government recently announced that the Board would grant recognition to the Madarsas and the pay scales of the teachers would be brought into parity with government teachers.

19. The private-public partnership agenda has resulted in corporate interventions in education also gaining some strength. The corporate sector has been motivated, on the one hand, by the need to increase employee productivity and developing their skills to participate in an increasingly competitive global market and, on the other, by the political and lobbying edge that it provides. However, interventions have been limited to a few states with a relatively proactive public–private partnership approach and a progressive industrial base like Andhra Pradesh and Karnataka.

20. The recent and much criticised ‘Free and Compulsory Education Bill, 2003’, the latest in the line of government initiatives to universalise elementary education, if enacted in its current form, would also have an impact on NSPs. The Bill is said to be discriminatory as it gives legal sanction to low quality educational streams for under-privileged sections of society. Moreover, educationists fear that it undermines the role of the Panchayat Raj institutions while promoting privatisation and “corporatisation” of school education. If legislated it is feared that parts or whole districts would be ‘franchised’ to corporate or religious bodies to run elementary schools at the cost of the poor. In fact, the Bill excludes private schools from providing free and compulsory education. The Bill has been accused of shifting the state’s constitutional obligation towards elementary education to parents and local communities. A change of guard at the Centre before the Bill could be enacted, and indications of the possibilities of reviewing the Bill, has brought fresh hope for maintaining universal access to quality basic education, with the state probably playing the major role. The government’s decision to levy a two percent cess on services in order to generate resources for elementary education is also being hailed as a step towards the state shouldering its responsibilities.

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6 Small schools housed in mosques. Reports estimate that there are hundreds of these in a city like Lucknow alone.
Madhya Pradesh

Leclercq (2002) observes that in Madhya Pradesh the primary school system went through a series of reforms in the mid-1990s primarily because the state believed that deficiency of the supply of schools by the government rather than inadequate demand was the main cause for educational deprivation in the state. Identifying ‘extension’, ‘decentralisation’, and ‘privatisation’ as the key elements of the reform process, Leclercq elaborates:

“…First, the public sector has been extended through participation in the District Primary Education Programme, the creation of Alternative Schools (AS) and, especially, the implementation of the Education Guarantee Scheme (EGS). Additional middle schools are now created to absorb pupils graduating from the new primary schools. …Second, the management of public sector schools has been decentralised, both politically, involving district, block and village panchayat as well as education-specific institutions such as Village Education Committees (VEC) and Parents-Teachers Associations (PTA), and administratively, with the creation of local administrative units below the district level. The status of teachers has been at the core of these changes: New teachers are recruited locally instead of becoming part of a cadre of civil servants, as used to be the case. Third, the Government of Madhya Pradesh (GoMP) has lifted restrictions on opening private schools and obtaining government recognition, which has facilitated a very sharp increase in the number of private schools. The school supply of Madhya Pradesh has thus been comprehensively reshaped already.”

Leclercq also observes that the state’s arguments justifying privatisation appear to be both practical and political. The rules for state recognition of private schools have become ineffective and are illegally bypassed. Hence, the state in any case does not have any control over the growth of private schools, so has taken the practical decision to remove restrictions. The political basis of this move is the ongoing debate on ‘public-private partnerships’. Privatisation is considered to be a means of reducing the burden falling on the public sector. The resources thus saved, could then be diverted to ‘focus’ on children who do not have access to the private sector.

West Bengal

Two events describe and define West Bengal’s policy on private schools and NGOs in the education sector:

In the mid sixties the government took over the private primary schools and called them ‘government sponsored free primary schools’, securing the tenure and salaries of the teachers as a consequence. This move was supposed to have made the schools more accessible to the poor. Subsequently, with the coming of the Left Front Government (coalition) these previously private schools were bought within the purview of the District Primary School Council (an elected statutory body set up according to the provisions of the West Bengal Primary Education Act 1973) in 1977 and given a 100 per cent grant. However, the amount given is meagre and the schools function under constraints. Today, the state makes relatively little use of the private aided sector at primary level.

The end of the 1990s saw the Left Front Government making renewed efforts to achieve universal primary education by 2010. Admitting that the task of meeting the growing demand for primary education was an enormous one and faced with a resource crunch as well as the need to address the issue of out of school children, it took a decision to adopt the ‘alternative school approach’ to address the special needs of the poor communities. NGOs were seen as the means to achieve this. An example of the state’s commitment to involve the NGOs was the formation of a State Resource Group on the Education of Deprived Urban Children in 1999, and the evolution of a programme of alternative schooling called Shikshalaya Prakalpa. NGOs were the implementing agency for the programme; financial support was provided by the state and the District Primary Education Programme. (Nambisan, 2003)
3. POLICY DIALOGUE

21. The policy environment within which NSPs have evolved gives an indication of the scope and platform for dialogue that exists between them and the government. Two distinct patterns are visible - one where government policies and programmes have directly or indirectly provided space, although with limitations; and the other where large NGOs or NGO networks and private school federations or associations have carved out a space for themselves.

22. Although the National Policy on Education in 1986 opened the door for formal government-NGO collaboration, it was the subsequent community focused programmes like the Lok Jumbish, the Kerala SSP, and the District Primary Education Programme which have provided somewhat more concrete platforms for dialogue and opportunities for NGOs and civil society organisations to influence policy. A key factor, which has contributed to increased participation of other than government stakeholders, appears to be the relative autonomy of the structures set up as special purpose vehicles for implementation of these projects. Registered under the Societies Act or similar provisions, these structures are administered by a General and an Executive body, largely comprising of government officials but also including NGO and other civil society members, and have show relatively high degrees of structural and administrative innovativeness and flexibility.

23. Reviewing, the specific case of the District Primary Education Programme, national and state level planning and oversight bodies, which include representatives of the NGOs and private sector, have given some space, at least technically, for NSPs to engage in policy dialogues. Besides, the flexibility to hire experts from outside given to the District Primary Education Programme Technical Support Group has provided indirect opportunities for influencing operational policies at the national level. Similarly, state and district level functional resource groups with a mix of government, NGOs, skilled professionals from outside and informal community leaders for project design and implementation has led to representatives of the NGOs and private sector playing relatively more critical roles in shaping the programme. Strategic networking with NGOs and private sector organisations, primarily for capacity building in the education sector, was another indirect influence on operational and management practices. Thus, special purpose vehicles that are relatively free of bureaucratic tangles, open to innovations and politically participatory, have introduced a fair amount of space for policy dialogue. Besides, the fact that most of these interventions worked on a project and ‘mission’ mode, often with donor support, allowed them to integrate policy issues as a project component. Although, hands-on involvement of donor agencies is almost absent, they are however, able to address policy issues through regular joint review missions, thematic appraisals and workshops and third party as well as participatory mid-course reviews and evaluations.

24. Having said this however, it is interesting to note, that these government-sponsored formal platforms for dialogue and interaction have had limited effect, for the simple reason that participation rather than partnership with NGOs has largely been their mode of function. A study undertaken by the World Bank of six NGOs in India (Jaganathan, 2001) concluded that while the NGOs are keen to ‘share their models’ with the government rather than create islands of excellence, government has still to recognise them as ‘full-fledged partners’; bringing lessons from NGO practices into the mainstream has been an uphill task. The study observes that collaborations have been ad hoc and isolated although some beginnings have been
made to engage NGOs in national level concerns.\textsuperscript{7} It underlines a need for putting strategic institutional linkages and mechanisms in place to facilitate Government-NGO dialogue and encourage NGOs to become ‘partners’ rather than ‘participants’ in the government programmes. Certain areas of NGO intervention related primarily to management and access to primary education – pedagogy, teacher training, learning materials - were those that most states were willing to share with non-state actors. Beyond this, NGOs have to fight to be heard in the argument about the principles of universalisation of education, equity and common school systems, privatisation and the state’s primary role in elementary education. They have adopted some innovative means to do so and in the process have gradually become a force to be reckoned with.

25. Devi (2002), observes that, in India, civil society initiatives usually led by NGOs, have actualised government policies on the ground by playing dual roles: on the one hand as catalyst and pressure group, they have lobbied for and demanded the framing and implementation of polices; and on the other they execute policies on the ground, in collaboration and participation with the government. The growing adoption of a ‘right based’ approach by the NGOs and other civil society organisations, together with the scope provided by the fact that the Supreme Court is independent of the Executive and the Legislature, has created the right environment for advocacy by civil society organisations. Devi concludes that “the alternative system of building parallel civil society structures – like the Bangladesh Rural Advancement Committee Informal School System – appears to have limited relevance in India, because in the Indian context, it has been demonstrated that a rights-based approach has made the government work better.”

26. The much talked about 93\textsuperscript{rd} Constitutional Amendment on the Right to Education is the most recent and significant example of how this process of ‘dialogue’ works. It has been described as a ‘political response’ to the popular demand for education initiated by civil society and led by NGOs, NGO networks and coalitions. In fact, the National Alliance on the Fundamental Right to Education (NAFRE), which has a membership base of 2,400 civil society organisations spread over 15 Indian states, was born out of this movement and played a central role. The movement brought judges, lawyers, teachers, parents, children, trade unions, religious bodies, panchayats, etc., together within its fold. Innovative and participative advocacy approaches and events were used as tools in the process. The Bill, which was finally passed in Parliament in November 2001, as the 93rd Constitutional Amendment Act, is an evidence of the strength of this collective process.

27. State-level networks of civil-society organisations have also been formed to lobby the state governments to implement the principles of the Bill on the ground. NAFRE, FORCES and SACCS are some of the key players in this task. They have been lobbying for the setting up of a ‘National Commission on Education’, with civil society as an integral component, to ensure participatory and transparent methods for planning and implementing the Constitutional provision. NGOs like CRY, with nationwide coverage aim to bring together state and national-level alliances, and to form a National Child Rights Alliance, with broad-based representation from the development sector, the corporate sector, individuals, youth, the media, and the government. This apex network is intended to become a key pressure group for promoting child-friendly policies, including issues of primary education. Pratham, an NGO with a presence in several states, is also building an NGO alliance group to

\textsuperscript{7} Digantar and Sandhan Shodh Kendra in Rajasthan, Eki avya in Madhya Pradesh, the Rishi Valley Rural Education Centre in Karnataka and Pratham in Mumbai are the few NGOs who have been able to make dents in the Government- NGO partnership.
address the cause of universal elementary education and gather political support for it. Networking and alliances are thus emerging as powerful and effective platforms for policy dialogue.

### Education March

A number of innovative and participative advocacy approaches and events initiated by civil society led to the passing of the 93rd Constitutional Amendment Act, the most visible being the two month all-India ‘Siksha Yatra’ or ‘March for Education’. The 15,000 km march across 20 Indian states was an effort organised by a national child rights NGO which focuses on child labour eradication, the South Asian Coalition on Child Servitude (SACCS), with the support of over one thousand other NGOs as well as the All India Federation of Teachers Organisations (AIFTO), the All India Primary Teachers Organisation (AIPTO), the All India Association for Christian Higher Education (AICHE), the National Cadet Corps, the National Social Service, Nehru Yuvak Kendra (the Nehru Youth Centre), Bharat Scouts and Guides, students associations, academicians, trade unions, parliamentarians, and panchayats.

The March was a result of frustration at the delay in passing the 83rd Constitutional Amendment Bill on the Right to Education, which was tabled before Parliament in 1997. Civil society organisations demanded the immediate passage and implementation of the stillborn 83rd Constitutional Amendment Bill as the 93rd Amendment Bill, to secure free, compulsory and meaningful education for children.

While the March was a very visible initiative and important milestone for the civil society, there were other activities which contributed to the passing of the Bill. Civil society networks like the National Alliance on the Fundamental Right to Education (NAFRE), which has a membership base of 2,400 civil society organisations spread over 15 Indian states, and the Forum for Child Care Services (FORCES) played a major role in the policy advocacy process by organising campaigns and other advocacy efforts around this issue. “A clear testimony to this was that NAFRE even organized a rally and an indefinite hunger strike in Delhi on 28th November 2001. Over 50,000 people from different parts of 14 states took part in this action to emphasise and to incorporate several positive changes in the 93rd Amendment Bill. Eighty per cent of costs for this event were met through local community contributions! It is perhaps through the untiring efforts of such civil society initiatives (spearheaded for the most part by NGOs) that led to the final passage of the Bill in Parliament on 28th November 2001, as the 93rd Constitutional Amendment Act.” Devi (2002)

28. The private schools have also formed federations (see Box), associations or unions, which have become a collective platform for dialoguing with governments. But apart from, the rare instance when they came together with other civil society organisations in lobbying for the passing of the 93rd amendment, these groups have generally limited their efforts to management issues of autonomy, resources and salaries.

29. Space for policy dialogue between the government and NGOs is provided by the opportunities that have opened with the initiation of the decentralisation process in general and its specific manifestations in the education sector. The 73rd Amendment to the Constitution had paved the way for decentralisation of educational governance (Article 243 G of the Eleventh Schedule). Decentralisation was proposed in order to meet the needs of an expanding educational system and bring about quality and efficiency that a centralised bureaucratic system was unable to achieve. District Boards of Education and committees at lower administrative levels have been set up to facilitate the process of community and civil society participation. The village panchayats through these committees, which have provision to co-opt members from the community, is responsible for the planning and management of elementary education. The committees are answerable to the community through the gram
sabha (the general body constituting the community). Thus, from the gram sabha at the village level to the district committees, a platform and process for dialogue have been established. Additionally the new generation projects also introduced other community-based structures parallel to the decentralised panchayat system, although these ‘user-based’ bodies have seldom lasted beyond the project period.

30. In reality what is observed is that apart from intervening for administrative restructuring and capacity building, both the Centre and most of the states have, deliberately or otherwise, been almost quiescent in sharing powers as well as resources between the various tiers of governments. Administrative rules and procedures for decentralisation are not clearly specified and adequate resources have not been delegated to the panchayats. Lack of political will, lack of democracy within the administrative set up and the consequent lack of positive actions in educational departments, have all been obstacles to effective decentralisation and hence to the process of dialogue between the policy makers and community. If and when the decentralisation process is fulfilled, these community-based institutions could become the most effective platforms for dialoguing with service providers as well as the higher levels of governments. They would also be the most effective and efficient instruments for monitoring service providers. However, it is only where NGOs have worked closely with the panchayats and the community that some effective process of community-government interface is visible.

