



# WORKING PAPER

## Establishing and Implementing a Joint Venture

Water and Sanitation Services in  
Cartagena, Colombia

**Andrew Nickson**  
January 2001

Working Paper 442 03



THE UNIVERSITY  
OF BIRMINGHAM



BUILDING MUNICIPAL CAPACITY  
for PRIVATE SECTOR PARTICIPATION  
DFID Knowledge and Research Project R7398  
in collaboration with the UNDP PPPUE

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## Building Municipal Capacity for Private Sector Participation

The Building Municipal Capacity research series is supported with Engineering Knowledge and Research (EngKARs) Programme Funding from the British Department for International Development (DFID). This Building Municipal Capacity Building for *Private Sector Participation* undertaken by GHK International, is being carried out in collaboration with the International Development Department (IDD), University of Birmingham and the UNDP Public-Private Partnerships for the Urban Environment (PPPUE) Programme.

The research aims to analyse and document municipal experiences of private sector involvement in the delivery of services and infrastructure and to formulate a strategic framework for municipal capacity building in private sector participation. The elements of this framework will be supported by in-depth illustrations of the lessons that have been learnt by municipalities in various parts of the world. The purpose of this case study series is therefore to compile a source of material that will inform and illustrate the capacity building framework.

A number of parameters describe the nature and scope of the work. First, the research and outputs are concerned with the participation of the (for profit) private sector in service delivery in cities overwhelmingly troubled with poverty and service constraints. The scope is also limited to those services that fall within the responsibility of municipalities. Combining these parameters has enabled us to focus the research on water and sanitation services and solid waste management.

Second, the research seeks to explore PSP in relation to urban management. Where possible, it intends to explore linkages between the private sector participation, municipal management and poverty reduction. A key concern of each study will be the lessons relevant for dissemination to smaller cities where financial and human resources are particularly constrained.

The case studies in this series are published as working papers and will be made available on the website [www.ghkint.com](http://www.ghkint.com). It is important that they are seen as part of a process and not an end in themselves. It is hoped that the transparency of this work-in-progress will produce greater awareness of the initiatives being undertaken, and promote peer learning amongst municipal officials. We hope it will also promote an openness in the vast arena of private sector participation research. Comments are very welcome.

Janelle Plummer  
Team Leader and Series Editor

GHK International  
November 2000

## Definitions

<i>Private Sector Participation (PSP)</i>	'PSP' refers to the involvement of the private sector in some form, at some stage in the delivery of services. It is a general term that is used to cover a wide range of private sector involvement from the service contract, management contract, concession and BOT. It may also include informal sector participation.
<i>Public-Private Partnerships (PPP)</i>	'PPP' specifically refers to those forms of partnership in which government establishes an arrangement with the private sector in which the private sector provides some form of investment. As such, the terminology PPP tends to exclude service and management contract arrangements, but includes leases and concessions.
<i>Privatisation</i>	This term is used to mean the transfer of ownership to the private sector. Divestiture is beyond the scope of the research.
<i>Service delivery or service provision</i>	The terminology 'service delivery' has generally replaced 'service provision' removing the implication that there is a provider and a recipient. This distinction is not always adhered to and so will not be overly stressed in this work.
<i>Pro-poor or poverty focused</i>	These terms have achieved different levels of favour at different times. Pro-poor implies that the overall aim is beneficial towards the poor, while poverty focused implies a greater degree of targeting.
<i>Consultation or participation</i>	These terms have very different meanings in participation literature, and are not used interchangeably. Consultation means that a stakeholder was contacted and their views sought. Participation is generally used to refer to a two-way flow of information and implies a greater degree of influence over the decision-making process.
<i>Municipal</i>	The term municipal refers to the local level of government. It is the 'municipal' level of government that is frequently, and increasingly, responsible for urban services and infrastructure. It is also the implementation arm of government, being responsible for executing policy. Technically this work also includes local level (line) agencies responsible for service delivery.
<i>Capacity Building</i>	The term 'capacity building' draws on a UNDP definition which includes a broader understanding of capacity which includes organisational development, human resource development and regulatory framework. The terminology municipal capacity building refers specifically to organisational and HRD issues and those regulatory issues are within the scope of municipal government.

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## Acronyms

AGBAR	Aguas de Barcelona
AGUACAR	Aguas de Cartagena
BPD	Business Partners for Development
COMPES	Consejo Mayor de Proyectos del Estado
CRA	Comisión de Regulación de Agua Potable y Saneamiento Básico
EAAB	Empresa de Acueducto y Alcantarillado de Bogotá
EMCALI	Empresas Municipales de Cali
EPD	Empresa de Servicios Públicos Distritales de Cartagena
EPM	Empresas Públicas de Medellín
FENALCO	Federación Nacional de Comerciantes
FUNCICAR	Fundación Cívico-Social Pro Cartagena
HDI	Human Development Index
INSFOPAL	Instituto Nacional de Fomento Municipal
JAC	Junta de Acción Comunal
JAL	Junta Administradora Local
LYSA	Lyonnaise des Eaux Services Associés
NGO	Non-government organisation
POT	Plan de Ordenamiento Territorial
PPP	Public-Private Partnership
SISBEN	Sistema de Selección de Potenciales Beneficiarios
SSP	Superintendencia de Servicios Públicos
UNDP	United Nations Development Programme

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## Partnership Profile

In 1995 the Municipality of Cartagena formed a joint venture with Aguas de Barcelona (AGBAR) to provide water and sanitation services in the city. The new company, known as Aguas de Cartagena (AGUACAR) signed a 26-year contract with the municipality to operate and maintain these services. In turn AGUACAR signed a management contract with AGBAR. The short-term municipal objective was to rid itself of the fiscal burden of an inefficient in-house operation by delegating the management function and to improve efficiency by attracting the necessary technical skills from the private sector. A longer-term objective was to secure access to soft loan finance from international financial institutions in order to upgrade and expand the system.

A number of contractual and capacity issues characterise the Cartagena joint venture. It was the first example in Colombia of private sector participation in the water and sanitation sector. The negotiation of the new institutional arrangement was politically controversial and surrounded in secrecy. An initial agreement that assigned a relatively minor shareholding to the municipality was rejected within a matter of weeks and replaced by one that assigned it a majority shareholding.

Little attention was devoted to the water needs of the urban poor during the drawing up of the new institutional arrangement. In particular, issues concerning the demarcation of the urban area for which the operator had a legal responsibility to supply services, and cost recovery issues relating to the financing of household connections and willingness to pay, were not considered.

Under the terms of its 1995 contract with AGUACAR, AGBAR is only responsible for the management of the system. However, in 1998 it was awarded a separate contract by the municipality to manage a major investment programme that is mainly financed by the World Bank and Inter-American Development Bank. Consequently, under this complex arrangement the private sector partner will carry out the functions normally found in a French-style concession contract, but with protection from the financial risks inherent in such an arrangement.

The municipality and citizens of Cartagena are generally satisfied with the service provided by AGUACAR. System efficiency has improved markedly since 1995 as measured by labour productivity, leakage rates, service reliability, water quality, and customer care. However, progress in extending the coverage of water and sanitation has been slow to date.

The role of the municipality in the partnership has been extremely limited, and can best be described as that of a “sleeping partner”. Although, as the major shareholder, the mayor chairs the meetings of the joint venture company, s/he lacks the support of a team of permanent professional administrators in negotiations with the private sector partner. This situation is a reflection of the prevailing culture of clientelism and malfeasance that militates against the development of a proper public sector career system in Colombia, as elsewhere in Latin America. As the role of the local state begins to change rapidly through such partnerships, this lack of professionalism is becoming dysfunctional and contributes to a grave imbalance in negotiating skills between the public and private partners.

Despite a plethora of new legislation in Colombia designed to promote participation in local governance, citizen scrutiny of the new institutional arrangement remains extremely limited. The legal requirement that the municipalities should establish a citizen watchdog committee to oversee the performance of basic public services, including water and sanitation, appears not to have been implemented. The performance targets to be met by the private partner, which are presumably set out in the management contract, are not in the public domain.

The Cartagena case study demonstrates clearly that a municipality needs to build capacity in order to act as an effective partner. But it also highlights the importance of political will to build such capacity. Where a prevailing political culture has assigned a weak role to the local state, there are strong vested interests that actively operate against such capacity building. The main lesson of the case study focuses on the potential limitations of a joint venture arrangement for service delivery where the local state is so weak, in comparison with the conventional affermage or concession contract.

## Partnership Data

<b>Location</b>	Cartagena, Colombia
<b>Sector</b>	Water supply and sanitation
<b>Level of Infrastructure</b>	Primary, secondary and tertiary
<b>Target Group</b>	All residents, 850,000 and expanding rapidly due in in-migration of displaced war victims
<b>PPP Objective</b>	Improve service standards, service coverage, efficiency and reduce fiscal burden
<b>Partnership Arrangement</b>	Joint venture, with associated management contract
<b>Duration</b>	26 years commencing 1995
<b>Primary Stakeholders</b>	Municipality of Cartagena, Aguas de Barcelona, local investors including workforce
<b>Ownership</b>	Public, no transfer of ownership
<b>Key Characteristics</b>	<p>Municipality at the same time owner and operator of the assets.</p> <p>Initial controversy over contract negotiation</p> <p>Municipal and citizen satisfaction with operator performance</p> <p>Partnership lacks equality</p>
<b>Issues concerning service delivery to the poor</b>	<p>30 per cent of households not connected to network.</p> <p>Widespread practice of illegal connections and private resale of water. Irregular supply from unregulated water tankers</p> <p>Present metered tariff structure is equitable.</p> <p>Cost recovery issues unresolved</p>
<b>Lessons learnt</b>	<p>Positive experimentation with collective metering and billing</p> <p>Need for clearer division of responsibilities between different regulatory agencies</p> <p>Lack of career system weakens negotiating capacity of municipality</p>
<b>Capacity Issues</b>	<p>Municipal capacity severely affected by prevailing clientelism</p> <p>Municipality prioritises training of community leaders rather than its own staff</p>



## 1 Introduction

In 1995 the Municipality of Cartagena, Colombia signed a 26-year affermage contract with Aguas de Cartagena (AGUACAR) for the operations of urban water supply and sanitation within its jurisdiction. AGUACAR is itself a joint venture company owned by the Municipality of Cartagena and a Spanish private water utility, Aguas de Barcelona (AGBAR). It is of special interest as the first public-private partnership (PPP) to be signed for basic service provision in Colombia. This working paper examines the experience of Aguas de Cartagena. It focuses on how this joint venture impacts on the urban poor and the implications for capacity building within the Municipality of Cartagena.

This case study, like others in the series, has been developed around the research framework and methodology produced for the Building Municipal Capacity for Private Sector Participation research, prepared by Janelle Plummer of GHK International in March 2000. The broad political, administrative, economic, and participatory context within which private sector participation has evolved in Colombia is examined first, followed by a review of the emergence of a favourable environment for public-private partnerships. The institutional arrangement for water and sanitation in Cartagena is then described. This is followed by an outline of the negotiation and content of the affermage contract and the associated management contract. Next, the water needs of the urban poor are outlined after which the two major pro-poor initiatives carried out within the framework of the PPP are examined. The paper concludes by identifying lessons from the Cartagena experience and areas where capacity building is needed in order to improve the role of the municipality in support of the pro-poor element within the partnership.

## 2 The context of public-private partnerships in Colombia

Several contextual factors have moulded the current environment for private sector participation in basic service provision in Colombia. The most important of these are: a strong history of political clientelism; a weak system of local public administration; a deteriorating economic situation and growing poverty; and a limited development of citizen participation.

### **A strong history of political clientelism**

Colombia is a unitary state with three levels of government – national, departmental and municipal. There are 32 departments and 1,080 municipalities in a country that has only recently emerged from a century of extremely centralised government. Under a dichotomous system introduced by the 1886 Constitution and known as "political centralization with administrative decentralization", departments were headed by presidentially-appointed governors, who in turn appointed municipal mayors. These centrally-appointed officials exercised effective control over directly elected departmental assemblies and municipal councils. The municipal mayor fulfilled a triple function as representative of the departmental governor, head of the municipal administration and chief of police. As such, the mayor's role was primarily to ensure the implementation of national policies at the municipal level. An electoral system based on closed party lists strengthened national party control over the selection of local political leaders, and simultaneously loosened the accountability of the latter to the local electorate. This hierarchical arrangement gave rise to a strong culture of clientelism at the local level,

because the criteria for distributing financial support to municipalities was based primarily on the need to secure political allegiance among client groups.

