RESISTANCE AND REGULATION

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Abstract

The inability or unwillingness of private water utilities to provide service delivery to the urban poor following privatization has reaffirmed the importance of the informal sector. Informal private water vendors provide a crucial service but operate outside the formal regulatory framework. They exist within an alternative regulatory environment outside the state that is informally regulated, locally legitimized, and sometimes straddle the boundaries of legality (as in the case of street vendors). They contend with economic and political elites privileged by formal regulatory structures and institutionalized clientelism. As such, although the informal water sector largely serves the urban poor, it is also in conflict with the state, its agents formally contracted to undertake water provisioning, and various power elites. This paper argues that since contentious collective action is required for the urban poor to obtain water and other basic services, the concept of resistance is important in any attempt to reconceptualize regulation in the wider context of developing countries.

This paper describes the governance of the informal water sector as comprising regulatory mechanisms that reside within the informal economy itself, and outside the official structure of government. Secondly, the relationship between the formal and informal water sectors will be examined in terms of the common regulatory space that they occupy. Although it has been said that 'formality breeds informality', seemingly peripheral mobilization by NGOs and organized urban poor communities based in the informal sector may sometimes project countervailing power, and occasionally influence formal regulatory frameworks in quite surprising ways.
Introduction

The inability or unwillingness of privatized water utilities to provide service delivery to the urban poor has reaffirmed the importance of the informal sector. Informal private water vendors provide a crucial service but operate outside the formal regulatory framework. They exist within an alternative regulatory environment outside the state that is informally regulated, locally legitimatized, and sometimes straddle the boundaries of legality (as in the case of street vendors). They contend with economic and political elites privileged by formal regulatory structures and institutionalized clientelism. As such, although the informal water sector largely serves the urban poor, it is also in conflict with the state, its agents formally contracted to undertake water provisioning, and various power elites. This paper argues that since contentious collective action is required for the urban poor to obtain water and other basic services, the concept of resistance is important in any attempt to reconceptualize regulation in the wider context of developing countries.

This paper describes the governance of the informal water sector as comprising regulatory mechanisms that reside within the informal economy itself, and outside the official structure of government. These take the form of a moral economy of subsistence – a range of norms of trust and mutuality expressed in reciprocal and redistributive self-regulation. Secondly, the relationship between the formal and informal water sectors will be examined in terms of the common regulatory space that they occupy. Although it has been said that ‘formality breeds informality’ (Fernández-Kelly 2006: 3), seemingly peripheral contention by NGOs and organized urban poor communities combining in regulatory mobilization based in the informal sector may sometimes project countervailing power across the sector, and occasionally influence formal regulatory frameworks in quite surprising ways.
Regulation and Resistance in the Urban Water Sector in Developing Countries

Context: The water sector in developing countries

Bringing perspectives on regulation and resistance together in the urban water sector is informed by three bodies of literature that is seldom brought together: Regulation, Resistance and Informality. This is necessitated by two empirical observations. Firstly and more generally, a broad continuum of practices and arrangements that exist in water provisioning that can be divided into a policy-driven half that mostly coheres with the formal regulatory framework, and a needs-driven half which constitutes much of the informal sector (Allen 2005) (See Figure 1).

Figure 1. Policy-driven and needs-driven practices in the “water supply wheel”

The policy- and needs-driven division is further underpinned by a tension concerning end-users that has surfaced in the current rising tide of water privatization projects worldwide: Are users of water customers or citizens?\(^2\) For the social class who participate in the formal economy and can claim state citizenship, this question is rhetorical. For the urban poor who are excluded from the formal economy and subsist on the margins of society, they are neither citizens nor customers (Chng 2008), contrary to Allen et al. (2006). To act as meaningful economic and socio-political actors, the urban poor must undertake collective action. Due to their ‘default’ exclusion from power, their mobilization is therefore inevitably contentious.\(^3\) Furthermore their collective action for access to needs in the market and socio-political spheres are also mediated by asymmetrical relationships with power elites.

The second observation relates to the nature of the state in many developing countries that has correspondingly influenced the character of their respective water sectors. Service providing network utilities in developing countries have struggled to provide adequate service delivery to the public. In the water sector, finance needed for investment in reticulation networks are lacking. Technical expertise is also scarce. Service quality is poor and inefficient, while corruption in the public sector is also a pressing problem. The dominance of clientelism in much of water service provision in developing countries led the World Bank (2003; Foster 2005) to conceptualize a ‘traditional clientelist model’ of service delivery (see Figure 2) where state-owned utilities are treated as part of the political apparatus instead of public service providers. Service providers are then dependent on politically motivated budgets for survival. They become extensions of policymakers and the distinction between policymaking and service providing is lost, resulting in poor accountability (World Bank 2003: 162-63). Politicians exert control in two ways – through the power to appoint and dismiss company directors, and providing public subsidies (to finance investments and support ailing enterprises). Water companies reciprocate through political favours such as overemployment, artificially depressed tariffs, discretionary selection of new investments, and distribution of contracts based on non-economic criteria. This has led to increasing costs, low service quality and abysmal finances. This leaves the population underserved, necessitating them to rely on a range of
substitutes (Foster 2005: 1-2). Substitutes to formal water service delivery are usually found in the informal water sector.

