Chapter 13

Governance

The story may begin and end with governance. What do we mean by governance? It has to do with, first of all, enforcement of the law and accountability, transparency, and implementation of government policy. It also means having the knowledge (ability) and autonomy to practice sound management. A first principle of governance is that "the one who pays the piper calls the tune." When water supplies in developing countries are examined, it is found that low tariffs that allow governments and not consumers to be in control are at the core of such problems as the urban poor not being served, high NRW rates, intermittent water supply, lack of demand management, and conflict among water users. Unlinking tariffs and the political process should be at the core of all governance objectives.

ADB's water policy suggests that governments need to modify their role. They need to move away from being service providers and become regulators. Most DMCs require a phased program to increase the autonomy and accountability of service providers either as new enterprises or by reorganizing existing agencies. Legal and regulatory systems need to ensure that water service providers and resource managers are held accountable by law for their performance relative to prescribed standards. The allocation of water to high-value uses is a matter of economic accountability, and ADB will support DMCs in developing appropriate methodologies for improved allocation efficiencies. Externalities, especially social and environmental, will be considered in the allocation. The promotion of participation involving public, private, community, and NGO stakeholders is a key element of this policy. Transparency will be most effective when governments ensure the timely availability of information about water policies and projects to the general public and clarify government rules, regulations, and decisions in the sector.

This chapter explores governance in the context of "operations" and "projects." It invites readers to return to the Problem Chart and the Solution Chart in Chapter 2 to see why governance is both a core problem and part of a core solution. The role of policy and regulation, civil society involvement, and tariff reform in effecting a new form of governance is described. There is some good advice from Kamal Siddiqui.[15] (Siddiqui, 1996). Some good examples of governance are provided in the case studies on Dalian, Malé, and Phnom Penh in Appendix 2.

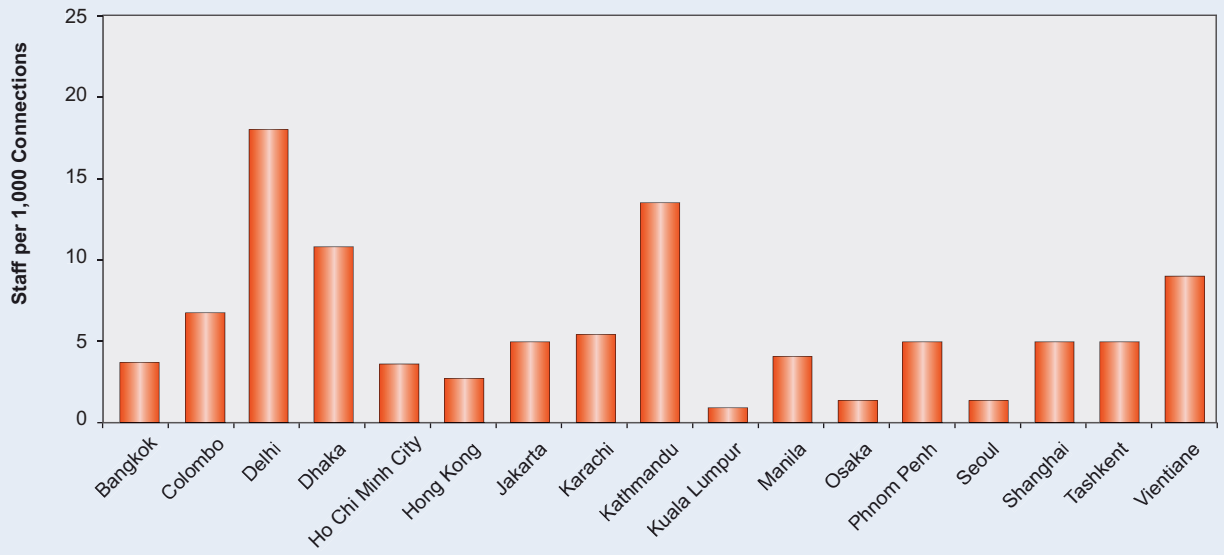
A. Operations

One of the most important considerations in operations is autonomy to run a utility efficiently and competently. The current situation in many utilities is, however, characterized by the interference of elected officials when utilities attempt to exercise the autonomy granted to them to set tariffs to recover costs. This situation is also characterized by the control that elected officials, as opposed to utility management, have over utility staffing. A good utility will have around two staff for every 1,000 connections, but many in Asia have much more than that (see Figure 13.1). In one country, roughly 500 staff were suddenly added to a utility at the behest of an elected official. Moreover, many utilities are not allowed to pay their professional staff market rates of remuneration, which affects the quality of their personnel. In some countries, on the open market, accountants can command salaries of up to three times those earned by engineers, but when civil servant salaries and rules govern, this is not the case. The result is that these utilities attempt to run $100 million per year businesses without competent and qualified accountants. Some elected officials have also been known to interfere in

Water and life

[15] Kamal Siddique is a former ADB Director for Bangladesh.

