

**Public Resistance to Water Privatization? Regulatory Mobilization and the Moral  
Economy in Metropolitan Manila**

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## **Abstract**

Public resistance to water privatization has been observed all over the world, implicating both developing and developed nations of varying socio-political contexts. This resistance is now generally recognised as an important factor in the failure of private investment in the water sector, by supporters and critics of privatisation alike. However we know very little about the nature of such contentious collective action, most of which have fallen short of being full-blown social movements while avoiding cooptation and demobilization. Opposition has come from a range of social groups; led by different types of organizations; advocating varying agendas; and exhibiting a wide repertoire of contention. How can society's variegated response to water privatization be understood? Using the case of Metro Manila in the Philippines, this paper advances the concept of 'regulatory mobilization' to describe the ambiguous and often-contradictory politics and context of such social mobilization. I argue that contentious mobilization of local community groups and in the urban water sector by NGOs is rooted loosely to a 'moral economy' of subsistence rights to water. Localized and sectoral politics of subsistence and regulation are brought together by regulatory mobilization, resulting in a form of 'boundary-spanning' politics that is neither entirely contained nor fully transgressive, and is linked to a broader supralocal pattern of mobilization that has erupted spontaneously. This mirrors the observation made by Karl Polanyi on the great variety of forms in which the 'collectivist' counter-movement appeared to defend the broad range of vital social interests affected by the expanding market mechanism.

## **Introduction**

Public resistance to water privatization has been observed all over the world, implicating both developing and developed nations of varying socio-political contexts. From the 1990s, the participation of private initiatives in the water sector mushroomed from almost none in the early part of that decade, to more than 2,350 private enterprises by 2003 (UNESCO and World Water Assessment Programme 2006: 69). Private sector participation aims to achieve greater efficiency and coverage in the water and sanitation sector. This is underpinned by the belief that the free market and the private sector should be key drivers of economic development. The state should only play a facilitating role - that is, regulation. In response however, organized citizens all over the world have mobilized to reject privatisation.

Economic concerns like prices, profits, jobs, and development have been the chief issue behind resistance, alongside broader issues of fairness, equity, legitimacy and accountability. Actors involved have been varied and are drawn from all sectors of society with no clear patterns of leadership. Campaigns in Brazil and South Africa, for example had strong union direction, but not so in Ghana and Grenoble (Hall, Lobina et al. 2005). Most actors have been locally or nationally-based with few international links. Mobilization has been diffused, sometimes with concurrent campaigns involving different actors. For example, new trade union-led strike action in Jakarta were mobilised independently of ongoing protests by consumer and other community groups. (Ibid.: 292-93). Sometimes, anti-privatization campaigns have impacts beyond their immediate scope, implicating politics and political organisations of the country. Bolivia's Cochabamba campaign for example had a broad-based membership (eg., local businesses and farmers) reflecting multiple political and social agendas. In New South Wales, Australia, union-led resistance led to the Labour Party winning state elections against the Conservatives who were pushing for privatisation, mirroring similar victories in Tasmania, Southern Australia and Queensland. Meanwhile countries like Uruguay and the Netherlands rewrote their constitutions in support of anti-water privatisation campaigns, the former after a national referendum was held (ibid.: 294).

Sites of campaigns have also varied significantly. Successful court action can be found in both high and low income countries from India to France, based largely on issues of legality covering a range of grounds (eg., corruption in Grenoble, illegality in Rio de Janeiro). Successful opposition usually involved working within existing institutions, although a judicial review brought about by a broad-based alliance of activists against new privatisation laws failed to change the decision in Indonesia (Coalition of People's Right to Water 2005). On rare occasions, resistance took place in the streets as exemplified by the dramatic 'water wars' in Cochabamba in Bolivia (Olivera and Lewis 2004). At other times, contestation took place through the ballot box when it became an electoral issue (eg., Tucuman, Argentina, New South Wales, Australia, and Panama). Variation also exists in the repertoire of resistance. Morgan (Morgan 2008) for example found at least ten discrete mechanisms ranging from political lobbying to technical input, dispute resolution, litigation, and direct action across six countries of different political and developmental contexts.

#### *Resistance and Water Privatization in the Philippines*

Up to 3.6 million residents in the Metro Manila had no access to water in 1995. The Metropolitan Waterworks and Sewerage System (MWSS) was as inefficient as it was unpopular. In what was the world's biggest water privatisation at that time, Metro Manila's waterworks and sewerage system that served its 11 million residents was privatised in 1997. The city was carved into two zones. The east zone was awarded to Manila Water (MWCI) and its foreign partner, Bechtel while the west zone was awarded to Maynilad and Suez/Ondeo. Although Maynilad has since been declared bankrupt, MWCI has been successfully listed in the stock exchange in a contrast of fortunes. More than ten years into being, persistent divergent opinions on the experience of water utility reform in Metro Manila suggest that water privatisation remains contested. Initial response to water privatisation in Metro Manila by civil society was muted as the country was caught up in the impeachment trial of President Joseph Estrada which divided the political opposition. The speed of the MWSS privatisation took many people by surprise. Since the reforms were set in the context of a public sector that that has long failed to deliver, many were also waiting to see what changes privatisation would bring to the

water sector (Montemayor 2005: 215).<sup>1</sup> Other than protests from public sector labour unions and some NGOs over threatened job losses (Corral 2003), civil society appeared to have played a minimum role prior to, and during the privatisation process. On 30 June, 1997, a month before the scheduled turnover of operations to the concessionaires, industrial action organized by a radical trade union saw around 200 workers joining the picket line although some 2,400 MWSS workers were absent from work (Dumol 2000: 117).