4. GOVERNMENT REGULATION AND ACCOUNTABILITY TO CLIENTS

31. The most prevalent system of government control of private schools seen in India is the formal regulated structure under which 'recognised' private schools have to function, irrespective of the fact whether they are government aided or not. ‘Recognition’ requires the school to confirm to certain minimum norms and standards laid down by the respective state governments. Those that follow the norms are certified as ‘recognised’. Recognition entitles the school to hold examinations and issue results and transfer certificates, which enable students to move from one recognised school to another and access higher education and jobs. Besides, it is purported to safeguard the interests of teachers and staff, by prescribing minimum salaries and fees.

32. Primary schools come under the authority of the state governments and each state has enacted its own legislations and rules for the recognition of schools. The management and control of these schools varies according to the legislative framework of the different states. However, all the states prescribe the following basic pattern with some variants. Some states, like Uttar Pradesh (UP), also have somewhat different norms for Hindi and English medium schools:

- The school must justify the need to be established in the locality and must not adversely affect the existing government or municipal schools.
- The institution running the school must be registered under the Societies Registration Act or the Indian Trust Act and run as a non-profit organisation.
- A minimum endowment fund (anywhere between Rs. 10,000 in UP to 25,000 in AP) has to be deposited in the bank. Some states like UP also require a school to maintain a permanent reserve fund. Apart from the fact that the

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amount stipulated is too large for most of the schools to raise, in the case of Andhra Pradesh, there is confusion among the administrators regarding the use of these funds.

- Adequate building facilities with separate rooms for each class of a minimum specified size have to be made available. Other physical infrastructure and facilities include, drinking water, toilets, playground, adequate chairs and tables.
- A minimum student strength (45 in UP) and maximum teacher–student ratio (1:40 in Andhra Pradesh) need to be maintained.
- All teaching and non-teaching staff should be recruited according to the pattern laid down by the government and also should have the minimum prescribed qualification. The staffing pattern should also be according to government rules. In the case of AP, all appointments have to have the approval of the competent authority.
- The salary structure as laid down by the government should be followed. In the case of AP, 50 percent of total revenue collected as fees has to be earmarked for salaries and 15 percent for benefits. AP also stipulates the adoption of a Teachers Provident Fund or other government approved pension scheme.
- Unaided schools have the freedom to develop their own fee structure, based on norms laid down by the governing body of the institution but are open to inspection by the competent authority.
- The school has to follow the syllabus and text books as prescribed by the government.
- In some states like AP the teachers should be government trained. The catch is that teachers training colleges only offer vernacular certificates for primary school teachers and as most private schools are ‘English medium’ this creates a problem.
- Codes of conduct for teachers of these institutions are also laid down and in some cases like AP these prohibit them from taking part in strikes and protests.
- The schools in all cases are open to periodic inspections by the competent authority.
- Use of profits generated by the school is regulated by a case law and Supreme Court decision (Unnikrishnan, 1993). Profits are to be channelled back into the institution, as ‘commercialisation’ of schools is not encouraged.

33. In the case of private aided schools the requirements become more stringent and involve cumbersome paper work, in return for which the aided schools have recourse to two kind of grants: maintenance (recurring and non-recurring) and building grants. The requirements are defined under what is known as a ‘grant code’ of the grant-in-aid system. The provisions of the grant code date back to the Kerala Education Bill (1957), which became the model for most of the states. Acts like the Salary Distribution Act 1971 of UP and the Direct Payment Agreement, 1972 of Kerala were the beginning of the tight regulation of the private aided schools (Kingdon, 1996). The key additional features of the grant-in-aid code are:

- Appointment of a manager who is not a teacher or principal
- Parity in pay scale with government teachers
- Prior approval required before dismissal or turnover of staff
- State control over fees
- Audit of accounts and filing of returns required.
- Mandatory parent-teacher associations to oversee functioning of the school and prevent abuse of aid.
34. The ground reality is that more often than not, the norms are stringent and difficult to follow. Tooley and Dixon (2003) in their study on private schools in Hyderabad found that none of their sample schools complied with more than one of the four minimum requirements. Further, a World Bank Policy Note (2003) adds that there is a general lack of clarity in the norms as laid down in the grant-in-aid codes as well as in their enforcement. The code is generally a compilation of government orders and is non-statutory in nature. However, as executive instructions they have constitutional validity under Articles 162 and 74 of the Constitution. Although, violations are liable to criminal action, these provisions are rarely evoked and at times they are even retroactively legalised by the court or the legislature, signalling inherent loopholes in the system. Here again, the situation in states is said to vary. For instance, while in Kerala the conditions for grant are specified in the Kerala Education Act and Rules, ensuring transparency and legislative action for any change, in the case of Orissa, the government orders have not even been compiled into accessible codes.

**Federation of Private Schools**

The Federation of Private Schools Management, in Hyderabad, Andhra Pradesh was formed in 1997 by a group of unaided private school correspondents and principals. The purpose of federating was to share teaching materials, address common problems and engage in quality control and mutual support. Besides, it was thought that the Federation could also collectively address the bureaucratic hurdles that the private schools had to face. One of the Federation’s tasks is to assist those schools that seek recognition. The Federation has a membership of about 500 schools (i.e. 10 percent of the private schools in AP and 50% in Hyderabad). While all the schools are un-aided, as a rule, only 40 percent of these schools are as yet recognised by the government.

“Only two out of the 13 schools (15%) had full recognition from government…. Two more had recognition up to Grade VII, one of which …was hopeful of obtaining recognition for Grades VIII – X, when its new building was completed; the other, however, …could not meet the appropriate requirements. One more …was, rather mysteriously, only awarded annual temporary recognition. The other eight were not recognised, and although some of these described themselves as ‘seeking’ recognition, this usually seemed to be a euphemism for stating that they were also unable to fulfil the requirements.

“There are two major perceived problems for parents from their schools not being recognised. First, very importantly, only at government-recognised schools can students sit their school (Grade VII and X) examinations. However, the schools in the Federation (and more widely) have found a neat way around this – there is nothing in the statutory regulations to stop schools which are unrecognised from sending their students to a recognised school as ‘private candidates’ for the purpose of taking examinations. This loophole is used to great effect within the Federation. So, for example, one of the most prestigious schools in the state …sends its students to …(another) school to take their examinations, itself not being recognised. (In its case, it has not sought recognition, not wanting all that comes with this, including having to deal with “corrupt education officers” and “incompetent regulations”).

“… some of the schools were having problems acquiring recognition: (one school)... has had temporary recognition since 6th May 1978; since that date, they have been annually submitting proposals for full recognition, but have still not secured it. To make matters worse – and apparently this is not unique to this school – no-one is sure what the problem is, as the school seems to satisfy all the requirements, including trained teachers, a suitable size plot and playground. The suspicion is that their application has simply got lost inside the labyrinth of the ministry of education. This clearly has affected morale at the school and recruitment of pupils.”

*Extract: Tooley (2000)*
35. Over-regulation, inflexibility in norms, frequent minor changes in rules and regulations, incompleteness of rules and regulations, lack of consistency between practice and policies, all cause confusion and lead to deliberate or otherwise non-compliance and often litigation. As Kingdon found in Uttar Pradesh, many of the requirements are so stringent and mutually exclusive (no fees to be charged but government salaries to be paid to teachers) that many of the primary level schools (or sections of schools) prefer to remain unrecognised (Kingdon, 1996). Low fees and only a minimal grant for other requirements together with a required salary structure lead the managers of private aided schools to attempt to generate additional resources by taking a ‘commission’ for appointment of teachers even in states like Kerala and Tamil Nadu. This also often leads to compromise of the quality of teachers recruited. Low generation of income leads to a lack of resources as well as interest on the part of the management to invest in improving quality of teachers as well as teaching methods. Many states do not allow private aided school teachers to participate in government in-service training programmes.

36. Some of the ways in which private schools have circumvented the provisions for recognition and aid are:

- Arrangements exist for ‘unrecognised’ schools to send their children to recognised schools for public examinations. As the additional payment made to the recognised school is passed on to the student and the student in turn gets a certificate that has a ‘private candidate’ stamped on it, the financial burden of the arrangement falls on the student. Kingdon (1996 and also Dreze and Gazdar 1996, who called it an ‘implicit privatisation’) observes that in order to ensure that a child studying in a private unrecognised school could appear for examinations and be entitled to a valid certificate, parents often also enrol them in a government school. These unrecognised, unregistered schools act as feeder schools and have an understanding with certain government, government-aided and recognised private schools for the purpose of public examination.
- Enrolment figures in private aided schools are over-reported as the teacher-student ratio, non-salary grants as well as the very viability of the school, and hence the employment of the staff are all dependent on minimum prescribed enrolment rates. (Kingdon, 1996).
- Bribes to school inspectors, to overlook discrepancies between requirements and actual status are common in most of the states. The study of private schools in Hyderabad (Tooley and Dixon, 2003) found that the ‘unofficial’ expenditure of a private school, in the year it was ‘recognised’, went up from 1 percent to 6.5 percent.
- The Unnikrishnan Judgement prohibits the ‘commercialisation’ of schools and states that surplus income should be funnelled back into the school. However, private schools have found ways and means to divert profits elsewhere.

37. Kingdon’s study in Uttar Pradesh (1996) found that more aided schools were in existence at the secondary level and the formula for funding theses schools had an adverse equity effect on primary schools. Most of these schools face a resource crunch as they receive government aid only for salaries and a small estimated fee grant. Hence in order to meet their other requirements, many of these schools run an unrecognised fee-paying primary section to cross subsidise the government supported and non-fee paying students in the secondary sector.

38. The impact of the regulations also raises issues of equity and quality of education for the poor sections of the community, and has introduced the ‘license raj’ into the
educational system, which makes it impossible to start a school within the legal framework as stipulated by regulations. As Tooley (2001) states:

“Regulation impinges at all levels, and because of its all pervasiveness and pernickety details, it leaves open the way to corruption and bribery. The most disturbing feature is that those in elite institutions can simply ignore regulations that they don’t like: it is those serving the poor who are most affected by them.”

39. Apart from these ‘managerial and administrative’ regulations there is little that is done to ensure the quality of services provided by the private schools and NGOs. Jagannathan (2001), in her study on role of NGOs in primary education observed that as the innovative approaches of NGOs are scaled up, monitoring and quality assurance becomes important. For instance, Jagannathan found that under the Rishi Valley Rural Education Programme (run by the Rishi Valley Rural Education Centre in AP), the quality of implementation in 2000 tribal villages of Andhra Pradesh was much better than 30 alternative schools in Kerala because of the “extensive and decentralised” support system established in the case of the AP project. However, by and large, monitoring and quality control is as yet a weak area. While the smaller NGOs did not have the capacity to do so, the larger ones were so drawn into large-scale implementation of their models across several states at the request of governments, that it left them with little time or opportunity to develop their own organisations in terms of managerial skills. Within a project framework, especially where external funding is involved through international NGOs, monitoring systems are better evolved. However, given that primary education is now to be exclusively implemented within the framework of the District Primary Education Programme and Education for All Programme, even when external funding is involved, it becomes imperative that the system develops an effective monitoring process. Jagannathan recommends a stronger partnership between the government and the NGOs in order to internalise a system of monitoring.

40. The Centre For Education Management and Development (CEMD) in Delhi is one of the few resource centres that is trying to set up a system of self-monitoring and quality control in private schools. CEMD has developed a model for improving school effectiveness through management inputs based on “whole school management” and a “systems approach” in a few socio-economically disadvantaged Muslim schools in Delhi. The objective is to institutionalise the process of change. It has created professional and peer group networks for principals and teachers. Subsequently, CEMD is now experimenting with the same process in some government schools in Delhi. The Federation of Private Schools in Hyderabad also has the objective of self-monitoring as one of its aims.

41. A potential system of client control of private schools and NGO interventions is provided by the increasing focus on community based institutions and parent-teacher associations as part of the ongoing process of decentralisation and community participation. The panchayati raj institutions, through the Village Education Committees (VEC), have developed an as yet loosely structured process of community monitoring through community participation. The VEC is charged with the process of planning, prioritising, managing and monitoring the educational development of the villages under its jurisdiction. By definition this would also imply the oversight of private schools. However, the anomalies that exist due to a lack of political will, bureaucratic obstacles and culture and capacities of the community as a whole have seen a limited use of this tool for monitoring NSPs. In some states like Kerala and Tamil Nadu the grant-in-aid code requires the aided school to have a parent-teacher association to oversee the functioning of the school and prevent abuse of aid. The experiments in ‘participatory governance’ have thrown up only
isolated examples of civil society organisations increasingly influencing and exercising control over management and governance issues like the direct running of schools and monitoring the attendance of teachers in government schools. In a number of cases such experiments have emerged from government programmes. However, in most states, lack of political will and bureaucratic commitment have prevented these experiments from going beyond project boundaries and frameworks.

5. AGREEMENTS AND CONTRACTING FOR SERVICE DELIVERY

42. In this section we focus on three types of government-NGO or corporate agency collaborations that have emerged in the sector over the last two decades. (Jain et al, 2001) While Jain et al have looked at the collaborative relationship only from the point of NGOs, this analysis extends the concept to cover the corporate agencies as well.

43. One of the most prominent types of collaboration is between a ‘high-profile’ NGO and government on the invitation of the latter. Here the already established status of the NGO gives it a great deal of autonomy to function. The organisation has proven credibility and established linkages and hence is generally given the entire responsibility to plan and design the educational interventions (Jain et al, 2001). The NGO is accorded recognition, and sometimes financial support, from the government within the framework of an agreement or an MoU. More often than not, the NGO itself is instrumental in ensuring an invitation to collaborate and arriving at such an agreement by having successfully implemented innovative programmes in the state or elsewhere. Usually, at the pilot stage the NGO has an ‘informal arrangement’ with local school authorities and district administration as well as teachers of primary schools and, when it is able to show results, it uses this to negotiate for a larger and more official position in the system. This category of NGO has been able not only to implement effective interventions at the micro level but has also had significant impact at the macro level. Often, the proactive inputs of individual officials at the district level facilitate the start of such collaboration.