Figure 2. Clientelism in service delivery

![Diagram showing Patronage weakening accountability in the citizen-provider chain]

The formal regulatory framework in this sense can be said to be captured by political interest groups (World Bank 2003), but this makes unreasonable assumptions about the nature of many states in the developing world which do not conform to the rational-legal Weberian model. This is not to say regulatory governance does not exist in developing countries. As Phillips argues, it is more useful to talk about regulation without making any biased assumptions about the nature of the state vis-à-vis ‘regulatory states’ identified in advanced political economies and western democracies (2006: 19). Employing any or all three of Baldwin, Scott and Hood’s (1998) definition of regulation as (a) targeted rules; (b) all modes of state intervention in the economy; and (c) all mechanisms of social control, by whomsoever exercised, does not preclude the understanding of ‘traditional’ and ‘formal’ urban water sector regulation in the developing world as frameworks that sustain and reproduce institutional clientelism in
Contrary to the World Bank’s (2003: 163) claims, citizens are not powerless in this condition. Economically, they can still participate in the informal economy despite prohibitive costs. Politically, they undertake collective action in response to asymmetrical power relations like clientelism. Most of the time, their mobilization is co-opted into routine politics or institutions but sometimes there is ‘successful’ resistance whereby basic needs are secured along with rights. Collective action by the urban poor for water is locally oriented but may sometimes be projected into the water sector as a whole with the help of NGOs led by activists like Esguerra. They can thus be said to operate in a wider regulatory space (see below on ‘regulatory space’ and ‘regulatory mobilization’) whereby attempts at regulatory influence in the formal sector is derived from the informal sector. There is therefore a need to draw together the literature on regulation, informality and contention. The rest of this section will propose a framework underpinned by a concept of regulatory space in relation to the informal economy whereby non-routine collective action by the poor at the margins of power is necessary for urban subsistence especially in the context of local clientelism.

**Regulation and the Informal Water Sector**

The relationship between regulation and the informal sector is a paradoxical one. Informality in the economy has been long ignored and misunderstood. It is only in the last ten years, following the disappointing performance of large-scale water privatization projects all over the world, that the informal water sector is belatedly, and reluctantly recognized. The increasingly used term ‘small-scale water providers’ (SSWPs) or ‘small-scale independent providers’ (SSIPs) in Development discourse represents this trend. Many SSWPs would comprise the informal water sector if they operate outside the regulatory environment (Van den Berg et al. 2002; McIntosh 2003; Kjellén 2006; Kjellén et al. 2006; Moretto 2007).
As per Figure 1, the informal sector is needs-driven. It includes vendors running water kiosks where they sell water from a shallow well, a borehole, a commercial water connection, or from a household connected to the formal piped network. Consumers may carry the water to their homes themselves. Ambulating vendors may also collect water from these kiosks. They typically carry water in containers loaded on bicycles, hand-pushed/animal-drawn/motorized carts, and distribute to households and small businesses. On a larger scale, and sometimes serving higher-income customers or politicians cultivating patronage by offering free water delivery, there are water tanker trucks that carry greater quantities to premises with larger storage capacities or simply a bigger market. Different forms of water vending serve specific niches in different communities and there is both overlapping and competition of informal water service provisioning.
Serving both unserved and frequently urban poor communities, as well as places where the reticulation is failing, informal water vendors thus provide a parallel system of service delivery, and also an important source of employment (Kjellén et al. 2006: 1, 4-6).

Thus water vendors provide customers who are denied access to the formal water system or require substitutes. They usually operate at the periphery of formal legal frameworks, and hence constitute the informal water sector. Such informal practices in the informal water sector are however at best overlooked and at worst resisted by the regulations, policies and practices that guide and support the formal system (Allen et al. 2006). Whether they are households with their own access to the formal provider who resell them to customers or ambulating vendors, the authorities usually choose not to sanction them as an acknowledgement of the failure of the central water utility in providing adequate service (Kjellén et al. 2006: 12). Ambulating vendors – pushcarts, trucks or other means – are difficult to regulate and tax due to their massive numbers, mobility and average low earnings. Confiscation of carts is common and such vendors face constant harassment from officials. The quality of water sold – usually advertised by vendors as ‘clean’ or ‘pure’ water – also varies due to poor regulation of water vendors. It is a competitive business, with low barriers to entry (carts and containers may be rented on a daily basis) and therefore extract little monopolistic rents in contrast to large private utilities. This makes innovation a key part of their business. Evidence of cartels do emerge however when they are challenged. Collusion among vendors may arise, and price variation can occur during market volatility – like during system leaks or unusual seasonal droughts (ibid.). In the context of clientelistic water systems, the agenda of officials with regulatory powers on the street or in their offices is also not necessarily apolitical. The size, shape and nature of the ‘unregulated’ informal sector is therefore partly determined by the regulatory and implementing capacity of the state (Centeno and Portes 2006; Fernández-Kelly 2006: 18). It is therefore analytically useful to make distinction between the formal and informal sector where regulation is concerned so as to study their relationship critically since the reality is more ambiguous.
**Regulatory space**

Hancher and Moran (1989: 163) 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 (e.g., the ‘regulatory state’) in not only fleshing outs regulatory politics in the context of contentious market liberal reforms, but also focusing on the possible collective agency or marginalized groups in the regulatory space. It also has the advantage of focusing on the *contentious politics* of regulation as opposed to institutional design and policymaking which has been the concern of much of the regulation literature. 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).