Manila residents soon received a rude shock when barely a year into its operations, MWCI petitioned for rate increases blaming foreign exchange losses and the effects of El Nino. Public hearings conducted by the Regulator (MWSS-RO) allowed the Freedom from Debt Coalition (FDC), a network of NGOs and social groups, to enter a debate that was also covered by the national media.<sup>2</sup> When the request for increase was rejected, FDC was eager to claim credit (Tabios, Viajar et al. 2001). MWCI's failure to increase tariffs did not discourage the concessionaires from continuing to renegotiate the original terms of the concession contract. In December 2000, Maynilad proposed to raise tariffs and postpone service obligations (Esguerra 2003: 18). By March 2001, it had stopped paying its concession fees to MWSS altogether (Chavez and Malaluan 2005). Once again, the prospect of tariff increases outside contract stipulations galvanised NGOs into action. Between May and August 2001, organisations that would eventually go on to establish the anti-privatization network Bantay Tubig, including FDC, the Institute for Popular Democracy (IPD), a leftist think tank, and the party-list organisation AKBAYAN,<sup>3</sup> waged a public campaign against the tariff increases, attempts at modifying the original contract by Maynilad, and the need to reform the water Regulator, the MWSS-RO. Intensive lobbying at the House of Representatives via congressional hearings, direct action, and a new President (Gloria Arroyo) who was eager to impress her supporters following their role in the people's power revolution that disposed her predecessor, delayed Maynilad's proposals by four months. (Freedom from Debt Coalition, Jubilee South et al. 2006). Numerous legal and juridical challenges were also mounted by organized citizens. On 29 September 2004, A Quezon City court ruled that interested parties like NGOs should not be barred from participating in the rehabilitation

proceedings of Maynilad. FDC and Bantay-Tubig also filed a petition at the Supreme Court on 29 June 2006 seeking to overturn a resolution issued by the MWSS Regulatory Office (and the MWSS Board of Trustees) that the two water concessionaires should be treated as agents, rather than utilities.<sup>4</sup> Privatisation has increased the repertoire of civil society activism in the water sector.

By 2007, there was a sense that the trend of increased privatization in water had reversed (UNESCO and World Water Assessment Programme 2006: 70). Transnational water and utility corporations have been retreating from investing in public water utilities. The feelings of TNCs have been summed up by Jean-Louis Chaussade, the chief executive of Suez Environment, which has major water concession contracts in Argentina, Bolivia and Haiti: 'Private funding runs into ideological problems. We need to be more humble. We have to adapt to local realities' (Vidal 2006). This resistance is now generally recognised as an important factor in the failure of private investment in the water sector, by supporters and critics of privatisation alike (Hall, Lobina et al. 2005). Public response to water privatization has been contentious, spontaneous and disorganized. It has implicated countries in different stages of socio-economic development and political systems. This mirrors Karl Polanyi's reflections in *The Great Transformation* made half a century ago on 'the great variety of forms in which the 'collectivist' counter-movement appeared [was due to] the broad range of the vital social interests affected by the expanding market mechanism' (2001: 151). For Polanyi, the extension of the self-regulating market by the ideology of market liberalism which entailed the fictitious commodification of land, labour and money has been detrimental to society. Society will respond by protecting itself from harm in the form of the counter movement. This is the premise behind Polanyi's concept of double movement.

Public response to water privatization at the global and national level thus seem similar in its 'heterogeneity of social subjects, pluralization of organizational forms, and the fluidity of institutional outcomes' (Roberts 2008: 331). As privatisation became the 'name of the game' in the water sector in Metro Manila, the response of citizens has been diverse. This involved a wide range of engagements involving varying mobilising vehicles, espousing

different ideas, and set against the particular context of Filipino state and societal formation. Some encounters have resulted in (intentional and unintentional) reform while others have not. Some changes are explicit, but most of civil society's impact has been subtle and indirect.<sup>5</sup> Therefore there has been substantial variation in the roles of citizens, as water consumers, who mobilize in a 'regulatory space' that has become increasingly complex since privatisation. In short, privatisation has increased the repertoire of civil society activism in the water sector. Privatisation has generated new opportunities for citizen mobilisation. The previously static role of civil society in water regulation stands in sharp contrast to current engagements where a range of activity from contentious direct action and lobbying, to operational input and service provision, can be observed at multiple levels of the regulatory landscape.

However, we still know very little about the nature of such contentious collective action, many of which have fallen short of being full-blown social movements while avoiding cooptation and demobilization. Contrary to Roberts' (2008) call for more systematic comparisons of mobilizations in response to economic liberalism, this paper argues that they have not been adequately described. Despite their apparent ubiquity, they are not easily categorised and are empirically complex; located as they are somewhere in between everyday forms of resistance and full-blown social movements. Mobilization is not always disruptive and sometimes, it may not even be obviously contentious. Due to the range of issues involved, it is also difficult to determine what criteria by which mobilization success is to be understood. Yet when they have been successful in opposing privatization, their impact has been significant, even if unpredictable and accompanied by unexpected circumstances and consequences. The terms 'resistance' or 'opposition' may even be too sweeping in characterizing these mobilisations. While many collective responses to privatisation do not propose immediate alternatives and hence by default are effectively defending status quo, they also cannot be seen as mere passive defenders of public ownership (Hall, Lobina & de la Motte 2005: 295-97). This paper advances the concept of 'regulatory mobilization' to describe the ambiguous and often-contradictory politics and context of such social mobilizations manifesting a water 'counter movement'. Further, I argue that contentious mobilization of local community

groups and in the urban water sector by NGOs is rooted loosely to a ‘moral economy’ of subsistence right to water. Localized and sectoral politics of subsistence and regulation are brought together by regulatory mobilization, resulting in a form of ‘boundary-spanning’ politics that is neither entirely contained nor fully transgressive, and is linked to a broader supralocal pattern of mobilization that has erupted spontaneously.

