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Tubig Yaman

Human Rights-Based Local WatSan Governance Toolbox

Karapatan at Kaalaman sa Katubigan

Concepts and Challenges of Human Rights Based Local WatSan Governance

VOLUME

Karapatan at Kaalaman sa Katubigan

Concepts and Challenges of Human Rights
Based Local WatSan Governance

Produced by

LAHMEYER
IDP CONSULT

Volume I - Karapatan at Kaalaman sa Katubigan: Concepts and Challenges of Human Rights Based Local WatSan Governance
A Handbook on Human Rights Based Local WatSan Governance

ISBN:

Printed in Quezon City, Philippines

Published by UNDP Philippines in partnership with the Department of the Interior and Local Government through the Millennium Development Goal Fund (MDGF 1919) Outcome 2 project with support from the Spanish Government

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INTRODUCTION TO HUMAN RIGHTS-BASED LOCAL WATSAN GOVERNANCE

SECTION 1

INTRODUCTION TO HUMAN RIGHTS BASED LOCAL WATSAN GOVERNANCE

The lack of access to sufficient, acceptable, accessible and affordable water and sanitation is deeply rooted in poverty, weak governance, power imbalance, and discrimination that directly impacts the lives of persons living in poverty and the most vulnerable such as indigenous peoples, women, children, older persons and persons with disabilities, effectively denying them a most basic human right: the right to water.

It also detracts from their development as human persons and disempowers them to meet basic entitlements.

The Human Rights Based Approach to Local WatSan Governance presents a framework to support the realization of the right to water and sanitation, and consequently, other fundamental rights as well.

This section outlines in six chapters broad strategies and approaches in local WatSan governance by taking a closer look at the human rights framework for local governance, explaining who the key actors are, walking you through the elements of the Right to Water, reviewing the obligations arising from the Right to Water, and exploring good governance principles and practices.

This section is addressed to the Duty Bearer, the Local Government Unit (LGU), the Claimholder (community) and other actors (e.g. WSPs or Water Service Providers) and is aimed at informing them on their obligations, rights and responsibilities in realizing the right to water. With a better understanding and appreciation of a human rights based local WatSan governance framework, it is the objective of this Handbook to help through effective advocacy bring together the different actors and enable them to work together for enhanced access to water and sanitation services.

It is hoped that after going through this section you will have a better understanding of the issues bedeviling WatSan governance and how human rights based local WatSan governance could pave the way for democratized access to water. Thus armed, you will have the confidence to pursue your objective of developing a water supply and sanitation service that protects, promotes and fulfills human rights.

HUMAN RIGHTS AND THE RIGHT TO WATER

CHAPTER
ONE

Human Rights

Every human person is born with human rights – the **freedom** to think, act, and decide for one's self, to implement activities, and to pursue autonomously chosen goals, and **entitlements** to treatment, goods, services, and conditions due her or him simply by virtue of being born human.

Aside from being both freedom and entitlements, human rights are also common standards of achievement and models of behavior everyone is expected to perform. They are norms that set forth how governments should treat people and how people should behave towards each other. Human rights impose duties on people to act responsibly so as not to exceed the limits of human rights. Because human rights regulate relations between governments and peoples, human rights also impose on governments the primary obligation to enforce and guarantee human rights. Human rights are protections against abuse and checks on government actions and decisions.

Human rights are derived from the inherent dignity of every human being, and so transcend human needs, human aspirations, human ideals, and human goals. Dignity is inseparable from the human aspirations, human ideals, and human goals. Dignity is the same for all: it is not given, and it cannot be taken away or subdivided.

Human rights are not only the ends but also the means to achieve a quality of life consistent with one's humanity and dignity.

Human Rights in International Law

Human rights first found legal expression some 60 years ago, when, in 1948, the international community came together and enacted the **Universal Declaration of Human Rights**, the "common standard of achievement for all peoples and nations" (Preamble). Since then, human rights have been guaranteed by international human rights law through treaties, declarations, general principles and rules.

The Philippines ratified the major human rights treaties, many of which have far-reaching implications for people's access to water:

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (1965)
- International Covenant on Economic, Social and Cultural Rights (ICESR) (1966)
- International Covenant on Civil and Political Rights (ICCPR) (1966)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979)
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (1984)
- Convention on the Rights of the Child (CRC) (1989)
- International Convention on the Rights of All Migrant Workers and Members of their Families (CMW) (1990)
- Convention on the Rights of Persons with Disabilities (CPD) (2006)

When a country like the Philippines ratifies a treaty, the country agrees: (a) to implement the rights in the treaty, (b) to conform its conduct to the norms contained in the treaty, and (c) to take legal and practical measures, through a variety of legislative, administrative, financial and other means, to realize the rights enshrined in the treaty. The country also agrees to be examined and criticized by the international community on the extent of its compliance with the treaty.

