

Dried Water Tap, or Change

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Jakarta's water service was privatized when PAM Jaya (a public water company in Jakarta) and two private operators signed a cooperation agreement effective from February 1, 1998¹. Since then, the water service has been divided into two parts; PT PAM Lyonnaise Jaya (Palyja) manages the west part of the city and PT Aetra Air Jakarta (Aetra) manages the east part. The agreement is a concession that will be in place for 25 years.

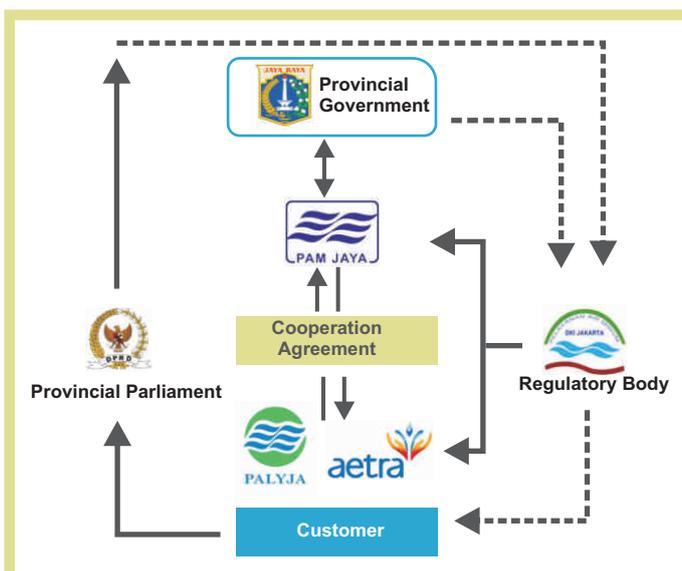
Palyja's major shareholder is Suez Environment, a French water company. Aetra is currently owned by Acuatico Ltd, a company with head office in Singapore

By cooperating with private operators, the Government expected to solve the problem of insufficient investment to improve Jakarta's water service. The cooperation agreement states that the second party (private partners) shall have skills, funds and other resources to plan, construct,

manage and operate the production facilities in order to distribute clean water and drinking water.²

In fact, the agreement has become more of a problem than a solution. The major issue is the disparity in payment mechanism, which differentiates between the water charge (money paid by PAM Jaya to private operators) and the water tariff (money paid by customers).³ Unfortunately for PAM Jaya, the public water company that supervises Palyja and Aetra, the cooperation agreement gives broad powers to private operators.

Based on the contract, the water charge should be increased every semester. Something that could not be implemented in water tariff. Most of the time, the water charge is higher than water tariff. This is because an increase in the tariff involves complex political decisions that may cause social turmoil. Also, since the introduction of



A worker is repairing a leaky water pipe in central Jakarta

The relation of stakeholders in Jakarta water privatization



Protesters marched in June 2011 to urge the government to end Jakarta water privatization.

privatization, the water tariff has increased ten times making Jakarta's the highest water tariff in South-East Asia. The poor can barely afford these water services.⁴

This system has caused serious financial problems for PAM Jaya. The disparity between water charge and tariffs make PAM Jaya experiences huge shortfall or deficit. If this condition is continued, by the end of the agreement PAM Jaya will be in debt to private operators for a massive IDR 18,2 trillion (USD 2.04 billion).⁵

Along with the high cost, the water service quality is also questionable. Customers often find their taps are dry,⁶ or that the water is dirty and polluted.⁷

These are more than sufficient reasons for PAM Jaya to renegotiate the contract. Unfortunately, by early 2012 the discussions have made little progress. They are, in fact, possibly stalled following the peculiar removal of the director of PAM Jaya, Maurits Napitupulu, in December 2011. Comments in the media suggest this removal is a political intervention in the renegotiation process. Hidayat A.R. Yasin, a member of provincial parliament, states in the *Indopos* newspaper (5/1) that Maurits's removal illustrates how weak the provincial government is compared with the private operators.

A report in *Tempo* magazine (January 9-15) contains a story about the removal. In June 2011, the chairman and chief executive of GDF Suez, Gerard Mestrallet, wrote to the Indonesian Minister of Economic Affairs asking for help with the serious difficulty experienced by Palyja in the renegotiation process with PAM Jaya. GDF Suez, a French energy

company, is the largest shareholder of Suez Environment, a water company that is the largest shareholder of Palyja.

