

PUBLIC-PRIVATE PARTNERSHIP OF SUSTAINABLE WATER MANAGEMENT: INDIAN PERSPECTIVE

By Addya Mishra⁴²

Introduction:

Water being essential to human life in various aspects, its usage and wastage is a significant issue in this sustainably developing place. Sustainability is utilizing current natural assets in such a way that the needs of current generation are fulfilled keeping in mind the needs of future generation. At an onset, Public Private Partnership can be viewed as a tool to provide clean drinking water as well as adequate amount of water for irrigation purposes.

Water scarcity is one of the emerging issues that are catching hold of the eye of Indian government as it acts as an important theme for India's social and economic growth and development. It is expected that by 2025, India is to face absolute water scarcity. Drinking water is even less than 1 per cent of the total demand of it, and so it should be the top priorities among all the other utilization of water.

The rise of Public private partnership, in the field of sustainable development has occurred under the support of international organisations. The opportunity cost attached with water uses is such that by default it makes water of an economic good. It has been argued many a times that sustainable water management is difficult to implement without the acceptance of public sector and the efficiency and support of private sector.

A Partnership of private investors, citizens and states is a current theme in debates regarding environmental governance in developing countries. For years, public private partnerships between private companies and states have formed a common means of providing environmental *Infrastructure* or services where state funds or expertise are lacking.

The objective of this paper is to highlight a way out for sustainable water management through public private partnership in India. The implication of public private partnership in sustainable water management will be a key to a lot of concerned issues relating to water problems. Water scarcity, unsuitable drinking water, ground and surface water management are some of the key issues that can be dealt with the implementation of public private partnership.

⁴² 4th Year BBA LLB Student, Institute of Law, Nirma University

The paper deals with six different parts. The first part deals with an overview of Public private partnership. It orients on the working, the pros and cons of the partnership of public and private sector and the relationship of public sector, private sector and the citizens. The second part of the paper deals basics of sustainability, its concepts and its implication. The third part deals with the Implementation of sustainable water management in Indian scenario. The fourth part deals with the issue of water scarcity in India. Water scarcity has been one of the major concerning issues in Indian states and the poor people are the most deprived ones. The fifth part deals with Indian government failures in water management. Implementation of water management programmes started early in 70's but till now the government is not able to maintain the availability of proper drinking water or for other usage. The Sixth part deals with the corporate environment liability attached with the private corporations as a sign of ethical behaviour of business towards the citizen and society.

Public Private Partnership:

There is no such specific definition or meaning of public private partnership. It has been defined in all different ways by different people. Every now and then, the terms are given a new meaning as per the thought process and requirement of scholars. A public private partnership is a relationship between a private venture and a government organisation in order to serve a particular purpose aiding the public at large.

Public private partnership has evolved as an alternative to all the issues dealt either at a private or public level but do not reach that level of success. It acts as a midway for both public and private sector to efficiently attain a certain goal. But success to effective partnership can only be attained if there is transparency in the working of both the public sector and private entity.

“Recourse to private capital is necessary as private participation is likely to bring in efficiency and cost reduction, besides sparing the sparse public resources for other sectors. Well-structured PPPs can marry the private sector's managerial expertise, financial flexibility, design capability, innovation and technology to the government's priority of developing world class *Infrastructure.*”

At a global level it has been recognised that that partnership between a government, private entity and people plays a significant role in determining the issues at large. “Partnerships have been framed as innovative forms of governance that can effectively address the three ‘deficits’ of global environmental politics: the governance deficit, implementation deficit and participation deficit.”

Technological benefits are also higher with private entities as innovation is one thing that is closely attached with entrepreneurship. Effective implementation is also restricted for government entities. So private sector in a public private partnership takes care of the efficient working of the project without any hindrance on the part of government.

Public private partnership structure with a government agency and a private venture may not always be a private entity. It may be an NGO (Non-governmental organisation) or any other community group to take the developmental activities.

The concept of Public private partnership offers a way out of the muddle of sticking to either a public sector or a private sector for public *Infrastructure* and facilities. There is the hopeful notion that in PPP, the best of both the sectors will be blended, and everyone will live happily thereafter.

