

Mission permanente
de l'État du Qatar
auprès de l'Office
des Nations-Unies à Genève



الوفد الدائم لدولة قطر
لدى مكتب الأمم المتحدة
جنيف



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The Permanent Mission of the State of Qatar to the United Nations Office and other International Organizations in Geneva, presents its compliments to the Special Procedures Branch - Office of the High Commissioner for Human Rights (OHCHR) in Geneva, and has the honor to follow-up on its Verbal note 10363/5 dated February 7th 2020, and its attachment, the information provided by Qatar General Electricity & Water Corporation "KAHRAMAA", in response to the **questionnaire** of the Special Rapporteur on the human rights to safe drinking water and sanitation, in preparation of his thematic report for the 75th session of the UN General Assembly on **privatization and the human rights to water and sanitation**.

The Permanent Mission of the State of Qatar has the honor to attach herewith, **additional information** in the same context, as received from the Public Works Authority (ASHGHAL) of the State of Qatar.

The Permanent Mission of the State of Qatar avails itself of this opportunity to renew to the Special Procedures Branch - Office of the High Commissioner for Human Rights (OHCHR) in Geneva, the assurances of its highest consideration.

Geneva, February 12th 2020

The Office of the High Commissioner for Human Rights (OHCHR)
United Nations Office
CH 1211 Geneva 10
Email : srwatsan@ohchr.org

Typology of private sector participation and trends	
<p>1. What are the trends with regards to private sector participation in the water and sanitation sector?</p>	<p>Private Sector investors focusing on the water and sanitation sector are keen to participate in PPP opportunities in Qatar water and sanitation projects such as:</p> <ul style="list-style-type: none"> • IWPs • Wastewater treatment plants and associated infrastructure • Waste to energy projects • Waste collection and management systems
<p>2. Are there any trends in the way that multinational providers exercise power (i.e. to gain more responsibilities, to get more favourable contractual terms, to press for more economically favourable operating conditions, to press for reduction in standards?)</p>	<p>Multinational providers tend to demonstrate the value in the following ways:</p> <ol style="list-style-type: none"> 1. Demonstrate access to new technologies and processes during design and construction to optimise cost of construction and operations 2. Demonstrate efficiency in operations to minimise whole life cost of operations 3. Access to financing through own balance sheet, or through financial institutions
<p>3. Are there any instances where States have re-municipalised and then returned to private provision? If so, why?</p>	<p>We are not aware of such instances in Qatar.</p>
<p>4. Data indicates that whilst the number of water and sanitation contracts provided to private businesses has declined globally, the number of people serviced by private providers has increased. Is that true? Why is this?</p>	<p>The growth of new infrastructure provision is rising in the developing countries. While, there is a slow down in development of new infrastructure development in the developed countries. Hence, the number of contracts provided should be analyzed on a regional basis as the global growth is multi-paced. Also, as the new contracts move to more densely populated region, the number of people serviced would be higher.</p>
<p>5. What is the relationship between SDGs and private sector participation? Do the SDGs really encourage more privatization in the water sector?</p>	<p>Several SDGs (Sustainable Development Goals) are aligned with the principle of higher private sector participation in the water and sanitation sector: These are:</p>

	<ol style="list-style-type: none"> 1. Clean Water and Sanitation 2. Industry, Innovation, and Infrastructure 3. Partnerships for the Goals <p>Private sector participation will allow governments to accelerate the development of the necessary infrastructure, encourage innovation and also more participation in Qatar infrastructure developments to provide increased private sector development opportunities, which will help in diversification of economic activities.</p> <p>Whilst we have not seen evidence of SDGs being the forefront driver of private sector participation, it is evident that private sector participation can be instrumental to meet the SDGs.</p>
<p>6. Has there been any increase in private sector engagement following the introduction of the SDGs?</p>	<p>Private sector engagement in infrastructure provision in Qatar began with the oil and gas industry, moved to high private sector participation in electricity sector.</p> <p>Other infrastructure sector investments in Qatar largely stayed within the public sector remit. Since 2014, we have seen active interest from the government proactively seeking innovative ways to enhance private sector participation in renewable energy, waste management solutions (Solid and liquid) , healthcare (clinical and infrastructure provision) transport, education etc. The primary driver of this interest is the goal of sustainable financing of infrastructure, developing high quality infrastructure efficiently</p> <p>Most governments in the middle east participated in the Voluntary National Review 2018 of the SDGs and are endeavoring to align the long term vision charters etc. with the SDGs.</p>
<p>7. Are there any differences in trends in private water provision and private sanitation provision?</p>	<p>In Qatar, the agencies responsible for water provision are separate from the agencies responsible for sanitation provision.</p> <p>Most private sector players who are active in the water sector are also active in the sanitation provision such as Suez, Veolia, Marubeni, L&T etc. The key difference between the water and sanitation provision is that the end product (water) has an established public demand whereas the end product for sanitation (treated</p>