### **Conceptualizing Regulatory Mobilization**

*Different communities will be able to relate directly to only a few of these issues at a time. Thus, the communities in Rizal province are largely concerned about the prospect that Manila Water will render their water investments redundant. The communities in Tondo (in Manila) are most concerned about cholera and the need to keep pressure in the pipes high. The communities in Taguig want to institutionalize the practice of reserving distribution in urban poor areas to urban poor communities. The communities in Caloocan need Maynilad to make the investments that will plug the leaks in the rest of Metro Manila so that enough water can be pushed up to their areas. Many others are appealing for lower prices and acceleration in pipe infrastructure investments.<sup>6</sup>*

In my very first exchange of correspondence with Jude at the beginning of my research, I was unaware then that he had already established the two salient points that form the basis of what I term ‘regulatory mobilization’. Firstly, mobilizations over water privatization (like mobilizations over most other matters concerning water) by communities are place-specific struggles over local subsistence issues – namely access to water. Most of these localized struggles seldom appear on any media or analytical radar. Secondly, any broader-based or strategically-located NGO or social movement on water privatization needs to link as many of these different communities together so as to allow them to relate directly to as many of these issues at the same time, and cohere into a ‘constituency’ of water-users. Regulatory mobilization is therefore contentious collective action by organized citizens in the identification, subversion, and on the rare occasion,

creation of rules over the provision of basic goods and services. This has been particularly manifested in the present context of institutional reforms in strategic state sectors like water and other basic subsistence needs. This is where an ostensibly reduced role for the state is accompanied by an apparently participation of the market in the form of the private sector. The objective of regulatory mobilization is twofold. The first is access to these subsistence resources for the constituents of the mobilization. The second is to reconfigure the means by which the constituents may gain access. This is a form of 'resistance' that emanates from a counter movement against water privatization. It is not necessarily set against the state and may involve penetrating the state to 'augment or activate its regulatory capacity' (Roberts 2008: 331). In Polanyi's conceptualization of the counter movement, he has also said:

The legislative spearhead of the countermovement against a self-regulating market as it developed in the half century following 1860 turned out to be spontaneous, undirected by opinion, and actuated by a purely pragmatic spirit (2001: 147).

Hence, at its simplest and most abstract formulation, regulatory mobilization is the organising and using of norms for collective action. 'Norms' regulate behaviour, and is a generic category which includes principles, guidelines, standards, and rules (in increasing order of specificity). Collectively, norms can be said to have a regulatory character conceived in the broadest sense - all mechanisms of social control, by whomsoever exercised (Baldwin, Scott et al. 1998).<sup>7</sup> The existence of any social order depends on the presence of principles, guidelines, standards, and rules and their enforcement. Regulation as social control is therefore an organised response to 'deviance' in behaviour. Any instrumental use of norms seeks to influence the functioning of a given social organization and is therefore intrinsically political. In the context of most countries where the relative autonomy of the state is constantly under threat and may be challenged (especially in the developing world where the state is 'weak'), law also becomes a resource that can be mobilized. Regulatory mobilization makes extensive use of the law, and also a wide range of norms other than the law that may possess regulatory

characteristics (for example, reciprocal social norms in the Philippines like *suki*<sup>8</sup>) that shape behaviour.

### *Regulatory space*

In the pursuit of political goals, the law becomes more than just a (double-edged) tool that is used for both political domination and empowerment. Understood as a social practice and constitutive of social relationships and practical activity among citizens, law then becomes a terrain where legality is contested. The legitimacy surrounding the use of subsistence resources like water is thus given substance by the nature of the law and other local norms. This perspective thus sees the terrain of regulatory mobilization as occurring in a 'regulatory space' as much as in a sectoral or policy arena. Hancher and Moran (1989) forwarded the concept of regulatory space to argue that economic regulation 'is dominated by relations between large, sophisticated, and administratively complex organisations performing wide-ranging economic and social tasks' (ibid.: 272). Although Hancher and Moran, like much of the regulatory governance and politics literature have based the bulk of their conceptual models and explanations on advanced political economies in the west, the regulatory space construct is more helpful than other concepts (eg., the 'regulatory state') in not only studying regulatory politics in the context of market liberal reforms, but also focusing on the possible collective agency or marginalized groups in the regulatory space.

The regulatory space of any given area is available for occupation, can be unevenly divided between actors, and is contested. Although organizations are makers and shapers of regulation; Citizens are 'takers' of regulation, occasionally, 'private citizens may succeed in mounting a successful legal challenge to a regulatory programme, but sustained or permanent participation is precluded' (ibid.: 286). In the specific empirical context which this concept will be used to illuminate, regulatory mobilization have taken place in countries where rights and participation are formally guaranteed but the rule of law is weak and political institutions are easily compromised. In the Philippines for example where the juridical field (state law), in its ensemble of national official institutions, agents, legal instruments, and norms are fragmented and dispersed across

administrative and (quasi)judicial sub-arenas (Franco 2008). The fragmented field of state law coexists with numerous non-state fields of social regulation which provide a background of norms and procedures against which negotiations and regulations in both private and government settings take place. Alongside state and customary law:

there is a "patrimonial" field operating through (i) landed elites and their representatives such as farm overseers and private armies and (ii) captive local public authorities (or village/municipal officials whose actions reinforce landlord control, including judges, public attorneys, and police). Patrimonial 'law' requires control of large landholdings, inside which private authority tends to 'trump' public authority, especially in remote interiors 'invisible' to national governments, urban-based media, or public watchdog groups. In such places, not only are landed elites routinely exempt from the rule of (state) law, but they impose their own 'rule of law' on local populations as well (ibid.: 1863).

Hence to advocate agrarian reform in the face of a fragmented state law and an oppressive patrimonial law, Franco (2005; 2008) showed how the rural poor implemented a 'integrated political-legal strategy' which:

- Activates and sustains a "full and meaningful" interpretation of agrarian reform law implementation
- Exploits independent initiatives of state actors, and
- Resisting legal and extra-legal anti-reform initiatives of state and societal elites.

Such regulatory mobilization which makes claims against one level of authority in the regulatory space based on its resistance to another form is not unique only in the Philippine countryside. The second half of the paper will consider regulatory mobilization around water in response to privatization in Metro Manila. In its sectoral work, regulatory mobilization attempts to make strategic occupations in the water regulatory space to mount challenges against the regulatory framework in the wake of

privatization. The objective is to obtain concessions that can bring about a change in the manner by which water is delivered. This is based around a mobilized constituency that is built up through two forms of collective action across the city in so-called 'waterless' communities. These are mobilization where existing norms and organizations governing and delivering water to the local communities are protected against some forms of encroachment by the water concessionaires. Other mobilizations may involve creating new organizations based on existing local norms concerning water subsistence.