Figure 13.1 Staff per 1,000 Connections (2001)



granting new connections, and they have been known to prevent disconnection for nonpayment of bills.

In some cases, elected officials appear to support large bulk water users being served by illegal connections. These officials keep new connection fees high, which can encourage illegal connections. Certain elected officials have allowed syndicates to control water supplies to the poor. Officials can profit from vendors purchasing utility water, and some condone groundwater use for free by major industries. They often use their influence to get access to 24-hour supplies for themselves, while most people suffer an intermittent water supply. Elected officials have been known to become overly involved in the daily operations of water utilities, control management, and replace heads of utilities on political grounds. For example, since 1984, the Nepal Water Supply Corporation has had about a dozen general managers. Some office holders insist on distribution network extensions beyond hydraulic design criteria, causing intermittent water supply. The current situation is characterized by a lack of transparent government policy on tariffs, service levels, operator performance, and incentives. Consumers are unaware of policies, and even governments are apt to change policies to suit the current political climate. Without such policies there is no accountability for the performance of governments and utilities. High NRW levels and intermittent water supply are direct results of this lack of accountability.

When many water utilities are examined, human resources management and financial management are found to be weak. Utilities lack skilled staff in these areas because of civil servant rules and salaries. Staff do not have job descriptions, and promotion is based on age, not merit. Most of all, there are no incentives for staff to perform well. Many staff of water utilities have no skills, some are also ghost staff—employees who are listed on the books and receive wages without being physically present. Interestingly, there are many highly educated technical and engineering professionals in these institutions, but while utilities lack autonomy, accountability, transparency, and proper management, these skills to a large extent go untapped. The culture of O&M being a poor relation of development is prevalent because there are no incentives. As a result, some valve operators, meter readers, and new connection teams choose to collude with customers to create their own incentives.

Lack of accountability means meters are not replaced when they are no longer functioning properly. Low tariffs contribute to this situation. Annual reports on operations could easily be produced within 6 months of the end of a given financial year, but often such reports become official only about 2 or 3 years later and are therefore of little use to the public in responding to performance. Consumer satisfaction is a factor in good governance, but consumers have for so long been used to poor service that they regard it as normal

and expect nothing more. This is particularly so with respect to intermittent water supply in South Asia. Low billing and collection efficiency are exacerbated by low tariffs (see Figure 13.2), and they result from a lack of accountability and discipline in complying with the law in general and rules and regulations in particular. An example of this would be the existence of laws stating that local authorities are responsible for water supplies when in practice central governments continue to control these.