Usually in a public private partnership, the government entity and the private venture enter into a legal binding contract or address some other type of contractual obligation. In this they agree to share the responsibilities of managing and implementing the project as per required public needs. The partners also share the benefits of the concerned project. The ultimate objective of the partnership is to share responsibilities, risk, resources and rewards.

An alternative to the lack of government activities to achieve certain goals of public profit is to bring in private players that can assist the government in funding as well as in service providing. For the success of public private partnership, legitimacy issues regarding public scrutiny, regular inspection of effectiveness of partnership and the project, the financial stability and transparency are crucial factors.

There are two basic fundamentals behind choosing public private partnership over any other mechanism. First it is efficient enough to utilise the public sector resources in a well proficient manner. Public sector in the Indian scenario has a particular way of working out things that is more of a traditional method. Anything done in public sector is a time-taking process. Secondly, while in a partnership with private players public sector does not have to worry about any borrowings if they are ready to make a capital investment.

“Localized, public–private partnerships have been proposed as a means of reducing these problems with international investment in climate-friendly technologies. Collaboration with local citizens may reduce the costs of technology transfer by them to participate in the shaping of technologies implemented, or in identifying local needs. Indeed, such ‘civic

environmentalism,’ or local cooperation with investors may lead to classic ‘win–win’ situations where investors can successfully transfer a new technology to a new location, and local people can influence the nature and purposes of the investment and technology.”

Public Private Partnership can be a suitable alternative to a number of issues. The working of public sector has a limited access and is very restricted in terms of innovation, which in turn is fulfilled by the partnership of private sector. Private sector also comes with benefits of cost reduction and efficiency. So, the mechanism of Public private helps in sorting a lot of public facility issues.

Sustainability:

The concept of sustainable development and sustainability has been an important issue in recent past in relation to developments. In sustainable development, the emergence of government structure based on private regimes, private authority and a combination of public and private players is usually pronounced.

“The sustainable development partnerships are squarely placed at the nexus between multilateral and private governance. They thereby capture ‘hybrid’ governance, which are in focus rather than ‘pure’ forms of private governance such as civil society flora, rules of conduct, self-regulation and voluntary standards.”

Proper management of waste water, ground water, surface water and rain water will lead to efficient utilisation of water resources. The basis of sustainability is to realise the needs of present generation keeping in mind the needs of future generation also. If the water needs of present generation are not able to be fulfilled then managing the needs of future generation is a far-fetched dream.

According to USA’s Agenda 21, sustainability has been a crucial issue linked with development. “Agenda 21’s definition of sustainability includes; economic development, social development, and environmental protection. As discussed above, water pricing can improve economic efficiency and improve social equity, and by using less of the resource more efficiently lead to environmental enhancement. Hence, water pricing helps address all three of Agenda 21’s concerns about sustainability of the resource.”

“In order to re-orientate urban areas towards sustainability, it is recognised that the different aspects of urban water systems should be viewed in relation to each other, which requires the

adoption of an integrated approach to urban water system planning, provision, and management.”

Sustainability is crucial to countries like India where availability of resources is very limited. Applying methods that help in proper water management planning should be the priority of this partnership.

Sustainable water management:

As a part of a strategy, the association of private sector with government organisation to improve the development related to sustainability and efficient and effective use of water resources has been supported since last 2 decades in India. A combination of the two that is sustainability and public private partnership can be an efficient and effective way of providing decent methods of water management to the Indian society.

The main problem of sustainable water management is the finance and the maintenance cost involved, shortage or scarcity of water, improper ratio of supply and demand, bad water quality and the different centralised and decentralised tactics used in order to maintain the proportionality.

According to Rockstrom et al. “there is a very worrying lack of understanding of fresh water requirements and water investment needs to attain the MDG to eradicate hunger and the target of halving the proportion of undernourished by the year 2015. A 50% increase in fresh water use will be required over the coming decade in order to reach the MDG target of halving the proportion of hunger by 2015.”

“Gro Brundtland in a 1987 report published by the United Nations World Commission on Environment and Development (Brundtland Commission): Development that meets the needs of current generations without compromising the ability of the future generations to meet their own needs.”

A significant component of any urban region, be it a city or regional centre, is the water system, providing water supply, sanitation, and drainage services to its inhabitants. There is a benefit in accessing the approaches that support sustainable water development that can lower the adverse impact on the environment as well curb expenses too.