44. Eklavya, the best-known NGO with an exclusive focus on education, began its operations in 1972 as a collaborative arrangement between two NGOs to upgrade science teaching in 16 rural government middle schools in the district of Hoshangabad. Since then it has expanded to a 1000 government schools in 15 districts of the state and its activities include writing text books, training teachers, devising low-cost teaching and learning tools and developing a science teaching method. It is also represented on some of the state level educational bodies. The MV Foundation in Andhra Pradesh started activities in three villages in Andhra Pradesh and has now expanded to cover 500 villages and influences the operational policies of the state government in dealing with the issue of child labour by providing access to elementary education. It has achieved this by collaborating closely with the state. Bodh Shiksha Samiti, working in the slums of Jaipur, started primary schools in Rajasthan through social mobilisation and community participation and developed a model for quality primary education. After initial success, it than negotiated with the government and took up a pilot programme in 10 Municipal Schools of Jaipur to demonstrate its model. Bodh provides resource persons to help government teachers to plan and design their lessons; the school in turn provides teachers and teaching aids as required. Bodh’s model - albeit with some modifications - is replicated in Jaipur and the entire urban areas of the state under a joint UN Agencies initiative, with Bodh providing training and resource support. Bodh is a resource agency for the District Primary Education Programme in Rajasthan and also a technical support
agency for alternative schools in Uttar Pradesh and Orissa states. It is a member of the NCERT Task Force for developing new teaching and learning material for primary classes and a co-ordinator of the National Core Group for the education of the urban poor.

### Eklavya; Madhya Pradesh

Eklavya, in Madhya Pradesh is one of the first NGOs to have established an effective collaboration within the government school system in 1971. It started its experiments in 16 government rural middle schools in Hoshangabad district after being ‘allowed’ to do so by the district education official, even though many of the staff opposed the move. The district official thus took a radical decision to permit an NGO access to government schools in order to improve quality through teacher training, enhanced examination methodology and a facilitating administrative and management structure.

Eklavya’s strategy of collaboration was to work with the existing government school system and, wherever necessary, to aim for the institutionalisation of changes. Eklavya used a decentralised and participatory process wherein the community and the Block level educational structure were seen as the potential change agents. This strategy had several positive outcomes: it has gradually led to the formation of an informal network of trained government teachers; formation of a resource group consisting of teachers and other professionals, including teachers from universities and colleges under a special provision made by the UGC; involvement of NCERT and its Regional Institute of Education, located at Bhopal in expanding the programme to other districts; assisting in setting up science cells in selected districts; collaborating on a long standing basis with SCERT for small scale experiments collaborating on a long standing basis with SCERT for small scale experiments; initiating an integrated primary school package which included ‘teaching-learning materials, teaching training methodology, non-invasive student evaluation methods and facilitating administrative and management structure’, all through a process of field interaction and activities within the state education department, which eventually led to the state adapting and mainstreaming its experiment.

Eklavya participates in the District Primary Education Programme, and tested a new integrated curriculum in primary classes, collaborating on a long-standing basis with SCERT for small-scale experiments. As Eklavya notes in its concept paper to the government, ‘Eklavya’s work in education in the past has been undertaken in government and private schools with the permission and active participation of the government, its educational bureaucracy and other institutions. So apart from the school teachers themselves, who have contributed to all phases of development of its innovative programmes, Eklavya has worked in close collaboration with the SCERT, DIETs, colleges and schools as well as the educational administration at the state, district and block level.’

Eklavya receives funds from the Madhya Pradesh Government, which has been the major source of funding for all the programmes. Funds are also received from MHRD, DST, Indian Council of Social Science Research and many other Government departments. Eklavya’s educational toys and publications also cover a part of the cost of the organisation’s activities. However, Eklavya does not use the District Primary Education Programme funds for its own organisational needs in line with its principles of not accepting external funding.
The MVF in AP began work in the field of child labour in 1991 as a charitable trust in one of the most backward districts of Andhra Pradesh. From an initial focus on children from the scheduled caste community, the organisation has widened its scope to include all children and all sections of the village community, including local government officials. Policy makers at all levels from district to state level, officials from elected representatives to local bodies, were influenced. MVF’s strategy was to start working at community level taking up issues on a small scale and solving them with the participation of the community and the panchayat and block level officials. Its strategy was also to facilitate access to existing institutions by expanding its role and manpower rather than set up parallel institutions and keeping in mind that a successful strategy was one that could be replicated and adopted by government institutions. Hence, it worked in collaboration with the government schools and existing institutions to widen their scope. Its aim is to bridge the gap between poor children and mainstream education. MVF sees itself as a catalyst in forging a community of parents, the village leaders, child employers, the political system and the bureaucracy into taking children out of work and putting them to school.

The MV Foundation has thus developed a successful bridge to help working children graduate to a level of learning where they could join the relevant mainstream school grade. It subsequently evolved a strategy to transfer lessons to other agencies in the government and also NGOs. Besides, it has provided a substantial number of voluntary teachers to cope with an increase in student numbers and consequent increase in the size of classes. MVF is also a nodal resource point for training of government teachers. At the policy and strategic level the collaboration has led to the state government revamping its non-formal education centres into day centres instead of running evening classes and making a policy statement for the abolition of child labour. The AP government has also adopted the MVF ‘camp’ approach in its ‘Back to School’ programme, besides piloting a project for the eradication of child labour under the DISTRICT PRIMARY EDUCATION PROGRAMME in collaboration with MVF. Today, in 400 villages of Ranga Reddy district, no child in the 5-1 age group is out of school.

MVF receives financial support from Government of India (Ministry of Education, as well as the Ministry of Labour under the National Child Labour Project) UNDP, UNICEF, ILO, CRY and HIVOS.

Source: MVF India: Education as Empowerment; Sucheta Mahajan;2000

45. Pratham in Mumbai (in Maharastra) is an interesting case, where an NGO was registered by the Municipal Corporation of Greater Mumbai together with UNICEF, slum dwellers and some concerned citizens of Mumbai, formalising a unique partnership. Pratham has extended its activities, including remedial programmes and a bridge course, throughout municipal schools of Mumbai and to 20 other cities and states, including Madhya Pradesh where the government has invited it to expand its initial pilot interventions through summer camps to cover out of school children in the slums of Jabalpur and Gwalior. The summer camps will be held in government school premises and the cost will be borne by the government, while the cost of Pratham’s resource support is expected to come from private donors. Pratham’s support in its initial years of existence came from UNICEF and subsequently the ICICI Development Bank has been its main funding source, underlying a trend towards corporate support to education NGOs.

46. Corporate collaboration with the government also falls into this category, having its origin in personal initiatives of individuals. The Azim Premji Foundation (and the Wipro ‘Applying Thought in Schools’ Programme), which has reportedly been endowed with Rs. 650 million by the chairman of the Wipro Group, is a case in point. In such cases the collaboration is usually tripartite in nature with the corporate agency providing funds and skills, local NGOs implementing at the grassroots and the government providing policy and administrative support through its vast and well
entrenched network of functionaries. The collaborations thus arrived at have clearly laid out objectives and responsibilities and define deliverables upfront. Conditions and guiding principles of the collaboration are also spelt out. Sometimes the collaboration is limited to funding, as in the case of ITC which is supporting 100 'Fundaschools' in Madhya Pradesh for five years as part of the state government's innovative initiative to universalise primary education.

47. In almost all cases, the NGO or the corporate agency provides the technical know-how and inputs in terms of curriculum development and improved pedagogy, teachers’ training, improved and effective management and quality assessment systems as well as in some cases improved infrastructure like classrooms and drinking water facilities and resource persons. Pratham, MVF and other organisations provide resource persons supporting innovations in school, a success in participation considering that a bureaucratic system does not generally allow outsiders to help in schools. In the case of the corporate agencies, substantial funds are also pumped into the collaborative arrangement as also are improved management and administrative skills and practices. The state, on the other hand provides the project sites, allows the use of its infrastructure and human resources, utilises its legal and constitutional powers to make necessary modification to rules and systems, and more importantly, exhibits a clear commitment to make improvement so as to allow its NGO or corporate partner to function. More importantly, the collaboration often ensures that existing government programmes and provisions are effectively implemented. However, often funds - especially at the initial stage of experiment where generally the government is not a partner in a planned way - are provided by a donor within the framework of a bilateral (donor-government or donor-NGO) or tripartite agreement (donor-government-NGO) or in the case of corporate initiatives, generated from its own resources. In fact, in the case of corporate agencies, funding also appears to be an important incentive for governments to collaborate.

48. An interesting trend has been for NGOs and corporate agencies to intervene in existing government schools rather than setting up parallel structures or systems. This has been encouraged by the belief of the NGOs and the corporate sector that, given the nature and scale of operations, NGOs can only be catalysts while the government has to shoulder its constitutional responsibility for universalising elementary education. At the same time the NGOs realise that it is important to work closely and in partnership with the government to supplement and strengthen the existing system by bringing 'about a change in working styles, attitudes and mindsets, rather than to supplant it with an alternative system.'

49. This kind of collaboration is, however, not without tensions. As Jain et al point out, often such a partnership is fragile and its sustainability depends on striking a balance between the political will of the government as well as the commitment of the bureaucracy and the ideology of the NGO (Jain et al 2002). At times disruptions may also arise due to a sudden stoppage of funds because of changes in priorities. In 1998, a change in central government and an evaluation of the Ministry of Labour’s National Child Labour Project, which was funding a number of primary school initiatives of NGOs as part of its programme to eliminate child labour, resulted in a temporary stoppage of funds to MVF for the year 1998-99. While the review itself was justified, a temporary suspension of the project and delay in taking a decision on the future course of the project had an impact on the activities of MVF. MVF had to appeal for support to external and corporate donors to tide over the situation and raise around Rs 10 million.

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9 200 para teachers and 10,000 children would have been affected if MVF had not managed raise funds from other sources.
50. The case of Eklavay is a cause for more concern. In early 2002, at a meeting of
the District Planning Committee, a decision that was politically motivated and cutting
across all party lines, was taken to discontinue the Hoshangabad Science Training
Programme (HSTP) and the government ordered the immediate scrapping of HSTP
books and examination system in the 1000 subscriber schools. A major point of
contention between the government of Madhya Pradesh and Eklavay was the latter’s
adherence to the principle of allowing a pluralistic strategy in educational change,
including a plurality of textbooks and teaching materials and building the capacity of
school teachers to make informed choices, primarily keeping in mind the
requirements of the children. While Eklavya conceded that the state agencies had a
role in determining the quality and content of textbooks to be used in schools, it thought that such a
regulatory function should not be reduced to just a departmental monopoly over
production of textbooks. Eklavya subsequently gathered its supporters, including
social activists and educators, and raised a public campaign to force the government
to revoke the decision. So far Eklavya has failed to revive the old science programme
in the government schools and confines its science programme to selected private
schools. A 30-year-old partnership was thus ended because of an apparently illogical
political decision.

51. In the second model of government-NGO collaboration, the former creates an
NGO and supports it to operate in areas where it has failed to make a dent. Here the
NGO is seen to serve as a ‘conceptual alternative to decentralisation’ (Jain, et al).
The NGO is registered under the Society’s Act and, although is managed primarily by
bureaucrats, has the relative autonomy to hire outside experts and consultants and
also develop its on programme and administrative management strategies. The
Baljyothi Project in AP is a collaboration of this nature, but with a difference.

The Baljyothi Project

The Baljyothi project in Andhra Pradesh is a government-NGO collaborative venture and
unique in its origin. It was the outcome of the efforts of successive committed District
Collectors and Pratyamnaya, an NGO, who addressed the issue of elementary education
and arrived at a common understanding. The NGO provided the grassroots experience
which was then translated into a large project under the National Child Labour Programme.
Continuing dialogue with the district administration led to the development of mutual trust
between the NGO and the district government. Consequently, the District Collector
requested Pratyamnaya to design a project under the National Child Labour Project (NCLP)

Baljyothi was facilitated by a policy framework that was committed to children’s education as
well as to addressing the issue of child labour. The project is implemented through a
registered society with the project director and staff recruited from outside the government. It
is a government-sponsored organisation outside the government but not quite divorced from
the governmental structure. The Secretary of Pratyamnaya (NGO) is the Project Director. By
and large, the staff are deputed from Pratyamnaya or directly recruited. Although, the office
is located within the premises of the DC’s office, the NGO presence ensures a non-
hierarchical working style. Successive Collectors have demonstrated a very high sense of
ownership of the project objectives and have protected the autonomous functioning of
Baljyothi. From the beginning, Pratyamnaya recognised the need for regular interaction and
advocacy with the government backed by field-level feedback. This has enabled Baljyothi to
demand flexibility in functioning as well as to work towards its long-term strategy of
facilitating the government takeover of the project’s schools and educational agenda.
At the start of the project itself, Baljyothi reviewed the NCLP provisions in consultation with other NGOs and made certain critical changes like rejecting the stipend and mid-day meal provisions and using the savings from these to expand the number of schools. The coverage thus expanded to over 9,000 children as against the sanctioned 2,000. However, this deviation from the original guidelines led to procedural delays in the release of funds and a consequent delay in the project activities. However, the flexibility of management - because of its NGO status - and the commitment of its supporters resulted in Baljyothi raising interim resources from UNICEF, DWCD, Non-Formal education programmes. Some schools were also taken over by other NGOs. Finally a petition from children and court intervention as well as media pressure led to the government releasing the funds.

