HOW TO ENGAGE WITH GATS:

PRACTICAL ACTION AND SERVICE PROVISION FOR THE POOREST

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Abbreviations and Acronyms

BEE  Black Empowerment Programme
CDD  Community-Driven Development
CNES  Citizens Network on Essential Services
DMAE  Municipal Department of Water and Sanitary Sewage
EAAB  Water and Sewerage Company of Bogotá
EU  European Union
IFI  International Financial Institution
GATS  General Agreement on Trade in Services
GDP  Gross Domestic Product
GE  General Electric
HIPC  Highly Indebted Poor Country
ITDSG  Intermediate Technology Development Support Group
IMF  International Monetary Fund
INPYME  National Institute of Small and Medium Businesses
MDG  Millennium Development Goal
NGO  Non-Government Organization
PAS  Water and Sanitation Programme
PPA  Power Purchase Agreement
PPP  Public-Private Partnership
PRGF  Poverty Reduction and Growth Facility
PSIRU  Public Services International Research Unit
RPS  Renewable Portfolio Standard
SF  Social Fund
TNI/CEO  Transnational Institute/Corporate Europe Observatory
UNDP  United Nations Development Programme
UNHDR  United Nations Human Development Report
UNICEF  United Nations Children’s Fund
WDR  World Development Report
WTO  World Trade Organization
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(Cover Photo: Community participation in erecting a wind turbine - Patla village, Phalamkhani VDC-6, Parbat District, Nepal (Photographer: Rakesh Shrestha).)
1 - This picture shows the maintenance work being done by a community member at the Tungu-Kabiri Micro-Hydro Power Scheme in Tungu Kimbiri, Kenya implemented by ITDG-EA in partnership with the Department of Renewable Energy. Stanley Kariuki is clearing the trash rack in the forebay tank that stops debris entering the penstock which can damage the turbine (Photographer: Karen Robinson).

Introduction

Since the foundation of Practical Action in 1966 it has been the aim of the group to enable and facilitate sustainable, people- and poverty-focused solutions to some of the most intractable problems facing poor communities around the world. With this in mind (and also the stated aims of the Millennium Development Goals (MDGs) for 2015), it has been with some concern that Practical Action has observed the development of the processes involved in the General Agreement on Trade in Services (GATS).

The development and provision of adequate, appropriate services (in particular the provision of safe, clean water, food, housing and electricity) is very much at the heart of what Practical Action seeks to do as a Non-Government Organization (NGO). Research and analysis of previous
privatization projects in poor Southern countries by our partner organizations therefore (as well as our own observations) make it imperative that Practical Action join wholeheartedly in the debate on GATS. We have undertaken to do this in order not only to manifest our concerns, but also to use the wealth of experience this group of partners has developed to mitigate what we believe to be the worst aspects of the GATS process, by offering positive alternatives from our own experiences and those of other NGOs.

We believe that the record of failure of the state as regards service provision in most poor countries speaks for itself, which record of failure need not be reiterated here. It is undoubtedly the case that for many of the world’s poorest people and their communities, the state is a distant and frequently hostile force that takes little notice of their existence, never mind their wishes; this being the case, those communities and people would readily settle for any kind of service provision that was better than the status quo. Practical Action firmly believes, however, that offering universal privatization and the opening up of service sectors to the vagaries of international commercial and financial forces as the only other alternative is not the panacea that it is claimed to be. We believe that the GATS process as it stands does not have the potential to develop appropriate, poverty-focused services, and neither are the proponents of the GATS process being honest in asserting that there is really no alternative. With this in mind, it is the purpose of this document to outline in some detail the concerns we have over the existing GATS process, especially with respect to the most vulnerable sectors in the socially structured poverty that exists in the global south: women, indigenous peoples, Dalit communities etc.

The intention is also to put forward models and proposals that have been shown to have provided effective alternatives. It should be emphasized that Practical Action is not against the involvement of the private sector (or privatization necessarily) in this process of developing of service sector provision towards the MDGs, but believes that the simple assertion of privatization per se cannot possibly take into account the complexities of local socio-economic reality. The development of locally-based and appropriate technologies may well (indeed probably should) be developed alongside the involvement of locally-integrated commercial concerns that will provide employment and investment in the community, as being part of an economic multiplier effect that serves the best interests of the community. However, Practical Action rejects the idea that the profit motive by itself can act in the best interests of people and community. Similarly, we believe that a process such as that of GATS, being negotiated in an environment in which the relationships of power at the state/multi-national level are already vastly unequal, is incapable of reflecting the wishes and needs of individual communities and must inevitably be implemented to the detriment of those communities.

Using these guiding principles, this document is shaped by those themes that we believe are of principle concern so far as both previous privatization projects and the likely development of GATS are concerned, and by those
appropriate alternatives that we believe require serious consideration. The first section presents an overview of water, sewage and electricity services under previous privatization programmes, starting with a brief summary of the context in which those projects have taken place; the section goes on to present an analysis of the failures of privatization which we believe are relevant to the GATS process. There is also an examination of the cost-recovery and operating environments for services, as well as the complexity of the socio-political realities that pertain in many countries – political realities, fiscal/financial weaknesses of the state, institutional and juridical weaknesses and clientelistic networks that subvert the state. The section concludes with a look at the contractual issues of previous privatization and considerations of corruption and odious debt that have arisen directly as a result of those local socio-political realities.

Through the filter of Practical Action's grassroots experience and our commitment to education, advocacy and campaigning, the second section of the document undertakes a brief examination of cultural differences in service usage/perception, gendered participation in the service sector and in particular locally-relevant and democratic forms of participation in service provision. We examine ideas of community consultation/participation and look at how these may differ from considerations of service provisions, requiring attention to the socio-cultural and gendered structures in which service provision operates. There is an essential conflict (for instance) with orthodox economic considerations of market forces when confronted by indigenous socio-cultural practices, and it is for this reason that we believe that institutions for service provision must be holistic in their approach. Services are not just a means of sustaining life in many poor countries, but an integral part of a belief system; it is in failing to account for such belief systems that previous privatization projects have impacted adversely on many communities.

It is also one of the paradoxes of liberal economics that, even while rich northern/western governments insist on the free functioning of market capitalism as indispensable to concepts of equality and democracy, market-based economic theory is gender-blind and, in so being, exacerbates the very inequality it purports to alleviate. The service sector in particular is both heavily dependent on and depended on by women, particularly in those areas traditionally associated with the public sector such as health and education and those associated with the nurture of the household (which can be everything from food production through to perhaps the most vital service of all, the provision of water). Practical Action believes that there are few areas in which the voices of women are more important and in which the socio-cultural complexities of poverty are more clearly demonstrated; at the same time it is this very area in which overly-simplistic theoretical takes on trade (and trade in services particularly) can be so damaging to the most vulnerable.

Leading on from the above, the third section looks at broader considerations of alternative technology, finance and citizen participation and accountability that are already being employed for the provision of services. The section
covers a range of alternatives being developed globally, from participatory budgeting through to locally controlled water and energy services, experience gained from our partners and other actors in the service sector over a vast geographical range. Practical Action firmly believes that it is not enough to be critical of the geo-political environment in which communities of the poorest find themselves, without at the same time having the capacity and knowledge to put forward an achievable programme of alternative deliverables.

It is particularly important to note that disenchantment with the role of the state in service provision in many poor countries runs hand-in-hand with distrust and rejection of existing socio-political structures, and that new projects for services running through existing mechanisms are likely to run into the same problems. Service provision must, therefore, be inclusive of a component of community control which allows for this distrust and rejection, and which must itself become part of the way in which new systems of governance for the poorest will develop. With particular reference to the GATS process itself, Practical Action is firmly convinced that (for instance) the secrecy of ‘request’ and ‘offer’ processes indicates a preference to proceed as if individual communities were of no importance. This is an anti-democratic tendency which has of late been exacerbated by the actions of International Financial Institutions (IFIs) and donor governments in conditioning receipt of aid through suggested privatizations/liberalizations.

The fourth section looks at the practical issues of engagement for an NGO such as this one. Practical Action is committed to putting its experience as a base of knowledge at the service of the poorest communities, believing as we do that many of the problems of the existing GATS process derive from a lack of knowledge on the part of governments of those poor communities (see Actionaid 2004). The work of Practical Action in Africa, Asia and Latin America is in partnership with poor people and their communities, building on their own knowledge and skills to come up with innovative, sustainable and practical solutions and for this reason we believe that we have much to offer in terms of developing alternative and sustainable service delivery. Practical Action sees its role in this process as enabler and facilitator, helping not only to provide information and knowledge, but perhaps as importantly being proactive in suggesting alternatives to the inappropriate opening-up of sectors where it is unnecessary to do so.