From the 1970s uncontrolled urbanization, woefully inadequate public service provision, and a marked increase in regional income disparities led to a gradual decline in the political legitimacy of the clientelism-based elites who dominated this highly centralized political system. The absence of opportunities for citizen participation contributed to widespread political alienation, as manifested by rising levels of electoral apathy and growing recourse to violence by guerilla groups. The municipality became emasculated to such an extent that it was reduced to a purely territorial concept, devoid of any semblance of local government.

The yawning gulf between the state and civil society was highlighted by the spread of several hundred civic strikes (*paros cívicos*) between 1970-86. These were organized by local citizens' groups protesting against poor service provision, and against the concentration of government expenditure in the largest cities. In 1979 the three largest municipalities together absorbed 72 per cent of total local government expenditure, and their per capita expenditures were six times larger than that of smaller municipalities. These civic movements had important consequences for local government. On the one hand, they represented a challenge to the clientelist political culture at the municipal level. On the other hand, both appointed mayors and elected councillors were obliged to offer them tacit support for fear of further reducing their own extremely limited legitimacy.

In response to growing insurgency from guerrilla groups, which threatened the stability of the entire political system, modernizing factions within the ruling two-party system (Conservative and Liberal parties) began to reform the Colombian state. A raft of legislation was enacted in 1986 that incorporated five main elements:

- the direct election of mayors
- the introduction of local referendums
- the fiscal strengthening of local government
- administrative decentralization
- citizen participation in municipal affairs.

The reforms were subsequently incorporated in a new municipal code, *the Código de Régimen Municipal* of 25 April 1986, which replaced the outdated 1913 municipal legislation. Thanks to these reforms, in March 1988 the first direct election of mayors took place in over a century. This was followed in 1991 by the first direct election of departmental governors.<sup>1</sup>

As in most major cities, there is a strong tradition of political clientelism in the Municipality of Cartagena, which is the largest municipality and capital of the Department of Bolívar. In 2000 it had an estimated population of 850,000 and a budget of US\$177m, giving a per capita expenditure of \$208.<sup>2</sup> The municipality is governed by a directly elected mayor (*alcalde*) and a legislature comprising nineteen councillors (*consejales*). The mayor and councillors are elected concurrently for a three-year term of office. Unlike the others, the mayor may not seek immediate re-election. There is a long history of municipal mismanagement and malfeasance in Cartagena that continues to the present day. The current mayor, Sra Gina Benedetti, was appointed by the president of the country in mid-1999 to complete the term of office (1998-2000) of the elected mayor, Nicolás Curi. He resigned from office in June 1999

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<sup>1</sup> Nickson (1995)

<sup>2</sup> Author's calculation based on data from municipal finance department

following revelations of widespread corruption. New elections were held on 29 October 2000.

### **A weak system of local public administration**

Many attempts have been made in Colombia, from as far back as 1938, to introduce a merit-based career system in local as well as in central government but they have made little progress. A period of intense political violence took place from 1948-53 between supporters of the two main parties (Conservatives and Liberals). A settlement was negotiated in 1958, known as the *Frente Nacional*. This provided that the two major political parties would alternate in government every four years for sixteen years (until 1974) and that they would divide public appointments equally at all levels. This system of parity (*paridad*) had the effect of institutionalizing political clientelism throughout the national and local public administration on a scale unparalleled in the rest of Latin America. Although each municipal council had the power to establish its own position classification system and salary scale, the parity system effectively blocked the development of a career system at the local government level. The 1991 Constitution made provision for a career civil service throughout the public sector, including all local government staff with the exception of those holding confidence posts. Although the necessary enabling legislation was approved in 1992, it has made little headway in rooting out the deep-rooted tradition of clientelism.

In Cartagena, this politically-charged system of local governance means that senior municipal administrative staff rotate frequently in tandem with changes in the political leadership. This was also true of the municipal water company. Until the introduction of elections for mayors in 1986, the head of the water company changed as frequently as twice a year, in response to changes in the mayor appointed by the national government. After 1986 there was more stability, but not enough to ensure efficient management. The pattern was as follows. Towards the end of his three-year office, the incumbent mayor would seek to provide political support to his chosen successor. In order to ensure votes for that candidate, the mayor typically approved a range of investment projects (including in the water sector) in parts of the city where votes were most needed to win the election. This “political” basis for investment decision-making meant that long-term planning of basic service provision became impossible. In turn, this absence of serious long-term planning for basic service provision meant that the city lost credibility with the World Bank. As explained below, the public-private partnership that was introduced in 1995 had the advantage of insulating the investment planning process from these short-term political considerations, thereby enabling the municipality to access loan finance from the World Bank.

### **A deteriorating economic situation and growing poverty**

From the early 1990s Colombia has been experiencing a protracted economic recession that is largely the product of high levels of insecurity brought about by a worsening civil war. In 1999, the last year for which data is available, the per capita income fell by a further 3.6 per cent to \$2,250.<sup>3</sup> A major social consequence of the war is the phenomenon of “displaced persons”, which has led to a rapid increase in the rate of migration from rural areas. The urban population of Colombia rose from 64 per cent in 1980 to 73 per cent in 1999.

Income distribution in Colombia is highly unequal. The gini co-efficient in 1996 was 0.57. This compares with a co-efficient of 0.60 for Brazil, which is regarded as having the most unequal income distribution in the world. In the same year, the richest decile

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<sup>3</sup> World Bank (2000)



of the Colombian population received 46 per cent of the national income, compared with only 1.1 per cent for the poorest decile. A poverty survey in 1992 showed that 18 per cent of the total population (8 per cent of the urban population and 31 per cent of the rural population) were living below the poverty line as defined by the national authorities. A 1996 survey showed that 11 per cent of total population were below the internationally-defined poverty line of \$1 per day. In 1998 the country was ranked 68th in the Human Development Index (HDI). The under-five mortality rate in the same year was 28 per 1,000 live births. Over the period 1992-98, 8 per cent of under-fives were malnourished. Over the period 1990-98, official figures state that 15 per cent of the population lacked access to clean water supply and sanitation facilities, although this is almost certainly an understatement.<sup>4</sup>

In 1995 the national government introduced a special social welfare programme, known as the *Sistema de Selección de Potenciales Beneficiarios* (SISBEN), that is applied to the whole population and administered by municipalities. This is based on a proxy means test index used as a targeting mechanism. It serves as an indicator of household economic well-being and is derived from a cross-section sample of Colombian households. The SISBEN index is a function of a set of variables related to the consumption of durable goods, human capital endowment and current income. SISBEN was created with the purpose of simplifying, expediting and reducing the cost of targeting individual beneficiaries of social programmes. In accordance with directives from the national government, the Secretariat for Municipal Planning of each municipality is required to classify households into six levels (one through six), according to the level of unsatisfied basic needs. Members of households classified as levels 1-3 are entitled to benefits, primarily in health and education. The system has been quite successful and has generated high demand both in municipalities and departments, presumably due to its low operation costs and also to the social benefits being brought to participating communities. SISBEN has expanded rapidly. It is currently used in a wide range of subsidised social programmes, most heavily by those that benefit from health subsidies established by Colombia's Social Security Law.

Cartagena has become a major destination for displaced persons, producing a rapid growth in the local informal sector. In mid-2000 the city had an unemployment rate of 22 per cent, somewhat higher than the national average (19 per cent).<sup>5</sup> The tourist industry is the mainstay of the local economy of Cartagena, and the war has adversely affected it in two ways. First, the number of foreign tourists has dropped because of the poor international image of the country. Second, domestic tourism has suffered because of the economic recession in the rest of the country.

The internal displacement caused by the civil war has contributed to the increase of poverty in Cartagena. There is an official estimate of 32,000 displaced families in the municipality, although this is thought to be an under-estimate. Most of these have arrived since 1992 and many of them are female-headed households.<sup>6</sup> A special national government programme offers assistance to displaced persons. However, in a recent ruling a minimum five-year residence is required in Cartagena for citizens seeking entitlements to the national social welfare programme, SISBEN. At the same time, such proof of a five-year residence in Cartagena automatically terminates the "displaced person" status. The distribution of income in Cartagena is generally regarded as being even more unequal than the national average. This is reflected in the number of beneficiaries under SISBEN. From 1995-2000, some 84 per cent of the population (a total of 543,208 persons) were registered for such entitlements.

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<sup>4</sup> World Bank (2000); UNDP (2000)

<sup>5</sup> Data supplied by the National Planning Department

<sup>6</sup> Data supplied by the Department of Social Development, Municipality of Cartagena

Figure 1  
**Cartagena: population classification by SISBEN<sup>7</sup>**

<b>Classification</b>	<b>Living Standard</b>	<b>Share of population</b>
Level One	Very poor	31%
Level Two	Poor	30%
Level Three	Medium-to-poor	23%
Level Four	Medium	11%
Level Five	Medium- to-rich	4%
Level Six	Rich	1.4%

### **A limited development of citizen participation**

Historically, the low level of citizen participation in local governance has been a noticeable and hotly debated feature of the Colombian political system. For many years attempts to introduce legislation permitting the establishment of neighborhood councils at the sub-municipal level were resisted by political elites who were fearful of local democracy. Community action committees (*Juntas de Acción Comunal*) had invariably been co-opted by such elites, and had served primarily as a means of maintaining traditional systems of patronage. However, following an upsurge of civic strikes in the 1970s, the First National Congress of Civic Movements and Popular Organizations, held in 1983, called for a range of measures to facilitate genuine citizen participation in local government.

This bore fruit in the 1986 state reform that introduced several participatory mechanisms. Municipal authorities were empowered to create sub-municipal administrative units, known as *comunas* in urban areas, and as *corregimientos* in rural areas, in order to improve service delivery. They were also empowered to establish local administrative boards, *Juntas Administradoras Locales* (JALs) in both *comunas* and *corregimientos*. The JALs comprise between three and seven members. Although by law only a third must be elected, the most usual practice is that at least five members are elected, with the remainder appointed by the mayor. The JALs carry out administrative functions delegated by the municipal council, as well as an advisory and monitoring role, although their attributions vary widely from one municipality to another.

Provision was also made for the representation of consumer groups on the boards of municipally-controlled public utilities, such as water and sanitation, electricity, telecommunications and solid waste management. The significance of this reform was lessened by the fact that only larger municipalities retained provision for public utilities. Even fewer had legally constituted consumer groups, and social services such as health and education were specifically excluded from the provisions of the decree.

The 1991 Constitution opened up further opportunities for citizen participation. On paper at least, Colombia now has more institutional mechanisms than any country in Latin America designed to safeguard transparency in government and to strengthen citizen participation in structures of governance. Some of these derive from articles in the new constitution, while others derive from subsequent enabling legislation (Law 134 of 1994 and Law 388 of 1997) that were designed specifically to promote citizen involvement in local government. Among these mechanisms are:

<sup>7</sup> Department of Planning, Municipality of Cartagena

- The “*voto programático*” under which candidates for the post of municipal mayor must present a programme to the electorate during their election campaign.
- The system of “*veedorías ciudadanas*”, or local watchdog committees, under which citizens are able to monitor basic public service provision and specific public investment projects.
- The possibility of referendums, at the request of 10 per cent of the municipal, departmental or national electorate.
- The “*derecho de petición*” under which citizens may appeal for a mayor’s mandate to be revoked before its expiry because of poor performance.
- The “*audiencias públicas*” under which the municipal authorities must arrange public meetings in order to allow discussion and criticism of their plans and performance.
- The “*tutela*” under which individual citizens may contest the denial to them of basic rights to health and education through a quasi-legal procedure.
- The requirement that citizens should be consulted when municipalities draw up their statutory municipal development plan, known as the “*Plan de Ordenamiento Territorial*” (POT).