As discussed above, the state’s role is to regulate but its execution is seldom politically or socially neutral. In terms of regulation as risk management, elites tend to be overcompensated in the form of rent extraction when market spaces are created and protected by regulation. Under a guise of administrative neutrality, this dominant formal/legal market system masks highly political outcomes of interest groups involved in defining ‘inappropriate’ activity within the regulatory space and ‘appropriate’ levels of enforcement. Such contests exclude large groups of people who then seek to avoid or subvert the dominant regulatory system and market. It is here that the literature on the informal sector can shed light on distinguishing between activity that is clearly illegal (e.g., drug selling and water pilfering) from those that are arguably legal - activity that does not defer to the state-regulatory system (e.g., street vending and water vending) (Cross and Peña 2006: 50-51).
**Informal economy**

As Fernández-Kelly suggested, ‘formality breeds informality’ (2006: 3). As discussed above, the informal sector thus include actions of economics agents that do not adhere to established institutional rules or are denied their protection (Feige 1990: 990). Recognizing the informal economy as the place where large numbers of people are excluded from the formal regulatory system, and distinguishing between illegal and informal markets is useful because informal activities may have positive social effects. From this more benign perspective and maintaining the institutional perspective, it can be said that legitimate activities in the informal sector are rendered illegal only because the cost of formal regulation are too high for participants in the informal sector (Cross and Peña 2006: 51). Although Hancer and Moran (1989) make no mention of the informal sector, their sociological construction of the regulatory space and attention to politics of inclusion and exclusion suggests that the informal sector is where actors excluded from the formal regulatory framework reside in a wider regulatory space encompassing both formal and informal fields.

If both the formal and informal economy can be said to exist in the same regulatory space, a few questions can be raised. What is the nature of the relationship between the alternative regulatory system and the formal regulatory system in the regulatory space? Are these two regulatory forms in conflict and competition? Can informal regulation in the informal economy be seen as a supplementary form of regulation that resolves the contradictions or blind spots in the formal regulatory system (Cross and Peña, op cit.) This then leads to the larger question of how the regulatory space as a whole, with formal and informal regulatory systems that may be in varying and dynamic relationships of conflict and consensus, is governed. How is the informal sector regulated if it falls outside the formal regulatory system? According to Fernández-Kelly (2006: 8, 18), ‘it is not that the informal economy lacks regulation but that the sources and means of control are situated within it and not in the official structure of government… To exist, informal workers must rely on norms of reciprocity and solidarity…’ What are these norms and how do reciprocity and solidarity regulate the informal sector? To address these
questions, one requires a final theoretical bridge to provide an understanding of the social norms and networks of the urban poor.

**Non-routine (contentious) collective action**

Such social norms and networks make up what Auyero (2001) calls problem-solving strategies and networks of the urban poor. They are part of the dense cultural repertoire that expresses the collective discontent of those at the margins of society and how they come together in collective claim-making. Given how subsistence in the informal economy involves daily struggles against the state, contentious routines therefore evolve, and disruptions may emerge in the form of outbreaks of protest and resistance. On occasions that subsistence or rights of access are threatened, such ‘moral economy’ of the poor may manifest itself in disruptive and even violent ways as shown in Auyero’s later (2007) study of food riots in urban Argentina. Most of the time, contentious collective action by the urban poor in the informal sector involves boundary-spanning claim-making whereby contention is neither fully transgressive nor entirely co-opted.

The precariousness of urban poor life generates a thick body of associational life – underpinned by an urban moral economy of the poor – ranging from informal neighbourly and kinship ties to more formalized associations and organizations that have been observed in the Philippines (Berner 1997; Jocano 2002; Shatkin 2007) and beyond (Lomnitz 1977). These are the norms and associational life by which the urban poor may ‘defend a place in the city’ (Berner 1997). 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. In the Philippines, these norms include *utang na loob* (transliterated as “a debt of one's inner self” (de Guia 2005), *malasakit* (compassion or empathy), and *bayanihan* (spirit of communal unity). Relevant horizontal and vertical networks are those of kinship, *compadrazgo* (ritual or fictive kinship), *suki* (privileged market relationship between a buyer and seller), neighbours, friends, and patron-client bonds. The relationship between regulation and contention is therefore interwoven in the informal economy, and animated by the urban poor fighting for a right
to live and subsist in the city. This will now be illustrated in the case of the informal water vending sector more generally, and water privatization in the Philippines and urban poor access specifically.

The Philippine Context: Water Privatization and Regulation in Metropolitan Manila

Like many countries, there has been a need for new investments in the water sector in the Philippines. It was estimated that the Philippines needed Php$293.37 billion between 2000-2010 for its water infrastructure (Lavado 2001: 7). Financing for expansion of service delivery and rehabilitation of existing infrastructure was urgently needed. On the eve of privatization in 1995, the MWSS (Metropolitan Waterworks and Sewerage System) was one of the worst performing water services in Asian cities. Service coverage was 67 per cent and water availability was only on average 17 hours per day (only half of all MWSS customers had 24 hours supply). Due to rampant illegal water use and pilfering, leakages and metering errors, non-revenue water (NRW) was at 58 per cent (McIntosh et al. 1997). In 1996, the debt of MWSS, much of it incurred in foreign loans that amounted to a staggering US$880 million (Capistrano and Gutierrez 2003: 30). Responsible for Metro Manila and its surrounding areas, MWSS was a government-owned and controlled corporation accountable to a board of trustees, composed of public officials and appointees nominated and confirmed by the President (ibid.). In what was the world’s biggest water privatization 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 (MWSI) and Suez/Ondeo. Although Maynilad has since been declared bankrupt and rehabilitated, Manila Water has been successfully listed in the stock exchange in a contrast of fortunes. For the World Bank, MWSS was a typical example of the clientelistic model of public service delivery (2003: 162). For regular consultant for the Asian Development Bank (ADB) Arthur C. McIntosh, the highly visible water leakages through the MWSS piping system was suggestive of more than just ‘poor governance’ (2003: 101):
Some NRW is illegally sold to SSWPs. The profit to those with vested interests (some elected officials, utility staff, utility owners, and local authorities) is considerable, which explains the desire to maintain a status quo that keeps the urban poor paying 25 times the unit rate the rich pay for water. This is also probably why visible leakage is maintained (to mask illegal use).