In the case of the service sector, this includes the development of a knowledge/experience resource at Practical Action of alternative, functioning, community-based service options, as well as the promotion of the strengths of community-based approaches in campaigning for poverty-focused service provision at government and international levels. It will also include a positive engagement to co-operate and liaise with other NGOs campaigning on service provision, to expand the range and availability of expertise in the development of affordable services. Above all, we believe that participation cannot be implemented effectively without an understanding of the power relationships involved and, as Amartya Sen points out, those who experience greater exploitation are better positioned to identify the nature of power relationships.
1 - Service provision under previous liberalization programmes

1.1 - The context

In terms of geomorphology and scale alone, the practical ramifications of service provision globally are daunting and complex, according to Practical Action partners. In Peru for example, where coverage of water provision reached 76% in 2004 and sewerage 57%, only 22% of the waste water generated could be treated, which is to say that over ¾ of nationally-generated sewage and waste water went untreated\(^1\), representing a serious problem of environmental pollution. In terms of energy provision entirely

\(^1\) See Navarro 2005

2 - Looking down from Gadi Siddha Micro-Hydro Power Plant, Pangrang, Parbat District, Nepal at the households which use the power - this project aims to provide clean energy services with appropriate, affordable, and socially acceptable technology in meeting diverse energy demands of the poorest of the poor in Nepal. This project is financially supported by the George and Margaret Taylor Fund and SARI energy.
different problems present themselves - in Kenya, for example, the vast mass of the population (80%) rely on traditional energy services, which is to say biomass and wood-burning stoves. Trying to adapt a modern grid system to a scattered rural population (irrespective of the rapid urbanization going on in Kenya) and an impoverished and highly-concentrated urban population presents a different spectrum of problems, irrespective of ability to pay. The problems of the operating environment alone and the concomitant investment costs, particularly for businesses used to operating in countries where infrastructure provision is reliable, generate enormous disincentives for which the state has in past privatization projects had to pay substantial penalties

The probability of achieving universal or even majority coverage in many areas of service provision under GATS must also be contrasted to the generalized failure to achieve even levels of investment promised under previous contracts during the 1990s, as PSIRU (Public Services International Research Unit) reports. It should be noted that, whereas organizations such as the World Bank have by their own reports begun to re-think the respective roles of the state and the private sector, this runs contrary to continuing adjustment programme insistence on privatization measures. In addition, where supra-national organizations such as the European Union (EU) have aggressively pursued a programme of ‘requests’ under the GATS process with the active involvement of interested corporations, the past experiences of destructive privatizations such as that of water services in Cochabamba in Bolivia and Metro Manila in the Philippines appear to be in danger of being simply ignored.

Contextually, the WTO (World Trade Organization) is fairly dismissive of the problems to be outlined in this document and points out with some justification that under GATS rules there is no coercion and that a variety of choices is open to any national government. It may ‘maintain a service as a monopoly, public or private; it may open the service to competing suppliers, but restrict access to national companies; it may open the service to national and foreign suppliers, but make no GATS commitments on it; or it may make GATS commitments covering the right of foreign companies to supply the service, in addition to national suppliers’. This is in theory perfectly correct, however it is entirely absent of political and socio-economy context – it assumes that there is no collaboration between service corporations and national elites that may stand to profit from opening service sectors, that there is no bribery or corruption involved, that there is no external pressure from IFIs, national governments, bilateral or multi-lateral donors and perhaps above all it appears to envisage a process that runs through governments of equal power, extent and capacity. There are in other words a whole host of other

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2 See PSIRU 2006
3 “World Bank officials said that the bank was now ‘agnostic’ on water and energy privatisation and engaged in soul-searching. Despite these acknowledgements, the Bank itself and others continue to pursue policies linking their aid to privatisation and/or liberalisation in these sectors.” (PSIRU 2006)
4 See WTO 2007.
factors involved which a superficial reading of the GATS process renders invisible.

1.2 - Failures under previous privatizations

The importance of previous privatization experiences should be clear, since they serve as a prototype to what will ensue under GATS. It may be argued that GATS is an entirely different process and that therefore what took place previously is not relevant, however in the central assumptions made by GATS (that the private sector will inevitably manage service provision more efficiently) it is de sui generis and, therefore, the comparison is valid. The GATS process is a more powerful and sweeping version of the liberalizations insisted on by the IFIs in past adjustment programmes.

Practical Action partners globally (alongside many other NGOs, notably the World Development Movement and War on Want) have pointed out the difference between theoretical assumptions behind privatization and the often-disastrous reality7. Whereas it is not the purpose of this paper to go into the details of these failed privatizations, some examples should be mentioned because of the way that they exemplify the difference between the successes claimed for them by the institutions and governments involved in their planning and implementation, as opposed to the very real impacts they have had on the lives of the poorest.

Three of the more egregious recent examples are:

i) The massive over-capacity built into the liberalization agreements in Indonesia under the Suharto government for electricity supply by the state power company PLN, the commitments to 30-year contracts incapable of being fulfilled and the substantial compensation paid out to transnationals through an inherently corrupt process8;

ii) The corruption involved in the development of Power Purchase Agreements (PPAs) in Pakistan in the 1990s which again were hopelessly over-stated, and the pressure mounted by the IFIs in both cases (and the UK government in particular in Pakistan) to prevent the governments of both nations taking action against corrupt officials and executives;

iii) The involvement of Enron, GE and Bechtel in Maharashtra state in 1992 in setting up the Dabhol Power Company, in which a PPA was used that was kept secret for 15 months and in which despite continued misspecification of requirements and an (again) corrupt negotiating process, pressure from international agencies and corporations forced a new PPA.

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8 The chief political adviser for the US embassy in Indonesia 1996-99 was quoted in The Wall Street Journal: “protecting the interests of major investors and creditors was at the center of the table in everything we did….. Concerns about human rights, democracy, corruption, never made it onto the table at all.” (Practical Action Sri Lanka 2006).
which was worse than the earlier one with higher costs - by 2004 the plant was still not generating any power.

These and the myriad other examples of flawed privatization procedures give evidence of the difference between the theoretical perceptions of privatization and the inevitable problems caused by flawed theory filtered through geopolitical reality. Further on from theory, the fact of the matter is that most service sector markets are dominated by northern providers - previous privatizations have been of such a dubious quality not just because of the pre-existing geo-political realities, but also because in the global south few countries in reality have any advantages in knowledge-based services and thus are ill-placed to participate in either full privatizations or public-private partnerships.

As a direct result of this (as Alexander (2005) points out), even the World Bank identified a number of different flaws when it appointed one of its own experts to review public-private partnerships (PPPs) from 1994. This report identified problems in such key areas as affordability, the cherry-picking of projects where private firms only pick the most profitable markets (leaving rural areas in particular alone), fiscal stability (where private firms increasingly insist on guarantees and financial support amounting to a guaranteed profit and the disappearance of income streams to the state which were a major reason for undertaking such projects) and currency risk (particularly where foreign companies insist on payment of bills in dollars in preference to national currencies). There were also problems with non-economic externalities (such as environmental and social costs associated with large infrastructure projects) and collusion between bidders (particularly in water and sanitation, dominated by a few corporations such as Suez, Veolia Environment (formerly Vivendi), RwE (which owns Thames Water and American Water Works) and the Bechtel Corporation).

1.3 - Cost-recovery and operating environment for services

Problems of the operating environment in many of the countries which are to be subjected to the GATS process range from the infrastructural, geomorphological problems mentioned above in countries such as Kenya and Peru, to the “strong and growing opposition to water privatisation in developing countries, from consumers, workers, environmentalists, other civil society groups and political parties” (PSIRU 2006: 20). Failures of previous privatization/PPP initiatives have left a socio-economic landscape littered with problems of indebtedness, infrastructural collapse, declining levels of repayment and growing and embittered resistance to precisely the ideas of liberalization which GATS is set to accelerate. The levels of investment required to undo all of this is in some countries astronomical and it is hard to understand where such quantities of investment will come from, given the

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10 See Estache 2005.
prevalent reluctance of private companies to become involved without guaranteed profits and the inability of the state to provide.

In Peru, for example, Becerra (2006) calculates that the resources required to meet the Millennium Development Goals in terms of drinking water and sewage would be more than US$ 2.9 billion. Similarly, the money required in order to treat the waste water produced up to 2015 would be in the order of US$ 1.1 billion for the whole country. The technical problems are exacerbated not only by the mountainous topography but by the different systems in operation throughout the country, systems which ensure that of the rural communities with access to drinking water only 30% receive an adequate service, 40% have badly-maintained infrastructure and management and the remaining 30% have either a very defective service or a service that is mainly inoperable. In all the countries in which Practical Action is partner, furthermore, the physical and planning burdens created by these deficiencies fall predominantly on women, who are overwhelmingly responsible for the management of water (Beltrán, 2004) but by and large are excluded from planning processes through which that water is supposed to be supplied.