Human Rights in the 1987 Philippine Constitution

The 1987 Philippine Constitution, the country's fundamental law, "values the dignity of the human person and guarantees full respect for human rights."

(Article II, Section 11) Among the rights enshrined in the Constitution are the rights to life, liberty, property, health, education, healthy environment, land, privacy, abode, etc.

MUST KNOW

Characteristics of Human Rights

- **Human rights are universal.** Human rights belong to each and every one of us, everywhere in the world, under any and all conditions and situations, simply because we are human.
- **Human rights are interdependent and indivisible.** All human rights have equal value and cannot be separated from other rights; a human right is realized only when other human rights are likewise realized.
- **Human rights are inalienable.** Human rights cannot be sold, mortgaged, donated, forfeited or transferred by anyone; neither can human rights be arbitrarily taken away by government.

Human rights exist through time and space, and even a person's failure to exercise or assert them will not result in their extinction.

- **Some human rights are absolute (or non-derogable), while others may be limited (derogable) only under exceptional circumstances and for specific purposes. Absolute** or **non-derogable rights** are rights that may never be limited under any circumstance, and include, among others, the right to life, the right against torture and freedom of thought, conscience and religion.

- **Derogable rights** are rights that may be limited or restricted **only** to promote public safety, public morals, public health or national security **and only if the limitation or restriction is authorized by law, compatible with the nature of the right to be limited or restricted and solely to promote the general welfare in a democratic society.**

- **Human rights are equal.** Human rights are possessed by women and men alike, and their entitlements are to be enjoyed on an even, equal like or same basis. Human rights do not, however, require that women and men are treated the exact same way in every situation. This is because human rights recognize that certain conditions in a society sometimes result in, or maintain, inequality. So human rights allow preferential treatment to those who experience inequality for a limited time.

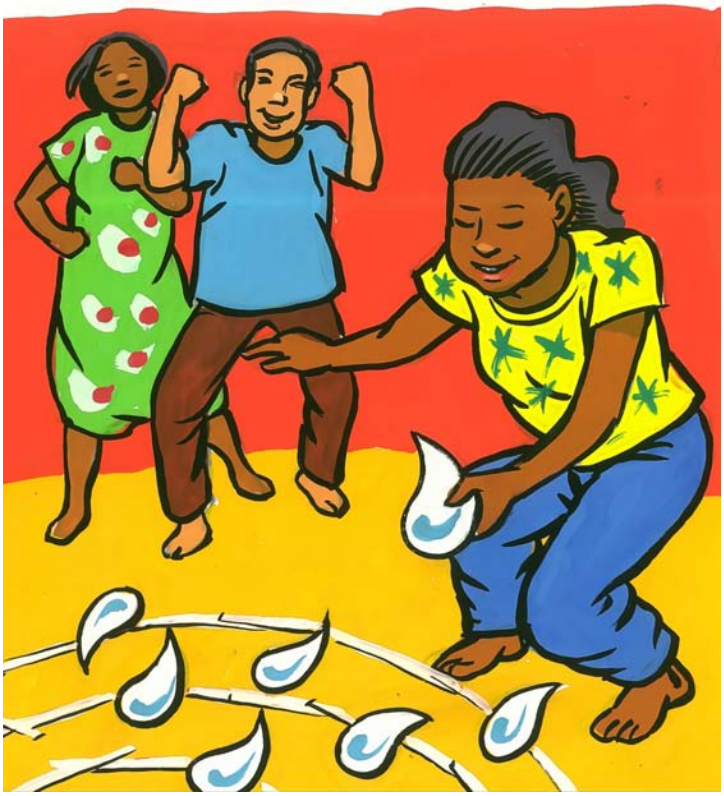
- **Human rights are nondiscriminatory.** Human rights are also enjoyed by all individuals, without distinction, exclusion, restriction or preference based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residency, economic and social situation and membership in group.

Aside from guaranteeing fundamental human rights, the Constitution sets the country's direction and goals; it lists as a priority goal the creation of a just and dynamic social order to free all Filipinos from poverty and improve their quality of life. It further mandates the reduction of social, economic and political inequalities and the removal of all cultural inequities.

The Constitution also emphasizes the principles of public accountability, attention to those most vulnerable to abuse and neglect including persons living in poverty, older persons, persons with disabilities, women, children, indigenous peoples, subsistence fisher folk and landless farmers and tenants, stewardship in the disposition and utilization of natural resources, participation at all levels of decision-making, and equal access to opportunities in all fields of life.

The Constitution also imposes general norms and standards, including, among others, the protection of children against neglect, abuse and exploitation, the incorporation of mechanisms of redress, and the protection of consumers from malpractices and from substandard hazardous goods and services.