Despite this plethora of enabling legislation, there is widespread evidence that citizen participation in local government remains limited. This is particularly true of Cartagena, where traditional elites continue to deter citizen participation. The municipality is divided into fifteen districts (*comunas*), each of which has a directly elected body, known as the *Junta de Administración Local* (JAL), comprising nine persons (*ediles*). In turn, each district is divided into a number of neighbourhoods (*barrios*), of which there are a total of 265 in Cartagena. Each neighbourhood that is formally recognised by the municipality has an elected body, known as the *Junta de Acción Comunal* (JAC). A 1991 study of the impact of the major legislative reforms introduced in 1986 suggested that these had not brought about any significant reform in the management style of municipal governance in Cartagena. Instead, the deep-rooted practice of clientelism maintained the inefficient use of municipal resources and blocked the development of citizen participation in local government.<sup>8</sup> Law 142 of 1994 (article 62) requires each municipality to establish a citizen watchdog committee, *Comité de Desarrollo y Control Social*, in order to monitor the performance of companies delivering basic public services, including water and sanitation. Membership of these committees is

Figure 2  
**FUNCICAR**<sup>9</sup>

*The raft of new legislation on citizen participation in the early 1990s encouraged the formation of citizen organisations in Cartagena aimed at confronting the endemic corruption and crisis of political leadership in the city. In 1993 an NGO was created with the specific objective of campaigning for clean governance of the city. Known as the Fundación Cívico-Social Pro Cartagena (FUNCICAR), it was the instigator of the first citizen watchdog committee in Cartagena. The Comisión de Control y Vigilancia de los Servicios Públicos includes water and sanitation within its brief. FUNCICAR is also a founder member of the Colombian chapter of Transparency International. It is participating in the work of the Social Control Board of Cartagena, Frente de Control Social por Cartagena that is monitoring the implementation of the new Master Plan for Water and Sanitation, Plan Maestro de Acueducto y Alcantarillado. In June 2000 FUNCICAR began negotiations with AGUACAR for the introduction of an “Integrity Pact” for the tendering process for major construction contracts to be awarded as part of this Master Plan. This initiative has the strong support of the World Bank, which is a major source of funding for the Master Plan.*

<sup>8</sup> Velásquez, F. E. (1991)

<sup>9</sup> Information on FUNCICAR is available at their website, [www.funcicar.org](http://www.funcicar.org)

restricted to users of the respective services. However, in Cartagena it seems that this committee is moribund. Despite the considerable growth of fiscal transfers from central government, municipal expenditure on social development remains surprisingly low. In mid-2000, the Department of Social Development had a staff of only 32 social workers. All staff operated from a central municipal office and none was based permanently in low-income neighbourhoods.<sup>10</sup> Fear promoted by the ongoing civil war is another factor limiting citizen participation in Cartagena, although less so than in many parts of the country where community leaders are high-profile targets exposed to assassination from guerilla movements and paramilitary organizations.

### 3 The emergence of a favourable environment for PPPs

As far back as 1913 a local government code had empowered municipalities to carry out any services that were not expressly reserved by law to other levels of government. However, this breadth of responsibility was not accompanied by adequate financial provision, and until very recently local government actually provided relatively few services. A process of de-municipalization took place from the 1960s, with widespread central government intervention in service delivery at the local level. Responsibility for education and health services was transferred to central government, cadastral surveying was transferred to a central government agency, and urban transportation and public housing were taken over by autonomous state agencies. Some larger municipalities were exceptions, setting up semi-autonomous authorities, administered by boards, for the provision of water supply and electricity.

In the late 1970s, the Bird-Wiesner report, a major World Bank study into central-local financial relations in Colombia, drew attention to a growing fiscal crisis in local government that had been brought about by its heavy dependence on financial transfers from central government. The problem was compounded by the growing fiscal deficits of semi-autonomous municipal utilities operating at the local level in water and sanitation, electricity and public transport. For example, by the mid-1980s, the Bogotá Electricity Corporation alone had a foreign debt of US\$1,500m, equivalent to 15 per cent of the foreign debt of Colombia at the time.

#### **The decentralisation process**

As part of the state reform process mentioned above, from the mid-1980s Colombia underwent one of the most far-reaching processes of decentralization in Latin America, and one that has given priority to the strengthening of municipal government rather than departmental government. From 1987, responsibility for major functions was gradually devolved back to local government. This included responsibility for water supply and sanitation, environmental health, construction and maintenance of schools, health clinics and roads, low-cost housing, agricultural extension, urban transportation and cadastral surveying. This decision led to the closure of a number of ministerial departments and autonomous agencies of central government such as the municipal development institute, *Instituto de Fomento Municipal*, which had previously held overall responsibility for school-building, water supply and environmental health. The over hasty closure of the state water corporation, INSFOPAL, led to considerable disruption in water supplies because many municipalities were unprepared to assume this new responsibility.

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<sup>10</sup> Information supplied by the Department of Social Development, Municipality of Cartagena

Following a public campaign spearheaded by university students, a new constitution was promulgated in 1991. Its overriding concerns were to build a participatory democracy by opening up the political system to include former guerrilla groups, to decentralize political power, to reduce bureaucratic controls and to give the executive more direct control of the administrative structure. The new constitution defined the Colombian nation as "decentralized", and several articles granted a new degree of political and financial autonomy to local government. The term of municipal office was lengthened, and the discretionary system of central government transfers to local government was replaced by one based on constitutional guarantee.

Law 60 of 1993 provided the enabling legislation for the radical reallocation of competencies between different tiers of government that had been envisaged in the 1991 Constitution. This further deepened the process of fiscal decentralization. Municipalities began to receive a new central government transfer, the *situado fiscal*, which arose from the devolution of responsibilities for health care and education. The VAT transfer was replaced by a general revenue-sharing agreement, the *transferencia*, under which the share of national fiscal revenue transferred to municipalities was envisaged to rise gradually from 14 per cent in 1993 to 22 per cent by 2001. The *transferencia* was earmarked for social investment. A minimum of 80 per cent of the total received by each municipality must be spent on basic public services - education (30 per cent), health (25 per cent), water supply (20 per cent), and recreation and culture (5 per cent). By 2002, according to current constitutional requirements, the combined transfer to municipalities from the two main central government grants (*situado fiscal* and *transferencia*) is likely to surpass 30 per cent of national fiscal revenue, the highest share in Latin America.<sup>11</sup>

### **Private sector participation**

Mirroring this decentralisation process, and after decades of decline in the public water service, in the early 1990s the Colombian government decided to give priority to meeting the nation's needs for water and sanitation. In 1995, the national Water and Sanitation Plan was ratified by the national economic and social policy council, COMPES. The primary goal was to increase coverage by connecting nearly 7m people, to reach an average connection rate of 90 per cent. In sanitation, it was hoped that 77 per cent of the population will have mains sewerage by 2010. The estimated capital cost for achieving these two targets is \$1,400m. The plan will also improve drinking water quality, reduce leakage rates, and include environmental conservation measures.

Clearly, achievement of these ambitious targets required institutional reform of the water sector. The 1991 Constitution had already emphasised the importance of efficient public services but in 1994 a major change took place in national government policy toward basic public service provision. New legislation (Law 142) for the first time laid down explicit criteria for efficiency in terms of planning, regulation and supervision. It marked a radical shift towards a more positive attitude towards the private sector. As in other sectors, the government opted clearly for a market approach that assigns a key role to private capital and technology in the institutional reform process, thereby finally opening the door to private sector participation in public service provision in Colombia. There were three reasons for this major policy shift. First, it was a recognition that the country could not afford the level of public spending needed for infrastructure and that private resources were needed to fill the gap, leaving public funds for social programmes.<sup>12</sup> Second, it was a response to the

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<sup>11</sup> Nickson (1995)

<sup>12</sup> Statement by Nestor Roa, head of the infrastructure division, National Planning Department, Infrastructure in Latin America: Country Profiles (Financial Times, 13 Sept. 1996).

fear in central government that the devolution process could lead to a re-emergence of inefficiency in the provision of services under direct municipal control. Third, it was also a reflection of the growing pressure on central government from international financial institutions to open up basic service provision to private sector participation.

### **The regulatory environment**

Law 142 of 1994 also made provision for regulation of private sector participation in the provision of basic public services. Article 69 created separate regulatory bodies for water and sanitation, electricity and gas, and telecom. The regulatory body for water and sanitation, the *Comisión de Regulación de Agua Potable y Saneamiento Básico* (CRA) was set up as a semi-autonomous body under the Ministry of Economic Development. Its aim is “to promote competition, encourage investment and prevent abuse of monopoly power, in order to ensure reasonable tariffs, high quality and ample coverage in service delivery”.<sup>13</sup> One of its most important tasks has been to authorise a new tariff structure that reflects the true cost of delivering water and sanitation with transparent rules for cross-subsidies in favour of disadvantaged groups.

The same law (article 76) also created a public services watchdog, the *Superintendencia de Servicios Públicos Domiciliarios* (SSP), to monitor the day-to-day operation of the companies entrusted with the delivery of basic public services. The SSP has separate departments for water and sanitation, electricity and gas, and telecom. It is supported by a network of branches at the departmental level that liaise with municipal authorities. In the case of water and sanitation, its key tasks are to ensure that the regulatory decisions of CRA are applied, in particular with regard to cross subsidies, to hear and decide on complaints from customers, and to examine corporate financial management. The SSP has the power to fine water companies for violation of agreed norms.<sup>14</sup>

The joint venture (*empresa mixta*) emerged as the institutional arrangement preferred by central government in order to marry the twin policy objectives of strengthening local government and encouraging private sector participation. The arguments in favour of the joint venture arrangement were both economic and political. The economic argument emphasised that the municipality retained ownership of the assets, as under the more conventional concession contract arrangement. But it had the added advantage that, as a major shareholder in the joint venture, the municipality had a financial interest in promoting efficiency in service delivery. The political argument emphasised that, as a major shareholder in the joint venture, the municipality was better positioned to monitor and control the activities of its private sector partner. This was contrasted with the conventional concession contract under which the public sector effectively handed over control of the day-to-day operations of the undertaking to the concessionaire. Consequently, the traditional criticism from public sector unions that the municipality had “sold out” to the private sector was muted by the joint venture arrangement.

### **Cartagena as pioneer**

In response to this enabling legislation, the Municipality of Cartagena became a pioneer in Colombia with regard to the introduction of private sector participation in basic public service provision. It was the first city in the country to privatise its electricity supply and also one of the first to introduce a private concession to operate

<sup>13</sup> Extracted from CRA website, [www.cra.gov.co](http://www.cra.gov.co)

<sup>14</sup> Information on the *Superintendencia de Servicios Públicos Domiciliarios* is at [www.superservicios.gov.co](http://www.superservicios.gov.co)

its airport.<sup>15</sup> It was also the first city to introduce a public-private partnership for water and sanitation, with the creation of the joint venture company, AGUACAR. The prevailing poor economic performance of public service provision, itself linked to endemic clientelism and corruption, was a major factor in explaining citizen support in Cartagena for private sector participation in urban water supply. By the mid-1990s the municipal-owned *Empresa de Servicios Públicos Distritales de Cartagena* (EPD), responsible for public service provision, including water and sanitation, was already in crisis. Water losses exceeded 50 per cent. Current revenue did not even cover operating costs, producing a financial deficit that was a growing drain on municipal finances. There was not even money to pay for sufficient chemicals to treat water. The lack of an operating surplus meant that investment in maintenance and network extension had ground to a halt. Customer service was very poor, with constant interruptions in water supply and unacceptably low levels of water quality.