Source: Jandhyala, (2001)

52. In the third model, diverse kinds of NGOs are coordinated through an autonomous body created within a government project. Within initiatives like the District Primary Education Programme, SSA and Janshala two distinct kinds of government-NGO collaborations are visible. The first type consists of NGOs that are hired to run non-formal or alternative centres. In Madhya Pradesh, NGOs have provided resource support for Alternative Schooling and Shishu Shikshan Kendras programmes and in Tamil Nadu they are involved in the actual running of non-formal education and Early Childhood Education centres. These are generally small local NGOs that work strictly within the guidelines provided and tight funding parameters. Interesting cases of a larger NGO being awarded the ‘contract’ and thereafter ‘sub-contracting’ it to other local NGOs have also emerged within the Janshala in Uttar Pradesh. The second category consists of NGOs whose mandate is to develop teaching learning materials and modules and undertake trainings of all kinds. In Maharashtra, an NGO has been involved for the first time in training VECs in cost-effective and alternative methods of constructing water pumps and toilets. These NGOs have a strong resource focus and capacities. Besides the nature of tasks allows them more flexibility to innovate, with an agreed output (modules, materials, training, etc.) being the primary basis of the contract. The state on its part provides the funds and mandatory monitoring by its institutions at the block and district level is carried out. Monitoring continues to largely focus on the achievement of physical and financial targets rather than processes and outcomes.

53. CLPOA (City Level Plan of Action) a network of NGOs in Kolkata had its origin in a government initiative, when in 1990 the GoI provided funds for setting up a task force and a nodal organization consisting of the police and NGOs for looking into the issues of street and working children. A nodal organization was thus formed in Calcutta with five NGOs. Initially this was an informal body supported by UNICEF. Subsequently it was registered as the CLPOA consisting of NGOs working in the area of child education and health. By the end of the decade the CLPOA and the NGOs associated with it had gained sufficient credibility for the government of West Bengal to ‘invite’ them to participate in the State’s elementary education programme.

**Shikshalaya in Kolkata**

In 2000 a group of NGOs and the Government of West Bengal entered into a collaboration to bring out-of-school children in Calcutta into schools through two programmes: the ‘Bridge Course’ and Shikshalaya. CINI Asha, Loretto Day School Sealdah and the CLPOA collaborated as the implementing agencies and were supported by the state government and the DISTRICT PRIMARY EDUCATION PROGRAMME. Funds were also made available under the Alternative and Innovative Education programme of the Sarva Shiksha Abhiyan (GoI). The CLPOA played a coordinating and networking role, CINI Asha coordinated the finances and administered the programme and was responsible for the academic component. The ‘Bridge Course’ (wound up in 2001) had a number of shortcomings and could not achieve its full target. The primary reasons for the less than desired achievement...
has been attributed to the lack of funds to the NGOs, and relatively weak linkages between organisations coordinating the programme and the NGOs implementing it,

The lessons from the Bridge Course were built into the subsequent Shikshalaya programme. Alternative education centres or Shikshalayas aimed to provide primary education to poor children in Kolkotta. These centres are again run by NGOs through teacher volunteers appointed on contract. The teacher volunteers receive a salary of Rs.1000 per month and NGOs are given some minimal resources for incidental expenses. Ongoing academic support to the Shikshalayas and monitoring of the programme is provided by Apex Resource Centres. A Project Management Unit (PMU) undertakes the administration and coordination of the programme and provides non-academic support as well. LDS is the academic coordinator of the programme and CI NI Asha is the PMU. The funds again come from the DISTRICT PRIMARY EDUCATION PROGRAMME and SSA.


6. FACILITATION OF NON-STATE PROVIDERS BY GOVERNMENT

54. Private schools, NGOs and corporate agencies have largely evolved under their own steam, primarily to address the gaps in the public system of educational provision. The states have responded at times by restraining them through stringent regulations or, of late, co-opting them into projects and even national and state level educational bodies. The purpose of co-option of NGOs and corporate agencies, as we have seen, has been to access their technical and financial resources and capacities or to contract out activities into areas which the government system has had difficulties in reaching. To this end the arrangement at times involved some funding support from the government - often tied to generally restrictive or cumbersome conditions - and more often the strength of its administrative and legislative powers. What is interesting to note, however, is that although government policy documents over the years have been not only reiterating their commitment to involve other partners in the business of education but have also defined the urgent need to do so, there have been very few instances where serious efforts have been made to provide a facilitative environment for NSPs to function.

55. Jaganathan (2001) observed there was a case for government to support NGOs in terms of infrastructure and capacities, considering the criticality as well as the range of services which the NGOs provided. Collaboration should be systematically nurtured and government commitments should be translated into creating a facilitating and supportive environment. However, while capacity building of the private schools by government is hardly visible, NGOs fare marginally better. A rare case is that of the government support to Rishi Valley Rural Education Centre to set up the Rishi Valley Institution of Education for hands on teacher training with a grant from the Ministry of Human Resource Development, Government of India. On the other hand substantial number of larger NGOs, international NGOs, resource centres and some corporate agencies have made efforts in this direction. For instance, as mentioned earlier, the Centre For Education Management and Development has been experimenting with improving the management of private schools in Delhi. Identifying a number of problems like lack of a school based improvement plan, lack of management competencies and leadership among school management, irrational management of human resource, and overall resource planning, CEMD has developed several intervention modules.

56. The Andhra Pradesh government in its policy document “Vision 2020” has stated its intention to encourage private sector initiatives in education and, in order to effect
this, recommends that education should be declared an industry: To enable the entry of the private sector, the Vision document suggests offering “appropriate incentives and support” as well as providing a facilitative regulatory environment. It goes so far as to state that, in order to enable investments in the sector, the state would provide the necessary status to the private education sector so as to allow it to access credit from banks and financial institutions - a revolutionary idea and one that is contrary to the recommendations of the Unnikrishanan Commission. However, these intentions are yet to be realized.  

57. Kerala is one of the other rare examples where the state has actually spent from its budget to facilitate private primary schools to function, with the primary aim of giving the parents to choose from a large number of schools. Shah (Shah, 2000) observes that Kerala, by offering more choice to parents and increasing competition among schools, actually practices market principles. The people of Kerala have received far better educational service than those of most other states in the country. According to Shah the reason for this is that while Kerala has had a general head start in education, primary school education received further impetus by the fact that the government in Kerala pays the expenses of almost half the students in the private primary schools (60 percent of the rural primary schools in Kerala are private).

58 Shah points out that “...Kerala has the highest proportion of private primary schools and also subsidises the highest proportion of students in private schools. Both of these facts give the citizens of Kerala wider effective choice in selecting primary schools for their children. Many of the private schools are run by various religious groups in the state. They are generally more likely to be successful in exerting pressure on parents to send their children to school. The choices available to parents must increase attendance as well as retention rates in the state....Kerala uses its public funds to encourage competition among schools. To avoid transportation costs, most parents generally send their children to the nearest school. The resulting “geographical clustering” of schools and their customers lessens competition among schools. Each school has a captured customer base. By subsidising transportation costs, Kerala helps parents send their children to the school they consider best, irrespective of the distance. This increases competition among schools. The provision of direct scholarships to students in Kerala also leads to the same result. With the scholarship money, students can go to any school of their choice. Among all the states in the country, it is Kerala that has the highest proportion of children receiving transportation subsidies and direct scholarships...The Kerala model of education - of choice and competition - is unique in the country, and so is Kerala’s educational performance. It is not just how much a state spends on education but how it spends that determines efficiency and effectiveness of the education system....”

59. In general, however, the lack of initiatives to facilitate and build capacities of NSPs is explained by a lack of political will and by the large and bureaucratic government educational system which consists of several layers of institutions and structures managing and supervising multiple functions. This machinery has been described as a “labyrinth ...devoid of a culture of democracy and professionalism” (Vasavi, 2004). The educational bureaucracy, moreover, needs to be trained to reform legal and regulatory frameworks and to effectively develop systems for implementing them. Whereas several institutions from the block to the national level exist to ensure improvements in every sphere of the educational programme and

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10 Recent change in guard at the state government level may have an impact on the decision being operationalised.
functional cycle, their use has mostly been routine and unimaginative. In fact, the potentials of these institutions have been grossly under-utilised.

7. CONCLUSIONS

The above overview leads to three basic conclusions:

60. The state does not have a clear and informed stand on private schools and, hence, has not been able to enact and implement measure to ensure that they maintain quality and equity in education and are not exploitative of the poor. Non-state providers, especially NGOs, religious-based charitable organisations and private schools initiated by individuals for profit or charitable reasons have been in existence in India for several decades, even before the country gained Independence, and have worked with relative freedom. State interventions appear to have changed this status. State intervention in the running of private schools over the last three decades, largely in the form of restrictive regulations, appears to have spawned a range of irregularities across the states instead of ensuring quality and equity in education. From time to time, both central and state governments have made policy statements advocating the removal of restrictions on private schools. But confusion and lack of a serious intent prevails, with no clear cut reason, strategy or role defined for private schools within the framework of quality and equitable universal primary education. Barring a few states like Kerala and some of the north-eastern states (such as Meghalaya), most state governments have not taken any serious steps to encourage or even discourage private schools to function. Where restrictions have been withdrawn (Madhya Pradesh and Tamil Nadu), it has been done more for political reasons or the inability of the state to implement regulations and meet the growing demand for schooling. Besides, the state has also to address the large-scale opposition against privatisation of elementary education from activists and academician within the country, and arrive at a consensus. The net result of this gap between stated intentions and action is the large-scale growth of private schools covering a wide spectrum of clients and a range of costs, with the poorer sections of the community being short changed and unable to get value for their money.

61. The relationship between NGOs and the state have not come to an effective fruition because of the state not being clear about its own roles and responsibilities vis à vis elementary education. The NGOs and the corporate sector have carved out a less ambiguous space for themselves and have a better understanding of their role: that of experimenting in improving the quality of education and facilitating the community to access elementary education. Over the years they have made critical contributions. They are clear that they can work to complement government inputs and not supplement them. On the part of the government, it is aware of the added value that NGOs can bring into the sector. However, a sense of tension exists within the government-NGO relationship, which is susceptible to political whims as well as to the whims of individual officials within the educational governance system. Formal platforms for joint participation of the government and NGOs exist, however, a system for informed dialogue and negotiations has not been cultivated. The NGOs, working within a rights based approach, have found alliances an effective way of dialoguing and lobbying and are gradually adopting it as a key tool.

62. The Constitutional amendments, providing an opportunity for local communities (clients in a sense) to more proactively regulate and monitor NSPs, have not been effectively utilised. This process has political and capacity implications besides calling for procedural modifications in the way government systems function. However, much needs to be done in the area of local governance.
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SECTION 5: WATER AND SANITATION

1. OVERVIEW

1. Institutional responsibility for water and sanitation is fragmented and a plethora of agencies exist. The Indian Constitution has bestowed the responsibility on the states and they are empowered to make policies, enact laws and fix prices of services. The 73rd and 74th amendments to the Constitution allow the states to delegate this responsibility to the local bodies (Panchayati Raj Institutions in the rural areas and Urban Local Bodies in the urban areas). Besides the state, public health engineering departments (PHED), city level water supply and sewerage boards and local governments, state level parastatal agencies and several unregulated private companies are formally or informally involved in the sector, primarily in construction and supply of materials. Between them these agencies are responsible for a range of activities including planning, designing, execution and management of water supply and sanitation projects. They are also responsible for levying and collection of taxes or user charges.

2. In reality, however, the central government plays a critical role and has taken the lead in guiding the general policies related to the programme approach and strategy, as well as to levels of investments and institutional arrangements in the states. In this process a range of institutions and bodies engaged in water resource management, pollution control and finance, support the central government itself. The Rajiv Gandhi National Drinking Water Mission (RGNDWM), under the Department of Drinking Water Supply, Ministry of Rural Development (MoRD) formulates guidelines and policies, sets standards and provides funds for rural water supply and sanitation. It also gives technical and capacity building support, besides being responsible for providing an oversight for all programmes. The Ministry of Urban Development (MoUD) is the nodal ministry for policy formulation for water supply and sanitation in the urban areas. It supports state programmes through institutional expertise and finance. The Central Public Health and Environmental Engineering Organisation, the technical wing of MoUD, advises the ministry on technical issues and collaborates with the state agencies. In addition the central government is also armed with various water resource management acts (River Boards Act, 1956, Inter-State Water Dispute Act, 1956) and supported by the Central Water Commission, National Rivers Conservation Directorate, the Central Pollution Control Board, etc.

3. The arrangements differ across states and with the move towards decentralisation a complicated mix of agencies, including PHEDs, state boards and district engineering agencies has evolved, as in the case of Maharastra. In many cases responsibilities for project planning and execution (capital works) and operation and maintenance is split between two agencies - the PHED or its equivalent and the urban local bodies and panchayati (rural local government) institutions. However, the attempt of the central government is generally to decentralise capital investment responsibilities to the engineering department of the panchayatis at the district and block levels (administrative divisions within a state) and operations and management activities to districts and, in some cases, to the Gram Panchayat, the lowest level of rural local government. Hygiene education, a relatively new activity, is delivered through the Department of Education as part of the school hygiene education programme and by the RGNDWSM as part of its Information Education

11 Ground Water Survey and Development Department is responsible for handpump programmes, Water Supply and Sanitation Board for piped water, the districts for O&M and Irrigation depart for drinking water sources down stream.
Communication (IEC) and Total Sanitation Campaign programmes (Planning Commission, GoI, 2002).

4. Sanitation in the rural areas has been largely under the PRIs in most of the states until the initiation of reforms in the sector. At present at the central government level it has been brought within the purview of the RGNDWM and in the states is variously being implemented through the public health engineering departments and, in some cases, the rural local government bodies. State and district level Water and Sanitation Missions have been set up, on the lines of the RGNDWM, to plan and oversee the water and sanitation programmes under a sector wide reforms process. These missions also have scope for co-opting NGOs.

5. Non-state involvement has been in the form of NGOs and the private sector. NGOs were first seen in the water and sanitation sector in the mid 1960s during the famines in Bihar and Maharashtra. During that period the state governments contracted them for drilling purposes. Subsequently from the early 1990s, NGOs have been largely involved as intermediaries between the government and the community. Their major inputs have been in the form of community mobilisations, evolving community based structures for planning and maintenance of water and sanitation facilities and for hygiene education and capacity building of communities.