To illustrate the concept of systemic complexity, in the coastal zones of Peru the predominant system is water pumped from deep wells and boreholes, almost all between 60 and 150 metres deep. In the mountain zones of the interior, on the other hand, the water comes from springs and rivers and most of these systems work by gravity; because of this most of the big cities are able to use surface water (mainly from the rivers) and therefore the quality of the water is an additional problem. In the forest zones there is a different regime, a mixture of medium-depth wells and boreholes and surface water in which carrying capacity is limited by the topography, although the use of pumps is an alternative employed only reluctantly because of the expense. Even in terms of pumps there is a wide variety, ranging from electric or diesel pumps used in small wells, down to hand-operated pumps.

The situation as regards supplying electricity in Peru is more difficult still. A third of the population lives in the capital, Lima, and over half the population live in the 24 primary cities; the rural population is dispersed and isolated. For the rural areas the provision of electricity is made more expensive by lack of communication and commercial transport networks, which make the costs of installation and administration that much higher\(^\text{11}\) – there are for these reasons 89 provinces in Peru with a coefficient of electrification lower than 50%. Of an estimated (July 2006) Peruvian population of just over 28,300,000, 7 million have no electricity service at all and in addition the ways in which Peru is connected to the electricity systems of neighbouring countries makes the situation that much more complicated. Negotiations with respect to the electrification of rural areas have to be undertaken with the co-operation of the Ecuadorean government, for example, which has an entirely different outlook on service provision.

\(^{11}\) See Becerra 2006.
As a direct result of the global replication of the kind of factors discussed above, when the World Bank produced a report assessing its own assistance to community-based water supply and sanitation through Community-Driven Development (CDD) and Social Fund (SF) projects, which are a vital source of water supply for many poor countries, the Bank’s own analysts concluded that only a quarter of such projects could be sustainable. As the examples of the World Commission on Dams report (launched in 2000 by Nelson Mandela) and the Extractive Industries Review published in 2004 show, however, the political economy of private sector involvement is so central to what the IFIs perceive development itself to be that it is the default setting, even where internal IFI analysis suggests that either it is impractical or that there are other alternatives that would be better employed.

1.4 - Complexity of political/systemic reality in service supply

The linkages between national governments, corporate structures and international and supra-national institutions have become increasingly more complex over the last thirty years, in a rapidly expanding global economy. National political realities, financial and planning weaknesses, institutional and juridical weaknesses, lack of capacity and of effective regulatory frameworks are now inextricably tangled with political economy realities outside national borders. In discussing internal political economy problems for countries of the global south as they relate to GATS, therefore, it has to be born in mind that they are not separate and distinct from the international ambit of the development industry, if not an intimate part of it.

In considering individual countries such as Kenya, Peru or Sri Lanka the degree to which governments are able (leaving aside the question of willing) to take part in GATS depends very much on other factors that affect their ability to plan, develop and implement the large-scale programmes necessary to make up for deficiencies in national service supplies. Practical Action partners point out problems such as the institutional weaknesses and corruption in Peru which lead to paper plans being developed in more or less complete ignorance of systemic reality, as well as the example of the environment of endemic corruption in Kenya which means that any and all plans for provision of services must inevitably become hostage to clientelistic networks. From the international scale on down to the local, furthermore, there are the gendered structures, practices and mechanisms which have rendered the role of women all but invisible (Beltrán, 2004), despite an

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12 See OED 2003.
13 See CNES 2004 for some particularly good examples of how local political realities have disrupted the conduct of water privatization in a number of countries.
14 In Kenya, for instance, the rapid spread of cellular phones and mobile networks has made the possession of a telecoms mast a valuable asset; such communications nodes have become the subject of illegal taxation, in which local gangs knock masts down with heavy equipment if payment of the ‘tax’ is not forthcoming. Squatter settlements have responded with what are effectively ‘mast-defence’ networks, whereby if a threat is made to a mast calls go out to all affected phone-owners to congregate at the mast as a form of human shield.
indispensable role in community structuring and planning that cries out for “greater participation, recognition, and decision-making power”.

A minimum requirement for the situation that pertains not only to Kenya but to many other GATS-candidate countries is that adequate regulatory structures need to be in place not only before any service systems can be set up\textsuperscript{15}, but realistically before the planning for them takes place, systems with the ability to ‘shape investment according to a country’s development needs’ (Okelo, 2006: iv). This requires far more flexibility in terms of requests and offers for developing countries than is the case under the current GATS process, and also requires a degree of political will on the part of national governments to devolve regulatory and planning power to localities and municipalities. This is needed in order to help to facilitate relevant projects for the poorest communities, but also to imbue the whole process with the kind of participatory and stakeholder traits that are suppose to be a part of the GATS process.

Centralization of government powers on a national or a state basis has long been a characteristic of the clientelistic, patronage-based systems prevalent in many countries participating in GATS, however, and the struggle for control over flows of finance and material benefit from the state directly contradicts ideas of localized self-help. Previous experiences of adjustment-based privatization in countries such as Ghana show just how reluctant hegemonic groups in such countries are to relinquish the sources of power and privilege\textsuperscript{16}. Throughout the period of liberalization under IFI tutelage in the 1980s and 1990s, there was substantial resistance to surrendering power to local government, particularly where infrastructural projects towards the provision of roads, drainage and waste disposal were concerned\textsuperscript{17}. Combined with the secretive nature of GATS processes, it is difficult to see how such exclusionary tendencies at the local and international scale can combine to produce a participatory process inclusive of civil society groups.

Similarly, a failure to understand the clientelistic political environment of the Philippines ran through the implementation of the Metro Manila water privatization project, which had substantially failed by 2002. The Ramos government was strongly committed to water privatization and was strongly in favour of what was boasted to be the “world’s largest water privatization” by the World Bank, a privatization whose tariff system and heavy public debts were exacerbated by a lack of accountability on the part of the private companies. The eagerness of the Ramos government to promote this project was encouraged by the participation of wealthy local elite supporters, in particular the Lopez family, which has extensive service interests in the West Zone of Metro Manila and which stood to gain immensely from the project\textsuperscript{18}.

\textsuperscript{15}Particularly privatized ones - see Estache and Goicoechea 2005.
\textsuperscript{16}See CCODP 2005.
\textsuperscript{17}“Issues relating to leadership, accountability and full devolution of power in DAs are almost absent in the local Government administration” (World Bank 2003b:12).
\textsuperscript{18}See CCODP 2005.
The final report by Laurie and Crespo into the failed water concessions of Aguas de Tunari in Cochabamba and what was supposed to have been an example of best practice in pro-poor concessions, Aguas de Illimani in La Paz/El Alto in Bolivia reveals an interesting list of political economy factors which would be familiar to many of the countries attempting to participate in GATS. The framework of the legislative and regulatory system in Bolivia itself served to subvert what was supposed to be a pro-poor agenda, for instance – Bolivia had no regulatory mechanisms for the concessions before the concessions were actually set up, but relied on setting these up after they were granted. When the regulatory system was set up through the Bolivian legislature, in action it proved to be strong when dealing with consumers but to have very little power when it came to regulating the private sector; part of the reason for this was that the regulator of the concession was given the role of both granting and regulating the concessions, a conflict of interest.

More generally, there was no pre-existing culture of professional public service which might have served to mitigate between consumers and private sector, and the lack of a comprehensive regulatory structure tended to exacerbate the worst effects of sectorialization on the poorest communities. The most shameful consequence of this was that concessionaries were granted exclusive rights to all sources of water within concession areas - indigenous women travelling long distances to springs and streams which had been community property for hundreds of years were confronted by armed police and soldiers, who informed them that the water no longer belonged to them and that taking it without paying would constitute theft from the concessionary.

As a final comment on the differences between political and systemic reality in countries due to participate in GATS and the official understanding of that political/systemic context, it should be noted that since adjustment processes began in 1980s, IFI conditionality has taught debtor countries many forms of research, analysis and reportage which have as their primary aim the maintenance of loan/aid finance, rather than the presentation of an accurate picture of the status quo. An example of this can be gleaned from critiques of the Nicaraguan Strengthened Economic Growth and Poverty Reduction Strategy (ERCERP, by its initials in Spanish), or Nicaraguan Poverty Reduction Strategy Paper of July 2001. This was a plan developed with an eye to fulfilling the conditions for HIPC (Highly Indebted Poor Country) entrance and in addition for accessing the latest Poverty Reduction Growth Facility agreed with the IMF (International Monetary Fund).