This was not a novel finding. Decades ago in a study of a then newly-formed MWSS, Rew similarly observed that water access in Metro Manila was an ‘institutionally maintained scarcity’ (1977). This suggests that rather than an issue of poor governance, it was the character of governance in the water sector that has deliberately kept both water tariffs and supply low (David and Inocencio 1996).

In Hutchcroft’s study of the Philippine banking industry and sector reform, he argued that the Philippine state was a ‘patrimonial oligarchy’. Although the Philippine state plays a central role in the accumulation of capital, the dominant social force in the country possess an economic base that is independent of the state apparatus. There is weak separation between the official and the private sphere; power does not reside in a class of officeholders but in the private sector. The nature of rent extraction in this polity is in the extraction of privilege from a largely incoherent bureaucracy by a powerful oligarchic business class (1998-6; 52). The privatisation of the water sector in Metro Manila therefore needs to be further contextualised in Philippine state-society relations where the state has been called ‘weak’ due to its capture by ‘local strongmen’ (Migdal 1988). Sidel (1999) had shown that local Philippine politics is characterized by the prevalence of local power brokers who achieved sustained monopolistic control over both coercive and economic resources within given territorial jurisdictions or bailiwicks. The Philippine state is thus a complex set of predatory mechanisms for the private exploitation and accumulation of resources. Civil society is unsurprisingly, a correspondingly large and complex sphere of public action filled with variety of associations and movements that are distributed unevenly across archipelago, reflecting the contours of a post-Marcos state.
where rule of law is unevenly institutionalized (Franco 2004). Hence, few were surprised in 1997 when contracts from the bidding of MWSS were awarded to Manila Water and Maynilad, owned by economically and politically powerful families of the Ayalas and Lopezes respectively (Esguerra 2003; Fabella 2006). This describes the actual institutional context of privatisation in the Philippines and needs to be taken into account accordingly. The political character of patronage and clientelism should therefore form the starting point of any analysis of the water sector in this context.

**Manila’s post-privatization framework and the urban poor**

The formal regulatory framework in the water regulatory space following privatization of MWSS in 1997 has been described as fragmented, even captured (People's Freshwater Network 2004). Privatization was supposed to take politics out of service delivery but just like the UK and elsewhere (Maloney 2001), politicization in the post-privatization has increased; the basic clientelistic character of the water sector identified by the World Bank almost a decade ago persists. This is especially from the perspective of the urban poor. There are over 30 different government agencies that deal with a various aspects of water in the Philippines. The sheer number of departments involved coupled with their vaguely defined scopes has led to fragmented water management system plagued by overlapping activity, poor data, and an incoherent water resources plan that is inadequate in meeting any long-term sustainability of the sector (Lavado 2001: 18).

The two concessionaires, Manila Water and Maynilad are regulated by contracts typically designed for a single large-scale system focusing on production (Solo 1999). The contract is silent on the urban poor and informal water vendors. Hence it has been argued as being both pro- and anti-poor. For example Rosenthal argued that although no specific incentives for extending service delivery for the poor are stipulated in the contracts, an ‘aggressive’ programme of expansion in the first five years of privatization aimed at nearly universal water coverage (2001; 2002). Both concessionaires are expected to serve an ever-increasing proportion of Manila’s residents via ‘new connections’ according to a detailed set of targets. Targets are provided right down to each municipal unit within the
two service areas for each five-year period of the term of the agreements. Such disaggregating of service targets thus require the concessionaires to invest in rich and poor parts of the city (Rosenthal 2001). The contract provides flexibility to experiment with new approaches to service provision in urban poor communities, as well as catering to third party provision. While specific ‘output standards’ (water pressure, reliability, quality, customer service etc) are described, ‘input standards’ (construction methods, pipe diameter etc) are not stipulated. Rosenthal argued that this has been the source of innovative services in poor neighbourhoods (ibid.). Flexibility in the type of services that may be offered thus allow for the installation of public standpipes for example in ‘depressed service areas’. This will count towards meeting coverage targets.

Although exclusive rights to serve customers in their respective service areas are granted to the concessionaires by the contracts, third party provision are allowed as long as ‘the activity is properly licensed and the concessionaire consents’ (ibid.). It is this grey regulatory area however that has become the source of contestation when MWCI encouraged the formation of community-managed water peoples’ organizations (see case study below). The tariff structure that the contracts commit the concessionaires to is the same structure used by MWSS. This is an increasing block system that distinguishes between residential, commercial and industrial customers. Purely residential consumers are charged 20 per cent of what industrial users pay for the first 10 cubic meters of water, a difference that almost disappears at much higher quantities. Residential customers pay more than 4 times the per unit price for quantities above 200 cubic metres than for the minimum quantity of 10 cubic metres. The intention is to charge higher prices to customers demanding high quantities of water, and lower prices to others, with the assumption that the latter group is poorer (ibid.). However, as suggested earlier, this was also a system that institutionalized scarcity so as to preserve the clientelistic features of water service delivery in Metro Manila.

For Cuaresma (2004: 5) on the other hand, since provisions in the Concession Agreement do not differentiate any particular type of customer, formal or informal, rich or poor, the reality is urban poor areas are last in priority for new connections, and first in line to
experience reduced water supply or reduced water pressure in times of water scarcity. Indeed, the government declared that as of 2002, 212 communities in Metro Manila remained ‘waterless’. Pro-poor community programmes designed and implemented by both MWCI and MWSI were thus entirely at their own discretion, that is, unregulated. Thus the number of residential water connections increased from about 740,000 in 1997 to more than 900,000 in mid-2001. Many of the new connections are to poor households. The first three years of Maynilad’s Bayan Tubig (“Water for the Community”) scheme thus saw more than 50,000 new water connections,\(^{15}\) which account for 65 per cent of Maynilad’s progress in the first five year period. MWCI’s Tubig para sa Barangay (“Water for Depressed Communities”) programme is more varied with three different schemes (Rosenthal 2002). This means that the poor has had little access to the formal water system. Instead, they have been forced to rely on the informal sector or ‘community’ programmes of the utilities, as they had done in the past.