Interestingly, the pioneering experience of private sector participation in water and sanitation in Cartagena has not yet been followed in the country's three largest cities (Bogotá, Medellín and Cali), where the delivery of water and sanitation is still operated directly by relatively efficient municipal companies – Empresa de Acueducto y Alcantarrillado de Bogotá (EAAB), Las Empresas Públicas de Medellín (EPM) and Empresas Municipales de Cali (EMCALI). Nevertheless, private sector participation in water utilities is an idea that is beginning to find echoes with municipal authorities in other parts of the country. Under current legislation, water and sanitation remains solely a municipal responsibility and today there are over 1,000 water companies in the country. According to a World Bank study, coverage rates in large towns and cities is only 55 per cent, falling to 27 per cent in smaller towns. Utility management is poor in most towns, and their high debt equity ratio prevents them from making the necessary investment for modernisation. As shown below, the Colombian water market is already attracting the major French water companies that dominate the global water business.

Figure 3  
**Colombia: Examples of public-private partnerships in water and sanitation<sup>16</sup>**

Municipality	Arrangement	Start Date	Length	Partner
Tunja	Concession	1996	30 years	Vivendi
Barranquilla	Joint Venture	1995	30 years	(****)
Santa Marta	Joint Venture	1998	20 years	(****)
Montería	Concession	2000	20 years	Vivendi
Palmira	Joint Venture	1998	20 years	Lyonnaise des Eaux (***)
Riohacha	Joint Venture	2000	20 years	Local companies
Bogotá	Concession (*)	1998	20 years	Vivendi
Bogotá	Concession (**)	1997	30 years	Vivendi

(\*) Refers solely to the overhaul of a water treatment plant

(\*\*) Refers solely to the treatment of residual water from the Río Salitre

(\*\*\*) Lyonnaise des Eaux Services Associés (LYSA) recently won the management contract for Río Negro (pop. 100,000), Buga (pop. 100,000) and Palmira (pop. 300,000).

(\*\*\*\*) AGUACAR was originally the major private partner but later sold its shareholding to local companies

<sup>15</sup> The management of Cartagena airport was awarded in 1995 to the operators of Amsterdam's Schipol airport.

<sup>16</sup> Personal communication from the Departamento Nacional de Planificación, Colombia

## 4 The Cartagena Partnership

Facilitated by the recent legislation opening the door to private sector participation, and spurred on by the worsening financial crisis of its wholly-owned company, the *Empresa de Servicios Públicos Distritales de Cartagena*, on 5 March 1994 the municipal council of Cartagena authorised the mayor to close down the municipal water company and to establish a joint venture in partnership with a private company that had a reputable experience in the delivery of water supply and sanitation. Following an international tender, the Spanish water utility, Aguas de Barcelona (AGBAR), was selected as the private sector partner in the new public-private partnership.<sup>17</sup> Aguas de Cartagena (AGUACAR) was created on 30 December 1994 as a joint venture between the Municipality of Cartagena and AGBAR. It was the first public-private partnership for the delivery of basic public services to be created in Colombia.

### Controversial negotiations

The negotiation of the joint venture between the public and private sectors for UWS in Cartagena was controversial, and at first powerful economic groups in the city opposed it. The tendering and bidding process for the contract was negotiated by the outgoing mayor Gabriel García (1992-94). AGBAR was the only bidder and the adjudication was completed on 30 December 1994, the day before he left office. The incoming mayor, Guillermo Paniza (1995-97) had campaigned actively against the terms of the contract negotiated by his predecessor. These had envisaged a 50 per cent shareholding by AGBAR, a 40 per cent holding by private investors and only a 10 per cent holding by the municipality. Paniza argued that the spirit of the pioneering legislation (Law 142 of 1994) introducing private capital in basic public services called for a minimum public sector participation of 50 per cent in any joint venture. He also feared that the low value of the paid-up capital of the new joint venture company would put ownership of the 40 per cent of the shares earmarked for private capital within the grasp of corrupt local politicians who had been involved in the negotiations carried out by his predecessor.

The original intention of Paniza was to annul the contract altogether and return to the previous arrangement under which water and sanitation in Cartagena was owned and delivered by a municipal company. However, during a four-hour discussion in Washington, Menahem Libhaber, the World Bank project manager made it clear to Paniza that PSP involvement was a pre-condition for future Bank funding for the water and sanitation sector in Cartagena. Paniza then dropped his objection to private sector participation and renegotiated the terms of the joint venture with AGBAR. In order both to strengthen municipal involvement and to avoid the danger of political interference from a large local private share participation, the shareholding earmarked for the Municipality of Cartagena was increased to 50 per cent. The shareholdings of AGBAR and private local capital were reduced correspondingly to 46 per cent and 4 per cent respectively. Furthermore, the 50 per cent municipal shareholding would be in the form of “goodwill” and was not paid in cash. At the insistence of Paniza, the

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<sup>17</sup> Aguas de Barcelona (AGBAR) is a Spanish water company that is 25 per cent owned by Suez Lyonnaise des Eaux. Outside Spain, it is active in Portugal, North Africa, and in Latin America. Most of Suez Lyonnaise's operations in Latin America are in partnership with AGBAR. AGBAR is involved in water concessions in Argentina (Buenos Aires, Santa Fe, Córdoba), Chile (Valdivia), Colombia (Cartagena, Santa Marta, Barranquilla), Cuba (Varadero), and Uruguay (Maldonado). AGBAR is also involved in other sectors: healthcare, waste disposal, vehicle inspection, multimedia services and tax collection. In April 1999 it formed a healthcare partnership, BBV Adeslas, in Argentina, which owns several private hospitals and plans to invest \$100m. It has vehicle inspection contracts in Argentina and a municipal tax collection contract in Cartagena (Hall:13).



shareholding arrangement was also amended in order to incorporate an employee share ownership scheme within the 4 per cent shareholding allocated to local private capital.<sup>18</sup>

### **The content of the joint venture agreement**

On 25 June 1995 the Municipality of Cartagena signed a contract with AGUACAR with the following main features:

- The contract is for the operation and maintenance of the existing water and sanitation system including billing and collection (generally known as an “affermage” contract)
- The term of the contract is 26 years
- In order to carry out its contract obligations, AGUACAR must issue a minimum share capital of \$4,000m and obtain the necessary loan finance as required
- AGUACAR may determine the consumer tariff, subject to current national legislation

The initial share capital of AGUACAR was \$8.8m, of which 50 per cent was owned by the Municipality of Cartagena, 45.91 per cent by AGBAR and 4.09 per cent by private Colombian investors, of whom a majority are company employees. The Board of Directors of AGUACAR has five members – two appointed by the municipality, two by AGBAR and one representing local private share holders. Board decisions require a majority vote of 80 per cent of its members. In practice, this means that there must be a consensus between the municipality and AGBAR on important issues affecting the company.

Figure 4  
**Share allocation in AGUACAR**

<b>Stakeholder</b>	<b>Share Class</b>	<b>Share Participation</b>	<b>No. of shares</b>
Mun. of Cartagena	A	50.000%	300,000
Aguas de Barcelona	C	45.913%	275,478
Private Sector	B	4.087%	24,522
Total		100.00%	600,000

Although it did not sign a concession contract, AGUACAR was entrusted with managing a major water and sanitation investment programme, the *Plan Maestro de Acueducto y Alcantarillado*, on behalf of the municipality. This investment programme is financed mainly by loans from the World Bank (\$85m) and the Inter-American Development Bank (\$24m).

In addition to its participation as a shareholder in the joint venture, AGBAR signed a fee-based management contract with AGUACAR for the day-to-day operations of the company. Remuneration for AGBAR comes in two forms – its 46 per cent share of the declared profits of AC, and a management fee, calculated as a share of the gross income of AGUACAR. In the first four years of operation, this management fee was fixed at 2.94 per cent, 3.37 per cent, 3.82 per cent and 4.25 per cent respectively of gross income. In 1999 AGUACAR declared profits of \$1.96m. In the same year, AGBAR received a total of around \$2,100,000 from its involvement in the Cartagena concession - \$900,000 from its dividend share and \$1,200,000 from its management fee.<sup>19</sup>

<sup>18</sup> Interview with Guillermo Paniza

<sup>19</sup> Calculation by the author based on financial information in the public domain

Figure 5  
**Aguas de Cartagena: Financial performance, 1998 and 1999**  
 figures in Colombian pesos)<sup>20</sup>

	<b>1998</b>	<b>1999</b>
<b>Gross Income</b>	61,585m	57,642m
<b>Operating profit</b>	10,010m	11,511m
<b>Net profit (after tax)</b>	4,694m	3,927m
<b>Dividend</b>	1,800m	2,112m
<b>Inflation rate</b>	15.7%	9.6%
<b>Unpaid bills</b>	25,624m	30,692m

It is significant that, in response to the history of corruption and mismanagement in the urban water supply and sanitation sector in Colombia, the World Bank insisted on private sector participation as a pre-condition for further lending to the Municipality of Cartagena for water and sanitation. From the Bank viewpoint, the presence of a major international water utility (AGBAR) constitutes a guarantee both that its lending resources will be subject to allocative efficiency (e.g. in the selection of investment priorities) and subject to productive efficiency (e.g. in avoiding over-invoicing in the awarding of contracts). From the municipal viewpoint, this insistence meant that a partnership with a major international player (AGBAR) has been instrumental in accessing foreign soft loan funding for its expansion plans. And from the viewpoint of AGBAR itself, the joint venture arrangement has the advantage of reducing the risk of foreign investment.

### **The performance of Aguas de Cartagena**

There has been a noticeable improvement in the delivery of water and sanitation in Cartagena since the introduction of private sector participation in 1995.<sup>21</sup> When operations began there was a water deficit of 60,000m<sup>3</sup> which caused periodic cutoffs in supply. AGUACAR soon eliminated this deficit by reducing the level of unaccounted for water from 60 per cent in December 1995 to 40 per cent by December 1999. The reliability of water supply rose over the same period from 80 per cent to 99 per cent. AGUACAR carried out \$30m in investment during 1995-1999. Some 260 km of new pipeline was added to the network over the same period, bringing the total to 700 km. Some 30,000 new connections were made, bringing the total to 95,000. Some 220,000m<sup>3</sup> of water is now treated per day and water quality has markedly improved. The number of employees was reduced from 494 to 262, bringing the employee/connection ratio down to an acceptable level of four employees per 1,000 connections.

Despite this favourable performance, there is evidence from company financial statements of a growing problem of non-payment of bills. The balance sheet shows that current assets (comprising mainly outstanding debts, inventories and provision for insolvency) rose sharply from 1995 to 1998. The sharp fall in current assets in 1999 was solely due to the transfer of major inventory items (pipes) to investment. This suggests that the unpaid bills remain a major component of current assets. This suggestion is supported by data from the profit and loss account showing that turnover fell by over 6 per cent in 1999, at a time when the number of connections continued to rise.

<sup>20</sup> Extracted from Artur Andersen (2000)

<sup>21</sup> Public relations department, AGUACAR

Figure 6  
**Aguas de Cartagena: Balance Sheet<sup>22</sup>**  
(Millions of Pesos)

	1995	1996	1997	1998	1999
Current assets	10.533	17.004	30.754	34.259	25.628
Property and Equipment	1.578	4.486	14.292	10.226	7.733
Intangibles	1.654	1.932	2.357	2.584	2.635
Accounts receivable	426	1.320	6.234	23.800	37.005
<b>Total Assets</b>	14.191	24.742	53.637	70.869	73.001
Current liabilities	4.622	8.176	15.929	20.155	17.535
Liabilities (Long-term)	4.163	7.857	24.564	27.445	28.232
Shareholders funds	5.406	8.709	13.144	23.269	27.234
<b>Total liabilities and shareholders funds</b>	14.191	24.742	53.637	70.869	73.001

Figure 7  
**Aguas de Cartagena: Profit And Loss Account<sup>23</sup>**  
(Millions of Pesos)

	1995	1996	1997	1998	1999
<b>Turnover</b>	12.591	30.576	42.521	61.585	57.642
<b>Service costs</b>	(6.884)	(17.212)	(21.669)	(29.014)	(23.608)
<b>Operating costs</b>	(4.961)	(10.761)	(15.596)	(22.560)	(22.523)
<b>Operating profit</b>	746	2.604	5.255	10.011	11.511
<b>Non-operational income</b>	906	3.546	5.445	4.491	4.040
<b>Non-operational expenditure</b>	(337)	(2.695)	(4.585)	(7.958)	(10.564)
<b>Monetary adjustment</b>	(429)	(231)	191	675	1.110
<b>Profit before tax</b>	886	3.224	6.307	7.219	6.098
<b>Company taxation</b>	-	(1.067)	(2.307)	(2.525)	(2.170)
<b>Net profit</b>	886	2.157	4.000	4.694	3.928

### Potential contract difficulties

The new and complex institutional arrangement for water and sanitation in the form of a joint venture poses two potential dangers to the sustainability of the public-private partnership. First, the arms-length distinction between the role of service provider (the public sector) and that of service operator (the private sector) that is such a key element within contemporary restructuring of the State becomes blurred.<sup>24</sup> This happens because, under the joint venture, the municipality is at one and the same time the service provider (as owner of the network assets) and service operator (as a major shareholder in AGUACAR). This overlap in the division of responsibilities blurs the lines of accountability and has a potentially damaging effect on the

<sup>22</sup> Internal document supplied by AGUACAR

<sup>23</sup> Internal document supplied by AGUACAR

<sup>24</sup> Nickson (1997)

transparency of management decision-making. The lines of accountability are further complicated by the fact that the municipality has effectively relinquished its operational role to its private sector partner, through a management contract awarded to AGBAR. For this reason, it is somewhat of a misnomer to refer to the Cartagena arrangement as an *affermage* contract, because under the latter there is no distinction between service operator and service manager.