### *Mechanisms and processes*

Concluding this conceptualization is a description of regulatory mobilization in terms of mechanisms and processes as drawn from the contentious politics literature (McAdam, Tarrow et al. 2001; Tarrow 2005; Tilly and Tarrow 2007). Drawing upon historical lineages of protest, existing mobilizations, prior associational networks, and even the conversion of incorporation of previously existing non-political groups and networks into political actors (social appropriation), social groups respond to changes in the opportunity structures of governance and regulation. Water privatization is the structural setting whereby collective action takes place via coalition formation (coordination of claims with previously distinct actors), competition (mutually exclusive pursuit of outcomes), and other forms of coordinated and uncoordinated action (involving mutual signalling and parallel claim-making). In this way, through a learning and occasionally contingent process, frames of regulatory mobilization emerge as shared definition of issues or performances become broadcasted and adopted. During this time, attribution of similarity and boundary-setting<sup>9</sup> takes place across the regulatory space at different levels as social groups like NGOs and POs reacting to structural changes seek out communities that can be mobilized. POs operating locally engage in boundary-setting which allows NGOs operating sectorally to broker connecting between previously unconnected or weakly connected sites of local resistance. In the formation of new networks and organizations, activation of old ones and elimination of redundant ones, social groups attempt to institutionalize the connections into sustainable networks. Gains and losses in the regulatory space are marked by the certification/decertification of an authority's signal

of its readiness to recognize and support the existence and claims of regulatory mobilizers or not.

All these mechanisms and processes facilitate the diffusion of contention as issues, interpretive frames, and contentious performances are spread from one site to another across the regulatory space. This leads to the key process of regulatory mobilization – scale-shifting. Defined as 'a change in the number and level of coordinated contentious actions leading to broader contention involving a wider range of actors and bridging their claims and identities', regulatory mobilization through scale-shifting connects two different scales of collective action together – at the local and sectoral/policy level – transposing frames, networks, and a variety of forms of collective action to a potentially national level without a corresponding liquidation of the conflicts and claims at the local level that gave rise to them in their arenas of origin (Tarrow & McAdam 2003). This is not however a scale-shift that spread contention. Through scale-shifting, regulatory mobilization entrenches a form of contention that is neither entirely coopted into formal institutions, but neither is it entirely transgressive so as to become violent. Contrary to the forms of major contention which the contentious politics literature uses the mechanism of scale-shifting to illuminate, the form of contention identified here is a 'boundary-spanning' form of claim-making. The distinction is that the domination-empowerment/resistance binary is blurred. This is a form of contention that has been observed in other contexts (O'Brien and Li 2006). The next section will describe a case study of regulatory mobilization in response to water privatization, and the paper will conclude by situating regulatory mobilization in the broader context of boundary-spanning contentious collective claim-making.

### **Describing Regulatory Mobilization: Taguig as a Stream of Contention**

#### *Local moral economy of urban water*

Laguna de Bay is Southeast Asia's second largest freshwater lake, and the Philippines' largest. However 30 of Metro Manila's 212 waterless communities live on its western shore in the formerly thriving fishing and farming community of Taguig (Government of

the Philippines 2005). Now a major industrial and residential suburb of Manila, most of Taguig's urban poor residents were relocated from other depressed areas of the city after the first EDSA Revolution of 1986. Prior to privatisation, less than half of all households in Taguig had piped water supply. The other half of Taguig's households spent more than 10 per cent of their income on water consumption. (Villa n.d.). Since 2001 in Barangay<sup>10</sup> Signal Village, the local community had received piped, potable water. This has been commonly attributed to MWCI's programme for poor communities, the *Tubig Para Sa Barangay* programme ('Water for the Community'), developed in 1998. Less well-known is the fact that the success of programmes such as TPSB and Maynilad's own *Bayan Tubig* programme have depended critically on a pre-existing moral economy of water upon which subsequent mobilisation for the water POs could take place.

Contrary to how the World Bank understands how 'poor citizens as clients are left powerless' in clientelistic service delivery systems (World Bank 2003: 162), a moral economy approach to water recognizes the complex survival strategies in urban slum communities where even under conditions of endemic clientelism and encroaching market capitalism, the urban poor may have some agency in highly unequal power relations due to their aversion to risk in matters of subsistence. This approach takes up the moral economy literature of Polanyi (2001), Scott (1976), and Thompson (1971) and links its focus on popular consensus about legitimacy that may be rooted to the past, and capable of inspiring collective action, to another literature on the moral economy of water. Understanding water as a social good that is constitutive of, and also shapes communities (Arnold 2001; Trawick 2001), and that the right to water can be a source of political agency (Walton 1992), allows for a different reading of collective action and water. Situating recent research on the water moral economy of the urban poor and subsistence (Wutich 2006; Wutich and Ragsdale 2008; Wutich 2009) with Berner (1997) and Jocano's (2002) research on the moral economy of the urban poor in the Philippines, informal water suppliers, and the alternative arrangements and networks for obtaining water, are most usefully understood as constituting an urban moral economy.

In the context of inbuilt inequity in the distribution of water to the urban poor generally, a different set of rules and norms for accessing water is necessary. Unlike common-pool and open access water resources in rural areas where rules are usually clear and understood by all, both market and non-market systems (like reciprocity and redistribution) are bundled in urban poor settings in complex ways. Water may be bought in the formal market at a high price, negotiated, argued or begged from neighbours or friends in dynamic reciprocal relationships, or obtained with 'strings attached' from local politicians utilizing patron-client relations of power. Part of the strategy therefore is to have multiple sources of water where it can be consumed in varying quantities under varying circumstances. This is also to minimize the amount of time needed to collect water, time which could be used for income generation. While this always imply that the urban poor pay higher per-unit cost of water, or hold themselves to the patronage of politicians, they also have multiple sources to draw from if one source should fail to deliver (either due to high price or unacceptable patron demands) thus minimizing the risk of their (water) subsistence. Decision-making over which source to obtain water from is constantly revised. The rights of the urban poor to water access thus require constant negotiation and are not fixed. It depends on a range of factors including varying quality and variability of income. During periods of unemployment or reduced income, the household may decide to purchase water from a less reliable source, or reduce water consumption. Households may also borrow water from each other as part of local reciprocal exchange relationships with other households.