The increasing block tariff structure (designed to help low-income consumers pay less per cubic meter) used in the pro-poor water programmes via group taps, subcontractors, bulk water, etc., effectively results in a reclassification of households from ‘residential’ to ‘semi-business’ customer. This means that unregulated pro-poor programme rates are on average four times higher than regulated individual connection rates (Cuaresma 2004: 22). Poor households typically consume less water. Those that consume on average 3 to 5 cubic meters per month will still have to pay for the initial minimum block of 10 cubic meters per month (Rosenthal 2001). Furthermore, the concession agreement prescribed a connection fee not exceeding Php$3,000 for connections or reconnections by residential customers to a water main or a public sewer that are both located less than 25 meters from the connection point, most urban poor households are locate far from main roads where primary pipes are usually laid (ibid.: 25). The concessionaires have therefore benefited from this unregulated service expansion that has continued the pre-privatization condition of the urban poor – they continue to pay higher tariffs. Where they have access to the informal sector or more formally regulated private water vendors sub-contracted by the concessionaires, they have to bear high connection charges. Following privatization, the formal and informal interface of water regulation has maintained the basic inequity
for urban poor water access. Meanwhile, both concessionaires continue to use such ‘pro-poor’ programmes as evidence of their corporate social responsibility.\textsuperscript{16}

Regulation of the two concessionaires is performed by the new water regulator the MWSS-RO. Its functions include contract monitoring and enforcement, including contract alteration, and undertaking rate rebasing reviews. It can also handle customer complaints. There has been a general consensus that the MWSS-RO is less than independent, and lacking in expertise. Due to the haste in privatizing MWSS, there was no time to set up a proper regulatory framework for the water sector. An agency created by the concession agreement, it has no legislative mandate, and therefore no legal statutory independence from the political principal. Indeed, its operating budget comes directly from the concession fee paid by the concessionaires. Furthermore, decisions made by the MWSS-RO are reviewed by the MWSS board of trustees (Cariño 2005: 16), which is notorious for being staffed with political appointees.\textsuperscript{17} In 2001, the MWSS Board ‘along with the concessionaires’ presidents’ signed termination letters to two deputy regulators known to oppose a petition for water rate hikes (ibid.). Disputes between the concessionaires and the MWSS-RO have exposed the weakness of the regulator. For example, when MWCI’s challenged the regulator’s rejection of its tariff increments (to account for foreign currency fluctuations), President Arroyo had to personally intervene, undermining regulation with political discretion. For Fabella the regulatory outcome was simply to be expected, ‘MWSS morphed by virtue of the CA from a water and sewerage service provider to a regulator. It failed badly in the first; how could it succeed in the second (2006: 25)’? The lack of an independent regulator, and overall lack of regulatory sanction meant that there is considerable discretion by various stakeholders in the regulatory framework, thus undermining water regulation as a whole. This includes local politicians engaged in pork barrel clientelism in urban poor communities. It also includes mobilization of countervailing power – whether in the form of alternative regulatory mechanisms or more overt political challenges to power elites – by the urban poor against a compromised and weak regulatory system. Such collective action takes place in the informal sector.
Urban poor access to water

The urban poor have had limited access to potable water mainly due to the nature and location of their settlements. Some of these places are among the most dangerous areas in the city like steep riverbanks, floodplains, hillsides, garbage dumps, and along railroad tracks (some of which are still in service). Due to the illegality of tenure, authorities have been reticent in extending water services to such areas for fear of legitimizing their illegal settlement. This could lead to the permanent settlement of these communities, and attract further migration to the already often congested areas. Urban poor communities are often also located in places that are inaccessible and difficult to service. These areas lack the adequate space for laying down reticulation and road networks for the functioning of a formal water distribution system. It is also challenging for authorities to regulate and manage water services in urban poor communities. Residents of these areas have been accused of engaging in illegal activities such as tampering with water meters, setting up illegal connections to water mains, stealing water from fire hydrants, and threatening water inspectors when they try to prohibit these activities. The urban poor also tend to have difficulty in meeting regular payments for water and sanitation charges (Ehrhardt 2003: 182-83; Argo and Laquian 2007: 229-30). Such unpredictable revenue streams and existing tenure and right-of-way issues impeded urban poor access to water regardless of the nature of ownership of the water sector.

Hence persistent undersupply from MWSS before privatization had taught and encouraged residents in the city to employ coping mechanisms. At least 40 per cent of all households in Metro Manila have access to alternative sources of water like private waterworks systems, individual tubewells, booster pumps, storage tanks and private water vendors (David & Inocencio 1996: 4). Many households relied on multiple sources of water supply and much of these sources are private tubewells and private water vending. Most of the households with piped water connection from MWSS, private waterworks systems, and tubewells tended to own or rent their house and lot, while in urban poor areas water vending was prevalent. Up to 30 per cent of households rely mostly if not fully on vended water for their daily supply (David & Inocencio 1996: 4).
Much of the urban poor who were institutionally cut off from the formal water sector fell into this category, while also relying on public faucets.