Palyja's difficulties, as mentioned in *Tempo*, were also on the agenda of a meeting between French Prime Minister, Francois Fillon, and Indonesian President Susilo Bambang Yudhoyono in July 2011.

Whether all the above events are related or not, it is not surprising that many people think that the Governor of Jakarta is under huge pressure to intervene in the renegotiation process. After the provincial government suddenly dismissed Maurits Napitupulu they replaced him with Sriwidayanto Kaderi, the former PAM JAYA Technical Director.

Despite the provincial government's questionable political decisions, the process of renegotiation is gaining significant support. The provincial parliament strongly and proactively encourages the contract renegotiation by mediating between the parties. It calls on PAM Jaya, Palyja and Aetra to resolve the conflict. Parliament's position is based on its view that the cooperation agreement is one-sided and disadvantageous for PAM Jaya. "For the parliament, renegotiation is the only option..." Dwi Rianti Soerbakti, a member of provincial parliament, was quoted as saying in *Suara Pembaruan* newspaper (6/1).

If mediation does not work, parliament will suggest the Government takes the case to international arbitration. It is the last option, though, considering the risks associated with a complicated arbitration process. Also, even though parliament is aware that the contract is harmful, its termination is not an option. Parliament is worried about the

penalty PAM Jaya would have to pay if the contract is terminated before the agreed date. This amounts to IDR 3,1 trillion (USD 347 million) to Palyja and IDR 2,8 trillion (USD 313 million) to Aetra.⁸

Of the two operators, Palyja is more difficult to negotiate with. Aetra has agreed to some points, including that there will be no tariff increase until the end of the cooperation period, the water charge increase will be only approximately 1.5 per cent each year, the leakage level will be reduced by up to 25 per cent, and the PAM Jaya's shortfall will be reduced to zero by 2016.⁹

Meanwhile, Palyja is stalling for the reason that the raw water it has to collect is different from Aetra's. While Aetra collects all its raw water from a state-owned company for a lower price, Palyja has to get a portion of its raw water from another provincial territory for a higher price, which affects their cost structure. So, Palyja does not want to accept the agreement as to Aetra.

Palyja wants to pursue two other options. In the first, it wants to tie the tariff increase to yearly inflation, to increase the water charge by approximately eight per cent each year, have an investment programme financed from other sources (government's budget), and the debt payout of IDR 1,01 trillion (USD 113 million) by PAM Jaya or the provincial government of Jakarta. The second option is to set the total shortfall of PAM Jaya at IDR 7,9 trillion (USD 883 million).

PAM Jaya is reluctant to accept either of these options because it will lead to a huge financial burden until the end of the contract. Until now, these have been the main points holding up the renegotiation process.

Some experts believe, however, that it is

reasonable for PAM Jaya to simply end the contract. It is true that the cooperation agreement means PAM Jaya will have to pay penalties if the contract is terminated before the agreed due time. However, the potential loss will be much greater if the current cooperation agreement continues.¹⁰

In addition to this tension, the current cooperation is also the focus of a legal case. District attorneys in Jakarta have conducted two preliminary investigations, one in November 2011 and the other in January 2012, related to allegations that Palyja transferred PAM Jaya's assets worth IDR 3 billion (USD 326,000) (Koran Tempo 13/1). Because of increasing fears about the corruptive use of state asset, concerned civil society organizations (CSOs) encouraged the involvement of the Corruption Eradication Commission.

CSOs are also organizing protests. In June 2011, approximately 70 people - citizens, customers, Jakarta Water Labour Union (SP PAM Jaya) members and CSO members - held a rally and submitted a petition to the Governor of Jakarta to end the privatization of water services.¹¹ During the rally, the protesters met government officials who agreed that the current water services need to be evaluated. The petition was signed by 592 people representing 35 local non-government organisations (NGOs), 55 international NGOs and 502 individuals.

Two months earlier, Jakarta Water Labour Union also held a major strike and demonstrations. In April 2011, seconded employees at Palyja refused to work, computers in billing counters were shut down and cars were lined up with protest boards on them. The workers also marched on Palyja's office at Sentral Senayan and demanded, among other things,

A citizen of Jakarta is washing clothes with water from vendor. Piped-water service is not only unreliable, but also unaffordable for some people.





