

**Public Private Partnership (PPP) Framework and Human Rights:  
Multi-sectoral Analysis of the Joint Venture Model under PPP to Enhance  
Domestic Private Sector Participation in Solving the Water and Sanitation Crisis  
in Metro Manila, Philippines**

**Abstract**

This paper examines the perspectives of public institutions, private operators, and urban consumers on the usage of the Joint Venture Model (JVM) among Domestic Private Sector Participants (DPSPs) under the PPP framework to provide safe and accessible water and sanitation services to Metro Manila residents. As party to the International Covenant on Economic, Social and Cultural Rights, the Philippine government is mandated to fulfill its obligation of providing adequate and safe access to clean water and sanitation to its citizens even during the occurrence of the drought crisis or El Nino phenomenon. This paper analyzes the challenges, risks, and impact of the JVM on the cooperation between the national government and local government units in designing and implementing human-rights based water and sanitation mechanisms for both formal and informal urban dwellers. The ideas brought forward from this paper support two key recommendations that will further strengthen JVM as DPSPs move to widen this model's impact on rural areas and smaller towns across the country.

**Background**

With the ongoing preliminary investigation of the International Criminal Court on the Philippine government's controversial war against drugs and the escalating number of suppressive acts among the President's fiercest critics, the Philippines is currently at the center of a human rights struggle. Yet the issue of access to clean water and proper sanitation, despite being widely reported among mainstream media channels during times of water or humanitarian crisis, is seldom being reported or analyzed from a human rights lens. This contributes to an even bigger challenge of widening a typical Filipino's limited understanding of what human rights are, which is usually confined to civil and political rights given the current tempestuous socio-political climate of the country.

On early March 2019, approximately 10,000 Metro Manila households (*Sabillo 2019*) started experiencing daily water interruptions brought about by the prolonged summer season that caused the water levels in major dams to subside below acceptable levels. For a city as dense and as developed as Manila, residents experienced lining up for hours behind fire trucks to receive

their daily limited ration of water. This crisis stirred the nation's consciousness on the government's plans to supply water when its emergency sources, i.e., dams and reservoirs, fail to deliver. The performance of DPSPs is then scrutinized, particularly when the Philippine President threatened to terminate the contracts of two main private water providers, Manila Water and Maynilad, if both fail to take the necessary steps to resume uninterrupted water services.

Understanding DPSPs and their role in the Philippines' water and sanitation sector requires a general overview of how institutional mechanisms in the country works. The mandate of law-giving bodies, service agencies, and regulatory institutions often intersect and make the entire leadership culture confusing, yet it is in this very same environment that DPSPs happen to maximize their reach and impact. One key factor that makes DPSPs thrive is because of decentralization, which means that private water service providers are not governed by a single government agency that should have been in place to monitor their performance and compliance. The Philippine's Water Code of 1976 may be in existence, but its tenets only cover the proper rationing of water resources, and not the provision of clean water and proper sanitation *per se*.

### **PPP Built-Operate-Transfer Framework: Joint Venture Model**

The Philippines's burgeoning economy is almost a direct result of its adoption and implementation of the PPP framework, which is hinged on the build-operate-transfer (BOT) scheme that provides a robust cooperative platform for both the public and private sectors. Government agencies will lay down the big infrastructure projects in their pipeline, followed by a solicitation process where they will invite private sector providers to submit detailed proposals on how they will build and operate these projects. Once up and running, the ownership of these projects will be transferred back to the government.

However, DPSPs have found a way to go around the proposal solicitation process, and this is by way of JVM. Under JVM, private water service are given an opportunity to submit unsolicited project proposals directly to local government units (LGUs) as allowed by the Local Government Code. LGUs in the Philippines are smaller government units that refer to the provinces, municipalities, and barangays. JVM is generally preferred by DPSPs because they will have a reliable LGU partner that can assist them in their entry to target communities, such as obtaining the proper licenses and authorization permits and the acquisition of land. This is a welcome benefit considering that going through various business processes in the Philippines under the national government is hugely bureaucratic and littered with red tape. In addition, JVM provides a direct relationship between the DPSP and LGU in such that the former can execute better

negotiations in terms of bidding and pricing. Though LGUs can be faced with limitations in terms of budget and technical expertise to assess the viability of all the unsolicited DPSP proposals that they receive, the long-term benefits in developing their covered communities seem to outweigh the initial setbacks.

### **JVM Case Study: DPSPs in Borbon Municipality**

The Borbon municipality in Cebu, Philippines established its own Borbon Water District (BWD) to provide water services to seven local government units under its constituency. This water district serviced 20% of families living on the island, whereas the rest were served by another water providing center that was established under the helm of another LGU. However, historical performance suggested that the BWD failed to meet the established standards in providing consistent accessibility to clean water and sanitation among its residents. Now that the BWD is nonexistent, the municipality in Borbon is open to forging partnerships with DPSPs that will supplement the water supply being provided by the other LGU-operated water district. The LGU has figured that the good practices and failed procedures brought about by the establishment and eventual dissolution of the BWD will provide a stronger public-private partnership with other water service providers considering that the situational context of the residents is now prioritized.