Second, and as a consequence of the above, under this complex arrangement the private investor benefits from the advantages of the traditional French-style *affermage* arrangement in terms of exercising day-to-day control of the management of the system, but with a much reduced financial risk in terms of working capital outlay and consequent higher effective rate of profit. This latter happens because, unlike the *affermage* arrangement under which the private operator is paid exclusively from a share of the gross revenue, AGBAR is paid both in the form of a management fee based on a fixed percentage of gross revenue and in the form of a share of the profits from the joint venture. As a result, there is the danger that the excess profits may become a rallying cry to interests that are politically opposed to the partnership, thereby threatening its long-term sustainability.

## 5 The partnership and the water needs of the urban poor

### **Stakeholder motivation for pro-poor initiatives**

According to AGUACAR staff who previously worked for the former municipal water company, the new institutional arrangement in the form of a joint venture has a strong pro-poor approach, in marked contrast to the municipal arrangement. The main reason is that, under sole municipal control, priority in new investment was granted to those parts of the city linked to the tourism, port activities and industry. Given that the water and sanitation needs of these parts of the city have been largely solved, the incoming AGUACAR has been able to devote its attention wholeheartedly to extending the network to outlying parts of the city, almost all of which are in the lowest neighbourhood classification (levels 1 and 2).

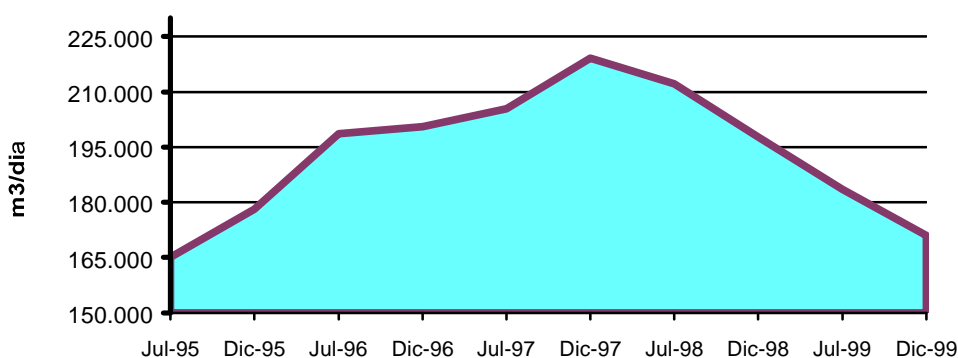
In the late 1990s, the municipality entrusted AGUACAR with the task of drawing up a master plan for water and sanitation, the *Plan Maestro de Acueducto y Alcantarillado*. The new master plan has a strong pro-poor element. This is in sharp contrast to the water investment programme during previous decades, when the tourism, industry and port sectors were given priority. For example, a master plan drawn up in 1992 did not even consider the water and sanitation needs of many low-income residential areas, because they did not fall within the “regulated” part of the city. On the basis of this new master plan, the World Bank signed a \$85m loan with the Municipality of Cartagena in 1999 as part of a \$117m package to finance major priority investments identified in the plan. The national government contributed a further \$20m and AGUACAR contributed \$12m. The \$85m World Bank loan will be repaid by the municipality (90 per cent) and by AGUACAR (10 per cent). Although never specified in writing, it was a World Bank condition for this loan that the municipality entrust AGUACAR with the implementation of the water and sanitation investment programme. This condition was imposed in order to end the previous practice of widespread over-invoicing on municipal water contracts. This decision provoked the hostility of local private contractors and their political associates on the municipal council. They argued that there was a conflict of interest between the role of AGUACAR as the consultant to the Municipality of Cartagena in drawing up the master plan and as contractor to the municipality in implementing projects identified in the same plan.

As noted above, Cartagena is a long history of municipal corruption and an income distribution that is more skewed than the national average. The question arises: “Why should the local political elite engage in pro-poor policies?” One major reason concerns the need to garner political support in democratic elections as a result of the financial strengthening and greater autonomy granted to local government since the late 1980s. In this changed political context, local urban elite is now obliged to pay more attention to the demands of poor communities in exchange for votes. Such patron-client relationships remain the bedrock of Colombian politics but the power imbalance has tilted somewhat away from the “patron”, granting enhanced bargaining power to the “client”. Hence, the number of land invasions by homeless families increases at pre-election times, as a form of bargaining by the poor for material benefits in exchange for the offer of political support to elite contestants for municipal posts.

*“When the water supply was privatised, the municipality retained responsibility for payment of pensions to the staff of the former municipal-owned water company. This heavy financial obligation, currently 16,000m pesos per year (\$8m), reduces the funds available for social investment in health and education. This factor should be taken into account when evaluating the overall impact of PSP on the urban poor”* **Councillor Alfredo Díaz, Municipality of Cartagena.**

The question also arises: “Why should the private sector engage in pro-poor policies?” According to the senior management of AGUACAR, there are two reasons. First, there is the ethical principle of social solidarity that is said to inspire the global operations of Aguas de Barcelona. Second, there is the practical issue of finding use of excess water that is surplus to requirements as a result of the dramatic reduction in the level of unaccounted for water brought about by improved operational efficiency, as shown in the following graph.

Figure 8  
**Aguas de Cartagena: Production of water, July 1995-December 1999**  
(m<sup>3</sup>/day)<sup>25</sup>



### The legal responsibility for water and sanitation

The legal obligation of municipalities to provide water and sanitation is confined geographically to the so-called “urban area” within their jurisdiction. In 1997 Law 388 introduced the concept of local-level planning which made it obligatory for every municipality to prepare an individual master plan for its physical development, known as the *Plan de Ordenamiento Territorial* (POT). In fact, most municipalities (including Cartagena) have not yet approved their own POT, primarily because of the lack of

<sup>25</sup> Graph supplied by AGUACAR

human resources and finance needed for their preparation. A controversial aspect of the POT is the requirement that it should demarcate this “urbanised” area for which the municipality has the legal obligation to provide water and sanitation. This measure has been widely interpreted by observers as a convenient legal device through which municipal authorities may avoid responsibility for provision of water and sanitation to poor peri-urban settlements on the grounds that they are not located within the “urbanised” area of the municipality. It may also be used as a means to restrain land invasions on outlying areas of major cities. In practice, the provision of water and sanitation in these “non-urbanised” areas of the municipality depends on the support of the Departmental government.

This restricted definition of what constitutes the urban population has a major effect on coverage targets. According to AGUACAR, coverage of water supply has increased considerably from 73 per cent in 1995 to over 90 per cent of the population in 1999, and sanitation coverage has increased from 55 per cent to 75 per cent over the same period (see tables below). Yet in 1999 according to the World Bank “Nearly one-third of the population, mostly in poor neighborhoods, is without running water and basic sanitation services”<sup>26</sup>. Clearly, the improvements in coverage publicised by AGUACAR are based on a gross underestimation of the target population because they ignore those citizens who reside outside the legally-defined “urbanised” area of the municipality. And most of these do not currently have access to water and sanitation.

Figure 9

**Aguas de Cartagena: Water coverage targets and achievements, 1995-1999<sup>27</sup>**

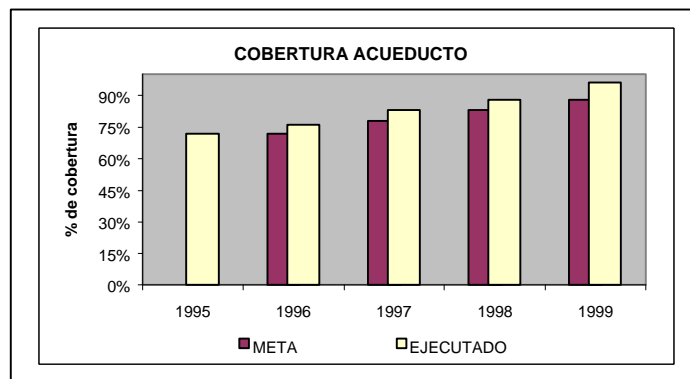
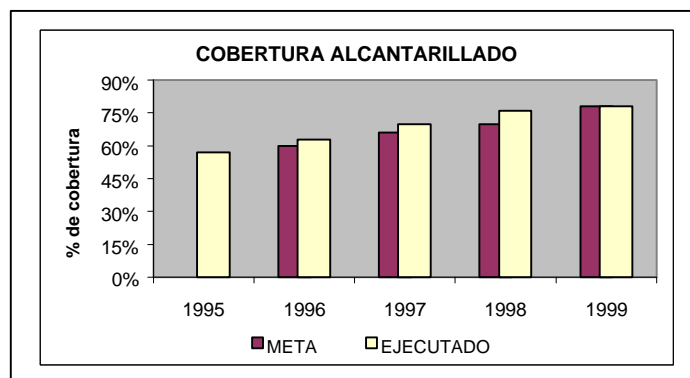


Figure 10

**Aguas de Cartagena: Sanitation coverage targets and achievements, 1995-1999<sup>28</sup>**



<sup>26</sup> “Bring clean water to Cartagena’s poor”, World Bank press release, 21 July 1999

<sup>27</sup> Graph supplied by AGUACAR

<sup>28</sup> Graph supplied by AGUACAR

## The water tariff structure and the urban poor

National water tariff policy derives from Law 142 of 1994 that is inspired by the philosophy of social solidarity. The law states that the tariff structure of all basic services, including water and sanitation, must be based on the twin concepts of efficiency and equity. On the one hand, tariff levels must be sufficient to generate the income sufficient to cover both operating and investment costs of water utilities. At the same time, the tariff structure must incorporate a pro-poor element by making provision for cross-subsidies in the form of a “solidarity fund”. This legislation did not introduce the use of cross-subsidies in basic service provision. This already existed but each municipality had adopted its own system. The new legislation aimed to standardise and make transparent the approach to cross-subsidisation throughout the country.

In order to implement this “pro-poor” approach, municipalities are required to carry out sample surveys in order to divide households in their jurisdiction into six levels (*estratos*). Unlike the multi-dimensional SISBEN system, the criterion for classification is exclusively the nature of house construction. The mayor is required to establish a committee, the Permanent Committee for Stratification (*Comité Permanente de Estratificación*) comprising the head of planning, the municipal ombudsman (*personero*), a representative from each of the basic service companies, and two citizens appointed by the mayor. This advisory committee has the task of monitoring the implementation of the stratification process, and responding to complaints from households who claim that their properties have been wrongly classified. The committee is required by law to respond to a complaint within a maximum of two months. In the event that the customer is still not satisfied, s/he may appeal to the national watchdog committee, the *Superintendencia de Servicios Públicos* (SSP).