Provisions relating to clean drinking water, a clean and sustainable environment and sanitation facilities are essential to human health. Every now and then we hear the incidents of deaths or

diseases to muddy drinking water. Women and girl child are made to do drudgery so as to go far places and fetch water that is not even suitable for drinking.

“If utilities were to supply water at higher prices it would encourage conservation, improve water service coverage to reach the poor, and there will be far more equitable water distribution than there is now.”

Water pricing or attaching price to water is one of the equitable ways to water conservation, equal distribution and more coverage. And with a higher price the people will take into consideration the conserved use of water.

The pricing of water can be one way to ensure that there is equity and the public at whole is getting water. “Using price policies, however, still requires significant government intervention to ensure that equity and public goods issues are adequately covered. Perhaps the best way to utilize water to the best and most-valued uses is to put a price on water, and construct appropriate tariff structures to meet different social, political and economic goals in different situations. If there were no proper wastewater charge structure, consumers will pump groundwater and discharge the waste into the public wastewater system with no penalty.”

Water scarcity:

Currently several regions of India are facing the issue of water shortage, and even after several efforts made by the government and the people, the issue is still of concern. The crude reality is that sustainability is far from our reach. If we are not able to meet the current needs of people of suitable drinking water, or water for irrigation and other purposes, then it's nearly impossible to equally meet the needs of coming future generations.

“World bank data indicates that 2.6 billion people lack access to water and sanitation services, and future water scarcity is projected in most of Africa and Asia.”

The supply in urban areas of India is also less than satisfactory. The time for which water is supplied is also very less. Only few hours a day, the water is supplied and this leads to wastage of water since people keep the tap open all day and not all the water is utilised properly which is stored. The fact is that the per capita availability of water in Indian capital New Delhi is more than that of Paris, where water is provided round the clock.

“In the list of 122 countries rated on quality of portable water, India ranks a lowly 120. Although India has 4% of the world's water, studies show average availability is shrinking

steadily. It is estimated that by 2020, India will become a water-stressed nation. Nearly 50% of villages still don't have any source of protected drinking water.”

“The ground reality is that of the 1.42 million villages in India, 1, 95,813 are affected by chemical contamination of water. The quality of ground water which accounts of more than 85% of domestic supply is a major problem in many areas as none of the rivers have water fit to drink.”

Maintaining the availability of water has been a lip service of the Indian government from years but never has something worth done to manage it. The quality of portable drinking water is the basic necessity of people, which in turn causes health issues. Even the number of people dying due to diseases caused by contaminated drinking is high in India. Water scarcity is another major issue. As the data states, India by 2020 will be a water-stressed nation.

Government failures:

The problems of sustainable water management, proper drainage and sewage system, sanitation system and maintenance of proper supply system have been the major concerning issues of government's Eleventh Five year plan.

“Average access to drinking water is highest in class I towns (73%), followed by class II towns (63%), class III towns (61%) and other towns (58%). Poor people in slums and squatter settlements are generally deprived of these basic amenities.”

The programmes taken up by the government fail because of the reasons that the government works with several restraints. Not every initiative taken by the government for public interest reaches the peak of success. Another problem due to which government programme fail is inefficiency of people involved at various levels. When a particular programme or scheme is passed by the central government and is passed on to the state government to implement it, there are several levels through which the implementation of the scheme passes and not every level is as efficient as all the other levels.

Indian government's major intervention towards water sector took place in the year 1972-73 when accelerated rural water supply programme was introduced in order to provide clean and suitable drinking water to rural areas. Later on the particular programme was renamed as 'Rajiv Gandhi National Drinking Water Mission (RGNDWM) in the year 1992. In addition to that several other programmes like Swajaldhara in the year 2002 were launched. Though several initiatives were taken by the Department of Drinking water supply (DDWS) in order to

maintain drinking water and sanitation services for the rural India, none of the scheme or programme reached that level of success.

“The Mid Term Appraisal of the 10th Plan observed that over reliance on groundwater for rural water supply programme has resulted in the twin problem of sustainability and water quality and suggested a shift to surface water sources for tackling this issue.”

There has been failure of several government programmes and schemes in implementing water development programmes and so taking into account all those failures, a public private partnership can be a helpful mechanism to overcome that problem.