### **Impact on Human Rights**

The Philippines has significantly opened doors for DPSPs to contribute to the national human rights agenda of providing equitable access to clean water and sanitation for urban dwellers, regardless of whether it was a conscious effort or not.

There are four points to consider: (1) Integration of human rights mechanisms in the PPP masterplan – the drafting of the country's national PPP framework may have leaned on the government's economic visions of a strong and resilient Philippines by way of infrastructure development, but part of the plan is the prioritization of designing and implementing sustainable partnerships that will improve the overall dignity of human life of Filipinos in all phases of economic progress.

(2) Incentivization schemes – the PPP framework has specifically stipulated provisions that allow for tax breaks and other forms of financial development assistance to DPSP projects that will not only propose and develop specific infrastructure in various sectors but will also include a participatory human rights charter, whether explicitly or implicitly, in their Gantt charts and other planning tools to benefit both the formal and informal residents of Metro Manila and other LGUs.

(3) Decentralization – given the direct partnership of LGUs and DPSPs that register interest by way of unsolicited proposal submission, both parties work together for the upholding the constituents' intrinsic right to decent living. Operations on the ground become more contextually appropriate as the designing, planning, implementation, and monitoring and evaluation of the construction of water districts are more aligned with what the communities really need. Key performance indicators are also strategically included in the project plan that will concretely track the progress of each human rights component of every project deliverable.

(4) Provision of assistance from local and international development agencies – specific lenders and technical assistance providers that have a long-standing relationship with the Philippines, such as the Asian Development Bank, Korean International Cooperation Agency, and Japan International Cooperation Agency, among others, have consistently prioritized funding PPP projects in the water, sanitation, and hygiene sector (WASH) considering that the country is prone to experiencing natural disasters and/or humanitarian crises.

### **Challenges and Risks**

In regard to the aforementioned water crisis affecting Metro Manila during extended periods of the dry season, the JVM under the national PPP-BOT framework has some loopholes and potential threats to human rights that must be urgently addressed. There are three perspectives to consider:

(1) Perspective of the public sector: LGUs face a considerable challenge in capacitating their officials from a technical perspective so they can properly assess the viability of unsolicited project proposals coming from various DPSPs. A sizeable number of LGU stakeholders and representatives have a limited or narrow understanding of human rights, which may result in the hasty approval of proposed projects that disregard rights to land and ancestral domains for example in favor of infrastructure development and profit. This is a common occurrence in smaller LGUs that border the urban-rural areas and those located in the countryside given that the regulatory mechanism is decentralized. One major risk is the occurrence of legal standoffs among the constituents, LGUs, and DPSPs once the infringement of human rights come into play. This will be further exacerbated by the lack of a single legislative body that will get involved should these rights to basic dignity are violated, and as a consequence, will further delay the provision of clean water and proper sanitation to people.

(2) Perspective of the DPSPs (private sector): DPSPs face the struggle of challenging the first project proponent. Given that there's no single regulatory body to monitor the relationship of LGUs

and private sector providers, instances of preferential treatment of profit-oriented water service providers might happen over project proponents that have embedded human rights protection mechanisms in their proposals. LGUs can also employ various procurement requirements that might be unattainable for small-scale DPSPs, thereby paving the way for a select group of water service providers to be favored.

(3) Perspective of the urban consumers: given that the city dwellers are consistently the most affected in the almost annual water crisis happening in the Philippines, customers of water concessionaires are often subjected to water price hikes and interruptions that have no clear access to information or explanation. This ignorance and a lack of a viable alternative should the water levels in dams and reservoirs alarmingly dip below normal levels cause a direct violation of one's human right to accessing publicly available information.

### **Recommendation**

In light of the good practices and downsides of JVM under the PPP framework, two key recommendations come into play: (1) improving procedural mechanisms in the procurement strategy – better legislation will push for a leaner and stricter procurement process among DPSPs in the water and sanitation sector will contribute to fair competition. Fair competition ensures proper and just evaluation of each proponent's project proposals in accordance to the human rights charter, feasibility of the budget plan, and profile of the originator. Moreover, institutionalization of capacity-building trainings among LGU representatives that are human rights-based will empower them to assess unsolicited DPSP proposals in a consistently fair manner. Overall, these initiatives will encourage more DPSPs to submit their tenders for water and sanitation services that will eventually benefit even those who are in the fringes of Philippine megacities; (2) wider employment of design thinking in providing additional water supply stems that can be used in times of water crisis – local water districts are slowly involving the citizenry in designing water conservation drives, proper sanitation projects especially in communities that are prone to non-communicable diseases, and opening other back-up channels that are not directly connected to any major dam or reservoir. Though this effort has yet to be done in a nationwide scale, the localized effect of these design thinking initiatives are bound to help DPSPs integrate human rights-centric content in their proposals to LGU municipalities under JVM.