The 1994 legislation requires that owners of properties classified in Level 4 should be charged a tariff that covers the costs (operating and capital) of service delivery. Those classified under Levels 1, 2 and 3 should pay a subsidised tariff, while those householders classified in Levels 5 and 6 should bear the cost of this subsidy by paying a tariff in excess of the cost of delivery. This approach does not result in a common national tariff for all water companies because the “break-even” cost applied to Level 4 householders varies from municipality to municipality because of a combination of geographical factors (e.g. terrain and distance from water source) and the level of efficiency of the water utility.

At 31 December 1999 AGUACAR had over 112,000 water customers and over 90,000 sanitation customers. Over 53 per cent of its residential customer belonged to the three poorest consumer categories (levels 1, 2 and 3) who receive a tariff subsidy.

Figure 11  
Aguas de Cartagena: Customer numbers by type<sup>29</sup>

Consumer Type	Water	Sanitation
<i>Official</i>	433	360
<i>Residential</i>		
Level 1	24,154	6,930
Level 2	31,297	27,311
Level 3	29,423	29,257
Level 4	7,755	7,687
Level 5	6,910	6,870
Level 6	5,359	5,358
Multiuse	635	598

<sup>29</sup> Data supplied by AGUACAR

Figure 11 (cont'd)  
**Aguas de Cartagena: Customer numbers by type**

<i>Non Residential</i>		
Commercial	6,238	5,764
Industrial	109	59
Block	2	
Crude	189	
<b>Total</b>	<b>112,524</b>	<b>90,194</b>

As shown below, the water tariff structure in Cartagena does have a strong pro-poor element. The standing charge for households in the highest (6<sup>th</sup>) strata is over ten times greater than that for households in the lowest (1<sup>st</sup>) strata. For the lowest volume step (0 - 20m<sup>3</sup>), households in the highest strata pay nearly four times more per cubic meter than households in the lowest strata.

Figure 12  
**Cartagena: Water tariff structure by household strata<sup>30</sup>**

<b>Property Classification</b>	<b>No HHs</b>	<b>Standing charge</b>	<b>0-20m<sup>3</sup></b>	<b>21-40m<sup>3</sup></b>	<b>41+m<sup>3</sup></b>
Property Level 1	24,154	2,186.87	270.87	884.21	884.21
Property Level 2	31,297	3,713.40	348.93	884.21	884.21
Property Level 3	29,423	4,952.09	589.94	884.21	884.21
Property Level 4	7,755	7,143.16	703.80	884.21	884.21
Property Level 5	6,910	14,133.76	1,061.05	1,061.05	1,061.05
Property Level 6	5,359	22,707.38	1,061.05	1,061.05	1,061.05

## 6 Pro-poor initiatives within the public-private partnership

The two major pro-poor initiatives undertaken by AGUACAR and the municipality are in parts of the city known as Nelson Mandela and El Pozón. Both are very poor areas of the city. It is estimated that 50 per cent of all displaced persons in Cartagena live in Nelson Mandela and a further 30 per cent in El Pozón. The following data indicates that the vast majority of residents of Nelson Mandela and El Pozón are entitled to SISBEN benefits.

Figure 13  
**Nelson Mandela and El Pozón: SISBEN beneficiaries<sup>31</sup>**

<b>Location</b>	<b>Official population*</b>	<b>Population with SISBEN entitlements</b>	<b>Coverage</b>
Nelson Mandela (incl. Villa Corelia)	20,013	16,878	84%
El Pozón	31,056	30,459	98%

(\*) Official population figures are well below the real population figures

<sup>30</sup> Data supplied by AGUACAR

<sup>31</sup> Data supplied by Planning Department, Municipality of Cartagena



## **Barrio Nelson Mandela**

Barrio Nelson Mandela, located in the extreme east of the municipality, is probably the poorest peri-urban settlement in the municipality. It arose following a series of land invasions in the early 1990s, primarily by displaced persons fleeing from the civil war in other parts of Colombia. It was formally recognised on 7 December 1993 and by mid-2000 had an official population of 30,626 (5,469 households) grouped in 24 sectors. Unofficial estimates put the population much higher, at around 50,000. Nelson Mandela is not legally incorporated within the municipal administration. Instead it was granted a special status outside the administrative system of *comunas*.

This is significant because, according to the 1997 urban planning legislation that created the *Plan de Ordenamiento Territorial* (POT), the responsibility of municipalities to provide water and sanitation is confined to the legally-defined “urban area” within the municipality. By placing Nelson Mandela outside that area, the municipality was effectively denying its responsibility for service provision to the settlement. This means that, in practice, some responsibility for water and sanitation in Nelson Mandela lies with the departmental government, and not the municipality. And because of this legal impediment, AGUACAR argues that it cannot invest in Nelson Mandela, as it still falls outside the “urban sanitation” area to which it must extend coverage under the terms of the 1995 contract. For that reason, one of the main demands of residents is for Nelson Mandela to be re-located within the urban area, by granting it the status of a new *comuna*. Similarly, community organisations in the settlement are not recognized as JACs, because these may only exist in the legally-defined “urban sanitation” area of the municipality. Instead, residents have established their own Communal Housing Committees (*Juntas de Viviendas Comunitarias*) but these do not have the same clout as JACs in negotiations with the municipality.

### *Communal billing*

Until recently Nelson Mandela residents obtained water mainly by illegal connections but also from water tankers supplied on an infrequent basis by AGUACAR. A maze of irregular plastic pipework criss-crosses the community, which is built on the side of a steep hill. This has led to sharp conflicts between residents over responsibility for cutoffs, diversions, and problems of low pressure. During 1999 AGUACAR held discussions with community leaders in search of an interim solution to the water needs of the residents until the vexed issue of the legal status of Nelson Mandela could be resolved.

In a novel experiment, it was decided that AGUACAR would begin to supply water legally to the settlement, but in a collective fashion, thereby avoiding the legal technicality that forbade individual connections in an area outside the “urban sanitation” area. From the viewpoint of the private partner, this had the short-term benefit of recouping part if not all of the revenue that was previously lost through illegal connections. It also had the long-term benefit of encouraging a “payment culture” among residents, as a stepping stone towards the eventual introduction of individual household connections. From the viewpoint of residents it had the advantage of ensuring a more regular water supply. It was also hoped that it would put an end to the perennial problem of extensive leakages at the top of the hill where water was tapped from the mains supply and associated very low pressure for residents at the bottom of the hill. This occurred because the illegal connections had been made with small diameter pipe that could not resist high pressure. The legalisation of these connections now meant that residents were willing to invest in replacing this narrow diameter pipework with a secondary network of larger diameter pipework.

The non-traditional system of collective payment for water was introduced in January 2000. Water supplied to the settlement is now measured by ten separate macro-meters, each of which corresponds to the location of the previous illegal connections to the mains pipe. The coverage of each macro-meter ranges from a low of 120 households to a high of 1,188 households. In each case the households are billed collectively. The leaders of the respective community organisations, *Juntas de Viviendas Comunitarias*, are responsible for collecting payment of a standard monthly contribution by each household. This amount is calculated by simply dividing the collective bill by the number of households. In the first half of 2000 households were typically paying a monthly average of around US\$ 1.2 for between 7-8 m<sup>3</sup> (see table below). This is well within current affordability limits, given the prevailing monthly household income of around \$40.<sup>32</sup>

Figure 14  
Nelson Mandela: Communal billing data (Feb.-June 2000)<sup>33</sup>

Location	Average monthly HH consumption (m <sup>3</sup> )	Average monthly household bill (US\$)*	Share of bill paid to date
Macrometer 0758 (556 households)	6.4	1.06	26%
Macrometer 0688 (120 households)	7.6	1.17	46%
Macrometer 0890 (194 households)	7.4	1.17	21%
Macrometer 01522 (135 households)	7.6	1.17	10%
Macrometer 01516 (1,188 households)	2.1	0.33	25%
Macrometer 0691 (422 households)	2.9	0.46	84%
Macrometer 284490 (444 households)**	8.4	1.20	42%
Macrometer 106769 (330 households)**	8.2	1.17	26%
Macrometer 284039 (170 households)**	9.5	1.35	50%

\* Exchange rate: US\$1= 2,000 pesos

\*\*Period covered: March - June 2000

The system of collective payment by use of macro-meters has some potential disadvantages. First, there are commercial establishments in Nelson Mandela (e.g. a private health centre) that consume large amounts of water. But under the communal billing system, they pay the same as a private household. Second, considerable resale of water continues to date because of low pressure in outlying parts of the settlement. Under the communal billing system, residents who resell water are billed the same as those who do not, even though their consumption and capacity to pay are both much higher. Third, some householders simply refuse to contribute to the communal bill. In the Edén sector visited in this research, six households out of a total of 75 had refused to pay the communal charge ever since it was introduced at the beginning of 2000. The increased financial burden that this causes to the majority of households who do pay may prove to be a source of conflict in the future. Finally, there is the danger that community leaders become viewed by residents as “tax collectors” on behalf of AGUACAR and thereby lose their own legitimacy.

<sup>32</sup> Author’s calculations based on data supplied by AGUACAR

<sup>33</sup> Author’s calculations based on primary data supplied by AGUACAR

## El Pozón

El Pozón is one of the fourteen districts (*comunas*) within the Municipality of Cartagena, and is officially referred to as *Comuna 6*. It has an estimated population of 38,000 (year 2000) and is the fastest growing area of the city. Within El Pozón there are an estimated 42 *barrios*, of which 27 are officially recognised by the municipality. All *barrios* within El Pozón are classed as Level 1 – the category with the highest level of unsatisfied basic needs in the system for determining tariffs for basic services. There is virtually no industry in the whole of El Pozón. The pipe network in El Pozón is inadequate, of narrow diameter and of poor quality. Many connections are illegal. As a result, the supply arrives intermittently (four days per week and 12 hours per day at the most).

Most residents of El Pozón still buy their water from private water vendors. These vendors are often residents who live on the tarred road where there is connection to the pipe network. Although technically illegal, AGUACAR tolerates the resale of water. Vendors re-sell water in five gallon (20 litre) plastic containers, known as *canecas*. The cost varies from 50-250 pesos per *caneca*, depending on two factors – distance from the distribution point and the availability of alternative supply. There are two principal alternative sources of supply. First, there is an intermittent but unreliable supply of free water from tankers belonging to AGUACAR. Second, during the rainy season, residents store rainwater for domestic use. The fluctuation in the sale price of water is extremely sensitive to variations in these two alternative sources of supply. During the dry season, and when AGUACAR tankers do not appear for a long time, it is not uncommon for residents to queue from 4am in order to buy water from private vendors. Assuming an average usage of five *canecas* per day per six-person household, and an average price of 100 pesos per *caneca*, household expenditure on water is 15,000 pesos (\$7.5) per month. According to provisional calculations by AGUACAR, residents in level 1 *comunas* such as El Pozón can expect to pay 6,000 pesos per month for water when connected to the piped network. For those residents currently paying 15,000 pesos, this represents a potential monthly saving of around 60 per cent.

As part of the World Bank loan, AGUACAR will undertake a major \$2.5m investment programme to radically improve water supply to El Pozón. Prior to the design of the project to be financed by the World Bank, AGUACAR carried out a consultation with the citizens of El Pozón. This took two forms. First, there was a series of meetings with members of the neighbourhood committees (*Juntas de Acción Comunal*). Second, there was a sample survey covering 1,031 respondents, carried out by a local NGO. The overriding conclusion of the consultation was to highlight the importance of devising appropriate mechanisms for payment of bills - mechanisms that would take into consideration the prevailing culture of daily management of the household budget.

Efforts are being made to reduce the financial burden of the connection charge and monthly payments in El Pozón. The standard household connection charge to the water network (including cost of the meter) is estimated at 213,000 pesos (\$106). The current plan is to spread the burden of payment as follows: a down payment of 30,000 pesos, followed by 36 monthly instalments of 5,170 pesos (at 1.19 per cent interest). These payments would be added to the monthly water bill. However, it is feared that even this instalment system would be beyond the financial capacity of the poorest citizens in El Pozón, who live farthest from the main road in the following sectors: 14 de febrero, Victor Blanco and Santa Eduvigés. Hence, another possibility that is being mooted is a reduced connection charge of 150,000 pesos. In El Pozón, AGUACAR is

also considering the replacement of the standard monthly billing system in order to overcome the lack of a “payment culture”. Instead, there would be a weekly billing system using mobile collection teams.