6. On the other hand private initiatives are seen in the areas of construction and maintenance of traditional wells and household toilets. The private sector is largely involved in the supply of material and in construction of water works. Bore-well drilling and hand pump installation are dominated by state water agencies, although in some states labour contracts are also common. Besides, the private sector has been involved in ground water development. Most interestingly, the lack of maintenance of facilities, especially hand pumps in the rural areas, has led to the evolution of a relatively large number of rural private mechanics who provide services for both hand pumps and irrigation tube wells. In terms of large water and sanitation projects most of the private sector initiatives are restricted to a few cities.

7. Thus, a compartmentalised and hierarchical administrative setup and numerous agencies, unclear division of labour and, more recently, low capacities, inadequate institutional structures and regulations to manage a sector wide reform process are the most predominant features of the water and sanitation sector in India today. The following sections examine the status of NSPs within this structure and environment. Although the initial objective was to specifically focus on the states of Madhya Pradesh, West Bengal, Orissa and Andhra Pradesh, the paucity of documented NSP activities in these states, together with the existence of interesting interventions in other states, has led to this section largely looking at the southern states of Maharashtra, Tamil Nadu and Andhra Pradesh and Rajasthan.

2. POLICY ENVIRONMENT FOR NON-STATE PROVISION

8. The state response to non-state providers in the water and sanitation sector is visible in certain key overall policy developments and programme interventions. Water and sanitation issues were included in the first Five Year Plan (1951) as critical areas for intervention, although as part of the Government of India’s (GoI) health plan. Subsequently, over the years it merited separate mention as a sectoral programme. In 1972-73 the GOI, in order to assist the states to accelerate the pace of coverage of drinking water supply, introduced the Accelerated Rural Water Supply Programme (ARWSP). After almost fifteen years, in 1986 the first National Water
Policy was drafted, to address the growing water crisis, both in terms of quantity and quality. At the same time the ARWSP was given a ‘Mission’ approach to ensure maximum inflow of scientific and technical input into the rural water supply sector and to improve performance in a cost effective manner. The Technology Mission on drinking water and related water management was launched in 1986, and the flexibility to operate allowed the Mission for the first time to explore possibilities of including other stakeholders, primarily NGOs and community based organisations, in the sector. The Mission was renamed the Rajiv Gandhi National Drinking Water Mission (RGNDWM) in 1991 and its scope was subsequently expanded to also cover rural sanitation.

9. The Centrally Sponsored Rural Sanitation Programme was launched in 1986 with the overall objective of improving the quality of life of the rural people. The principal objective was to generate felt need through awareness creation and health education involving NGOs and rural local government. There were a few instances like the Intensive Sanitation Programme (ISP) of the Ramakrishna Mission Lokashiksha Parishad in Medniour, West Bengal and the activities of the Safai Vidhyalay in Ahmedabad, where the NGO, with the support of the state government (and UNICEF in the case of ISP), actually experimented with providing the community with low cost sanitation technology through accessible production and marketing centres set up by them. It was the experience of these projects which was subsequently translated into the concept of Total Sanitation (1992) and also led to the government introducing the concept of alternative delivery systems (1994) towards the end of the 1990s and subsequently the Total Sanitation Campaign in 1999. The focus of the government-motivated NGO participation in water supply was, thus, primarily community mobilization for better use and maintenance of facilities as well as to ensure equitable access to resource. In the case of sanitation, where overall coverage was abysmally low, increasing coverage was the goal.

10. The Water and Sanitation Decade (1980-90) was another landmark that saw several new initiatives in community based water supply and sanitation projects across the country, largely spearheaded by NGOs. A few externally aided projects encouraging NGO participation also led to the growing involvement of NGOs in the sector, again primarily for community mobilization. The Water and Sanitation Decade culminated in the Delhi Declaration in 1990, which amongst other issues recommended reforms promoting an integrated approach including changes in procedures, attitudes and behaviour and participation of the community, especially women, at all levels. It also recommended community management of services, backed by measures to strengthen local institutions in implementing and sustaining water and sanitation programme. And finally it advocated sound financial practices for the better management of existing assets and use of appropriate technology as the key to improved efficiency. The operationalisation of these recommendations implied the increased participation of the community through awareness creation and capacity enhancement, on one hand, and changes in the existing institutional structures as well as systems of functioning of service delivery agencies. The NGOs again were the key agencies to mediate between the community and the state.

11. This period also witnessed the states making half-hearted attempts to transfer responsibility for hand pump maintenance to the panchayati raj institutions (rural local government). However, the attempts failed in their early stages primarily because no efforts had been made to build the capacities and resources of the panchayatis before such a transfer was effected. Hence, subsequently, the responsibilities were restored to PHEDs. However, this set in motion a number of NGO initiatives - often facilitated under an externally funded project - to build local capacities by training local persons as hand pump mechanics to undertake both preventive and breakdown
maintenance. Several successful experiments finally prompted the government to subsequently adopt the strategy as a policy under the Sector Reforms.

12. Two other events which gave more prominence to NGOs as well as to the private sector during the latter part of the 1980s and the beginning of the 90s were globalisation and structural changes and the all encompassing 73rd and 74th Amendment of the Constitution.

13. The process of globalisation as it impacted on India opened the private sector market, albeit to a limited extent. In the water and sanitation sector private sector participation was advocated in order to improve resource and systems management, and to address investment constraints and increasing demands for competition. The Government of India entered into consultations involving state agencies, decision-makers, multilateral agencies and private companies. However, because water and sanitation is a state subject, the central government’s involvement was limited. It tried to promote changes but did not provide clear-cut guidelines or incentives to states. Thus, because of a lack of experience, inadequate guidelines and vested interests, only a few large donor-funded private sector water supply projects made an appearance during this period. A recent study (Ruet et al, 2002) on private sector participation in four metro cities of India observed that management contracts, usually preferred by multilateral donors, have not actually become operational. In fact, the study observes that in India small-scale providers are playing a greater role in filling the gaps in service provision. The study therefore suggests that, in India, it would be better to think in terms of the “entry of private players” rather than “privatization”. The study, giving examples of some private companies supplying water through tankers, supplying bottled water, providing piped water supply, roof-top rainwater harvesting in some metro cities like Chennai, Rajkot, Kolkata and Mumbai, is concerned that these private players are largely unregulated and remain informal in nature. The study concludes that the market orientation of these organisations may preclude them from providing services to the disadvantaged sections of society.

14. Ruet et al (2002) have identified the several related reasons for the likely failure of private sector participation in India. Firstly, private sector participation is a risky political decision and requires sustained and very credible commitment. Secondly, the private company’s mandate to earn money from a contract is looked at with suspicion and not always understood. Thirdly, contractual processes have many loopholes in India, ranging from the lack of experienced consultants, to the lack of transparency in the procedures. Fourthly, low tariffs that do not reflect the actual production cost and regulation are hurdles in India. Besides, the regulatory framework to assess the performance of the private contractor is absent, or at best inadequate. Finally, most municipal authorities do not have the powers to directly sign such contracts without seeking permission from the respective state governments, in spite of the process of decentralization and the provisions of the 74th Amendment. Ruet et al (2002), conclude:

“Therefore it is difficult, if not impossible, to ensure that private sector participation would bring an improvement of services in India. It underlines the fact that the much talked about reforms cannot wait for a private sector contract to be awarded and to set an example. Cities need to reform the way they function themselves if they want to ensure better service and generate more revenues.”

15. In 2002 the central government revised the National Water Policy, giving the highest priority to drinking water and introducing the concept of the management of water as a commodity with delivery of services based on demand. The policy recognised the need for an integrated approach as well as the involvement of other
stakeholders in the process. It also stated that the private sector participation for performance improvement might also be sought, indicating a change in attitude towards private sector participation. However, the policy did not specify any directions for legislative and institutional measures to solve the problems related to the decreasing availability of water in general and potable drinking water more specifically (Ruet et al, 2002). It is also silent on the kinds of privatisation models that could be adopted. This tendency to overlook details is probably the reason why private participation in the water and sanitation sector has not taken off.

16. Realising these shortcomings and because of the urgency to cover the fiscal resource gap, the government initiated a process of reviewing and formulating guidelines for encouraging private participation in the urban areas. The government observed that radical reform of the urban water supply and sanitation sector was urgently needed to create the institutional and policy framework which could attract the level of public and private investments needed to fill the rising gap between the demand for and supply of modern infrastructure services. The guidelines were to sensitise state urban water and sewerage agencies and also to define an evolving role for the private sector within the sector reforms and facilitate an assessment of the issues and options for successful private sector participation. Risks of executing poorly designed private transactions were to be specifically addressed. A clearly articulated state sector institutional and policy framework, backed by enabling laws, would, it was thought, pave the way for systematic reform. A consultative process was adopted during 2001-2003 to evolve the guidelines and a wide range of stakeholders including the private and voluntary sectors were consulted and draft guidelines were prepared in early 2004 (Government of India, 2004).

17. The second significant event of the 1980-90s, the amendment to the constitution, was the start of a process of democratic decentralisation through urban and rural local bodies. It gave them due recognition as representative institutions for development and poverty alleviation, and emphasised the need for greater involvement of the community and other stakeholders in the provision of water and sanitation. It mandated that responsibility for drinking water and sanitation services should be with local governments. Two developments have emerged from the decentralisation process: firstly the increased involvement of NGOs to facilitate the process of decentralisation and setting up of user committees within this frame work; and secondly, the emergence of a range of Village Water and Sanitation Committees (VWSCs) that are at various stages of evolution. The VWSCs, being separate from rural local government, are potential non-state providers. A significant milestone was the World Bank's piloting of large community based rural water and sanitation programmes in several states including Uttar Pradesh and Karnataka during the 1990s. Central to the programme was its demand-driven approach with communities contributing in terms of both capital and operation and maintenance costs.

18. During this period it became increasingly clear to the central government that it alone would not be able to provide the necessary expansion of quality services to a growing population. The government concluded that its role had to shift from service provider to that of a facilitator providing financial and technical assistance. The Centre thus embarked on a reform programme, through Sector Reform focusing on rural water supply and the Total Sanitation Campaign Programme towards the end of the last decade.

19. The Sector Reform programme primarily aims at the empowerment of the village community and their institutions and as well as emphasising the inclusion of women, socially disadvantaged and poor sections of the society. NGOs and CBOs are to play a catalytic role to provide capacity-building support to the community and local
governments. The programme recognizes that the lowest appropriate level should deliver services. Hence, the responsibility for the delivery of water and sanitation services vests with the local governments. The reforms focus on three areas: capital cost sharing and full operational and maintenance responsibilities by users and, above all, change in the role of government from provider to facilitator. In order to make the process effective the instruments of the process needed to be changed. Central and state governments were expected to come together to address the priorities of supporting effective and inclusive decentralisation by empowering local communities in rural areas; building and implementing consensus on key policy and institutional reforms; funding investments in rural infrastructure linked to reforms in service delivery; using NGOs and alternative service providers; promoting cost recovery; targeting the poorest and most vulnerable groups; and restructuring the PHEDs and Water Boards to respond to the new initiatives. Furthermore, local government responsibility for delivery does not necessarily mean delivery by local government agencies. The local government, in consultation with the community, has the flexibility to choose the appropriate agency, which could be the community itself, a cooperative or public institution, or the private sector (GoI, 2002). After a short pilot period covering selected districts across states, the programme was scaled-up as a sector-wide reform in 2002-03. Efforts have also been made to integrate the water and sanitation components in line with the World Bank pilots.

20. Besides, as stated earlier, the Centrally Sponsored Rural Sanitation Programme was also modified and the Total Sanitation Campaign (TSC) was launched in 1999 as a step towards realizing the reforms suggested during the water and sanitation decade. The most significant element reflecting private sector participation in TSC is the concept of the Rural Sanitary Marts (RSMs). RSMs are outlets dealing with materials required for construction of latrines and other sanitary facilities. They keep the designs of various low cost sanitary facilities showing estimated costs and the list of trained masons and act as service centres. UNICEF together with NGOs have demonstrated the validity of the concept of sanitary marts in Uttar Pradesh and the Ramakrishna Mission in Midnapur district, West Bengal. Under the TSC the Central government now supports the state with a revolving fund, which in turn can set up RSMs through reputed NGOs, voluntary organisations or panchayati raj institutions in difficult areas, where proper marketing facilities for sanitary components do not exist.

21. The reforms have thus, greatly enhanced the demand for both NGOs and private sector organisations as intermediaries as well as suppliers and managers of provisions. However, there are several related problems in the operationalisation of both Sector Reform and the Total Sanitation Campaign on their present country-wide scale. Given the kind of stakeholder participation they calls for, they face a paucity of quality NGOs to implement both SR and TSC; a lack of capacity in state agencies and rural local government to identify, contract and manage NGOs; the ever present distrust between NGOs and the state agencies at all levels; inefficient fund flow mechanisms; and the persistent complains of corruption and bureaucratic hurdles. Restructuring of public health engineering departments (PHEDs) and Water Boards had been initiated in the mid 1990s and state PHEDs were expected to set up human resource development cells to improve the quality of their performance. While funds were allocated for this, the objective just remained as a project with the PHEDs continuing to function as before. In fact, one of the biggest hurdles to the reforms process has been the reluctance of PHEDs to even perceive a change in their roles.  