Corporate Environmental Responsibility:

In the past few years, the participation of corporate sector in social issues has been a good sign for the social development of countries. It is considered as an indication of ethics and morals brought into business. The interest of corporates has become evident nowadays to contribute something to the society, may be as a token of all that they have profited from the public. A corporate is not merely a profit making organisation anymore but plays an equal role for citizen's development.

The comprehensive environmental response, compensation, and liability Act (CERCLA) of U.S. imposes a strict liability on the corporate owners regarding the environmental governance. “CERCLA imposes strict liability on corporate owners and operators. Thus, corporations can be held liable regardless of fault. Furthermore, CERCLA liability is joint and several. As such, a corporation with a deep pocket may be held liable for the entire cost of response when it is only responsible for part of the contamination.”

Due to an expanded liability of private corporations under the comprehensive environmental response, compensation and liability act, the corporates have to follow stricter laws regarding corporate governance. The disclosure policy under CERCLA is also must requirement due to which the corporates have become more aware of their corporate environmental duties and responsibilities.

The Indian ministry of Environment and Forests has issues a National Environment Policy in the year 2006 in response to the highlighted issues of environmental protection. The NEP is directed towards the Article 48 and 51A (g) of the Indian constitution that are the directive principles of state policies towards the society. The dominant theme of the policy is that “while conservation of environmental resources is necessary to secure livelihoods and well-being of

all, the most secure basis for conservation is to ensure that people dependent on particular resources obtain better livelihoods from the fact of conservation than from degradation of the resource.”

“The legal framework of corporate environmental responsibility is extensive; laws alone, however, cannot effectively promote corporate environmental responsibility because our government acts primarily in a reactive, not a proactive manner.”

The objective of corporate environmental governance is to bring in the private player into action and to harmonise the conflicting issues between the public and the private investors. The notion that currently prevails in the minds of the citizens is that a private investor is only in market to make profits. This harmony will help in reducing the gap of minds between the society and the private players. It will also help in bringing the support from the local players such as NGOs and local organisation to participate and play an active role in environmental protection and will remove the misconception about private player’s dominance.

For the implementation of corporate environmental governance, there are majorly two implications that should be kept in mind for making public private partnership more thought through. Firstly, for deliberative corporate environmental governance, the strategies, accountability, expertise and the partnership should not be restricted to the arenas of private company’s board rooms. Instead local NGOs and partnerships should be given a chance to show their skills since they are the most familiar ones with their local issues. Methods that are familiar more to the people to demonstrate should be used like local media or street demonstrations. And secondly in the partnership, one of the sectors should not be the master player. Since public sector arena is restricted and the access should not be given to the public sector. Formalised meetings should take place to ensure the participation of both the sectors in partnership.

Conclusion:

The public private partnership as emerged as a key to several public issues. Also the efficiency will be comparatively high in this partnership as compared to only public or private services. A structure which is high in quality and its design and is extremely cost effective is much needed for a successful partnership. There is great concern in choosing the approaches that can provide such water systems that have a lower impact on the natural environment and can control expenses.

The conjunctive use of rain water, groundwater and surface water needs to be encouraged so as to have a higher drinking water security and sustainability. Stringent laws should be made to keep a watch on wastage of water resources by public or industry.

For an effective public private partnership, the board of the enterprise should contain experts from the field. It should comply with all statutory requirements and none of the partner should be at a superior position than the other.

Water pricing has emerged as one of the ways to reduce water wastage and have an equitable distribution of water among all the sections of people. Putting high price on water will make people use only that much water which is required and will also help in proper water utilisation and consumption. It will emerge as one of the ways for maintaining the sustainability of water for the current as well as future generations. Strong public interest is necessary to awaken people for a sustainable environment.

Government failures have been high on maintaining the availability and portability for drinking water. Even the different water management schemes have been a failure, even though the implementation was high on cost.

Corporate environmental responsibility is another key to manage private sector's contribution towards the citizens. Corporate environmental responsibility imposes strict liability on corporation to show a particular set of ethics and behaviour towards society. Indian ministry has been keen on taking into consideration the responsibility of corporates towards environmental protection and issued the National Environmental policy in the year 2006.

THE LAW BRIGADE