	<p>effluent) only has industrial uses (e.g. irrigation, landscaping, etc.) and the demand is not very well established.</p> <p>Therefore, the project structures are slightly different for water which are tariff driven, whereas sanitation project's tariff structure may not always be tariff driven.</p>
<p>Gaps in human rights protection in the context of private sector participation</p>	
<p>1. What challenges (both legal and non-legal) and gaps exist to protect the human rights to water and sanitation in the context of private sector participation?</p>	<p>We are not in position to comment on this at this time.</p>
<p>2. Is the current international, regional and national legal and regulatory framework sufficient to address human rights gaps that arises when private sector are involved in the provision of water and sanitation?</p>	<p>We are not in position to comment on this at this time.</p>
<p>3. Are there any instances of home-States introducing specific regulations or legislation that requires water and sanitation providers to respect human rights when operating abroad?</p>	<p>We are not aware of any such requirement,</p>
<p>4. What enabling environments could assist in reducing the gaps and challenges faced when private actors are heavily involved in water and sanitation services?</p>	<p>We are not in position to comment on this at this time</p>
<p>5. What policies can or have been utilised in order to ensure the power of multinationals does not eclipse that of the state in</p>	<p>The procuring agency for water and sanitation projects will always be government or a government corporation and it will retain reporting oversight, audit rights and inspection rights.</p>

<p>order to ensure the state is able to retain effective regulatory oversight of the provider's actions?</p>	
<p>6. Are you aware of any innovative policies that have been utilised in order to enforce private water and sanitation companies comply with human rights?</p>	<p>We are not in position to comment on this at this time</p>
<p>7. How far do private water and sanitation actors take into account soft law provisions, such as the United Nations Guiding Principles on Business and Human Rights, when designing and implementing their services? What is the due diligence process in the context of water and sanitation provision?</p>	<p>We do not have feedback on this question.</p>
<p>8. When multi-nationals undertake service provision outside of their home-State and establish subsidiaries in the host country, is there any standard constitution of the subsidiary?</p>	<p>No, a locally organised subsidiary is free to draft articles of association it deems fit for purpose, subject to compliance with local law including the Commercial Companies Law and the relevant foreign investment laws.</p>
<p>9. Does the parent company usually retain full control of the services provided, with the subsidiary just being a legal vehicle? What is the rationale behind this approach?</p>	<p>There is no clear answer to this question. Where a "subsidiary" party to a contract is a special purpose entity established to undertake a specific project, management of that subsidiary and the services it provides generally rests with the parent company in practice. Where an actual operating company is party to a contract – such as an EPC contractor with a balance sheet – the operating company usually directly controls the services provided.</p>
<p>10. To what extent are parent companies usually responsible for the actions of their</p>	<p>In the case of projects being procured as PPPs such as this wastewater project, the parent companies are not directly responsible for the actions of the subsidiaries. This structuring is</p>

subsidiaries?	intentional because such projects are delivered on a "limited recourse" basis (i.e., recourse is limited only to project assets, not the project's beneficial owners) and this procurement model has been accepted globally.
11. Do regulatory approaches differ depending on contract type? Is it the case that in longer term contracts or full divestiture situations regulation tends to be tighter?	Longer term contracts are subject to the same laws as traditional EPC-style contracts or shorter-term management services agreements.
12. Do private providers have a preferred contract type? What are the current trends in this respect?	The market in Qatar in this sector is only now opening to long-term BOT contracts and previously traditional procurements (and the contracts associated with them) have been the norm.
13. Are you aware of any contractual provisions that have required private providers to respect human rights?	Other than compliance with law undertakings, no.
14. To what extent (if at all) do contractual terms between the State and private water and sanitation providers seek to mitigate these and other human rights risks?	See question 13 – we are not generally aware of particular covenants in these sorts of contracts other than general compliance with law undertakings.