Many residents and most of the urban poor in Metro Manila have therefore been dependent upon a range of 'informal' providers, suppliers, practices, arrangements and networks for their access to water. Such 'informalities' in urban water services typically involve illicit or semi-licit independent actors who are not formally recognized or authorized by the state ((Moretto 2007: 350) They may not even be formal companies and hence do not pay tax. Without full or official recognition, they do not comply with official rules and procedures in part or in whole. Hence, they exist at the periphery of the regulatory space. Sometimes acting as primary suppliers, in other cases supplementing a formal provider, they range from household vendors to small network providers, private

entrepreneurs, cooperatives and various other forms of community organizations. They also frequently employ intermediaries like tanker and cart carriers to distribute water. Such activities may be informal but are no less as institutionalized as formal public or private water systems. They possess rule-enforcing mechanisms including customs, norms and values, and are based on informal organizational networks like the family, other social networks and community-level organizations (ibid.). Some of these may have various form of social, legal and political status. Water is the main commodity of exchange but is also sometimes a 'gift'. Hence, the informal water sector rests on alternative arrangements based not solely on exchange, but also on solidarity, reciprocity or need.

According to David and Inocencio, 'Vended water is sold through a well-organized, informal, and relatively open system of illegally distributing MWSS water' (1996: 6). For consumers who are reliant on vended water, they usually purchase and collect water from other households with their own access to water. Much of this was also distributed through plastic pipe connections from these households (charged on per container basis), or from MWSS's main water pipes (based on a fixed charge). Others obtained vended water from cooperative-managed public faucets using 5-gallon plastic containers or 3-gallon plastic pails. A small proportion was delivered in containers using either carts, bicycles, or jeepneys or in tanks using trucks (ibid.: 4-5). In urban poor settlements located in public land, there is usually access to water via hose connections made to water mains of government buildings. Where the occupied land is privately owned, water bought in containers is more popular. These are usually sold by other households in the area with their own direct connection to MWSS water. Of all households with MWSS connections in 1995, 43 percent have annual household income below Php100,000 and it is estimated that three quarter of low income households with MWSS connections have obtained them illegally.<sup>11</sup>

As Rew showed (1977), 'only those urban groups and individuals with the means and opportunities to press and steer their demands through political and bureaucratic channels succeed in obtaining access to water'. This also means the subsistence right to water is

locally bound up with local clientelism. Hence, vended water, and even wells were delivered and dug respectively sometimes free of charge. This usually happens during election campaign periods, and is provided by local politicians pursuing the urban poor ballot. In water-poor and vote-rich areas in urban poor communities local organizations have been set up to provide water services which are supported by politicians who routinely provide water pumps and various forms of assistance. Members of these organizations may pay a onetime bond of Php500 and monthly fees of around Php300 where the cost of water per cubic metre is around Php25 (Velasco 2006: 113). Outside the election period, water vendors who have managed to navigate around or become part of the political machine of a local economy that is dominated by local politicians then have 'license' to service a particular area.

At the local level, the moral economy of water for subsistence is capable of inspiring outbreaks of contention under certain circumstances, and stem from the community's highly parochial and contextualized notions of water resource management and usage. In urban poor areas social networks and kinship ties form the basis of a moral economy that is set against but also constitutive of encroaching neoliberal privatization and endemic patron-clientalism. The local moral economy is then a set of norms and associational life by which the urban poor may 'defend a place in the city'. The struggle for subsistence in the city rests upon overlapping and consolidating networks of trust and solidarity that emerge from the shared experience of everyday life in the locality (Berner 1997). When MWCI came calling following privatization, the urban poor communities in Taguig took up the opportunity and mobilized their own community-managed water systems

#### *Moral economy of a water peoples' organization*

It was nearly midnight when the motley group of engineers from MWCI and residents from the local community gathered in a narrow and dank alleyway near the entrance to Sitio Imelda, an urban poor community in the city of Taguig in Metro Manila. Toiling under torchlight and enforced silence, they attached the mother metre to the newly-installed secondary pipes as Agnes<sup>12</sup>, her neighbours and family-members encircled the working engineers, held their hands together and said a prayer:

Guide us oh Lord, for the installation of the bulk-metre. Protect us from danger, especially from the municipality. We hope that this water will serve the community and prove to the people that our desire for clean and cheap water can be fulfilled. This is the end of our long wait for nawasa.<sup>13</sup>

The next morning on 2 January 2004, water from Angat dam, treated and distributed by MWCI began running freely in the community-installed pipes of Sitio Imelda for the first time in the neighbourhood's history.<sup>14</sup> Formed in late-2003, Agnes's Community Water was the first of several water peoples' organizations (POs) to be formed in the community of Sitio Imelda in barangay Upper Bicutan, Taguig.

Formed in late-2003, Agnes's Community Water Association was the first of twelve similar water people's organizations to be formed in the community of Sitio Imelda in the barangay of New Bicutan in Taguig. Together with three other water people's organizations in Sitio Imelda, these people's organizations were formed after consultation with various representatives of Manila Water facilitated by the Barangay at the Purok level. After registering with the Securities and Exchange Commission (SEC) as requested by Manila Water, a contract was signed between Manila Water and Community Water and the other people's organizations. Under the terms of the contract, the POs pay Manila Water a connection fee of Php4,000.00 each to set up the main pipeline on the main road, and install mother metres.<sup>15</sup> The POs in turn were responsible for the water connection from each household to the main pipe and mother metre.

Even though the residents of Sitio Imelda were paying between Php67-70 per cubic metre for water from deepwell operators and other private water vendors, the community was initially highly sceptical of the water people's organizations. It was not simply from not having the necessary capital for investing in the reticulation system. It was the safety-first and risk-avoidance mentality of the urban poor that motivated their response to the possibility of having cheaper, and better quality water at the turn of the tap. The deepwell operators and water vendors were expensive – but they *delivered*. The community had

seen and experienced too many broken promises by local politicians to believe what Agnes promised was possible. However, as soon as the first water POs were set up and had running water in directly connected pipes for sale at Php25 per cubic metre, residents rushed to apply for water from the POs.