Some three years later, however, despite having a plan on paper for the reduction of poverty there was a distinct lack of government commitment to it, a lack of civil society participation and a widespread diversion of funds supposedly for use in poverty-focused areas for paying the internal debt owed to the country’s elite financial groups. The plan itself contained no analysis of the dynamics of poverty, showed no awareness of the impacts of adjustment,

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19 See Laurie and Crespo 2002.
of Nicaraguan social inequalities and had no gender component to it. It is hard to escape the conclusion that the production of an ERCERP was perceived by the government as little more than a necessary element of fulfilling HIPC entry conditions and accessing the PRGF (Poverty Reduction and Growth Facility)\(^{21}\).

The relevance of this to GATS should also be clear; other reports show that the same kind of lack of consultation and information is commonplace in electricity and water privatization projects in developing countries\(^{22}\). Such learnt behaviours are now commonplace amongst countries of the global south to satisfy the pressures exerted by the IFIs and other donors and, irrespective of individual country socio-cultural realities, it is highly probable that similarly partial and imperfect analyses will accompany the GATS processes as a means of submitting to the pressures of donors towards liberalization.

### 1.5 - GATS agreements and the negotiating process

There is a mass of literature examining in some detail\(^{23}\) the ways in which Practical Action partners believe that the GATS negotiation processes weaken the ability of national governments and national policy to develop pro-poor development policy, but it is not the purpose of this paper to delve into this area except by way of an overview. Suffice it to say, however, that countries such as Pakistan, Peru, Bolivia, the Philippines and Argentina have shown that under previous privatizations the emphasis is almost universally on the rights of corporations over their responsibilities. In most of these cases the rights of consumers have made little or no appearance at all in contracts, being swept away by inbuilt profit margins guaranteed to companies through subsidy, guaranteed levels of profitability in cases where there were originally no bidders and (as illustrated above) guaranteed levels of government service purchase over extensive periods of time.

The difference between the negotiation of GATS contracts and those of previous privatizations is less of type than intensity. All contractual negotiations will take place within the full panoply of request and offer schedules, but just as importantly within the political economy contexts of each country’s relationships with unilateral, bilateral, multilateral and institutional donors, not to mention the hegemonic structures of the global economy and consequent relationships with powerful actors such as the EU, China and the USA. Seldom has the linkage between the GATS processes

\(^{21}\) “Despite all the declarations of interest, the ERCERP is a strategy that is really owned by nobody in Nicaragua, except maybe by some donors. Civil society, much consulted but little listened to, finds in the strategy practically none of its contributions, and fails to identify with it. Paradoxically, the government also does not own the strategy, except as a means to relieve the country’s external debt. Rather than reducing poverty, it seems more interested, in the short run in paying off the internal debt, and in the long run in economic growth.” (SIDA, 2004: 19).

\(^{22}\) See for example Dubash 2002.

and the political economy been clearer (for instance) than during the struggles within the Cancun ministerial in 2003, because of the opposition of poorer countries to services negotiations when important issues of agriculture were left untouched. In the run-up to the Ministerial, US president George Bush reportedly personally phoned the heads of governments in Brazil, India, Pakistan, South Africa and Thailand in order to try and achieve consensus as regards services and to de-link them from a strong stance on agriculture.

Outside the official negotiation processes, there are a number of different ways in which parallel sets of negotiations with individual countries are used to put pressure on offers, requests, sectors and the degree and type of liberalization requested. Such parallel negotiations may also include offers by donor countries to provide loans to countries which would compensate for socially deleterious impacts of a particular sector’s liberalization and offers to provide technical assistance outside existing aid/loan programmes to develop individual country schedules for participation in GATS. To these kinds of pressure should be added a concentration of efforts by the EU and the USA to work more closely with the WTO to set up common agendas through which to compel countries to liberalize services. Failures at Cancun, Doha and Singapore, however, bear testimony to the ineffectiveness of these kinds of pressure thus far.

Within the actual structures of GATS negotiations there are similar causes for concern, which mostly centre on the ideas of the National Treatment principle enshrined in the articles of GATS and the problematic question of services exempted by governmental authority. All three of the main WTO agreements around which GATS is structured (Article III of GATT, Article 17 of the GATS and Article III of the TRIPS) relate to treating all WTO members and their corporations equally, up to and including the Most Favoured Nation process. What many Practical Action partners fear is, firstly, that in forbidding subsidies to domestic companies or any kind of preferential treatment GATS effectively removes trade policy options that may be vital in a developing country. Secondly, there are fears that the principles of irreversibility enshrined in these articles mean that agreements on requests and offers, once made, attract heavy financial penalties. If the grounds on which those agreements have been made are based on erroneous sector assessments and information and change or reverse is required, then penalties become virtually inevitable.

The same thorny questions append to the concept of governmental authority. As it stands, GATS: “defines services that are supplied in the “exercise of government authority” as those supplied neither on a commercial basis, nor

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24 The political pressures within the GATS process were epitomised by Senator Chuck Grassley, Chair of the US Senate’s Finance Committee, who stated: “Let me be clear. I’ll use my position ……. to carefully scrutinize the positions taken by many WTO members during this Ministerial. The US evaluates potential partners for free trade agreements on an ongoing basis. I’ll take note of those nations that played a constructive role in Cancun, and those nations that didn’t.” (quoted in South Centre 2004: 360)


26 GATS Article 1, clause 3(c).
in competition with one or more service providers” (Alexander 2005: 22). This thoroughly vague wording leaves ample room for dispute and, again, potentially enormous compensatory payments which developing countries can ill afford - PSIRU (2006) points out that if a country wishes to use the governmental exemption clause it has to demonstrate that both of the above conditions apply. The ability to regulate on domestic services is further complicated however by Article VI, clause 4(b) of GATS, which states that domestic regulation of such services should not be: “more burdensome than necessary to ensure the quality of the service”, itself a phrase that is so vague that it is open to virtually limitless interpretation and thus dispute. Since the court of last resort for disputes of this kind will be the WTO and, win or lose, participating in such disputes will be time-consuming and expensive this effectively constitutes a ‘participation tax’ that will further stretch the straitened financial circumstances of some of the poorest countries on the planet.

Ultimately, then, the main areas of argument and around the contractual and negotiating issues of GATS are over the extent to which the GATS will or will not force the liberalisation and privatisation of vital public services, the extent to which GATS commitments may be reversible (and disputes relating to that reversibility) and the continuing secrecy of the negotiations. There are ample grounds for Practical Action partners to doubt the WTO when it insists that there are ways to reverse commitments, and, as this analysis shows, the very legal grounds on which those reversals may be made are vague and shifting. It should also (finally) be noted that even where reversibility is permitted, of the four mechanisms listed for doing so, two allow only a temporary suspension of commitments whereas the other two include payments of compensation and restrictions to extreme circumstances such as endangerment of national security.27

1.6 - Odious, criminal and formal debt

Odious debt is defined as loans that are accumulated by unrepresentative and oppressive governments. Odious debts are exclusively external and it does not matter if the loans were used according to prevailing law or were stolen or misallocated by officials; criminal debt on the other hand is any and all debt caused by the criminal behaviour of politicians, bankers and corporations. It is a concern of Practical Action that opportunities for country elites created by the pressure to open service sectors have already attracted heavy financial penalties in previous privatizations, even where corruption of officials and corporations could be proven. The acceleration of privatization projects engendered by GATS will multiply opportunities for corruption at the same time that penalties created by the 'lock-in' nature of predictability clauses increase country indebtedness.

Many of the countries that will be subject to GATS are either HIPC candidates, undergoing the HIPC assessment procedure for entrance or are

27 See PSIRU 2006.
HIPC entrants. It is therefore a matter of some concern that at the same time levels of unsustainable debt for countries of the global south are being addressed by the IFIs, supra-national organizations and national governments, those same countries are being pressured into a GATS process whose legal and socio-political imperfections have devised a system of restrictions and penalties likely to further increase indebtedness. This time, however, contractual disputes would be imprisoned within an expensive dispute resolution process fuelled by the levying of fines, compensation and other penalties.

Liberalization is understood by many commentators to be a process that has weakened the ties between citizen, state and elite and it is certainly the case that corruption in many countries has been an integral part of privatization programmes; it is not too much of an exaggeration to say that corruption has been central to the privatization processes in many countries through which ideas of liberalization and privatization have been promoted. At the same time, corruption guarantees problems of litigation because it interferes directly with predictability, the analytical processes by which sectors may be selected for liberalization and with the setting up and fulfilment of contracts, something which can only increase under GATS.