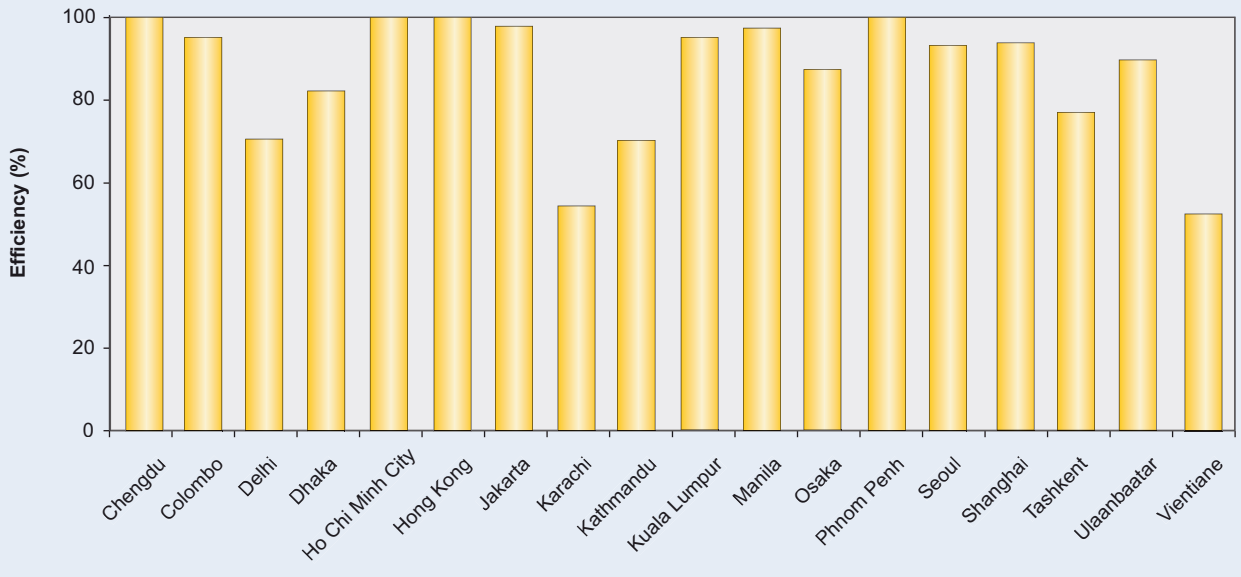
Regulation by contract is a form of governance now prevalent among private operators in developing countries. PSP contracts in Manila show how a lack of transparent policy dooms regulation by contract to failure. When the Asian financial crisis hit, and operators were exposed to high currency exchange risks, the urban poor not being served suffered. If the contracts were based on a transparent policy, they could have been revised easily by the parties concerned, which would have ensured that the underlying policy (providing water to the poor) was accommodated. Regulation by contract prevented this from happening.

The prevalence of high NRW and low service coverage is an indication of poor governance. Some NRW is illegally sold to SSWPs. The profit to those with vested interests (some elected officials, utility staff, utility owners, and local authorities) is considerable, which explains the desire to maintain a status quo that keeps the urban poor paying 25 times the unit rate the rich pay for water. This is also probably why visible leakage is maintained (to mask illegal use). Metro Cebu provides an illustration of this linkage between low service coverage and high NRW. Piped water service coverage based on five persons per connection is 29%. NRW is 34%, and the urban poor buy water from water vendors.

Valve turning is a governance issue

ADB's experience has been that legislation is necessary, but it is certainly not sufficient to ensure the autonomy of water utilities (see Box 13.1). There must be an effort to clean up legislation and make it more relevant to today's world. Civil society needs to take more interest in ensuring that governments do not ignore the law. This might apply especially in extending distribution systems beyond their capacity to provide a 24-hour supply.

Figure 13.2 Revenue Collection Efficiency (2001)



Box 13.1 Institutional Development of Water Utilities

For water utilities to become independent and financially sustainable enterprises, it is necessary that (i) water utilities be manned by qualified staff; (ii) water charges be increased to financially viable levels; (iii) management information, accounting, and accounting systems, including billing and collection, be improved; (iv) a degree of real autonomy and accountability be established; and (v) O&M be improved and NRW reduced to acceptable levels. ADB did address these matters, but such institutional development efforts proved to be inadequate in making a significant impact on water utilities. New measures that may be considered include wider application of commercial management principles, broader use of competition, and increased involvement of users and stakeholders where commercial and competitive action is constrained. Experience has shown that one factor that influenced the success of water utilities was the degree of autonomy that utilities had in planning and operations. More managerial and financial autonomy and more accountability of performance are needed. (ADB, 1994)

If we analyze the current governance situation with respect to operations in a water utility, we can conclude that part of the problem lies in having owner, regulator, and operator as one entity—whereas it is generally acknowledged that in developing countries it would be best if these positions were separated. Self-regulation can only work in a highly disciplined society. If we have a transparent policy, an independent regulator, and an operator with incentives to perform, the situation may change.

If poor governance is at the root of the problem and government is in control, we cannot ask government to reform itself. There is too much vested interest, and too many people are too comfortable with the status quo. We must go outside government to the people who are most affected, such as the urban poor not being served who pay $5/m³ to water vendors. Civil society must put pressure on governments for reforms, and it can do this if it understands the issues and is interested in doing something for the poor and the ill-served. We can begin with transparent policies and a civil society that holds governments accountable for implementing these policies.