By 2008, Community Water had round 125 members (households), serving almost 2,000 individual residents in Sitio Imelda. Residents are billed according to the reading on the mother metre.<sup>16</sup> Crucially, it is the PO, and not Manila Water, that collects payment from residents using their service. Although formed at the same time in the same community, the internal organization of each POs vary depending on the networks (neighbour, kinship by blood or fictive, friendship) utilized in the setting up of the PO. In the case of Agnes's PO, the member-officers consist of Agnes, her daughter Cecilia, and a few trusted neighbours. Cecilia's partner, Albert acted as a 'consultant'. Other water POs in Sitio Imelda have different combination of officers, members and 'trustees' running the organization. One PO does not even distinguish between members and customers and claim to be run by customers-members. The distinction between officers, members and customers of the water people's organizations is not clear. Day-to-day decisions are therefore made by these office-holders while major decisions are made at general assemblies of all members/customers involved.

The redistributive element of the urban moral poor economy is demonstrated by the use of income earned from the highly profitable water business of the POs. Apart from expenses related to the operation and maintenance of the water system, POs also utilise earnings for community projects such as street lighting, paving of foot paths, and undertaking the legal requirements needed to secure formal ownership of the land on which the community is located, where land tenure was a problem. Some POs receive cash 'dividends', while customers of other POs are given gifts in kind of about Php\$1,000.00 worth of groceries at the end of the year. Community Water has also made distributed 'grocery allowances' of around Php300 during the Christmas festive period to all members, as well as donations to the local church, as well as. Initial investors from the

community are also given refunds of their capital expenditures and are also entitled to dividends (Ferrer 2006).

Officers of the organizations perform the function of metre reading and bill collection twice a month, in addition to handling administrative functions like record and book-keeping, and liaisons with the LGU & Manila Water. Metre reading and collection is done between twice to four times a month. Billing within the community is based on sub-meters, which is often shared by several households or tenants under a single connection account. The POs' flexibility in payment has helped revenue collections. Since the runners who collect payment also live in the same community as their 'customers', they are able to collect more frequently, as well as schedule their visits to ensure that costumers have money on hand for payment. Relationships between POs and their customers are thus not simply business alone. Community Water has exercised much latitude in allowing members a range of payment means that sustains the connection without automatic resort to cut-offs. Such practises are based upon *suki* relationships of buyer and seller typical of *sari-sari* stores. These are cultivated in the extension of credit when payment difficulty arises. For the water POs, balances are treated as interest-free loans so payment defaults are minimized to a certain extent.

The community-managed approach in service delivery has also helped address the problem of non-revenue water.<sup>17</sup> Community Water officers regularly monitor pipes or hoses located aboveground and are able to immediately respond to problems of water wastage caused by damaged pipes. Speedy response time has also motivated community residents to voluntarily alert the officers whenever they see instances of water wastage. They also closely monitor household water consumption to spot irregular usage (a possible sign of water pilferage). By 2008, all of these POs have broken even and recovered their initial investments although some POs are starting to run up losses due to payment delinquency since 2006 when Manila Water, encouraged by the LUG began to directly connect households to Manila Water pipes. POs such as Community Water demonstrate the urban poor's collective response to water privatization, driven by the need for subsistence.

By 2004, there were almost 80 POs delivering water in Taguig and it was at this time that the beginning of the end of the POs started. Manila Water had recovered from the Asian economic crisis and now had the capital for extensive investments. More importantly, it had learnt how to service urban poor communities using the POs as their initial agents. It was now ready to provide water directly, and bypass their local distributors – the POs. The POs by this time have become powerful. Several individuals and organizations had also begun to take advantage on the lucrative water market. Some PO officers became corrupt while other POs began to charge higher and higher rates. Financially empowered and politically independent, the POs were no longer a simple cog in the political machinery of Taguig city mayor Sigfrido 'Freddie' R. Tiña. With local elections looming in 2007, Tinga had to do something.

On 18 October 2006, the Taguig *Sangguniang Panlungsod* (city advisory council), legislative body of the city local government, passed Resolution 172 condemning peoples' organizations (POs) for over-charging customers for their water service. They were accused of charging exorbitant tariffs of Php30-35 compared to Php10-12 for a direct connection with Manila Water. The POs were also said to be building poor quality water reticulation infrastructure – 'sub-standard pipes submerged in dirty, clogged and muddy drainage canals'. Resolution 172 called for 'direct individual water connections with Manila Water.' A few months prior, Tiña had written passionately in a newspaper column where he charged that the POs were greedy, and went against the wishes of the 'vast majority of...constituents [who] are clamoring for a direct connection that would free them from the control of these oppressive syndicates.'<sup>18</sup> When Manila Water thus announced that direct connection was to be provided, many residents – existing customer of the POs – stopped paying their water bills, leading to the bankruptcy of several water POs. By 2008, there were only a dozen or so POs left.

### *Scale-shifting*

The local struggle of the water POs in urban poor communities in Taguig for water was not unique. The struggle of the community for water, a moral economy for water

(subsistence) predated privatization where it took the form of a range of ‘coping mechanisms’ as discussed earlier. These range from expensive sources from water vendors to ‘free water from politicians. A clientelistic public water utility that maintained the institutional scarcity of water combined with patron-client relations of power in the community meant that the urban poor could only access high-priced water or support local politicians. Patrons reward their clients through particularistic practices, undermining the rights of the urban poor to water and subsistence by virtue of their citizenship. This was however not a rigid patron-client system as the urban poor is motivated by a moral economy of subsistence ethic. When the opportunity came following privatization to take over service delivery themselves in Taguig, water POs were formed. These were not only collective action for community service delivery, this was a moral economic resistance against the clientelism of both the water sector and local politics. Different variations of the Taguig water POs can be found all over Metro Manila from Binangonan to Antipolo, and Caloocan. All these struggles might have remained localized if not for NGOs like IPD and FDC.