Neither should the extent and pervasiveness of corruption in the previous era of privatization be underestimated. A World Bank report on corruption in Indonesia (for instance) estimated that at least 20-30 percent of Government of Indonesia development budget funds were stolen, and admitted that the Bank’s own controls on project spending had virtually no effect in controlling this ‘leakage’. World Bank loans to the corrupt Suharto government totalled about $30 billion between 1966 and 1998, and according to the best estimates approximately a third of this was stolen with the Bank’s full knowledge, causing Indonesian external debt to grow from 23% to 83% of GDP (Gross Domestic Product) in the period 1997-2000 and leaving it the most heavily indebted major country in the world.

It should also be pointed out that such a widespread growth in corruption under privatization projects flies directly in the face of IFI theorizing on the beneficial effects of privatization throughout the 1990s, which insisted that liberalization was per se the panacea for corruption. By the millennium, however, even the World Bank was forced to admit that: “in many cases privatization amounted to little more than the licensed theft of state property”. Despite this apparent volute face (as Practical Action partners have pointed out above) GATS remains a process in which the weight of enforcement mechanisms are shaped by the requirements of the privatizing service provider, with very little attention being paid to national sovereignty,

28 “Liberalization….has contributed to a more generalized process of political decay. This reduces the incentives for probity on the part of officials and politicians, and creates a widespread social alienation from the political process” (Harris –White and White 1996).
29 See Winters 2000.
30 “Economic policy reform should be a main pillar of an anticorruption strategy….and deregulation and the expansion of markets are powerful tools for controlling corruption.” (World Bank, 1997:35)
31 See Williams, 2000: xii.
the primacy of national law over commercial contracts or protecting the rights of the consumer.

One particularly outstanding example of where this can lead is provided by the nuclear power plant built by Westinghouse Electric Corp in the 1970s, ostensibly to provide power to the people of the Philippines on the Bataan peninsula. The contract provided for a power plant to be built for three times the cost of a similar plant that Westinghouse built in Korea, the plant was built at the foot of a volcano near several earthquake zones and would therefore never have operated. The contract was completed through the alleged payment of up to $80 million in bribes to then-president Ferdinand Marcos and by 2000 the $2.3 billion cost of the plant had forced the Philippine people to pay $1.2 billion in servicing the plant's debts. As of 2000 the government was still paying $170,000 a day in interest for the thirty year-old, completely useless nuclear plant and will continue to do so up to the year 2018.32

Corruption (and particularly corruption involved in privatizations in the global south) is a theme that has only recently begun to attract the attention of national governments and IFIs alike. Its importance is obvious, and yet even the growing attention paid to it of the last ten years or so tends to treat it in a relatively superficial manner, as if it were an incidental aberration rather than an integral part of globalization. The concern of Practical Action is that in the substantial and complex networks that have grown up between corporations involved in development projects and the elites of developing countries, share-holder driven profit margins, bribery and predatory self-interest have become the norm for project planning and development, rather than the actions of a few isolated individuals. Under these circumstances, the current legal and contractual arrangements under GATS are likely to worsen the situation.

2 - Citizens, communities, participation and accountability

2.1 - Context

The primary motive for Practical Action in developing this document has been to determine from practitioner, institutional and academic literature the likely impacts that GATS could have on small-scale community service provision. In the previous section a review of study findings by Practical Action partners and a variety of other sources was presented, combining a variety of aspects of previous privatization/liberalization programmes of services with an analysis of the structure of GATS and expert assessments of the likely similarities and differences.

Practical Action believes that, given the nature of the potential problems with GATS outlined above, it is particularly important to look at the process of service provision from the point of view of community ownership and participation. In keeping with our commitment not only to increase poor people’s access to service supply but also to ensure that the services that are developed are appropriate to their needs, this section of the document looks at various aspects of community ownership and participation that are relevant not only to GATS but to all service provision. In doing so it is hoped that this
document will provide at least some of the necessary analysis to determine when and where the conditions for these GATS-related problems will arise, as well as ways of mitigating/avoiding them.

### 2.2 - GATS and Women

Immediately after World War II a great degree of ignorance about the productive contribution of women at both macro and micro levels in the global south afflicted development theories. The vital role played by women in the construction and maintenance of community systems was also consistently rendered invisible by masculinized economic theory. The legacy of this ignorance was that during the so-called ‘lost decade’ of development in the 1980s and the ensuing decade of structural adjustment in the 1990s, perniciously gendered, market-based economic theories forced radical changes on the socio-cultural structures and patterns within which the lives of the poorest women were performed. Practical Action believes that understanding the impacts of structural adjustment programmes and the privatizations that went with them is therefore vital in understanding not only how the lives of women changed in the 1980s and 1990s, but what the continuing effects are and how the lives of women would be further changed under GATS.

The insistence on downsizing the role of the state throughout the indebted countries of the South in the 1990s had for instance a disproportionate affect on the employment of women, for whom the public sector was (and remains) the most important source of highly-skilled and waged jobs. Jobs for women as civil servants, nurses, doctors, administrators, teachers, and social workers were drastically reduced under the global cut-backs in public sector provision that occurred as a direct result of structural adjustment. As an example, in Nicaragua after the first structural adjustment agreement with the IMF in 1991 by the Chamorro government there occurred a massive downsizing of state employment, concentrated in the health and education sectors - at least 70% of those made unemployed were women (White, 2001).

The ripple effects of such structural adjustments on women and their families have been manifold; in the instance of Nicaragua mentioned above, for instance, by 1998 54% of micro-businesses were managed by women, but of the roughly 154,000 engaged in such commercial activities not a single one was in charge of a large, formal business (INPYME, 2001). Throughout the global south this pattern has been replicated, as women unable to depend on the state or stable partnerships have been pushed into whatever commercial activities will allow them to feed their families. Women from poor communities are increasingly found on the streets selling food, cigarettes, newspapers or water, in the markets selling fruit, vegetables or livestock, in domestic service

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33 For instance, up to 66% of female activities are not captured by the generally-recognised System of National Accounts (UNDP, 1995).
34 Even in the rich north, female dependence on the service sector is high; across the European Union, for instance, the service sector accounts for just over 80 per cent of women workers (EWL-LEF, 2000).
or street cleaning or, as a last resort, selling themselves. Such types of work are not only far more precarious than any formal types of employment, they are also types of work most likely to conflict with and be affected by service sector agreements under GATS.

The indirect effects resulting from privatizations may not always be obvious; in the instance of the privatization of water in Accra, Ghana mentioned previously, the rises in the costs of water had a variety of different impacts. Sanitation and family health for which women were primarily responsible were obviously compromised by the increase in incidence of cholera and typhus, particularly in families for which access to medicines and health care was unaffordable. In families which had to make budgeting choices because of these price rises, however, other effects included taking female children out of school because their education was no longer affordable and it was deemed more important to keep male children in school; additionally, more help was needed in the household to locate scarce supplies of free/low-cost water and carry it home. Amongst girl-children in Accra and Kumasi the drop-out rate from schools increased tremendously in the period immediately following privatization (Amenga-Etego, 2002).

Over the last twenty years, women have born a disproportionate share of the damaging impacts of adjustment and privatization, working through a number of different conduits. Women in the global south have been moved in large numbers into vulnerable economic niches overwhelmingly concentrated in the service sector, have been forced to migrate in increasing numbers to pursue work in service sectors abroad and at the same time their indispensable role as maintainers of the household has been undermined by privatization of the vital services needed to fulfil this role. Not only this, but as the example of Zimbabwe shows, adjustment has frequently been carried out in ways which threaten the very lives of women; after user fees were imposed in the Zimbabwean health system, maternal mortality rates increased because women could no longer afford to see doctors (UNHDR, 1995).

Practical Action considers that previous forms of economic gender blindness have so far been faithfully replicated by the way in which GATS has been constructed. Not only that but, having made women in poor communities heavily dependent on manifold aspects of the service sector, GATS is now specifically focused on this vital sector in ways and under conditions which amount to little less than a direct attack on this vital area of female economic/reproductive activity. In the specific areas of health care, education, water and energy provision, women under GATS would have to survive competition and pricing from transnational service providers in an environment which has already placed them at a disadvantage. As a consequence, it is the opinion of Practical Action that GATS as it is currently constituted must lead to reduced access to health care, water and energy supply and access to education for women and the rising numbers of female-headed households.
2.3 - Consultation/participation in indigenous communities

In many areas of the global south in which service provision under GATS is likely to have a great impact, that impact will be strongly felt by indigenous peoples whose socio-cultural background is very different to that of the corporations seeking to be service providers. Because these indigenous perceptions of services are very different from the practical considerations of service provisions themselves, in any plan to undertake service provision in such an environment a lot of attention is needed to the socio-cultural structures in which service provision operates.