12 In Uttar Pradesh under the World Bank funded SWAJAL, an ‘inverted demand responsive’ model has been tried out: It consists of a network of three organisations: The VWSC at the community level, the Support Organisation, primarily an NGO at the district level and a Project Management Unit at the state
22. Besides, in the case of sanitation, supply-side factors for the provision of facilities are increasingly becoming a problem. Some innovative ways of local production through self-help groups in Andhra Pradesh and Tamil Nadu and private sector supply chain initiatives in the rural areas of Tamil Nadu and Bihar are being tried out by WaterAid and UNICEF. Under this strategy, NGOs have created links between suppliers of raw material, production centres, sanitary marts, masons and household in the respective project areas. Also the Rajiv Gandhi National Drinking Water Mission (RGNDWM), under the Department of Drinking Water Supply, has recently initiated dialogues with larger private sanitary manufacturers to inform them about Total Sanitation Campaign and explore the role that they could play in scaling up sanitation. Only a few top manufacturers have, however, so far responded. The private manufacturers, who had so far only catered to urban markets, were cautious about entering into the rural market, primarily based on the limited demand that was likely to be generated by the government initiatives. Some of them had experience of working in Andhra Pradesh, but had faced difficulties in realising payments and also in keeping the price low as a 45 percent excise and sales tax was levied on their products. The RGNDWM is exploring the possibilities of entering into dialogue with the Ministry of Finance to grant tax exemptions to these manufacturers as has been done for the import of medical equipment.

23. In order to move the reform process forward and iron out the problems, the central government has advised all the states to review the current situation vis à vis water and sanitation, and develop a state vision and policy document. On the basis of the policy document, the Centre would execute a Memorandum of Understanding (MoU) for support to each state. RGNDWN, with the help of UNICEF and the Water and Sanitation Programme of the World Bank, is providing support to the states to prepare the policy documents. This is expected to create better enabling conditions and regulatory framework to fulfil both the water and the sanitation targets.

3. POLICY DIALOGUE

24. There are relatively few NGOs actively working in the water and sanitation sector than there are in education or health, and their power to influence policy issues as of yet has been limited. However, a few large NGOs (Ramakrishna Lokshikhsa Parishad, SPARC and Mahila Milan, Safai Vidhyalya, Centre for Science and Environment) and smaller networks have been active in lobbying for various issues and have influenced the Sector Reform and Total Sanitation Campaign strategies. Their approach has been to demonstrate successful experiments in the field, to enter into dialogue and debate through workshops and seminars, and to lobby through the media. As a result the leaders of some of these NGOs have been co-opted into decision-making committees at the national and state levels and have forced the government to review or revise some of its policies.13

13 The case of bottled mineral water taken up by CSE; the exclusive rights to the Shivnath River given to a private agency (Radiance Waters) by the Chhattisgarh Government, was withdrawn after intense lobbying by activists and the media.
25. The ways in which NGOs influence policy decisions related to planning and implementation of water and sanitation services, especially with a pro-poor angle, are typically as follows:

- NGOs like SPARC have been able to convince local governments to look at the slum communities with less suspicion and hostility and thus build partnerships for improved water and sanitation provisions. They primarily used an intensive process of negotiation through the Slum Dwellers Federation and Mahila Milan (women’s group) both of which are community-based organizations, to negotiate for commitments from local officials for sanitation in the slums of cities like Mumbai, Pune, Kanpur, Bangalore and Lucknow. This has led the municipal governments of Mumbai and Pune to support the setting up of several community-designed, built and managed toilets that serve a large number of slum-dwellers in the city. It has motivated both the central and some state governments to set up special funds to support such community provision. Thus, an effective way of influencing government decision has been for NGOs to negotiate with the government through community groups, which they have helped to form and empower.

### Slum Dwellers Federation 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, convincing 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 shamefule. 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 community organizations come 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 Dweller Federation and 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 stymie municipalities up and down the subcontinent.

Extracted from U.N. Habitat, (July 2004), *Dialogue on Urban Services Making The Private Sector Work For The Urban Poor*, ppresented at the World Economic Forum, September, 2004

- At times NGOs are also seen to work through the consumer committees of the Water Board, of which they are in some cases members (Exnora is a member of the MetroBoard in Chennai).
- Sulabh International, an NGO service provider (of community toilets in urban slums) lobbies to influence the policies of the local bodies in whichever city it works.
A few bodies like the Centre for Science and Environment are primarily lobbying organisations that through their research and media communication network open up country-wide debates to influence policies.

In many cases, under the agreed mandate of externally funded programmes, governments are forced to co-opt NGOs into the programme. In Mumbai, although the local body is constrained by a resolution of the state government that does not recognise new settlements, due to pressure from the World Bank, it has started to enter into dialogue with NGOs and slum dwellers’ associations in order to construct sanitation facilities.

26. In the cities most of the interactions between the municipal authorities and the other organisations are conflictual, except in the case of small NGOs that have a limited influence in the local area they work. More coordination is required at a political level as well as in the systems of municipal departments to ensure that a process of dialogue with the non-state service providers as also with the community is established (Ruet et al, 2002).

27. Ruet et al (2002) have also observed that a substantial number of forums and residents associations operate in the larger metro cities of the country and address water and sanitation issues. They interact with the public service providers, usually Municipal Boards, and lobby for the rights of citizens. The study quotes the example of Chennai, where the role of civil society has been accepted by the Municipal Corporation. Civil society organisations participate in various committees, including an independent committee of consumers, ward committees at the ward level and a joint council headed by the mayor of the city. These committees meet regularly with the citizen representatives, elected council members and urban development agency officials. However, in a large number of cases these forums do not have a specific pro-poor focus, but cover citizens at large.

Chennai: Citizens for Clean Waterways

The case of Chennai illustrates attempts by NGOs and community groups to partner with the State to initiate policy processes, create policies and get them implemented. The first major environmental voluntary initiative was to abate water pollution and restore urban waterways in the city. The initiative called Citizens for Clean Waterways (CCW) was spearheaded by the Indian National Trust for Arts and Cultural Heritage (INTACH). The approach was to build a partnership to complement the incapacity of the government and the local authorities and their underutilisation in the shaping and implementing of environmental policies (Tropp, 1998). This was built by exerting pressure on the government to formalise partnership arrangements. Such an arrangement led to the preparation of an Action Plan for the urban waterways, but this remained merely on paper. The partnership could not forward to implement the Action Plan and it gathered dust after being submitted to the State government. The revival of this initiative by EXNORA, a leading NGO in Chennai, under the new name of WAMP (Water Management Programme) was based upon a new strategy by raising the issue through media support. The project was presented in such a way that politicians felt that they had to improve their image and project themselves as being environment friendly (Ibid). To some extent, this kind of bargaining process resulted in improved access to information on pollution and to place water pollution high on the political agenda.

Extracted from Ruet,J, V.S. Saravanan , M. Zérah (2002), The Water & Sanitation Scenario in Indian Metropolitan Cities: Resources and management in Delhi, Calcutta, Chennai, Mumbai, CSH Occasional Paper, No 6, French Research Institutes in India
Another type of forum, which is emerging in some cities, with the active participation of the state, is exemplified by the Bangalore Agenda Task Force (BATF). The BATF was the result of an opinion poll that identified garbage disposal and public sanitation as among the main concerns of the citizens of Bangalore. The poll also discovered that, while on the one hand the public service agencies had failed to deliver satisfactory services, on the other there was no inter-agency coordination among various public organisations in the city. BATF was formed through a state government order in 1999 in order to work with stakeholders to upgrade services, including water and sanitation. BATF was to work with its public partners (Bangalore Mahanagara Palike, Bangalore Development Authority, Bangalore City Police, Bangalore Metropolitan Transport Corporation, Bangalore Water Supply and Sewerage Board, Bharat Sanchar Nagar Limited, and Bangalore Electricity Supply Company) and to act in an advisory capacity. It was also to undertake specific projects in partnership with the public sector to demonstrate improved management practices. BATF is a two-tiered structure consisting of members nominated by the government from various fields and a project team (a core unit of dedicated professionals working on specific projects). BATF subsequently also created a trust to fund the projects internally.

In the area of public health and sanitation, BATF raised funds by mobilising corporate resources for the projects. BATF project teams actively participate in the monitoring and supervision of the projects involved. Swachha Bangalore and Nirmal Bangalore were two of its successes in the water and sanitation sector, wherein the BMP staff cooperated with the BATF team to introduce the concepts developed. The public ('Pay and Use') toilets constructed under this initiative were found to be good but costly. BMP has now adapted them at a lower cost.

Source: NIUA (2004), Urban Finance, Quarterly Newsletter of the National Institute Of Urban Affairs, Vol 7, No 2, June 2004

28. Ideally, democratisation and decentralisation ought to be a particularly effective means of making governments more responsive to water and sanitation demands. In the water and sanitation sector the opportunities for this have been provided in the much talked about constitutional amendment decentralising the planning and management of water to the local bodies in both the urban and rural areas and under the ongoing reforms in the sector. Water and sanitation missions, on the lines of the RGNDWM have been set up at the state and district level, with both elected officials, and officials of a range of relevant departments as well as civil society members and NGOs being represented in the committees. However, again lack of clear-cut guidelines, motivation and commitment, the reluctance of officials to share decision-making responsibilities and vested interests have not allowed them to really function as a forum that not only plans and manages interventions but also shapes policies.

29. For its part, the private sector is not organised to negotiate on a common platform. Firms operate largely on an individual basis and use contracts as a tool to negotiate their self-interest. In some cities like Chennai, the water tankers are organised into an association and negotiation is done collectively to advance their shared interests. Unlike the stated principles of the NGOs, the private sector does not claim to address the rights of poor communities.
4. REGULATIONS AND CONTROL

30. There are hardly any effective regulations for the planning and management of water supply and sanitation in India. Since water is a state subject and responsibilities are distributed between different tiers of the government as well as between different agencies, regulation becomes imperative. However, regulation is a complex task given that (i) it involves mechanisms to monitor markets, tariff and service standards as well as to address issues of equity and obligations to serve the poor and marginalized households, and (ii) it must develop a framework to cover a vast country.

31. The lack of regulatory structures and mechanisms is one of the major obstacles to effective large-scale private sector participation in India. Weak regulation, unstructured regulatory mechanisms and lack of information to the regulators have led to projects failing to take off or running into trouble during their execution. It has also limited the scope of participation of the private sector largely to limited initiatives in the management of services such as contracting out ancillary services (Chennai Metropolitan Water Board), and contracting out bill delivery and cash collection to the private sector (Hyderabad Metropolitan Water Supply and Sewerage Board). Some Municipal Corporations have also introduced private sector management in the operation and maintenance of water supply and sewerage treatment. However, full-blown private sector participation is seldom seen.

32. Inadequate regulations and checks has led to the rapid emergence of unregulated small scale operators (primarily water tankers and bottled water) in cities as well as in some water-starved rural areas. A recent study (Llorente and Zerah, 2003) of two types of small scale private providers – bottled water and tankers - of water supply in Delhi concluded that the absence of any regulations enabled the burgeoning of small companies with short-term and quick-profit strategies, compromising on quality. Taking advantage of a booming market (as a result of the failure of the public sector to provide adequate and good quality water), these companies have set up small plants without investing in quality equipment. Low costs of production has enabled them to make quick profits. The study reported that around 50 such companies (involved both in producing and selling bottled water as well as supplying water through tankers) existed in Delhi and although they claimed that they had set up laboratories with testing facilities and staff, the quality of the water supplied was suspect. As no external control exists, misleading terminology is used to advertise the quality and composition of the water, its origin as also its packaging. The tankers were also found to be selling poor quality bulk water. Llorente and Zerah (2003) observe that this market malfunctions primarily due to a lack of regulation and control. Most of the suppliers are not registered and there is no quality check on their product. The suppliers are mainly owners of large agricultural landholdings in the neighbouring rural areas and have been able to tap and withdraw underground water through high-powered pumps (electricity being subsidized). This is then supplied as bottled water or through tankers.

33. Interestingly, the study also found that larger and more sophisticated companies were unhappy with this unfair competition and favoured the setting up of strict regulations. They have set up an association to lobby for controls in order to prevent the supply of bad quality water by smaller producers. Meanwhile, some positive developments have occurred and packaged water has now been included (in the year 2000) in the Prevention of Food Adulteration Act (1954), which ensures stricter supervision of the production and manufacturing process. Furthermore, companies also have to adhere to the norms set by Bureau of Indian Standards (BIS).
34. Absence of a proper regulatory framework has often led to conflicts between the provider and the user or client agency. The conflicts either do not get resolved, as in the case of the Shianath River privatization in Chattisgarh and the POABS Group of Companies (a Kerala based industrial group which entered into a solid waste management venture), or end up in a legal court battle. The POABS Group had won a contract from the government to set up a modern treatment plant. However, the Group’s venture soon met with opposition from the community and media on several grounds including the location of the dumping grounds and the envisaged pollution and nuisance to the surrounding communities. There were also other issues related to concessions from the government and use of the bi-product, which the company could not resolve. Proper legislation with clear-cut jurisdiction of agencies would have avoided conflicts or else created a forum for resolution. In the case of the POAB group the Pollution Control Board assumed the role of regulator. However, since the technology used by POAB was new, the Board did not have the required skill to assess and advise on standards. Besides, the monitoring committee set up by the district administration was over burdened to devote sufficient time. An independent regulator with jurisdiction to cover the entire operation could have been the solution (Varkkey, 2003).

35. Similarly, in a slightly different context, the Chhattisgarh Government was forced to cancel its contract with Radius Water, again after pressure from NGO activists and the media. Lack of a regulatory mechanism had allowed Radius Water into a monopolistic deal with the state, whereby the right was given to exploit the water resource in return for the supply of water to the State Industrial Development Corporation. The Delhi Jal Board and its concession agreement with a subsidiary of a French company has also been raked with controversy and accusations of irregularities and corruption. An overall lack of transparency, as no regulatory mechanism exists, was also evident in the transactions.

36. In the rural areas, until recently, both execution of capital works as well as the maintenance of facilities has been the exclusive responsibility of the state public health engineering departments or other relevant government agencies, which functioned under certain government norms and standards largely related to quality of equipment. The process of sector reforms has brought communities and the local bodies into the centre stage, and states are being encouraged to work towards a structure whereby village water and sanitation committees will be the service provider and the gram panchayat (the local government body) being the policy maker at the local level. Under these conditions the gram panchayat would be expected to set standards and manage and monitor village water and sanitation committees. A clear-cut division of responsibilities has to emerge and a regulatory framework has to be established at the state level to support the gram panchayats to function in the spirit of a local institution.