On the whole, poor households usually relied on vended water, consumed less, while paying more for their water. Households with MWSS connection consumed an average of 32 cubic meters per household or 6 cubic meters per capita. This was 5 times more than poorer households (that depend on vended water). While only 10 per cent of households connected to MWSS use less than 10 cubic meters, nearly all households dependent on vended water fell under this category (David & Inocencio 1996: 4-7). The price difference between water directly from a MWSS connection and vending (which was often obtained from a direct MWCC connection source elsewhere) was about 13 fold in 1995. A direct connection to MWSS obtained water at about Php$8.50 per cubic metre. Vended water ranged from Php$22 per cubic metre (when buying MWSS water indirectly through plastic hose at fixed charges) to as high as Php$72 per cubic meter for vended MWSS water delivered to the households. Households dependent on vended water thus not only have low incomes, they also pay the most for (vended) water.

According to David and Inocencio, “'Vended water is sold through a well-organized, informal, and relatively open system of illegally distributing MWSS water’ (1996: 5). 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 (David & Inocencio 1996: 4-5). In the case of mobile water truckers/water haulers, they rely largely on neighbourhood networks for business expansion and do not advertise their services beyond printing a name and contact number on the side or back of their vehicles. Through suki relationships, regular customers and their referrals are sometimes able to obtain discounted rates (Van den Berg 2002: 14-15). Suki relationships can thus describe many of the relationships between
various informal water vendors and their customers (UTCE Ltd. and Japan PFI Association 2003). 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 per cent have annual household income below Php$100,000 and it is estimated that three quarter of low income households with MWSS connections have obtained them illegally.

As Rew argued as far back as 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 means the subsistence right to water is also bounded up with local clientelism. Hence, vended water, and even wells were delivered and dug respectively sometimes free of charge. This usually happened during election campaign periods, and were 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 pf Php$500 and monthly fees of around Php$300 where the cost of water per cubic metre is around Php$25 (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. Such a compromised water system thus naturally opens itself up to corruption and rent-seeking. A report had also unearthed institutionalized corruption in MWSS known as the alaga system. This was where former MWSS employees of accepted bribes to install illegal connections. Offenses are then ignored by MWSS employees. A former MWSS employee reported that some officers who installed pipes that went through urban poor communities would offer to install illegal connections. This was priced between Php$10 to Php$12,000 for a cluster of four to five homes (Rimban 2000). Thieves, some of them water vendors, may also turn off the water valves to some communities, forcing them to
purchase water from them for prices as high as 13 times the amount that both concessionaires charge (ibid.).

Many residents and most of the urban poor in Metro Manila have therefore been dependent on the informal water sector. 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 and other social networks and community-level organizations (Moretto 2007: 350). Some of these may have various forms 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. In other words, one can speak of an urban moral economy of the poor specifically in terms of access to water for subsistence. Set against how the World Bank understands the clientelistic model of public services where, ‘poor citizens as clients are left powerless’ (World Bank 2003: 162), a moral economy approach 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 by their risk aversion. In terms of water access, that strategy is to have multiple sources of water where water can be consumed in varying quantities. While this always imply that the urban poor pay higher per-unit cost of water, 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. The decision to purchase water of varying quality is also influenced by the 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. Following Jocano (1975) and Berner (1997) however, these informal water suppliers, and the alternative arrangements and networks for obtaining water, are most usefully understood as constituting an urban moral economy.
Local Moral Economy of Water

From fighting for land tenure and obtaining basic services like electricity and water, to organizing fiestas, and resolving conflicts, people’s organizations (POs) in urban poor communities in the Philippines help to make life in the community more liveable (Velasco 2004: 110-17). POs are what Velasco also refer to as ‘primary organizations’ that engage in ‘subsistence mobilization’ that aims to fulfill basic, material needs, and are not targeted towards overthrowing dominant, oppressive power relations. These are also basically membership-based organizations that can take many interest-specific forms like farmer’s, women’s and community organizations, as well as cooperatives and trade unions. They are hence established to promote the interest of their members (Putzel 1998: 78). The water POs in Taguig therefore can be understood in this context and as such, draw upon a rich lineage of urban poor collective action in Metro Manila and the Philippines since the Marcos era.

Formed in late-2003, Community Water was the first of twelve water people’s organizations to be formed in the community of Sitio Imelda in barangay Upper 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 three people’s organizations. Under the terms of the contract, the POs pay Manila Water a connection fee of Php$4,000.00 each to set up the main pipeline on the main roads of each purok, and install mother-metres. The POs in turn are responsible for the water connection from each household to the main pipe and mother-metre.

Even though residents in Sitio Imelda were paying between Php$67-70 per cubic metre for water from deepwell operators and other private water vendors, the community were initially highly sceptical of the water people’s organizations. However, as soon as the po were set up and had running water in their pipes for sale at Php$25 per cubic metre, residents rushed to apply for water from the POs. By 2008, Community Water had
around 125 members (households), serving almost 2,000 individual residents in Sitio Imelda. Residents are billed according to the reading on the mother metre. Crucially, it is Community Water, 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 PO varies. The distinction between officers, members and customers of the water people’s organizations is not clear. For example, Neighbourhood Water claimed to have 20 members serving some 86 customers. Sitio Imelda Water is run by four ‘member-officers’. Community Water is managed by five trustees serving 125 members, while Block Waterways has 205 members some of whom also run the organization. Day-to-day decisions are made by these officers/trustees while major decisions are made at general assemblies of all members/customers. Such ambiguity and variation in terms of membership status in POs further suggest that the internal organization of POs are a function of existing social networks in the locality. One expression of this is *bayanihan* which may partly explain why ‘officers’ are willing to work for the POs not as ‘formal’ employees but as part of a collective. They may not get paid in monetary terms (although many do, especially initial investors) but they do earn in terms of reinforcing their own standing as a member of the collective:25

Interviewee 1: m-hm. We do not pay in money terms of course when there’s work all we all together eat together when it comes to lunch, lunch time. It is not payment… it’s very cultural you see, you give food to friends… It is not payment it is your way saying thank you… Because they help us and so we feed you. especially when, we started it in the beginning it was very difficult to set the, set up the lines, and it was, it would be raining we would all be working together. we never paid a single cent to those who help us… specially Noli. We eat together…

Interviewee 2: bayanihan eh.