In the case of Peru for instance\textsuperscript{35}, Andean indigenous communities must be looked at not just as a group of people that have unsatisfied needs, but as a culture which has resisted social change and the influences of the western world over a prolonged period of time – in such cases the process of community participation is a political process independent of any development project itself. Any development project intended to provide supplies of water and power to this kind of community would have to be integrated into an holistic approach to community development that took into account the socio-cultural environment and which assured public ownership and management of the services.

At the same time, as Practical Action partners in Peru have pointed out, previous privatizations in Andean communities (of which Cochabamba is perhaps the most obvious example) have singularly failed to allow for the communal ownership or human rights aspects of water provision. It has to be asked whether a similar privatization taking place under the auspices of GATS would have the knowledge base and the reflexivity to take into account a collective socio-cultural experience centuries old, in which the management of water has traditionally been based on mechanisms determined by usage and customs, traditional knowledge and the local knowledge of women\textsuperscript{36}. This is a form of governance based effectively on collective memory, interference in which is not only an interruption to existing service management, but also a challenge to how the community is constituted, managed and how it perceives itself.

Globally, organizations representing indigenous peoples have lobbied to have customary water rights protected under national legislation and policy, rights which: “cover both water quantity and quality and extend to water as part of a healthy environment and to its cultural and spiritual values”\textsuperscript{37}. Claims have been made by many indigenous groups for these rights to be extended to international agreements on trade and investment, as well as all new plans for water use and allocations. The exercise of such rights would appear to constitute a breach of GATS Articles on national treatment, however, which insist that no preferential treatment be given to any groups or service providers.

\textsuperscript{35} See Becerra 2006.
\textsuperscript{36} See Becerra 2006.
provision that is not extended to all in an offered sector, as well as the restrictions on onerous and burdensome legislation.

In a wider context, by negotiating on a national basis (particularly in the case of water) GATS provisions strike at the gains made by indigenous peoples globally in obtaining recognition of their status as nations38. This follows particularly the 1992 decision to recognise the rights of Aboriginal Peoples to the Australian continent as having Native Title to their land; in the intervening period some of the new Latin American constitutions have also recognised forms of legal pluralism, which means that in such countries indigenous peoples have inherent, parallel jurisdiction with their co-nation. There would appear to be a substantial problem in treating water provision as a service under GATS in a country where a parallel system allows one of the communities affected to refuse that designation, not to mention what effect this would have in terms of all kinds of issues from dispute resolution to sectoral definitions.

Lastly, issues of privatization and liberalization as they pertain to the nation status and community rights of indigenous peoples speak to wider issues of democracy and participatory development that affect many communities outside indigenous ones. The same issues of privatization and liberalization that were raised by indigenous groups at Cancun concerning health, education, water, energy, and environmental services speak to the rights of all communities. Particularly in the case of the commercialization of cultures and monopoly control of the tourism industry, citizens in poorer countries are effectively co-opted as service providers in a national and international service industry over which they have little or no control, but which effectively subsists by selling them as locations, communities and cultures. Commodification of ways of life under GATS in situations of unequal power is therefore tantamount to selling communities, unless planning, provision and legislation can be implemented to ensure that communities retain control over their own lives.

2.4 - The paradox of privatization: accountability and ownership

Along with many other NGOs, Practical Action believes that appropriate development axiomatically implies forms of participation and democracy that root ownership of that development within communities – this includes the recognition and analysis of unequal relationships of power that afflict more vulnerable sectors of the community such as women, indigenous peoples and Dalits. Along with PA partners in many countries, we view with deep concern the ways outlined above in which GATS would appear to restrict the heterodox, alternative policies that are vital to lasting, egalitarian and sustainable development. These are not only ethical and moral

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considerations, but also a reflection of the fact that historically the rich countries of the north themselves arrived at their various democracies through a multiplicity of socio-economic pathways entirely different from the orthodox economic prescriptions on which they now insist for developing countries. Attitudes to privatization itself amongst PA partners, however, differ.

In Kenya, the consensus of opinion is that there could be benefits to privatization if it is properly implemented, especially in the area of having effective regulatory mechanisms in place before the process begins. If the electricity sector is: “liberalized without the social development concerns of the poorer segment of the society, the benefits of liberalization would only accrue to a small percentage of the society” (Okelo, 2006: iii). In particular, Kenya along with many other African countries should not be forced to open up any faster or wider than it can sustain, which plainly brings into play the questions of how that is to be assessed and who is to assess it. It would obviously be the position of Practical Action that such an analysis could not be undertaken without the full and open participation of civil society groups and local community representatives.

The problems created in development projects that do not have a realistic approach to participation fill the reports of Practical Action partners from their experiences under previous privatizations. The example of Peru shows how trying to encourage citizen participation can run into problems, given an initial lack of interest in common usage and future implications of the concessionary process. Citizens and local authorities were only interested in the quality of the service and the water in the short term, but later began to demand the right to participate in decisions about how to adopt the best alternatives to the serious problem of lack of water from which communities suffered. By that time however contracts were already arranged through the municipalities to the contractor, and the consumers had no contract at all with the concessionaries, with the ensuing problems that caused.

Irrespective of the above, it appears (as PSIRU points out) that GATS is also tending towards exclusion by providing ample access to industry lobbying whilst doing a minimum to encourage either public debate about the whole process, or dialogue between civil society and government over what governments should be requesting. The secrecy of the whole process is demonstrated by occurrences such as the note attached to the ‘request’ schedule to Sri Lanka from the European Union, which said: ‘Member states are requested to ensure that this text is not made publicly available and is treated as a restricted document’, a suggestion not calculated to encourage belief in the openness and transparency of the process. The democratic and participatory nature of any process such as GATS, however, is paramount;

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39 “If the criteria of the International Monetary Fund had governed the United States in the 19th century, our own economic development would have taken a good deal longer. In preaching fiscal orthodoxy to developing nations, we were somewhat in the position of the prostitute who, having retired on her earnings, believes that public virtue requires the closing down of the red-light district.” Arthur Schlesinger Jr., ‘A thousand Days’, 1965.
40 See Becerra 2006: 49.
the degree of control which communities have over their own service provision is going to play an important part in how systems of governance develop.

The Citizens Network on Essential Services (CNES) points out that differences in perceptions of governance in private sector provision very much depend on the relative norms and values of the authors and institutions from which such documents originate. Sources such as the World Bank’s World Development Report (WDR 2004) insist that by separating policy-makers from service provision poor people and poor communities will be able to hold private contractors to greater account, besides improving the quality of service that the state is capable of. It would be the assertion of many Practical Action partners however that past privatizations have not been more accountable, and neither have the services they provide been more efficient than the state in many ways. Whereas coverage and supply may increase far more rapidly than previously, this is frequently accompanied by rapid increases in tariffs that make the service unaffordable. CNES suggests that in terms of proposing private sector involvement, not only should the burden of proof be on private sector providers but every private contract should contain public interest provisions to ensure universal coverage and equitable tariffs. Above all: “private provision is not likely to succeed unless a competent public regulator monitors and enforces such contracts”.

If (for instance) the World Bank line on accountability and service delivery is taken in the particular case of GATS, it is not clear how policy-makers are expected to be separated from service providers. The entire GATS process is based on international negotiations between policy-makers and corporations in different countries so as to arrive at the sectoral structures which will deliver services. This will be done in a fashion that ab initio has included complex and secretive negotiations between exactly those actors that the World Bank insists should be separate. Decentralization or not, inclusion of civil society or not, the guiding structures of GATS do not give equal weight to all actors and seem to take for granted an equality of access and process which is simply not realistic.

Where national policy on equality of participation is concerned, Practical Action Sri Lanka points out examples of historically successful, positive discrimination policies that would have clashed with GATS principles. One example of this would be the preferential treatment given by the Malaysian government to native Malays after 1971 in an attempt to address historical discrimination against the native population under colonialism and to reorganize the Malay economy. This New Economic Policy had a dramatic effect in promoting local and ethnic ownership, in the same way that the government of South Africa hopes that the Black Empowerment Programme (BEE) will address the historical imbalances in economic power in South Africa created under Apartheid. Part of the BEE proposed in 2003 to transfer

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10% of electricity generation into BEE eligible groups; such positive ethnic discrimination policies, however, must run counter to national treatment provisions under GATS.\textsuperscript{44}

There appears, finally, to be a distinct contradiction between the participatory ideas of Community-Driven Development being championed by the World Bank, and the assumptions about private-sector driven service provision being championed as participatory by the World Trade Organization in GATS principles. If the ideas driving CDD are that it should focus on what consumers can pay for, planned, initiated and implemented by the local community, then it is difficult to see how the current structures of GATS, top-down as they undoubtedly are, can provide a private sector component that takes this into account. CDD tries to hedge this by still insisting that water is an economic good (rather than a public one) and that the more users pay the more it is likely that the project will be driven by the consumers, and yet that basic disjoint remains.