37. The management of water resources is largely uninformed by either resource realities or economic and social requirements. In fact, ground water resources have become a private good defined by a de facto system of rights over land - one reason for the proliferation of private water suppliers (bottled and tankers). There are also no regulations covering water resource management or water abstraction although groundwater authorities have attempted to regulate groundwater withdrawals through a system of licensing without, however, defining any limits for withdrawals. A Model Groundwater (Control and Regulation) Bill 1992 was formulated and circulated by the central government for the considerations of the states in the early nineties. The Bill received attention only from a few states like Karnataka, Maharashtra and Tamil Nadu even though it was re-circulated in 1997.
38. In terms of finance, the water supply and sanitation sector has also been unable to attract much private investment primarily because existing financing arrangements do not allow for appropriate incentives to the borrower, leading to inefficient utilization of funds. Besides, a lack of project development and management capacity also limits the efficient and effective utilisation of funds. Moreover, the private sector is essentially interested in the financial rate of return and water supply and sanitation projects are yet to demonstrate their commercial viability. Thus, private sector investments in the sector would require efficient development of projects whilst at the same time being regulated by the necessary legal and financial frameworks.

Shivnath River, Chhattisgarh

The Chhattisgarh State Industries Development Corporation (CSIDC), which is in charge of industrial development in the state, commissioned a project to meet the demand for water in the Borai Industrial area situated on the banks of the Shivnath - a non-perennial river. As part of the project, a 23.6 km stretch of the river was ceded to Radius Water through a 22-year renewable contract, under which the company had absolute monopoly over the stretch of river water. In return, Radius Water would provide water to the CSIDC from the Shivnath during the lean 6 months. The company built an integrated water supply system to control the water flow depending on the level of the Shivnath and set the water tariff at substantially lower rates than that charged by the neighbouring states of Madhya Pradesh and Maharashtra. The project was initially hailed as a success by the government. However, the catch was that the agreement assured Radius Water of payment for a minimum of four million litres of water per day by the state government, regardless of the amount of water used and irrespective of whether the CSIDC recovers this amount from the industries. The CSIDC lost Rs 12.9 millions between December 2000 and June 2002. Furthermore, Radius Water’s monopolistic deal with CSIDC and the water resources department covered ground water as well in an 18 km-radius covering the Borai industrial area. The company promptly prohibited fishing in the stretch of the river and also charged local farmers for access to water from tubewells. Ultimately, bowing to pressure from several NGOs and adverse media reports, the government had to scrap the deal.

Degremont, New Delhi

Degremont – a subsidiary of the French water giant Suez – has been awarded a Rs 2 billion contract under a 10 year BOT agreement with the Delhi Jal Board (DJB) for a drinking water treatment plant in Sonia Vihar near New Delhi. The water treatment plant that is scheduled to go on stream by the end of 2003 is expected to yield 635 million litres of drinking water a day. While Degremont is getting the raw water free through pipelines from the Upper Ganga canal of the Tehri Dam project (near Muradnagar, Uttar Pradesh) the amount it will get as a fee for treating the water will be much in excess of what the DJB will charge the consumers when selling the water. The DJB is also providing Degremont with land, electricity and treatment cost. At the same time, Degremont has been kept free from transmission losses and revenue collection and has also been assured the purchase of treated water and also productivity incentives once the plant begins operations. The Sonia Vihar plant has been plagued by controversies since its inception. The leader of the opposition party as well as ruling party MLAs have levelled allegations of corruption and irregularities in the allotment of the contract to Degremont. A Delhi-based NGO - Research Foundation for Science and Technology - has accused the Delhi Jal Board of wasteful practices. The Delhi Jal Board, which does not rule out an increase in water price for the residents of New Delhi, has not made public any of the project documents.

Extracted from: Sampath, A, et al (2004), Water Privatization and Implications in India, Association for India’s Development, Austin

39. Some states have begun to better organize private participation in the urban sector. For instance, the Gujarat Infrastructure Development Board has been set up under the Gujarat Infrastructure Development Act 1999. It authorizes the government
agencies to enter into concession agreements with the private sector, and provides a list of various forms of assistance to be provided to the developer including exemption of taxes. The concession agreement also prescribes the user fee to be charged by the developer. Similarly the Andhra Pradesh Infrastructure Development Enabling Act guides and advises government and its agencies, co-ordinates with concerned departments and sector regulators, decides issues of setting, revising, collecting and regulating user levies, and issues and amends guidelines for implementation and prescribes regulations for self-regulation. Both water supply and management of sewerage fall within the purview of the Acts.

40. In 2001 under the provisions of the above Act, the Gujarat government prepared a draft regulatory framework for water supply provision in the states, with the help of a private consultancy group (TERI). Private sector participation was thought of as a solution for improving the effectiveness and efficiency of the sector. An enabling framework for this was thought necessary to balance the interests of both consumers and investors and protect the consumers from monopoly pricing and unreasonable tariff increases. TERI recommended that such a regulatory framework should exist outside government, and should have an arms-length relationship with the government as well as local bodies. A Water Regulatory Authority (WRA) was proposed to regulate segments of water supply and was to be constituted before the water sector was opened in Gujarat. The WRA was to be governed through independent legislation and was to have jurisdiction over the entire state of Gujarat. It was to regulate the sources, transmission and distribution of water. Additionally the state government or WRA was to formulate minimum drinking water quality standards as per BIS standards and the framework for water quality surveillance for the service provider. The WRA was to

- frame principles for the determination of tariffs for water services,
- regulate tariffs – retail and bulk,
- lay down, enforce and monitor minimum standards of service,
- promote economy and efficiency in the water supply services,
- facilitate competition,
- adjudicate disputes and differences amongst service providers or between a service provider and a group of consumers,
- recommend generic terms and conditions of the new concession agreement,
- advise the state in developing a Water Use Policy and
- monitor the use by local bodies annually as well as to coordinate with other regulators such as the State Pollution Control Board in the framing and evolution of guidelines for sustainable water use in the state (TERI, 2001).

41. More recently draft guidelines have been prepared by the government (with support from the World Bank's Water and Sanitation Program, South Asia) for private sector participation in urban areas. It attempts to address the huge gaps and underlines the need to amend the existing legal, regulatory and governance frameworks in most of the states in order to implement the reform agenda and to create a conducive environment. The guidelines recommend that:

- The legal framework should be ideally integrated within a single Urban Water Supply and Sanitation Law and supported by the State Municipal Act. It would then strengthen the state's sector policy and the envisaged institutional framework.

14 www.urbanindia.nic.in
• The regulatory framework should clearly delineate the regulatory roles of the state and the local body at the same time being sensitive to the authorities vested in urban local bodies under the 74th amendment.

• Since independent regulators are costly to set up and have limited success in reforming or regulating public sector operators, the guideline proposes the setting up of a Reform Facilitation Team at the state-level, which could create a platform for effective regulations. The Reform Facilitation Team would include members from relevant ministries (finance, urban, environment) and from municipal authorities, and be supported by independent consultants.

• The Team would be empowered to influence fiscal and other support flows to urban local bodies, which could also opt to delegate tariff-setting authority to the State regulator. The guidelines suggest using the services of an already existing and experienced regulatory body (electricity or telecommunications regulator) that could provide benchmarks for the performance of different service providers, build capacities and resolve disputes between service providers and consumers.

• As an urban local government proceeds to private provision of water and sanitation services, it would be in a position to allow contracts between itself and its private partner, to regulate economic and other relationships between “owner” (the local body), operator (private partner) and customers, in line with prevailing policy and regulatory frameworks.

42. The rural sector is also to a degree set to move towards the development of a policy framework, defining standards and regulations. As stated elsewhere, as part of the sector reforms, all states are currently in the process of developing vision and policy documents. They are then expected to sign an MoU with the central government. This exercise will encourage states to look at a range of issues including private sector participation and regulatory reforms.

5. PARTNERSHIPS AND CONTRACTS

43. In response to the need for an alternative model to a centralised water supply and sanitation system in India, the strategies that are emerging are: commercialisation to improve cost recovery, privatisation to generate finance, improved technology and enhanced management capacities and community participation to ensure responsiveness and a sense of ownership. Public-private sector partnership generally falls under one of the following models: Build-Operate-Transfer (BOT), Build-Operate-Own-Transfer, Build-Operate-Lease-Transfer, Rehabilitate-Operate-Transfer (ROT) and Design-Build-Finance-Operate-Transfer. Another kind of partnership that has emerged over the years is that between the state and NGOs and the state and the community.

44. Instances of private sector partnerships in water and sanitation in India are, however, very few, compared to the huge potential of a large country. Only some large-scale attempts exist and these too have mainly been service or management contracts. There are only a few examples of longer term complex contractual arrangements taking off and these include the Tirupur and Alandur projects in Tamil Nadu and an operation and maintenance contract in Chennai. While the Alandur project was a BOT for a sewerage treatment plant for 14 years and the construction of a sewerage system, the Chennai project was an operation and maintenance contract for a pumping station and treatment plant. The Tirupur project, an industrial and municipal water sewerage project with a 30 year concession, initiated in 1994, is
also a classic example of how most partnerships with private companies or large multinationals have led to delays in project execution. Such companies are often reluctant to invest and risk their own capital because of various gaps in the contractual arrangements including uncertainties due to a lack of commitment and political interest, inadequate and weak regulation, inadequate information for regulators and consumers, and corruption.

Tirupur

Tirupur is a large business centre in Tamil Nadu. It is the first cotton knitwear producer in India and account for 20% of India’s garment exports. In the beginning of the 1990s, the Tirupur Exporter Association (TEA) approached the State Government as the water supply was highly inadequate with a supply limited to one to two hours and most users relying on water tankers and groundwater. The Tamil Nadu Corporation for Industrial Infrastructure Development (TACID), which was set up in 1993 to provide infrastructure to industrial areas, agreed on the plan but did not have sufficient financial means to support the Tirupur Area Development Project and then asked ILFS (Infrastructure Leasing and Financial Services) to prepare a feasibility report on the possibility of going ahead with the project on a commercial format. At this stage, the Tirupur municipality was not yet involved. Once the feasibility report was submitted, the question of raising the funds for the project arose and led in 1995 to the creation of the New Tirupur Area Development Corporation Limited (NTADCL) with equity from the government of Tamil Nadu, ILFS and the private operator selected through a tendering process to execute the works. The tender invitation was launched in December 1994, inviting operators for the project that include increasing treated piped supply, a sewerage system for the municipality and on site sanitation facilities for slum areas. The Tirupur private sector participation has been discussed for many years. In 1999, apparently the contract with the private operator had been finalised and financial closure of the project was imminent. The foundation stone of the project was laid on June 20, 2002 and the project should be completed within six years.


45. The ‘Apna Yojna’ in three districts of Western Rajasthan is another example of a large relatively successful project in partnership with a consortium of five NGO partners, the Project Management Cell (PMC) within the PHED and the Village Water and Health Committees (VWHC). The NGO consortium is designated as the Community Participation Unit and is a co-executing agency responsible for community outreach and participation activities. The VWHCs have entered into an agreement with the PMC and assumed responsibility for local level planning, and operation and maintenance. Registered societies - the Pani Panchayat or Water Council – have also been formed consisting of representatives of VWHCs within a cluster of villages. While village level maintenance and collection of user charges is the responsibility of the VWHCs, the operation and maintenance of the distribution networks and supply tanks is the responsibility of the PHED. The project, which is funded by KfW is completing its first phase of activities and has been able to supply water to about a 1000 villages and 11 towns. While 755 of the cost has come from the Government of Germany (KfW), 25% has been contributed by the state government. Support from KfW to a second phase is conditional on the government contracting out the operation and maintenance of the distribution system and revising the tariff rates.

46. Sometimes, as in the case of Sulabh International, a large NGO working in several states, the government provides financial and other inputs like land, water, electricity. In return, Sulabh operates and maintains the complex for a specified
period as given in the contract. It raises revenue for maintenance by charging a nominal user fee. The Sulabh model has been rated as a success although its access by the poorest in the city is often questioned.

47. Ruet et al (2002) point out that no city in India has considered adopting the ‘concession’ contract, where the risks are largely borne by the private sector that makes large investments and is in charge of the whole distribution system and the development of new assets. The reason why cities that have attempted to contract out parts of the service have not opted for concession contracts is because concessions are conditional and require a long transition period, a strong political will, changes in the legal framework, the setting up of a regulatory framework, an accurate assessment of the value of the existing assets and tariff restructuring. Most cities have thus opted for BOT or construction and management contracts where the private sector was to subsequently transfer the assets and their management to the municipalities. However, even many of these projects fell through because of a lack of political commitment, the very high cost of the water, the lack of clarity in the contract attribution and the lack of clarity in the process to be followed.

48. Satyanarayan (2002) has identified 25 such projects which were initiated and abandoned between the 1994-99. They include:

- BOT for Krishna Bulk water supply was initiated in 1995 and sewerage treatment plant in 1996. They were subsequently abandoned;
- BOT for Cauvery Bulk Water supply, ROT (Rehabilitate, Operate, Transfer) for existing system and BOT for two sewerage treating plants, all initiated in 1997 were abandoned at various stages;
- BFT (Build, Finance, Transfer) for water and sewerage system for construction, finance and operation as also billing and collection for Pune Municipality was initiated in 1997 and cancelled in 1998;
- BOT for water treatment plant, transmission and distribution for Nagpur Municipality was initiated in 1998 and abandoned in 1999;
- Initiative by Anglian Water International for operation and maintenance of water supply systems of four towns in Karnataka was abandoned soon after it was initiated.
- BOT for source development and water treatment plant was initiated in 1997 and abandoned in 1998.
In 1998 the Pune Municipal Corporation attempted to implement an urban environmental infrastructure project through construction and management contracts with a private sector firm. It was part of a 25-year strategic plan for a 24-hour water supply and sewage services to be gradually extended to cover the entire city.