As explained in the introduction, resistance at the sectoral level against water privatization by NGOs initially revolved around broad issues like legitimacy, regulatory/utility performance, and tariffs. By seeking out the ‘waterless’ communities in Metro Manila, NGOs like FDC and IPD were themselves relying on a long legacy of progressive mobilization dating back to the era of the Marcos dictatorship. Working with local and community groups like the water POs in Taguig, and cooperatives in Binangonan, Antipolo and Caloocan brought collective action at two different levels of the regulatory space together. This scale-shifting changed the character of society’s response to privatization as a whole. Regulatory mobilization thus started out of pre-existing mobilizations by the remaining water POs and prior associational networks of water subsistence based on a local moral economy of water. The NGOs linked up with other previously unconnected local struggles against Manila Water’s encroachment by forming initially informal networks and coalitions. NGOs and political movements engaged in regulatory mobilization sought constituent communities that can be mobilized. NGOs like IPD perform this through brokering previously unconnected or

weakly connected sites of local resistance. In the formation of networks of NGOs and community organizations, IPD attempted to institutionalize the connections into a sustainable network.

The Associative Water Center Philippines (AWCP) was formed in 2008 to share technical and policy inputs on alternatives to the privatization framework by supporting smaller, community-owned and managed ‘associative water systems’ and saw itself as evolving into either a ‘network of organized consumers operating their own water service systems’ or ‘a federation of water service cooperatives’ (Associative Water Center Philippines 2008). Meanwhile, older and more antagonistic anti-privatization networks like Bantay Tubig have been abandoned. In Taguig, the aim is now to strengthen the legal position of the remaining water POs (who still serve around 5,000 households) by converting them into cooperatives with the help of IPD. The ‘ideological’ work of Bantay Tubig was now left to another NGO, the FDC and its own newly formed anti-water privatization (PATTAK) network. Together with IPD and AWSO, a distinctive pattern of regulatory mobilization emerged in their joint pursuit of local and policy/sectoral advocacies that could strengthen and sustain the mobilization.

By monitoring the concession agreement between the MWSS and the two private concessionaires, particularly on tariff setting and in meeting the water needs of the urban poor (IPD for example advocates direct water service connections to the poorest), aggressive mobilization in the water sector takes place at the policy level. By engaging the water regulator (MWSS-RO) and the water concessionaires on these grounds, the NGOs challenge barrier to entry in the regulatory space. NGOs have attempted to increase their certification in the regulatory space by making use of intra-elite conflicts and uncertainties in the water regulatory space. For example another NGO, the Centre for Popular Empowerment (CPE) tried to open up an additional avenue of legal intervention through another government agency, the National Water Resources Board (NWRB) over Maynilad’s rate increase. This was an important case because when MWSS and Maynilad attempted to dismiss the complaint, NWRB’s response was to deny their motion for dismissal, in effect asserting its heretofore unexercised regulatory power to

receive consumer complaints in the water sector in Metro Manila. NWRB has been more accommodating to NGOs as it has been looking to assert its institutional clout under the leadership of a young and dynamic leader.

IPD also assisted the POs and water cooperatives on how to engage in debates with the MWSS-RO directly on a number of issues: (a) bulk tariffs, (b) exclusivity, (c) reticulation standards, (d) compensation for assets. These are the new rules that IPD has identified as being essential to preserving the collective economic interests of the POs. In the case of Taguig for example, the IPD mediated in disputes between the water POs, MWCI and the Water Regulator. The strategy that IPD took in these disputes was to interpret and formulate regulatory rules and guidelines in favour of the POs. In the issue of 'exclusivity' for example,<sup>19</sup> both the POs and IPD argued that since MWCI had engaged the POs as their contractors, the exclusivity of the POs' service area should be respected from infringement much in the same way that the exclusivity of MWCI to operate in its east-zone concession (and no where else) is regulated.

The institutionalization of networks, transformation of POs into cooperatives, and dialogue in the regulatory space are strategies pursued alongside ongoing filing of counter-charges against Manila Water, including complaints of overcharging and charging of non-existent costs (such as the sanitation charge when Manila Water had not provided a single sewer to the areas served by the water POs). This maintained the local resistance of communities even if they have now been brought into the sectoral level of the regulatory space. Meanwhile, the documenting and analyzing the self-initiatives of local organizations in providing water service for their respective communities was another ongoing task (IPD argues for recognition of water cooperatives and associations where the private concessionaires fail to invest in regular reticulation). IPD had also assisted the local organizations in networking the resources for their technical, training, and financing needs; and advocating for new alternative rules to encourage citizens' self-initiative and risk taking in providing water for their communities and engage local and national authorities and elites into adjusting their budget priorities to support community initiatives. To address the organizing and expansion of water services to more waterless

communities, the water POs in Taguig proposed the creation of a revolving fund for water investments. IPD has been networking sources of financing, ranging from NGOs and financial cooperatives to private investors.

All of this has been framed loosely around a moral economic claim to water as a right to subsistence by a 'waterless community'. The waterless in Metro Manila became a community in their own right when the National Economic Development Authority published a report on 15 February 2005 entitled *Providing Clean and Safe Water for All*. This report was part of President Arroyo's progress report released around the same time.<sup>20</sup> It was however quickly seized upon by NGOs who suddenly had detailed access to the locations of the '212 waterless communities' across Metro Manila (and 633 throughout the country) (2005). There were few statements issued by NGOs after that which did not refer to the 212 waterless communities from that point on.<sup>21</sup> Instead of a general and universal right to water, NGOs now focused almost exclusively on the 'waterless' community as a potential source for mobilization as much as it is a target for its politicians.

Thus, struggles around water privatization have undergone scale-shifting. Through social appropriation and attribution of similarity among communities, regulatory mobilization connects two different scales of collective action together, transposing frames, networks, and a variety of forms of collective action to a potentially national level without a corresponding liquidation of the conflicts and claims at the local level that gave rise to them in their arenas of origin. The examples and lessons of these specific struggles have been diffused and brokered to other sites of local resistance in Metro Manila and throughout the country, as well as entering the water regulatory space as not only specific cases or examples for mere policy or technical input but as legitimate actors themselves. All these contribute to the *diffusion* and *emulation* of contention. (eg., MWSS publication of socialized rates) across the city and country. At the same time, this has not led to wide spread contention. Through scale-shifting, regulatory mobilization entrenched a form of contention that is neither entirely coopted into formal institutions, but neither is it entirely transgressive so as to become violent. Contrary to the forms of major contention which

the contentious politics literature uses the mechanism of scale-shifting to illuminate, the form of contention identified here is a 'boundary-spanning' form of claim-making. The distinction is that the domination-empowerment/resistance binary is blurred. This is a form of contention that has been observed in other contexts (O'Brien and Li 2006).