Interviewee 1: which we call bayanihan.

Interviewee 2: share, we share to each other.
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. Community Water’s members receive cash ‘dividends’ while its customers 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 donations to the church, as well as disburse ‘grocery allowances’ (Php$300) during the Christmas festive period to all members. In many of these water POs, 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 local government & 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. As suggested earlier, the POs are internally regulated by locally rooted social norms. 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. Other than bayanihan, malasakit is another norm by which the internal regulation of water POs take place. As one officer of a PO claimed “even the unemployed notify us if they notice water leakages even if it’s not our water network. It’s the malasakit”. Community Water has exercised much latitude in allowing members a range of payment means that sustains the connection without automatic resort to cut-offs.
Additionally, payment balances are treated as interest-free loans in various forms of suki relationships so social pressure helps prevent defaults to a certain extent. This community-managed approach in service delivery has also helped address the problem of non-revenue water. 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. A 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). Hence in place of individual binding service contracts, the bond between customer households and the water PO is constituted by existing interdependent networks of reciprocity and redistribution.

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 sub-contractors. 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. 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 local government began to directly connect households to Manila Water pipes. Financially empowered and politically independent, the POs were no longer a simple pawn in the political machinery of Taguig city mayor Sigfrido 'Freddie' R. Tiňga. With local elections looming in 2007, Sigfrido Tinga, a key member of a local political clan of politicians that have dominated politics in Taguig since the late-1980s had to do intervene.

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 clamouring for a direct connection that would free them from the control of these oppressive syndicates”. 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.

**Regulatory mobilization**

The internal regulation of the water POs in urban poor communities in Taguig and its capacity for resistance 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 kinds of water POs can be found all over Metro Manila from Binangonan to Antipolo, and Caloocan. All these struggles might have
remain localized and unknown if not for NGOs like Institute for Popular Democracy (IPD), a leftist think tank and the Freedom from Debt Coalition (FDC), a coalition of leftist NGOs and POs.

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. Many of these mobilizations were located in the informal economy, or took the form of legal private water vendors which have also been ignored by the formal regulatory framework. 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 with regulatory clout.

The Associative Water Center Philippines (AWCP) for example was formed in 2008 by IPD 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). 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. Together with IPD and AWSD, 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 advocated 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 barriers 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 director.

IPD also assisted the POs and water cooperatives on how to engage with the MWSS-RO directly on issues like bulk tariffs, exclusivity, reticulation standards, and compensation for assets. These are the new rules that IPD identified as being essential to preserving the collective economic interests of the POs. In the case of Taguig for example, 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, 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 nowhere else) is regulated.

The institutionalization of networks, transformation of POs into cooperatives, and dialogue emanating from the informal sector 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.

Thus, struggles around water privatization and local subsistence have undergone scale-shifting in the regulatory space. 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 interfaces of
formal and informal regulation 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 widespread contention. Through scale-shifting, regulatory mobilization entrenched a form of contention that is neither entirely co-opted into formal institutions, but neither is it entirely transgressive (O'Brien and Li 2006). It is a form of resistance that has the potential to project regulatory clout episodically but its source of power resides in the informal sector and not the formal regulatory framework where civil society and informal water vendors are excluded.

**Conclusion**

Speaking to an eminent group of water professionals gathered from all over Asia in Metro Manila in 2008, a ranking official from the Asian Development Bank remarked:

“We can say that this represents a new approach to providing water services. In contrast to business as usual, at ADB we like to call this business Unusual (sic). The pilot projects for small piped water networks are examples of business Unusual. Contrary to what many people still believe, they show that private providers can work together well with communities and NGOs at the local level… it is unlikely that the conventional model of a single large water utility for the whole city can effectively deliver water services to all of the population, at least not in the foreseeable future. We need to think out of the box, step out of our comfort zones of previous experience, and explore new approaches that deliver better and faster results.”

Why has the development industry warmed to informal water vendors now? The vital role of the informal sector in urban water service provision especially to the poor is not unknown. However, large-scale corporate participation in the urban water and sanitation services has not been able to serve the poor. Incorporating informal water vendors is a continuation of the general tendency of delegation of functions previously provide by the
state to the private sector and civil society. The attempt to integrate the informal water sector into the formal regulatory framework without wider political reform is problematic. The danger is in the creation of an enhanced regulatory capacity that remains captured by elites. The flourishing of the informal sector, and hence urban water service access, has depended on eluding the captured formal regulatory system.

This paper has shown that regulation of the informal water sector is partly influenced by the formal regulatory framework, and partly comprises regulatory mechanisms that reside within the informal economy itself, and outside the official structure of government. These take the form of a moral economy of subsistence – a range of norms of trust and mutuality expressed in reciprocal and redistributive self-regulation. The relationship between the formal and informal water sectors is therefore a complex one even though analytical distinctions can be made. Seemingly peripheral contention by NGOs and organized urban poor communities combining in regulatory mobilization based in the informal sector has been shown to project countervailing power across the sector and occasionally influence the formal regulatory framework.