The project was cancelled for a number of reasons, the most central being a loss of political support, in spite of the project being in line with the state's policy on public-private partnership. With national and local elections happening during the period, the political landscape altered and opposition to the project, especially in relation to its viability, overall cost factor and the process used to award contracts to the private sector became the target. There was considerable opposition also from the local contractors who thought that the contract would be awarded to an international firm thus depriving them of their rights. And lastly, increased water charges as a preparation for the project also attracted criticism. Added to that the Municipal Commissioner, who was a major supporter, was also transferred and the new commissioner, in the face of the tremendous opposition and lack of political support decided to cancel the project.

Source: Supply and Sewerage Project - Challenges in Private Sector Participation, Case Study, WSP-SA

49. The factors often identified with limited private sector participation in the water and sanitation sector in the country are: market uncertainties like varying demand, fluctuating prices and land value; procedural hurdles like those associated with land acquisition, development permissions and inter-agency co-ordination; construction risks including price escalations, cost and time overruns; political risks inherent in frequent policy changes and conflicting political interests; and judicial interventions largely due to a lack of adequate regulatory mechanisms. Many projects have also failed because of the lack of ability of the government to assess the role large private operators could play. In fact, studies (Reut et al, 2002, Satynarayanan, 2002) indicate that most of these partnerships have failed because of:

- Lack of clear guidelines and framework for private sector participation;
- Lack of rigour in project and contract development as well as lack of quality support for the same;
- Lack of funds and other resources for project development;
- Lack of well defined policy support and regulatory framework at higher levels of government;
- Lack of a sustained credible commitment to carry the project forward
- Lack of informed participation of a wide variety of stakeholders and a lack of ownership within the city.

Capacity building of stakeholders like elected representatives, trade unions and other institutions of the civil society needs to be promoted and the project has to work closely with all the stakeholders, especially the trade unions.

- There is a misunderstanding about the objectives of the private sector and the fact that it has to earn money from a contract. The authors above recommend that there has to be a wide ranging debate on what can be an acceptable rate of return to the private sector
- The processes of awarding contracts are full of loopholes and lack transparency, especially in the design of the criteria to award a contract.
- Tariffs and regulation are hurdles to private sector participation. The existing low tariffs do not reflect the actual cost of production.
- Opposition from rent seeking elements.
- The municipal authorities by and large are not vested with the powers to sign contracts without getting the endorsement of the state government.
• The contracts also do not clarify the cost-sustainability as far as the poorest sections of society are concerned.

50. On the other hand studies have documented a number of small-scale formal and informal private initiatives (by NGOs as well as for profit private companies) in partnership with the government: 15

• The PHED in Ajmere, Rajasthan has privatised the operation and maintenance of the filtration plant, pipelines and pumping stations of a new water supply scheme from the Bilaspur dam. There were two principle reasons for contracting out: first was a freeze on new recruitment and the second was the need for a suitably trained staff to operate the sophisticated machines. The contract was awarded after a rigorous bidding process. The contractor had to acquire necessary equipment for maintenance, provide necessary staff, carry out 24 hour surveillance and maintenance, ensure the safety of both equipment and staff as also the remuneration and other incentives to staff. The PHED pays the operation and maintenance costs as agreed on a monthly basis, pays initial costs of spares, has installed a wireless system connecting the entire circuit for easy communication, and has provided office and other space. Performance of the contractor is monitored by the PHED and the contract also includes defined obligations as well as a system for performance linked payments and penalties. While the 112 km pipeline is maintained by a private company, two other companies maintain the five pumping stations. Although labour unrest against privatisation and a fear of loss of jobs have been a problem, this private sector participation is generally considered to be a success. It underlines the need to design a well-defined contract with roles and responsibilities clearly laid out with a mutually agreed performance linked system of payments and penalties (WSP, 1999).

• The Songaon-Mekhali multi-village (4 villages) regional scheme in Maharashtra constructed by the Maharastar Jeevan Pradhikaran was handed over to the Zilla Parishad (ZP) for operation and maintenance. The scheme is managed by the Water Management Unit (WMU) of the ZP which subsequently contracted out the operation and maintenance of the scheme to a private operator. The contract and the arrangement is defined in a contract document prepared by the WMU in accordance with a standard document provided by the state government. An open bid process was used to invite applications for the contract, which is renewable on an annual basis. The contract is managed by the WMU of the ZP and supervised by block level officials. The contractor is responsible for treatment of water and transmission of daily requirements up to the village overhead tanks. Block and ZP officials monitor the regularity of supply and water quality. The distribution system within the villages is maintained and operated by the local panchayat. The panchayats are also responsible for the collection of water charges and payments to the ZP (WSP, 2004).

• In the early 1980s, four villages in Kolhapur district of Maharatra undertook the operation and maintenance of a multi village piped water supply scheme. As the Kolhapur Zilla Parishad was not prepared to take over the project from the Maharastra Jeevan Pradhikaran (MJP), the community decided to directly take over the scheme from the government. A joint water committee or Mandal was formed which included the sarpanch for the three local gram

15 See WSP (South Asia) DFID series on Small Private Initiatives (SPI) In The Water And Sanitation Sector In India (1999-2000)
panchayats, elected member from one of the villages, chairpersons from the three newly formed gram panchayats, and a technical officer from the Maharasatra Water Supply and Sewerage Board as an advisor. The arrangement was informal and the MJP continued to own the scheme, while the Mandal was responsible for the operation and maintenance. The felt need for water, definite evidence of benefit, transparency of operations, able leadership and commitment of the manadal leaders are what has sustained the project. However, there has been no spread effect of the experiment into the neighbouring villages, primarily due to the vested interest of political parties which have allowed rural communities to use services without paying for them. (WSP, 1999)

51. Local NGOs together with international NGOs like WaterAid and international agencies like the World Bank and UNICEF have also been engaged in partnership with the state governments to provide local level water and sanitation services. Usually a tripartite agreement is arrived at, wherein the international NGO, World Bank or UNCEF provides the funds, technical expertise and oversight, the state facilitates by providing funds as well as policy and administrative support, and the NGO supports in actual construction. The WaterAid sanitation programme in Tiruchirapalli (Tamil Nadu) and hand pump maintenance programme in Andhra Pradesh, and the SWAJAL programme in Uttar Pradesh and Uttaranchal are some examples.

- The hand pump maintenance programme was initiated by a network of 43 NGOs (Viswasamakhya) in Vishakapatnam in the early nineties. Initially supported by OXFAM, community based hand pump mechanics were trained by a Hyderabad based training centre. Subsequently, in 1995, with the support of WaterAid, the NGO, the training centre and the community mechanics entered into a formal agreement for a collaborative operations and maintenance model with the district government in 14 mandals. When the model finally matured in 1998, the village communities formally became responsible for the management of the hand pumps. The VWSC manages the day to day affairs of maintenance, reports faults to the self employed mechanics, pays the mechanics to repair the hand pumps and also manages the communities' banks of spare parts, thus ensuring regular replacement. The government fully transferred the government budget for operations and maintenance to the village committee, supplies parts to the community spares bank and also undertakes to train the mechanics. There were over 400 such committees by the end of the 1990s with substantial revenues. Mechanics are maintaining the hand pumps on a piece rate basis paid by the community. The formal contract was not renewed but the arrangement continued after the end of the project period.

- The Tiruchirapalli urban initiative which began in 1999 is also a collaborative venture between the NGO partners of Water Aid and the Municipal Administration for construction of community toilets, improved water supply, underground drainage systems, compost pits and garbage bins, with focus on community mobilisation and hygiene promotion. The community has been organised into self-help groups, including for women, and federated for better effect. It manages the water source and general sanitation as well as maintenance of community toilets. An average of 150-300 people daily use the toilets which are clean and well-maintained and the schemes are recovering 100 percent of their capital cost. The Municipal Administration has speeded up its administrative procedures related to land, electricity, etc. and completing work in record time.
Under SWAJAL a tripartite contract - Implementation Phase Tripartite Agreement (IPTA) - is drawn up between the VWSCs, the NGO and the District Project Management Unit. The 100 page document spells out the roles and responsibilities of all the stakeholders. The VWSC is responsible for selecting the service technology, generating the community contribution and managing the investment funds, monitoring the construction activities, procuring material and managing the construction contracts and finally managing the scheme. Construction related funds are transferred by the District Project Monitoring Unit (DPMU) to the VWSCs' dedicated account jointly operated with the supporting NGO. Community contracting is used for different types of technology and the type of contract depends on the choice of technology. Written contracts are executed when the technology is complex and expensive as in the case of mechanised bore-well and distribution network. Verbal agreements are used for the smaller less expensive tasks like hand-dug wells, construction of individual household latrines and drainage soak pits. Quality assurance measures have also been integrated into the process. The project has also legally empowered the VWSC to manage all construction, operation and maintenance funds and to undertake all construction management activities through the IPTA. The DPMU provides the funds, technical support and capacity building support, policy support and overall insight, while the NGO provides on-site community mobilisation and technical support.

52. Certain factors that contributed to the success of both the small-scale initiatives and those relatively larger ones supported by external donors and international NGOs were:

- Because they were largely pilots, experimenting in participation and partnerships, great attention in terms of support and monitoring was provided to the partners.
- On the government's side, either a single agency was involved - the Trichirapalli Municipal Corporation as in the case of WaterAid - or a special purpose vehicle was set up, as in the case of SWAJAL. This allowed for more flexibility in taking policy level decisions and subsequently influencing the sector approach and strategy.
- A felt need for the services by the community and the initiatives of certain key persons within the community and the state structure.

53. However, as only limited changes were effected within the larger institutional structure and policies regarding roles and responsibilities of stakeholders have as yet not been clearly defined, critical obstacles are being faced in scaling up these models. Besides, as stated earlier, there is no measure and mechanisms to regulate the quality of services provided and ensure equity of access. Moreover, by the very nature of the project, the NGOs themselves were only transitory service providers.

54. These initial experiments have now been consolidated into the reform process and the partnership between the state and communities that is emerging has sector wide implications. As stated earlier, Village Water And Sanitation Committees (VWSCs) are being set up as service providers within each village or gram panchayat. Based on similar committees developed under a World Bank supported project in Uttar Pradesh and Uttarakhand, this model was subsequently piloted and scaled up to cover all the states. A demand driven approach is adopted and under the project contract the VWSCs are responsible for generating 10 percent of the capital cost of the project and 100 percent of the operational costs. Additionally, they
are responsible for planning and monitoring the execution of the project. In return the state is committed to provide the remaining 90 percent of the cost and also to support the community VWSCs, to mobilize the community, and to plan and execute the project through intensive capacity building. The services of NGOs are engaged by the state for social and institutional support to the VWSCs during the project period, while the PHEDs provide the technical inputs and oversights.

55. Although, the above model has been scaled up, only piecemeal success in isolated areas have been so far observed. Some major issues of concern are:

- The questionable ability and willingness of state governments to implement a demand driven participatory approach wherein the community contributes in terms of resources as well as management at all stages of the project cycle and thereafter. Government needs to set up regulatory measures to ensure quality and equity of services.

- The doubtful willingness and capacities of the water and sanitation utility agencies to adopt the role of a facilitator with an oversight and, probably, a regulatory function, rather than that of a service provider. In most states the PHED continues to be at the centre in the implementation of the project.

- Besides, the PHED and the support organizations have as yet not considered certain critical issues like technology and cost options for the communities; operation and maintenance cost implications; and source sustainability options.

- The uncertain willingness and capacities of the communities to participate. The community (rural local government and the village water and sanitation committees) need rural local government (the panchayati raj institutions) is as yet unclear and no actual power has been devolved to them although the reform guidelines specify that the village committees should be explicitly linked to the gram panchayats.

- Then there is the issue of sustainability, whether this model of direct user involvement can be up scaled, especially considering the kind of intensive support it requires; and secondly whether the model has long term financial sustainability and can raise tariffs.

56. As stated earlier, in the urban sector attempts are being made to create a more conducive environment for private sector participation with the Ministry of Urban Development and Poverty Alleviation developing draft guidelines in 2001. These recognise the potential benefits of the private sector in improving urban water supply and sanitation services and the risks of executing poorly designed private contracts. The guidelines thus aim to sensitize state and local governments to the policy and procedural issues, including the evolving role of the private sector, and to facilitate a systematic assessment of the issues and options for successful private sector participation. The guidelines are the output of a series of consultations with states, service providers, non-governmental organizations, regulators and policy-makers from other sectors and countries, public and private sector operators, and financial institutions.

6. CONCLUSIONS

57. Large scale private sector partnerships have not been very successful, primarily because of a lack of political commitment and will, lack of an effective regulatory framework and guidelines, lack of transparency and vested interests within the state governments and departments as also local contractors, and a lack of capacity to develop and manage large scale contracts. Besides, the relatively inefficient
performance of the sector has also not helped in establishing its commercial viability. The result is that the private sector is wary of entering into partnerships with the states in most cases. Besides, most private sector partnerships have been attempted in the urban areas. The nature of the settlement pattern, the complexity of administrative jurisdictions and the efforts required to make the schemes viable have deterred large private participation in the rural areas.

58. On the other hand small-scale providers, largely informal, have been increasingly making an appearance, as a result of the shortage of public water supply and the lack of regulations to control the functioning of such suppliers. However, studies indicate that, with considerable regulation, these small suppliers can partner municipal governments.

59. With the recently initiated sector wide reforms in rural water and sanitation, and with their focus on demand driven and community-based approaches, it becomes imperative to address alternative modes of service delivery management. Besides, the scale of the programme together with the lack of willingness as well as capacities of the public sector utility agencies to handle the process necessitates the laying down of clear guidelines and commitments. It also calls for independent regulators and an effective regulatory mechanism. A consultative process and the development of guidelines for private sector participation in the rural areas - similar to the process and output that has been achieved in the urban sector by the GoI with support of WSP - is called for.

60. Furthermore, in order to make the above process effective, the centre and all states need to seriously devolve responsibilities and resources to the local bodies.

61. In the case of rural sanitation, private sector participation has now become imperative with the Total Sanitation Campaign and government initiatives to increase coverage. An effective supply chain needs to be established, catering to a an anticipated increase in demand for low cost technology as a result of community mobilisation and hygiene promotion across the country. Incentives and concessions for private sector participation in the sector have become a priority
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