\textsuperscript{44} See Practical Action Sri Lanka 2005.
3 - Alternatives

The previous sections have outlined the ways in which previous privatization programmes have generally been far less successful than the claims made for them. It is this very lack of success in the global south that has resulted on the one hand in the withdrawal of many corporations from such provision altogether, and on the other in the involvement of others only where profit can be guaranteed and where contracts eliminate all risk to the service provider.

At the same time, Practical Action believes that there must be a recognition made by opponents of GATS that in most of the countries with inadequate basic services, there will be no large-scale state-led (as distinct from public) provision of services. In an increasingly polarised debate, however, one positive trend is that there has recently been a global surge in new, innovative
projects to undertake service provision to the poorest, both in terms of technologies and of the mechanisms to finance such projects. It is the purpose of this section to describe some of these and the ways in which they represent genuine, sustainable alternatives both to wholesale privatization and centralized state provision.

Finally, Practical Action must seek to engage with the continuing debate on service provision in a way that reflects our core values and puts our expertise and resources at the service of the poorest communities, irrespective of political environment and ideology. Where private sector involvement is under the control of host communities, for instance, and where it creates employment locally and where the involvement of companies benefits other businesses in the local community then it cannot be dismissed on ideological grounds. At the same time, however, Practical Action holds that water and electricity are public goods and believes that: “their market value alone would not capture their intrinsic value and social benefits” (UNDP, 2003:111). The inability of the state in many countries of the global south to make provision on the scale and of the quality required does not affect the status of those public goods.

For this reason, as the Citizens’ Network for Essential Services points out: “A different economic logic pertains to basic infrastructure services than to other public goods… because basic infrastructure services are typically structured as natural monopolies…. A different financial logic is also called for”45. A corollary to this is the ample evidence from past privatizations, showing that initiating projects simply on the basis that private sector involvement will provide the best and most efficient service is quite wrong. Such an approach addresses neither the socio-economic difference displayed by gender, culture, people and community, nor in many cases does it come anywhere close to providing adequate services46.

This section therefore deals with alternatives in three sections, finance, technology and participation, in order to provide an overview not only of the wide range of alternatives available but how they link into the sectoral analysis of the GATS process. The section concludes by addressing what Practical Action considers achievable in terms of its own role; an assessment of the ways in which PA can engage effectively with the issue of service provisions at a number of different levels and in a number of different ways. These ‘achievable’ will recognise the involvement of NGOs in the socio-political reality of the continuing GATS process and at the same time outline how we can be involved in suggesting, planning and implementing realistic alternatives.

45 See CNES 2004.
46 At the same time it should be noted that in many projects where a significant degree of decentralization has taken place in an effort to devolve power to communities, there have been significant problems in terms of resources and capacity where central government has failed to allocate sufficient financial resources (CNES 2004).
3.1 - Financial alternatives

The range of alternatives for financing service delivery projects without or in partnership with the private sector have greatly increased since the innovations introduced by the idea of microcredit and microfinance predominantly for women in the late 1970s. As well as more traditional alternatives for the state such as progressive taxation, cross-subsidies and direct subsidies, there are options such as sub-sovereign guarantee mechanisms, direct microfinance projects (with revolving funds specifically for the development of local water or off-grid electrification projects) and segregated investment funds (where existing public utilities have to put aside a proportion of their revenues for investment - in Porto Alegre in Brazil, for instance, this is 25%).

At the local level there financial tools which can improve efficiency in existing public utilities and about which the need for knowledge dissemination on a south-south basis is imperative. Such tools include the development of co-operatives, the proper use of scaled tariffs, the development of municipal bonds and loans to raise money in local markets and the introduction of political incentives for mayors and heads of communities to develop their own resources, as well as looking at how migrant remittances can be used to help fund local projects. Needless to say all such proposed alternatives have to be considered paying close attention to local socio-cultural and political realities; a central consideration for this would be ensuring that service delivery projects be looked at in tandem with parallel needs, such as improvements in housing and sanitation, rather than being considered as an end in themselves.

Using the development of microfinance as an example, many of these ideas seek to exploit conduits through which communities of the poorest can be made bankable, which is to say develop not only their own savings institutions but also their credit and loans facilities, as well as revenue streams. For this reason options such as tariff charges to control the waste of water, localised cross-subsidies, special tariffs for richer areas and the reduction of non-

47 A particularly successful example of this is the DMAE project providing water in Porto Alegre, Brazil (TNI/CEO, 2005).

48 A guarantee provided by central government to a municipal water board, for instance, so that if it meets certain financial requirements the water board should be able to enter capital markets.

49 See WSF (2004).

50 For instance the Co-operativa de los Servicios de Agua Potable y Alcantarillado Sanitario, SAGUAPAC, in the city of Santa Cruz in Bolivia, where everyone with a water connection is a member and co-owner with voting rights (TNI/CEO, 2005).

51 A particularly ingenious version of this is the example of the water and sanitation provided by SANASA in Campinas in Brazil. This functions through a Public Prices Bank and the development of a price record for Campinas, in which price patterns for each group of services were calculated “in order to define a fixed percentage for each one of the variants comprising the “SANASA fair price.””(da Costa et al, 2006, chapter 3).

52 Such as the interest-free loan of RM1,000 provided by the state of Penang in Malaysia to poor communities for the purposes of connection (TNI/CEO, 2005).

53 The success of the Saveglu community water distribution model in Ghana shows one example of how this can be achieved (TNI/CEO, 2005).
revenue water through experimental pilot projects\textsuperscript{54} are also ideas under trial across the global south, as ways not just in which service delivery can be improved, but also through which such projects can be linked to community self-financing. As development practitioners have pointed out, cultures of non-payment and indebtedness that have endured for decades will take some time to change; one way of bringing that change about is by using local high-visibility financial mechanisms that can be seen to be working and to be bringing about improvements\textsuperscript{55}. Willingness (and indeed ability) to pay is directly linked to the perceived benefits that such projects can bring about.

At the national and international level other mechanisms are being employed, such as the development of a water resources fund by the Rand corporation in South Africa (currently in co-operation with the Harrismith local authority in a successful public-public partnership) and various international solidarity funds collecting 1\% of the revenues of water utilities in North America and Europe, as well as voluntary contributions made by consumers through their water bills. Ethical pension funds and direct investment are also now being linked more directly into service provision, whilst funding and human resources are being provided by NGOs such as UNICEF, World Vision and GLOBAL 2000. The very complexity of the financial provision environment that has caused such problems in past privatization programmes, in fact, has created opportunities for a variety of other actors and institutions in terms of innovative methods of generating hybrid streams of funding.

As the TNI/CEO (2005) points out: “In virtually all cases, however, these achievements have happened against the odds as the obstacles for improving public and community-controlled water delivery are manifold. Among the worst are the systematic bias against public water of IFIs and the privatisation conditionalities attached to the decreasing amounts of development aid offered by northern governments.” In other words, if the stated concerns to date of international actors ranging from the UN to the IMF had truly been the most efficient, affordable and accountable access to services for the poorest, then such community-based, publicly-owned projects would be far more prolific than they are at present and the range of disastrous private sector interventions would have been far more limited. If the genuine intention of GATS is to learn from the mistakes of the past and to improve the efficiency of service provision for the poorest, then it must encourage the kind of innovative, publicly-owned projects discussed above.

\section*{3.2 – Technological alternatives}

Despite the topological problems discussed earlier in this document, there are a number of groups and agencies that have expertise in developing

\textsuperscript{54} Again, the case of Saveglu refers. This project has been so successful that coverage of potable water in the catchment area is at 74.4\%, as compared to a national average for Ghana of 36\%.

\textsuperscript{55} One example of how to do this is that of Grenoble in France, where the accounting of the publicly-owned water utility has been made public since it was brought back into public ownership in 2000, and where tariffs are decided each year by elected councils (TNI/CEO, 2005).
technologies appropriate to a multiplicity of environments, such as the community-based off-grid electrification programmes that have been developed by the ITDSG. The problems involved in developing such programmes are far less technical, however, than they are problems of the political economy. Where there is systemic resistance from groups with vested interests in existing service provision, where there are strong political agendas for developing services in certain ways, and above all where alternative technologies and the financial structuring that frequently accompanies them come into conflict with the broad principles outlined in agreements such as GATS, alternative technologies face an uphill struggle.