Integrating urban poor water service providers within the flawed formal regulatory environment of a patrimonial and clientelistic state will not only threaten urban poor water service provision but the water sector as a whole. Prices for the urban poor in the informal sector will rise as vendors go out of business, necessitating more political mobilization by the urban poor, and attempts by the power elite to entrench their patronage. This will lead to a regulatory politics that will be plagued by constant clientelistic and contentious collective action by the urban poor. In other words, far from entrenching the long-arm of the regulatory state via the successful service extension of private water utilities and the integration of small-scale and informal water vendors, this will further politicize the urban water sector by creating new regulatory sites for the production and reproduction of clientelistic and contentious collective action by the urban poor. This will undermine the basic service-providing capacity of a weak state even further, and enhance the patrimonial character of the Philippine state. Unless regulatory reform is part of a broader political reform of power relations tackling the basis of elite
domination – clientelism – water provisioning in cities in developing countries will continue to be characterized by, if not dependent on episodic and sustained resistance and ineffective (formal) regulation.
Reference


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3 See for example, urban poor collective action in the form of an ‘insurgent citizenship over land tenure in Holston (2007).

4 Jude Esguerra, May 25, 2007, ‘Risks and Opportunities Faced by Small Peri-Urban Water Service Providers: Two cases’, Building up the Philippines: Discussion series on Philippine Infrastructure Development, Makati City, Metro Manila Philippines. What Esguerra referred to as ‘pork barrel’ is a system of appropriations and favours obtained by a legislative district representative. These funds are discretionary in nature. Senators and Congressmen and women personally select projects to be funded by their individual pork allocation and the recipients and beneficiaries of the pork. In the current 14th Congress, its 24 senators are allocated P200 million each, while the 270 lower house representatives receive P70 million each.

5 The figures are in the context of the African cities in the study.


7 See for example Levy and Spiller (1994).

8 I thank Graham Smith for highlighting this point.

9 The question of why people with limited resources and power would mount contentious challenges – ‘disruptive direct action against elites, authorities, other groups, or cultural codes’ (Tarrow 1998) – is not straightforward. After two decades or so of intellectual contention between an American literature focusing on resource mobilisation, and an European academia stressing the rise of ‘new social movements’ (Cohen 1985), a synthesis was reached (Tarrow 1998: 16-19; Della Porta and Diani 2006: 13-14), culminating in the now dominant social movement literature. This argues that contentious politics take place when patterns of opportunities and constraints change and through the strategic use of a repertoire of collective action, new opportunities are created which are used by others in widening cycles of contention (McAdam 1985; McAdam et al. 1996; Tarrow 1998; McAdam et al. 2001). Social movements are then the result of sustained contentious political interaction with opponents backed by dense social networks and culturally resonant, action-oriented symbols (Tarrow 1998: 2). Unlike collective action theory, the social movement perspective is more a broad theoretical framework than a particular perspective (Ibid.: 3). The use of four key concepts: political opportunities, mobilising structures, collective action frames, and repertoires of contention has allowed its comparative application, to seek out variation in size, organisation form, and impact of movements as opposed to the single country studies that dominated early work in this area (McAdam et al. 1996: 17). Since then, a wider literature that considers social movements as but one of various forms of claim-making ((McAdam et al. 2001; Tilly and Tarrow 2007).

10 See Polanyi (2001); Scott (1976); and Thompson (1971) on ‘moral economy’.


12 US$1.00 USD = Php$46.2373 (28 May 2010).

13 Non-revenue water is the difference between system input volume and billed authorized consumption. It consists of unbilled Authorized Consumption (eg., water for fire fighting), apparent Losses (unauthorized consumption - illegal use - and metering inaccuracies like malfunctioning metering equipment, and real losses (eg., leakage from transmission or distributions mains).

14 Beyond Metro Manila in other urban areas in the Philippines, Water Districts (WDs), or what Capistrano and Gutierrez call ‘mini MWSSs’ (2003: 30) were similarly established autonomous private bodies with
public owners. Like MWSS however, WDs were controlled by politicians since the WD board was appointed by the local Mayor (Lavado 2001: 7).

The scheme uses small diameter pipes to connect households to the water main – sometimes running these along the ground or on walls -- and delegates maintenance responsibility to customers. In some cases it has lowered the connection fee and allows customers to pay it in instalments over a period of up to twelve months.

See for example Manila Water’s Corporate Social Responsibility website http://www.manilawater.com/section.php?section_id=4

This trend has continued when out-going president Gloria Arroyo appointed her former political adviser to head the board on 5 March 2010 despite lacking any relevant qualifications. This was also after appointing her manicurist and gardener to various other administrative positions.

This is considered by David and Inocencio to be the “lifeline level” (1996: 7).

Jeepneys are arguably the most popular means of public transportation in the Philippines. They were originally made from US military jeeps left over from World War II.

A legacy of Spanish colonialism, fiestas are annual celebrations of a locality’s patron saint in the Philippines.

‘Community Water’ is the fictitious name of an actual water PO in Sitio Imelda.

The barangay is the smallest administrative division in the Philippines (equivalent to village, district or ward). They are further subdivided into smaller areas called Puroks (zone). A sitio is a territorial enclave inside a barangay, especially in rural areas.

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.

Bulk-water is the scheme by which MWCI charges a bulk rate of PhP19/m3 to community PO subcontractors in Taguig who in turn, directly distribute water via individual connections to household under their own tariff calculation. Rates once again vary from PhP25/m3 to PhP35/m3. Community Water charges its customers PhP25/m3. $1 US Dollar is equivalent to Philippine Pesos 44 (27 October 2007, Universal Currency Converter, http://www.xe.com).


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).

This is the local legislative branch of city governments in the Philippines. Its powers are defined by the Local Government Code of 1991. It has legislative and quasi-judicial powers and functions.


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.