### **The Business Partners for Development initiative**

Business Partners for Development (BPD) is an international body which aims to promote pro-poor initiatives in basic service provision between the private sector and community-based NGOs in developing countries. AGBAR and AGUACAR are sponsoring such an initiative with the aim of improving the quality of life and health for 1,700 residents of El Pozón, through the provision of drinking water and sewerage services. The project partners have agreed six objectives to be achieved during the project life of 2-3 years:

- Improve the quality of life
- Improve health conditions by decreasing the rate of disease by 50 per cent
- Rationalise water use
- Optimise service costs
- Collect the cost of the (subsidised) service under the premise that *what is paid for is valued*
- Form micro-enterprises helping the inhabitants of the sector to join the labour market

A partnership involving the Municipality of Cartagena, AGUACAR, *Juntas de Acción Comunal* and *Juntas Administradoras Locales* will co-ordinate the project. AGUACAR would carry out the project and provide the human, technical and economic resources as necessary. It would carry out the project designs and supervise the labour contribution of the community. The company and municipality would contribute to the education and awareness campaigns. NGOs would contribute to the educational process of rational use and to the promotion and formation of micro-enterprises specialising in plumbing. Meanwhile, local business and industries (e.g. service stations and motels) can assist with certain administrative tasks – for example, serving as possible collection points.

Figure 15  
**Barrio Lomas de Payé**

*This small community was founded in the late 1990s by 65 displaced families who fled to Cartagena from the violence in other parts of Colombia. When they first arrived, they camped out on pavements in the city centre. They approached the mayor for assistance. He advised them to find and occupy a suitable open space following which the municipality would arrange purchase from the legal owner. They chose a piece of unused land on the top of a small hill not far from the city centre. Thanks to their strong community organisation, they accessed small-scale funding from a European NGO for the construction of four small water tanks, after which AGUACAR connected the tanks to the piped network via a small pump at the foot of the hill. The community agreed with AGUACAR for the introduction of a collective billing system for water supplied to the tanks. This collective bill is paid for out of the proceeds of the direct sale of water in five-gallon plastic containers (canecas) to community members as well as to residents from surrounding barrios that are not connected to the piped network. The sale price is fixed at 50 pesos per caneca. It is the same for community members as for residents of surrounding barrios. Daily sales average 300 canecas. The gross income exceeds the communal bill by a small margin. This surplus is used to fund urgent community needs. Currently these are: school meals (250 pesos per meal) for 25 deprived children and bus fares for community members undergoing training in furniture making with a view to establishing a furniture workshop in the barrio.*

## **The wider context of pro-poor initiatives**

The urban poor will receive major environmental benefits from a forthcoming investment for improving sewerage disposal programme that is financed by a \$85m World Bank loan signed in 1999 and to be implemented by AGUACAR. As a result of lack of sewerage networks in the poorer neighborhoods surrounding Cienaga Lake, raw sewage can often be found flowing in the streets leading to over 8,000 recorded cases of gastro-enteritis every year. The loan will reduce environmental pollution throughout the city. The poor will be major beneficiaries from a new system for collection, treatment, and disposal of the entire flow of the city's wastewater that will clean up Cartagena's bay and beaches, as well as Cienaga Lake. Lack of sewerage services and the contamination of Cartagena Bay and the surrounding coastline and lakes have not only generated severe hazards in public health, sanitation, and environmental problems, but are a serious impediment to the sustainable economic development of Cartagena, whose economy depends heavily on tourism. The insufficiency of water and sewerage services in the city has forced authorities to constrain real estate construction activities until the sanitation problem is resolved.

Such major environmental improvements, as well as specific initiatives such as those in Nelson Mandela and El Pozón to connect low-income neighbourhoods to the network in a manner that is economically affordable and sustainable, are central to the pro-poor dimension to public-private partnerships in the water and sanitation sector. But if there is the will, such partnerships may endeavour to impact positively on the urban poor in many other ways that are not directly related to network improvement and expansion. Unfortunately, there is little evidence that the Municipality of Cartagena has sought to use the partnership as a mechanism to promote such wider initiatives in favour of the urban poor. For example, in its personnel policy, AGUACAR has not sought to hire labour on short-term contracts preferentially from those poorer areas of the city where network expansion is taking place as a means of upgrading local skill levels. Nor has it experimented with the out-sourcing of small-scale construction work to "incubator" companies in low-income parts of the city as means of promoting micro enterprise. Nor has it sought to address skill upgrading for the informal sector through its own staff training programme in basic skills (electricity, carpentry and plumbing).

## **7 Building municipal capacity in support of a pro-poor public-private partnership**

Municipal capacity building is crucial to the success of pro-poor public-private partnerships at the local level. This section examines the extent to which the Municipality of Cartagena has developed a range of such core and poverty-related competencies.<sup>34</sup>

- *Basic understanding of the operating context for service partnerships*

As the first municipality in the country to undertake a public-private partnership, in the early 1990s the Municipality of Cartagena developed an understanding of the constraints imposed by the existing macro-economic and political context. Senior figures from Cartagena had for long been engaged at the national level in addressing

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<sup>34</sup> This analysis is based on the "Framework of core competencies for pro-poor PSP in municipal service delivery", developed by Janelle Plummer and Graeme Gotz for the Building Municipal Capacity for PSP research (forthcoming).

the fiscal difficulties caused by the growing deficits of state-owned basic utility corporations. Others were involved in the drafting of the 1994 new legal framework for PPPs. When negotiating the pioneer joint venture for water and sanitation in 1995 within this new legal framework, the municipality's understanding of this wider operating context was a major factor that enabled it to successfully overcome widespread initial opposition from entrenched interests, especially public sector trade unions.

On the other hand, until recently the municipality lacked any detailed understanding of the extent and nature of poverty within its own jurisdiction. This was manifest in the minimal attention paid to the water and sanitation needs of the urban poor during negotiation of the joint venture. However, through its growing involvement in the administration of the national social welfare programme, SISBEN, the municipality has developed a much wider understanding of the poverty context. In particular, this has derived from the national government directive that the municipality must classify households for the purpose of determining citizen entitlements to health and education benefits. The municipality has also been sensitised to the "poverty dimension" of its service provision responsibilities through another national government directive that requires it to classify neighbourhoods for the purpose of determining local tariff structures for basic services, including water and sanitation. Interestingly, in both cases, the impetus for greater municipal awareness of the poverty dimension has not been "home-grown" but has come from compliance with central government directives.

- *Strategic understanding of opportunities and constraints of PPPs in urban management*

The municipality has developed only a limited capacity to exercise informed decision-making on PPPs in service delivery in relation to wider urban management goals. It is wedded to the view that PPPs are a fundamental mechanism for improved service delivery. This perception, and its limited ability to evaluate PPP options against other institutional arrangements for service delivery, has been strongly influenced by the very poor performance of the previously municipal-owned multi-sectoral utility company, that included water and sanitation within its remit. The municipality has displayed a keen ability to promote PPPs in a range of municipal delivery functions, starting with water and sanitation, but extending to waste management, electricity distribution and tax collection. It has also been relatively successful in bringing about an attitudinal change among the general public and in removing scepticism with regard to the benefits of PPPs in service delivery.

However, the municipality displays a very limited awareness of the potential value of PPPs in the context of poverty reduction strategies. In part, this is because Colombian municipalities have no explicit legal competence for poverty reduction activities and have played a minimal role in poverty reduction activities until very recently. For this reason, although the municipality views the experience of the PPP in water and sanitation as broadly favourable, this is basically because of its major contribution to improved service delivery in general, rather than for an explicit contribution that it makes to poverty reduction. There is still a widespread view within the municipality that the joint venture will be reluctant to engage in poverty reduction activities because of the profit motive that inspires the private partner.

- *Project preparation*

When negotiating the joint venture in 1994 and 1995, there was no prior national experience on which the municipality could build. Municipal leaders visited Buenos Aires to examine the experience of Aguas Argentinas, which was at that time the

largest concession contract for water and sanitation in the world. Consequently, it was forced to adopt a “learning by doing approach”. The municipality did not display any ability to initiate and prepare project documents. Instead, it reacted to a standard proposal put forward by the eventual private sector partner to the joint venture. The prevailing municipal tradition of lack of transparency in negotiating with the private sector was evident at the time. As discussed above, citizens were not informed of the “first-round” negotiations that took place under the leadership of Mayor García. Such was the level of secrecy that a demand for re-negotiation of the contract became a major plank of the electoral campaign of the incoming mayor, Paniza. The latter renegotiated the contract so as to increase the municipal shareholding in the joint venture from 10 per cent to 50 per cent. Nevertheless, as under the previous incumbent, the full contract details were not divulged to the public, a situation that pertains to the present day.

There is little evidence that during the negotiations the municipality displayed an ability to incorporate the needs of the poor in the contractual arrangement. Nor was there any concerted lobby on the municipality from poor neighbourhoods to ensure that their needs would be taken into consideration during these negotiations. To a large extent this was because the negotiations themselves were conducted in secrecy. Consequently, there was no sense, from the outset, of a tripartite arrangement between the municipality, the private sector and local communities. Instead, it was perceived exclusively as a joint venture between the municipality and the private partner.

- *Understanding of and ability to engage with civil society*

There is growing awareness in the municipality of the need to encourage and strengthen genuine community involvement in basic service provision in general, and in the water and sanitation sector in particular. The problem faced by the municipality is that past practices of clientelism has left a legacy of weak civil society organisations that have often lost credibility because of their manipulation by politicians. Ironically, the municipality has addressed this problem by taking a very pro-active role in the training of a “new generation” of community leaders, who will be more representative of their communities. In this way it is hoped to break down the deep-rooted practice of political clientelism, under which corrupt politicians manipulate community organisations and their leaders.

To this end, the municipality actively supported the creation in 1998 of a training school for community leaders. The *Escuela de Gestores Locales* is located in the offices of the Department of Community Participation of the municipality. The initiative is a joint effort supported by a range of public and private agencies, including the National Audit Office, the Technological University of Cartagena, and several NGOs (FUNCICAR, Convergencia and Viva la Ciudadanía). The school trains community leaders who are members of JACs, JALs and local housing associations. The objective is to strengthen the independent leadership of community organisations and their capacity to access funding from public and private institutions. No formal qualifications are required for entry to the 10-month course. In the 1999 promotion there were 56 students and a further 65 were enrolled in the Year 2000 course. Students undertake a full day of lectures every three weeks, interspersed with weekly tutorials. In addition to the class work, they prepare a plan for a community project. In 2000 the course members submitted a collection of local development projects to the mayoral candidates for the October 2000 municipal elections. The priority projects were the outcome of widespread consultation by course members within their respective communities.

- *Understanding of and ability to undertake consultation with trade unions*

The restructuring of institutional arrangements for water and sanitation in the mid-1990s met with the implacable opposition of the public sector trade union. In response the municipality adopted a hard line approach. The liquidation of the municipal water company, EPD, was carried out without any previous consultation with the trade union. On the day that the contract was signed with AGUACAR (25 June 1995) all EPD staff were made redundant and invited to reapply for their former jobs. All EPD worksites were occupied by police and military forces. Employees working on the road with company vehicles were stopped and ordered to surrender their vehicles and equipment. Three people were arrested and workers were beaten by the police. Such was the level of violence that the incoming management team of AGUACAR needed military protection in order to enter their new offices.

At that time there were 510 employees, of whom 415 were members of the union. Of the latter, 140 accepted a voluntary retirement package. In an effort to publicise their plight, the sacked workers occupied the Spanish cultural center in Cartagena during a meeting of Latin American heads of state in the city. This protest led to an agreement under which roughly one half (270) of the former EPD employees were rehired by AGUACAR. It is reported that in this process of rehiring the company discriminated against known trade union activists. A new trade union was created, and it signed a collective contract under the labour law that pertains to the private sector. However, when negotiating the joint venture, the municipality did make some effort to soften trade union opposition by encouraging employee participation in the shareholding of AGUACAR. The newly recognised trade union was entrusted with a key role in administering this shareholding for its members. In 2000, roughly one third of the 262 employees were shareholders in the company.