## **Conclusion**

*My sense is that there is no one locale in Metro Manila that is able (at least initially) to articulate all the crucial operational elements of an alternative to privatization. I am thinking that the alternative will have to be able to address things like i) constant water quality monitoring and a program for urgent repairs... ii) voice from waterless communities that is able to periodically exercise veto in venues like the MWSS board... iii) a mechanism for making the right to water justiciable or demandable, especially where the private sector or the public corporate sector has failed to implement its contract... iv) An arrangement where people don't have to pay for service lines, pipes and meters up-front but can pay for this over time and with the help of cross subsidies or long-term loans v) an arrangement that takes-off but improves upon the approach of Manila Water, which acknowledges that urban poor communities... vi) an arrangement that encourages self-help in peri-urban communities and local governments...*<sup>22</sup>

Not one locale, individual or organization perhaps, but multiple locales linked by regulatory mobilization across the water regulatory space has been the public resistance to water privatization in the Philippines. The main objective of this paper is really to present an alternative narrative of the experience of water privatization in the Philippines. Without the concept of regulatory mobilization and a recognition of the moral economy of subsistence and the urban poor, the disparate struggles of water cooperatives in Binangonan and Caloocan, and the water people's organizations in Taguig will simply remain unknown. Regulatory mobilization may therefore strengthen the regulatory scope for particular political purposes and constituencies and in so doing, may support the

governance of the state. At the same time, it constitutes resistance against local patro-client power relations and a post water privatization framework that privileged big utility corporations.

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<sup>1</sup> Interview with Carla A. Montemayor, 9 October 2006.

<sup>2</sup> See for example, *Philippine Daily Inquirer*, 24 May 1998.

<sup>3</sup> AKBAYAN is a left 'pluralist national political party' formed in 1998. See [www.akbayan.org/](http://www.akbayan.org/)

<sup>4</sup> As mere contractors, the concessionaires would also be able to pass on their corporate income taxes to the customers, as well as deny extending their service arbitrarily rather than being bound to service as a public utility. See Philippine Center for Investigative Journalism for a detailed discussion <http://www.pcij.org/blog/?p=1028>

<sup>5</sup> Civil society in the context of the water sector means 'associations, organisations, or other collectivities (including spontaneous mobilisations of individual citizens) who play, or attempt to play, an explicit role in shaping the terms of water service delivery, but are not charged with either delivering the service nor with directly regulating the framework for its delivery' (Morgan 2005: 3).

<sup>6</sup> Personal communication with Jude Esguerra 23 May 2006. Jude Esguerra is the executive director of the Institute for Popular Democracy (IPD).

<sup>7</sup> The other two narrower notions of regulation are targeted rules, and all modes of state intervention in the economy.

<sup>8</sup> *Suki* is a relationship of patronage between the owner of a local neighbourhood store (*sari-sari*) and the customer. Suki relationships are based on repeated and regular interactions, personal trust, loyalty and the meeting of (reciprocal) obligations (Jocano 2005: 50-51).

<sup>9</sup> This includes boundary activation/deactivation: increasing or decreasing the salience of us-them distinction separating two political actors; boundary formation: creating an us-them distinction between two political actors; boundary shift: change in the persons or identities on one side or the other of an existing boundary.

<sup>10</sup> The barangay is the smallest administrative division in the Philippines.

<sup>11</sup> 1.00 Euro = 63.0 PHP

<sup>12</sup> Not her real name.

<sup>13</sup> Interview with Agnes, 11 April 2007. 'Nawasa' is the local community's name for piped water from MWSS (previously the National Waterworks and Sewerage Authority).

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<sup>14</sup> 98 percent of the water supply of Metro Manila comes from the Angat Dam.

<sup>15</sup> This was divided into an initial payment of Php\$2,500.00 with the balance to be paid within a year. The connection fee includes the cost of the water metre, pipes, fittings and labour cost.

<sup>16</sup> Bulk-water is the scheme by which MWCI charges a bulk rate of PhP19/m<sup>3</sup> to community PO sub-contractors in Taguig who in turn, directly distribute water via individual connections to household under their own tariff calculation. Rates once again vary from PhP25/m<sup>3</sup> to PhP35/m<sup>3</sup>. Community Water charges its customers PhP25/m<sup>3</sup>.

<sup>17</sup> Non-revenue water (NRW) is water that is “lost” before it reaches the customer. Losses can be real losses (eg., leaks) or apparent losses (eg., pilferage or metering errors).

<sup>18</sup> ‘Water, water everywhere, but not a drop to drink’, *Manila Standard*, 17 July 2006.

<sup>19</sup> Exclusivity in water privatization forms part of a set of rules determining the nature and amount of competition in the water sector. The evolution of the market structure upon privatization will partly depend on whether exclusive franchises have been granted, or if competitive entry by other providers is allowed. Since water services have traditionally been perceived as a natural monopoly, water services providers are usually granted a monopoly over a given supply area on the assumption that having one network is most economical. Such exclusive rights to operate in any service area protect water providers from competition and some of the uncertainty surrounding future demand. This limiting of competition benefits the firm and attracts the private sector to participate in the water sector. For long-term infrastructure concessions such as water privatization, exclusivity is needed to ensure the predictability of the cost flows on which tender prices are based.

<sup>20</sup> This was the ‘10-point reform agenda’ dubbed ‘Beat the Odds’. Philippines Information Agency Press Release 4 August 2005. <http://www.pia.gov.ph/?m=12&fi=p050804.htm&no=16>

<sup>21</sup> See for example, [http://www.fdc.ph/index.php?view=article&id=148%3Awaterless-residents-urge-mwss-to-stop-maynilad-re-bidding-review-rehabilitation-plan&option=com\\_content&Itemid=87](http://www.fdc.ph/index.php?view=article&id=148%3Awaterless-residents-urge-mwss-to-stop-maynilad-re-bidding-review-rehabilitation-plan&option=com_content&Itemid=87) from FDC, and Associative Water Center Philippines (2008).

<sup>22</sup> Personal communication with Jude Esguerra 23 May 2006.