There is no question that water utility operators need to have incentives, autonomy, accountability, and the ability to perform. Incentives and the ability to perform can come only when staff are opened up to market forces. As the Executive Director of Dhaka's Water Supply and Sewerage Authority opined, "Why do developing country governments think we can run a multimillion-dollar per year commercial business with civil servant rules and civil servant salaries?" This cannot be done, and the highly successful Singapore Public Utilities Board, which pays its top management staff more than $150,000 per annum—because that is what they would be paid in the private sector—illustrates the point. Bangkok's Metropolitan Waterworks Authority, another better managed utility in Asia, pays its top managers salaries that are comparable with those paid in the private sector. Besides, if you want to limit corruption, you should remove incentives for corruption.

Autonomy and accountability for operators will come with a transparent policy and independent regulation. Operators need to know what is expected of them and that the public will hold them responsible.

B. Projects

When the Nepal Water Supply Corporation was criticized for its poor performance, comments focused on two areas—utility operation and project management. Neither, of course, was in their hands, because of outside interference. The current situation for project management in many water supplies in developing countries is characterized by outside interference, and the effects are far greater than most can see. We can start with outside interference in extending water distribution systems beyond their capacity to provide a 24-hour supply. Take for example the case of the Nepal Water Supply Corporation in Kathmandu. Despite having water for one hour every other day in the dry season, this utility is adding 5,000 connections per year because of the demands of elected officials. These officials should be held accountable for the extra costs associated with health risks arising from intermittent water supply and for household coping costs, including storage, pumping, and treatment.

Then there is the choice of location for investments. It is fairly common to see investments occur in the hometowns of government leaders. When this

happens, feasibility studies can be subverted if leaders push for investments that cannot be sustained. In these instances it would not be prudent for governments to provide O&M subsidies to these water supplies indefinitely. Other leaders, however, prefer to spread investments thinly. When this occurs, efficiency may be sacrificed for popularity. The result is that many things are not addressed thoroughly for the future, which means that the poor are often neglected in favor of new investments, partly because they have no voice and partly because some leaders might have other interests in maintaining the status quo, including condoning syndicates. Pork barrel spending subverts policy and allows some officials to promote their personal agendas. Investment policies are ignored when elected officials support short-term projects that are politically expedient and can be completed during their own terms in office. This is incompatible with developing water supplies for sustainability.

When it comes to project management, development agency-financed projects in particular are hindered by the involvement of elected officials. It is claimed that consultants and contractors are expected to favor elected and appointed government officials with percentages of their contracts. Otherwise their bids will not be considered. Payments are made first for shortlisting or prequalification, then again for the winning bid. Naturally, this means that consultants and contractors must share the blame with officials for perpetuating this system.

The consequences are far-reaching and aggregated. When consultants' fees are squeezed, they can scarcely make a profit, so they skimp on supervising construction. When contractors are squeezed, what was to be their profit disappears. The only way they can compensate is to lower specifications on materials and civil works. This, of course, is aided and abetted by consultants who cannot provide adequate supervision. One result is that pipelines that were made to last for 40 years may end up serving for less than 10 years, because lower pressure rating pipe may be installed and inadequate bedding and backfilling may be used. When this happens, traffic damages the pipes. Another result is that steel can be left out of structures, and lower quality concrete can be supplied. If this happens, safety will be at risk, because water retaining structures may leak, and corrosion may set in on the reinforcing steel very early in its life. In addition, fittings that are not properly protected against corrosion can be supplied.

When development agency financing is involved, governments almost always call for less international

Construction standards?

consultant input, which might be a way of preventing close scrutiny of procurement and construction. At times, governments might try to downgrade international competitive bidding to local competitive bidding. One reason for this could be that local contractors are more easily controlled. It is not uncommon for civil servants working alongside consultants to be paid under the table by these consultants to gain their full cooperation. It has been said that there is a pervasive lack of professionalism among local consultants and government staff. When international consultants and contractors take the view "when in Rome," their professionalism is lowered, too. When a long time is taken in procuring goods or recruiting consultants, it is possible that corruption could be a cause. Leaders might be motivated to approve agreements of this kind, if they are given the chance to visit countries of suppliers or consultants without charge as a favor for appointment. Estimated costs are often inflated to take into account the so-called bribery and corruption factor. Finally, the cost of facilitation in developing countries is considerable. Knowledge is power, and two government agencies, such as one for irrigation and one for water supply, will not necessarily cooperate with each other unless the wheels are oiled. This is all part of the "governance scene." All this is not to say that developing country governments are the only ones at fault. Development agencies and consultants contribute to this unsavory situation, too (see Box 13.2).