- *Basic knowledge of financing arrangements*

Municipal understanding of the water tariff structure derives primarily from its interpretation of the new national policy directives for determining tariff structures in basic services. These require municipalities to incorporate cross subsidies within the tariff structure. This approach is followed by the municipality. However, during the negotiation of the contract, the municipality displayed only limited understanding of the special financing needs affecting the urban poor in the form of the cost of connection to the network. The question of whom would bear the cost of the secondary network and meter installation remained unclear in the contract. This is still the subject of some controversy, with communities arguing that the company should bear the cost, while the company argues that the cost should be borne by individual householders.

The questions of affordability and willingness to pay were not addressed when the joint venture was negotiated. In part this was because the new institutional arrangement took the form of a management contract that did not incorporate expansion of the network. It was only in 1998, when the private partner was awarded a separately funded contract for expansion of the network that it needed to examine the issues of affordability and willingness to pay within the context of financial projections of cost recovery for network expansion into poor communities. In response to concerns expressed by these communities, the municipality took on board the issue and commissioned surveys that were carried out by a local NGO. The municipality has supported initiatives to promote flexibility in payment arrangements for poor households. A pilot project is expected to begin in El Pozón in 2001 under which payments will be collected weekly instead of monthly via mobile collection



teams. Nevertheless, the initiative for this pilot project appears to have come from the private partner, rather than from the municipality.

- *Strategic understanding of risk management*

The municipality has developed only limited understanding of the potential risks likely to affect performance under the joint venture arrangement. For example, one major risk facing AGUACAR is the continuing high level of unpaid bills. Although it is the major shareholder in the company, the municipality has not launched any major campaign to encourage payment of outstanding bills.

- *Understanding and ability to implement transparent tendering and evaluation procedures*

The municipality displayed very limited knowledge of invitation and tendering procedures for the public-private partnership. It was unable or unwilling to organize a transparent and accountable evaluation process and its criteria for selecting the chosen private sector partner was surrounded in mystery. The initial PPP assumed a minority shareholding (10 per cent) for the municipality within a joint venture that would have been dominated by the private partner (50 per cent) and local private capital (40 per cent). The lack of transparency that surrounded this initial arrangement and the fact that it assigned such a limited role to the municipality within the partnership led to its rapid demise. Although the contract had already been signed, the new municipal leadership successfully renegotiated with the chosen private partner an enhanced shareholding (50 per cent) for the municipality.

- *Understanding of legal and contractual aspects of PPPs*

At the time that the joint venture was negotiated, the overwhelming concern of the municipality was to transfer the management of water and sanitation to the private sector as a means to overcome the gross inefficiency of the hitherto public sector undertaking. In its haste to take advantage of the new permissive legislation enacted in 1994, little time was available for the municipality to acquire detailed knowledge of the opportunities and constraints of legal frameworks governing public-private partnerships.

- *Understanding of technical scope and ability to engage with private operator with regard to technical problems and solutions*

The issue of how the general technical competence of the public sector is safeguarded under the joint venture arrangement in Cartagena is somewhat more complicated than under the conventional concession contract arrangement. On the one hand, when the joint venture was established, most water engineers employed by the former municipal company were rehired by AGUACAR. Therefore it could be argued that the technical competence of the municipality is now “embedded” within the new company, of which it is half owner. However, these professionals within the joint venture company operate under the authority of a management team that is controlled by the private partner, AGBAR. Consequently, on a day-to-day basis it is not clear how the technical competence of the municipality is represented, reported and safeguarded within the company. Furthermore, because of the joint venture arrangement, and in marked contrast to what might have happened under a concession arrangement, the municipality does not retain a separate technical team within its own central administration.

Likewise, the capacity of the municipality to understand and initiate technological options of benefit to the urban poor and to promote the involvement of low-income households in construction work associated with upgrading and extension of the network is unclear. Many of the water engineers in AGUACAR have a wealth of experience in understanding and managing labour-intensive construction options. However, given that they report to a management team from AGBAR, it is questionable whether this “human capital” belongs to the municipality as such.

- *Understanding of capacity building*

The municipality displays a surprising lack of understanding of the importance of capacity building in its most basic form. Despite its major shareholding in the joint venture, the municipality has no permanent technical team specialising in water and sanitation. Although the mayor is president of AGUACAR s/he attends its regular meetings without any technical support at all. This puts the municipality at a great disadvantage in negotiations with its private sector partner. The absence of technical support also means that there is no formal mechanism for channelling the demands/complaints/suggestions relating to the water and sanitation sector into the negotiating stance of the municipality within the joint venture. Instead, the mayor, the executive head of the municipality, assumes such responsibilities on an ad hoc basis.

- *Strategic management and supervision of contract*

The strategic management capacity of the municipality - to monitor and evaluate whether the service is being delivered efficiently and effectively, to manage non-compliance of contract obligations and to revise arrangements in response to impact assessment – is extremely limited because of the deep-rooted practice of political clientelism and the associated absence of a local government career system. The term of office of the mayor is short - three years - and not renewable. All departmental heads are confidence posts (*cargos de confianza*) appointed by the incumbent mayor. This produces a major rotation in senior and middle-level personnel every three years, and often more frequently. It creates the real risk of sudden changes in the priorities of the major shareholder (the municipality) in the joint venture. It produces an almost complete lack of institutional memory on the part of the municipality in its involvement in the public-private partnership in general, and on pro-poor initiatives in particular. This places the private sector partner at a great advantage in its negotiations with the municipality within the joint venture. In particular, these factors place serious limitations on the sustainability of a pro-poor approach by the municipality.<sup>35</sup> There is little assurance of continuity in any pro-poor activities except insofar as they are determined by national pro-poor initiatives that are administered by local government, such as SISBEN and the cross-subsidised tariff structure for public services.

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<sup>35</sup> The absence of a professional cadre of career-based municipal administrators means that decisions taken by municipal politicians within the context of the joint venture are often not translated into practice, either because they are shelved or simply forgotten. Community leaders in Nelson Mandela complained that tripartite agreements usually fail because the municipality does not keep its promises. For example, in 1999 AGUACAR agreed to supply water tankers on the condition that the public works department of the municipality upgraded the steep access road so that the tankers could get through. But this did not happen and so, when it rains, the tankers are unable to reach Nelson Mandela. Local residents complained that the same thing happened in the case of refuse collection. In this case the community had organised the delivery of household refuse to collection points, but the trucks belonging to the privately-managed refuse company could not reach them because the access road had not been maintained by the municipality.

## 8 Key lessons from the Cartagena partnership experience

- *The joint venture arrangement confuses the regulatory role of the public sector*

The clarity of the regulatory role that the municipality normally exercises under the purchaser-provider split found in most PPPs is dulled by the joint venture arrangement. This is because the municipality “wear two hats”. At one and the same time it is the purchaser (as owner of the assets) and the provider (as a shareholder in the joint venture).

- *The absence of a municipal career service calls into question the sustainability of PPPs*

The lack of job security and constant rotation of senior and middle-ranking staff within the municipality produces a structural imbalance within the PPP. The institutional memory of the partnership becomes embodied in the private partner. This superior knowledge soon translates into a power imbalance within the PPP.

- *A public-private partnership can exist in the absence of municipal capacity*

The Municipality of Cartagena lacks the minimal technical support in its negotiations within the joint venture. To all intents and purpose it is a “sleeping” partner. However, by wilfully neglecting capacity building for its own organisation, the municipality is running the risk of very negative consequences for the long-term sustainability of the partnership.

- *Co-ordination of activities by external regulatory bodies is necessary for municipal capacity building*

The question of regulatory co-ordination emerges as a major issue of institutional change. A plethora of regulatory and supervisory agencies exist for water supply and sanitation - *Comisión de Regulación de Agua Potable y Saneamiento Básico (CRA)*, *Superintendencia de Servicios Públicos (SSP)*, *Contraloría Nacional* and *Contraloría Departamental*. There is a problem of co-ordination, conflict of interest, and overlapping jurisdiction among them. Furthermore these bodies do not co-ordinate their activities with the municipality, which in turn is required to carry out its own audit, *interventoría*, of the activities of AGUACAR.

- *Legal mechanisms for citizen participation are of little use if they are not implemented*

Extensive national legislation exists in Colombia to promote citizen participation in local government. But in Cartagena many of the plethora of institutional mechanisms for safeguarding transparency and defending the rights of ordinary citizens exist only on paper. The municipality is required to establish a citizen watchdog committee for monitoring basic public services, including water and sanitation, *Comité de Desarrollo y Control Social*. It exists but appears not to function. The municipal-wide Master Plan for the development of the city, *Plan de Ordenamiento Territorial (POT)* was drawn up without citizen participation, even though the procedural norms require such consultation. The municipality is required to establish a committee for supervising the classification of neighbourhoods for the purpose of determining the tariff structure for basic public services, *Comité Permanente de Estratificación Socioeconómica*, on which there is supposed to be community representation. But again, the committee appears to be moribund.

- *A strategy to combat municipal corruption may be more effective by focusing on training community activists rather than municipal authorities themselves*

Skills development in order to combat corruption among municipal authorities emerges as a major concern from this case study. The anti-corruption strategy being actively pursued with the support of NGOs emphasises the training of community leaders rather than of the municipal authorities themselves. When asked how the municipality can be strengthened in its work in favour of the urban poor in the water and sanitation sector, almost all community leaders emphasised the need to eradicate political corruption, especially among municipal councillors. A major task to ensure the success of public-private partnerships is for a massive training program for community leaders (in the JALs and JACs) who liase between the municipality, AGUACAR and local citizens. Without such training, community leaders remain very susceptible to manipulation by corrupt municipal councillors, with deleterious efforts for the partnership as a whole. The same danger applies to the citizen watchdog committees for monitoring public services.

## Annex A: Key Informants

Félix Barrios	Head of the Department of Citizen Participation, Municipality of Cartagena
Gina Benedetti de Velez	Mayor of Cartagena
Ken Caplan	Business Partners for Development, WaterAid, London
Jesús Carrasco	Head of NGO Movimiento por la Paz, el Desarme y la Libertad (MPDL)
Napoleón de la Rosa	Staff member of NGO Observatorio del Caribe Colombiano
Monica Fadul	Head of business association, FENALCO
Gabriel García	ex-Mayor of Cartagena (1992-94)
Edison Hernández	President of the Association of Displaced Persons Barrio Lomas de Payé
Augusto Lemaitre	Head of NGO Fundación Cívico-Social Pro Cartagena (FUNCICAR)
Jorge Lequerica	Municipal councillor, Municipality of Cartagena
Josefina Mendivil	Head of Department of Social Development, Municipality of Cartagena
Jorge Mendoza	Director of Master Plan (Plan Maestro) AGUACAR
John Montoya	Acting General Manager, AGUACAR
Milady Niño	Director, Training School for Community Leaders, Municipality of Cartagena
Nilson Bolívar Ortega	Municipal neighbourhood worker and resident of El Pozón
Aurora Pachón	UNDP advisor on urban planning to Municipality of Cartagena
Raúl Paniagua	Head of NGO Círculo de Obreros San Pedro Claver
Guillermo Paniza	ex-Mayor of Cartagena (1995-97)
Luís Pinzón	Head of World Bank loan project, AGUACAR
Raúl Quintero	Senior Management Advisor, AGUACAR
Jorge Redondo	Head of Business Development, Dept. of Citizen Participation, Municipality of Cartagena
Carlos Rincón	Head of Planning Department, Municipality of Cartagena
Alfredo Ruíz	Municipal Councillor, Municipality of Cartagena
Juan de Dios Ruíz Vitola	President of the Junta de Administración Local of Comuna 16 (El Pozón)
Elida Tordecilla	Community leader, Barrio Nelson Mandela
Carlos Triana	Head of Community Participation, AGUACAR
Hector Trujillo	UNDP advisor to the Municipality of Cartagena, and former member of Board of Directors, AGUACAR

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