Jakarta Water Labor Union (SP-PAM Jaya) staged a demonstration demanding basic salary increase and, as printed in the banner, to stop Jakarta water privatization (22 Dec 2010)

a basic salary increase which they have not had since 2003.¹²

A large public meeting on the thirteenth anniversary of the privatization of Jakarta water was held by Amrta Institute with People's Coalition for the Rights to Water (KRuHA) and the Transnational Institute. Most stakeholders were there, including PAM Jaya, two private operators, affected communities, CSOs, audit board, international financial institutions, and other institutions. This was the first time these stakeholders had gathered together, and each of them had urgent issues to convey. PAM Jaya described the financial loss and damages they are suffering, the private operators described the improvements, and the affected communities complained about the insufficient water services they have had over a long period from private operators. The meeting was tense.

Another meeting was held in August 2011 attended by approximately 100 people from CSOs and affected communities. In this meeting, it was announced that a lawsuit against the Government and the concessionaires was being initiated. The state is accused of negligence in its duty to provide people's rights to water, which is a violation of the Constitution.¹³

Public is really demanding for a fair and transparent renegotiation, if it is not happening more protests should be expected. With the protests, rallies and petition, the message from public has been clear: the water service in Jakarta should be re-municipalized, it is to save the water utility from financial ruin and the water service from a profit-oriented private sector. This is a global trend and needs international solidarity to prevent citizens of the world from a privatized and inaccessible water service. ■

¹ Wijanto Hadipuro and Nila Ardhanie. (2007). *Critical Review of Jakarta Water Concession Contract*, Semarang: Amrta Institute. p.1.

² Ibid. p.5.

³ Ibid. p.3.

⁴ Nila Ardhanie and Irfan Zamzami, *No Pro-poor Agenda in Jakarta Water Privatization*, Semarang: Amrta Institute, 2010, p. 6.

⁵ Abdullah, Nurudin. "PDAM Jaya Klaim Terancam Merugi Rp18,2 Triliun". *Bisnis.com*. 22 December 2011. *Bisnis Indonesia*. 28 Feb. 2012. Available at:

<http://www.bisnis.com/articles/pdam-jaya-klaim-terancam-merugi-rp18-2-triliun>

⁶ Amrta Institute. (2011). *Through the Empty Tap*. Available at: <http://www.youtube.com/watch?v=Fh8pRNz7Ph0>

⁷ Fasila, Dofa. "Cilincing Residents Blame Dirty Tap Water for Spate of Health Problems". *Jakarta Globe*. 4 April 2011. *The Jakarta Globe*. 28 Feb. 2012. Available at: <http://www.thejakartaglobe.com/home/cilincing-residents-blame-dirty-tap-water-for-spate-of-health-problems/433469>

⁸ PAM Jaya Siap Putuskan Kontrak. (2012, 20 January). *Suara Pembaruan*, pp. 1, 5.

⁹ Ibid.

¹⁰ "Tanpa Renegosiasi PAM Jaya Rontok". *Indopos*. 28 February 2012. Available at: <http://www.indopos.co.id/index.php/berita-indo-rewiew/19453-tanpa-renegosiasi-pam-jaya-rontok.html>

¹¹ Afifah, Riana and Hertanto Soebijoto. "Massa Minta DKI Hentikan Privatisasi Air". *Kompas.com*. 6 June 2011. *Kompas*. 28 Feb. 2012.

<http://megapolitan.kompas.com/read/2011/06/06/16551311/Massa.Minta.DKI.Hentikan.Privatisasi.Air>

¹² "Palyja Didemo Lagi". *Kompas.com*. 27 April 2011. *Kompas*. 28 February 2012.

<http://megapolitan.kompas.com/read/2011/04/27/04112835/Palyja.Didemo.Lagi>

¹³ More, Imanuel and Aloysius Gonsaga Angi Ebo. "Tim Advokasi Hak Atas Air Gugat Privatisasi Air". *Kompas.com*. 13 September 2011. *Kompas*. 28 February 2012.

<http://megapolitan.kompas.com/read/2011/09/13/18260894/Tim.Advokasi.Hak.Atas.Air.Gugat.Privatisasi.Air>

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