In terms of governance and projects, the following can be concluded. A transparent investment policy would certainly help lay the foundation for good governance. This should spell out the criteria to be met and what the overall objectives and goals are. Civil society can then monitor performance while implementating the policy. Providing service to the urban poor should be at the top of the policy list. Consulting and procurement can be taken right out of government's hands and

Box 13.2 Examples of Corruption in South Asia (provided by voluntary informants)

- *Contract kickbacks occur in procuring goods (10–15%), civil works (25%), engineering design (20%), technical assistance (12–15%).*
- *Quality control problems arise in pipe class (PVC), cement, trench depth and width, taps and fittings specifications, aggregate size, corrugated iron thickness and galvanizing standards, dimensions of concrete structures, number and thickness of reinforcing bars, etc.*
- *Political influence is exerted through ministries in prequalifying contractors and consultants; using inappropriate techniques when appointing technical evaluation committees; using incorrect procedures for the constitution of cabinet level tender boards; providing false information to development agencies; collecting money from contractors, suppliers, and consultants for electioneering; harassing contractors to receive money (delaying approvals); extending contracts for unnecessary work; protecting unfit contractors; approving incorrect payments; directly negotiating with contractors over claims; harassing contractors over delays in paying agreed commissions on bribes; and terminating and suspending contracts to exact revenge.*
- *Sector institution corruption includes drawing up specifications to favor certain suppliers, releasing documents and estimates to contractors prior to bidding, having government officials prepare contract bidding documents, paying government officials during tender evaluation, and delaying payment on contractor invoices until bribes are paid. The methods of collecting money are usually through local agents using direct payments with cash notes or deposits in foreign bank accounts; sponsoring foreign tours; covering the costs of educating children in developed countries; and purchasing luxury homes and vehicles. Entertainment costs for government officials during study tours and inspection visits related to the contracts can include payments for shopping and entertainment. Payments are usually made out of the mobilization or advance payment from the development agency.*

subcontracted to a project management team. The performance of this team in complying with the guidelines or rules and regulations can be audited from time to time. Of course, this outsourcing can be done voluntarily (as of now) or it can be mandatory (when the tariff increases to a level that puts consumers in control). Development agencies can get tough on the implementation of loan covenants and provide far closer audits of quality control. Development agencies can also look at reducing bureaucracy, so that projects are implemented in 2 years instead of 8 years. And last, development agencies can more actively promote professional societies and professionalism in developing countries. But before any of this can happen, governments must provide clear policy directions on water resources management, including allocating and trading water rights, pollution control, watershed protection and rehabilitation, and groundwater use for industry.

C. Tariffs and Governance

Since the money trail and power run through governments when there are high subsidies and low tariffs, the answer is to raise tariffs. The more consumers pay, the more power they will have to demand better service.

Policies need to include much higher tariffs that are compatible with full cost recovery. There must be a move toward tariffs covering investments directly and governance shifts from governments being in control to consumers being in control. Some government officials, however, may be reluctant to let this happen, as they currently benefit from improprieties when they control funds that are maintained through high subsidies to water supplies.

D. Public Awareness and Transparency

Corruption can be addressed by increasing transparency in operations, empowering civil organizations through information and involvement, and rationalizing and enforcing laws that already exist. What exist now that did not in the past are the Internet and civil society (represented by NGOs, journalists, and academics who are becoming much better informed about the world around them). Moreover, there are few excuses for not having excellent information upon which management decisions can be made. Computerization has made all that possible.

E. Private Sector Participation as a Solution to Corruption

While it has been suggested by some that PSP is a solution to the problem of corruption in water supply, others note that some big private operators have already been convicted of corruption.

Governance (Problems) in a Nutshell

- Bureaucracy feeds corruption.
- Political interference (corruption) exists in projects and in operations.
- Snowball effect of corruption in consultant recruitment and procurement is devastating.
- Low tariffs feed corruption.
- Autonomy of utilities is denied.
- Money trail runs through governments.
- Poor governance and low tariffs are at the core of all problems.

Governance (Solutions) in a Nutshell

- Transparent policies and independent regulators are needed.
- Tariff reform to put consumers in control is necessary.
- Civil society involvement is a must.
- Good things happen when tariffs are raised.
- Governance is at the core of all solutions.