Examples of the successful use of such technologies come from countries as far apart geographically and socio-economically as Sri Lanka and the USA. The use of micro-hydro power generation in Sri Lanka for off-grid electrification gives a strong lead in how such technologies can be used, particularly in its innovative use of abandoned micro-hydro units, but the development of similar rural off-grid electrification under the Rural Electrification Administration in the USA eventually developed into a programme of over 1,000 co-operatives covering 5 million households. Whilst the technologies themselves are unlikely to come into conflict with GATS principles, the ways in which they were developed and the community-based administration and the financial mechanisms that were developed as an essential part of running such projects almost certainly would.

Frequently the use of service alternatives is less to do with the development of new technologies than the appropriate use of existing systems, something that itself requires a community involvement and focus unlikely to be achievable by the private sector. For instance in Brazil in the city of Alagoinhas the Water and Sewage Autonomous Service (SAAE by its initials in Portuguese) was incorporated into the energy efficiency programme (Procel Electrobras) and immediately set about reducing the costs of water by reducing energy costs involved in the transport of water. SAAE began a programme of modernizing pumps and motors, setting up automated reservoir systems and generally making improvements in the ways in which water was delivered and distributed. The use of reservoirs in particular was employed to restrict the transport of water between distribution nodes to the hours when electricity costs were lowest. Plainly such integrated planning involves a considerable degree of co-operation between sectors and institutions that by themselves provide a range of ostensibly dissimilar services, co-ordinated by a central plan.

Other considerations of increasing importance to the development of national policy would also create problems. For instance, in the US the initiation of the Renewable Portfolio Standard (RPS) in Arizona to encourage the development of solar power on environmental grounds is part of a major attempt in the US to integrate both environmental and economic concerns; in an increasing number of states rigid targets must be met in the development.

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57 See TNI/CEO (2005), Chapter 1.
of new energy sources to incorporate statutory minimums of renewables. Such environmental concerns have already conflicted with WTO regulations under past privatizations, and it is hard to see how sectoral allocations under GATS can incorporate sufficient flexibility to allow for this type of environmental concern.

Given the recent history of price increases for fuel globally and the likelihood that this will be a continuing trend, the development of renewables is plainly a significant factor in future development paths for poor countries in the global south, many of which are well-placed to exploit solar, hydro, wind and geothermal technologies under the right circumstances. Taking the example of a key player in the renewable energy market such as Denmark, however, it is immediately clear that the technological development of renewables went hand-in-hand with the development of industrial policy and the use of a multiplicity of financial devices and incentives, not to mention the use of appropriate social institutions such as local guilds and co-operatives. For many poor countries undertaking access to GATS the choices are already limited in this regard, and GATS principles are likely to restrict options even more.

A final consideration in terms of both technology and finances is the rate at which urbanization is growing globally; the highest rates are currently being experienced in the poorest countries in Africa and across Asia. Technical solutions particularly to urban growth rates have to have the capacity not only for rapid expansion but expansion across a range of different settlement types, from formal legal housing to informal and illegal squatter camps. The planning and implementation for this is labour-intensive and local knowledge and a community focus are essential, particularly the kind of local knowledge that the women who constitute 70% of the world’s poor (Practical Action, 2005) employ daily to meet the basic needs of their families.

3.3 - Participation and Accountability

It should be obvious from the sections above that all of the components that go to make up true economic efficiency in service provision, such as integrated and gendered planning, effective use of local knowledge, adaptability to local circumstances, the maximization of economic impact through employment and value for money have as their precursor effective community participation. The willingness of a community to participate in an environment in which previous service provision has been so poor and in which local, regional and national political structures are widely mistrusted can only stem from the development of a trust which in its turn originates in the visible successes of a clear and transparent system for service provision. Ideally this becomes a self-reflexive, self-referential system in which openness generates trust, which in turn generates effectiveness, and so forth.

58 See Dubash, 2002.
Again, despite rhetoric about the ineffectiveness of public provision, a range of examples of participatory, publicly-owned, cost-effective and well-run service projects can be selected from across the world. Perhaps the most well-known example of participatory water management is that of the DMAE water company of Porto Alegre, where the city’s population votes on the budget priorities of their service provision directly through the mechanism of a series of public meetings. As a direct result of the effectiveness of this system of management, in Porto Alegre 99.5% of the population have access to clean water, which is a higher percentage than anywhere else in Brazil\textsuperscript{60}.

There are many different models for participatory service provision and not all of them key directly into the kind of democratic system modelled by Porto Alegre. In Colombia for example the Water and Sewerage Company of Bogotá (EAAB) was transformed through the existing political structures of Bogotá into a very efficient and equitable organization. So successful were the changes wrought that 95% of the city population had clean water by 2001 and 87% had an adequate sewage system. In Phnom Penh in Cambodia, a similar use of the political system by the mayor improved the situation of the city’s over a million inhabitants to the extent that between 1994 and 2004 the number of households with access to running water increased from 25% of the city total to almost 80%, an impressive performance under any circumstances but particularly so given Cambodia’s parlous economic situation\textsuperscript{61}.

A different example of service democracy in action is provided by Savelugu in Ghana (see above), a town with a population of about 25,000. Here, a series of water management committees were set up for the six areas into which the township is divided, constructed so that they contain equal numbers of men and women. These committees actually participate in the day-to-day running of the water system, being actually responsible for activities such as the collection of tariffs and the reporting of faults and leakages to a district assembly, rather than running these activities through a third party such as DMAE in Porto Alegre. Again what should be emphasized is the local relevance of the service delivery structure rather than the structure itself, particularly important in the case of different socio-cultural structures of indigenous communities. So successful has this particular project been that access to water increased from 9% of households in 1998 to 74% in 2002, and the community as a whole saw a reduction in infestation by water-borne Guinea Worm Disease by 98%\textsuperscript{62}.

Not only are the models of democracy that such projects use heterogeneous, but also the systems of management and their origins. Some service delivery projects have their origins in the research and analysis of service delivery NGOs such as WaterAid or the ITDSG, whilst some have their roots in changed political environments such as the accession to power of the Partido Trabalhadores in Brazil and the perceived need for new systems of

\textsuperscript{60}See TNI/CEO, 2004.
\textsuperscript{61}See TNI/CEO, ibid.
\textsuperscript{62}See TNI/CEO, ibid.
governance. Yet others derive from critical national political events and trends, such as the growth in strength of the indigenous people’s movements in Bolivia that brought Evo Morales to power, and which brought with them co-operative service delivery mechanisms deemed appropriate to the needs of the same Andean communities. Others still are needs-driven such as the setting up of the public-public partnership in the Harrismith community in South Africa.

Ultimately which model is chosen is relevant only so far as it is adapted to local realities and satisfies local needs. Grass-roots projects such as that of Olavanna in Kerala\textsuperscript{63} or the Bolivian co-operatives constitute models for service provision, but realistically what counts is what works and what is seen to work. All of these models share one thing in common, however, which is to point out the fallacy of centralized development projects whether (as with GATS) they have the private sector as their focus or whether in more orthodox left-wing models, they have the state. The automatic implications of such models are de-concentration of resources and decentralization of power, a vital shift in power to micro-level organization, with the consequent implications for community empowerment that must surely follow.

\textsuperscript{63} See TNI/CEO, 2005.
4 - Deliverables

Arising from this analysis, in terms of the way in which we should engage with the GATS process Practical Action believes that the beliefs, expertise and work of the group should be focused on three main themes:

a) Developing a knowledge/experience resource at Practical Action of alternative, functioning community-based service delivery options.

b) Using the weaknesses of GATS-orientated privatization and the strengths of community-based approaches to campaign for poverty-focused service provision at local, government and international levels.

c) Liaising with other NGOs campaigning on service provision to offer expertise in the development of affordable community-based services.

In doing so, more specifically Practical Action believes that the best and most effective way forward will be very much through following the ideas and activities developed by the PAS (Programa de Agua y Saneamiento) in Latin America, which are as follows:

1. Supporting the formulation and design of sectoral policies and reforms that permit the adoption of gendered, innovative approaches to broaden the access of the poorest communities to improved and sustainable water and drainage supply.

2. Providing technical assistance to governments, donor/co-operating agencies and other sectoral institutions to promote sustainable investment.

3. To implement directly or to support the implementation of locally relevant pilot projects to test the efficiency of new approaches and models.

4. To generate and diffuse sectoral knowledge through the realization of research and learning events, as well as the documentation and dissemination of successful experiences.

5. Promoting the formation of networks (and in particular networks of women) for sectoral co-ordination and the interchange of information.

Practical Action is well-placed globally to use partners to co-ordinate such a programme, as well as to liaise with sister NGOs in order to share information, particularly the in-house expertise developed in project design, development and implementation. Finally, however, this programme of engagement with GATS must be undertaken in tandem with our fundamental guiding principles and in particular through engagement from the bottom upwards, as part of a continuing commitment to engage with communities of the poorest.
References