Human Rights Actors



The principal actors in human rights are **Claimholders, Duty Bearers** and **Other Actors.**

Claimholders are all individuals who are endowed with human rights and are expected to exercise their rights with responsibility. Among claimholders are those who are deprived of water and/or are most vulnerable to deprivation, such as those living in the 455 waterless municipalities throughout the country, women, children, indigenous peoples, persons with disabilities, older persons, persons living with HIV, and persons living in poverty.

Duty Bearers are government officials, agencies, and departments, including local government units who are required to strictly abide by obligations arising from the right to water.

Other Actors are groups or entities that exert their economic, political and social interests, which often impact on human rights, and who are required to comply with the dictates of the 1987 Philippines Constitution and their duties arising from human rights. Other actors may include Water service providers, other LGUs, cooperatives, private businesses, the media, non-governmental organizations, citizens' groups, faith based groups, community-based organizations, women's groups, professional associations, business chambers, trade unions, social movements, advocacy groups, political parties, and the like.

The Right to Water

Water is much more than an economic good or a basic human need. Water is a human right: it is freedom, entitlement and a legally enforceable claim; it carries obligations and duties from which government and water service providers cannot escape. The right to water belongs to everyone, everywhere, at all times.

The right to water is the right to sufficient, safe, acceptable, physically accessible and affordable water,

and sanitation facilities and services for personal and domestic use.
The right to water views water as a "*public good fundamental for life and health ... indispensable for leading a life in human dignity ... [and] a prerequisite for the realization of other human rights*." Thus, water must be **adequate** for human dignity, life and health; this means that water "should not to be interpreted narrowly, by mere reference to volumetric quantities and technologies" and the realization of the right to water should be **sustainable** for present and future generation.

Recognition of the right to water in Philippine Law

The 1987 Philippines Constitution does not explicitly recognize the right to water; it, however, places a premium on the protection and enhancement of the right to human dignity by locating ownership, full control and supervision of all country's water resources in the State in order to reduce social, economic, cultural and political inequalities (Article XII, Section 2, 6, 10, 11, 17, 18 and 19).

Of Philippine laws, only the **Magna Carta of Women** expressly recognizes the right of "marginalized sectors" to enjoy, use and manage water resources within their communities or ancestral domains" (Section 20(b)(5), Republic Act 9710, An Act Providing for the Magna Carta of Women). Other Philippine laws implicitly recognize the right to water by promoting and protecting public health and improving the wellbeing and quality of life of all.

Table 1.2 Recognition of Water as a Human Right in Domestic Law

Selected Laws	Recognition of the Right to Water
1987 Philippine Constitution	Right to human dignity to promote social justice and address poverty
Republic Act 9710. Magna Carta of Women	Right of "marginalized sectors" to enjoy, use and manage water resources within their community or ancestral domains
Republic Act 9275. Philippine Clean Water Act of 2004	Protection, preservation and revival of quality of fresh, brackish and marine waters Promotion of public health and improved quality of life
Republic Act 9003. Ecological Solid Waste Management Act of 2000	Protection of public health and environment
Republic Act 8041. National Water Crisis Act of 1995	Protection of health and well-being Right to adequate food Right to work

Selected Laws	Recognition of the Right to Water
Presidential Decree 856. Code on Sanitation in the Philippines	Protection and promotion of health International treaties, agreements and covenants ratified by Philippines form part of Code (Section 8) Right to adequate food Right to education Right to work Right to rest and recreation Right to healthy environment
Presidential Decree 1152. Philippine Environment Code	Protection of public health Right to healthy environment
Presidential Decree 198. Local Water District Law	Protection of public health and well-being Recognizes lack of access to water as critical measures of poor well-being Allows socialized pricing (uniform schedule of rates and charges may provide for differential rates for different categories of use and different quantity blocks; Section 37)

Water is explicitly recognized as a human right in various international instruments; some of these instruments were ratified by the Philippines and so are legally binding while others are international declarations and resolutions containing general norms of international law principles and practices that represent the consensus of the international community and are customarily binding on the Philippines.

International Instruments Explicitly Recognizing the Right to Water	International Instruments Implicitly Recognizing the Right to Water
Convention on the Rights of the Child (CRC), adopted on 1989 Nov 20, ratified by the Philippines on 1990 Jul 26; Entry into force: 1990 Sep 20 (Article 24)	International Covenant on Civil and Political Rights (ICCPR), adopted on 1966 Dec 16, ratified by the Philippines on 1986 Feb 28; Entry into force: 1987 Jan 23 (Articles 1(2), 6(1), 17 and 26)

International Instruments Explicitly Recognizing the Right to Water	International InstrumentsImplicitly Recognizing the Right to Water
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted on 1979 Dec 18, ratified by the Philippines on 1981 Jul 19; Entry into Force: 1981 Sep 04 (Article 14)	International Covenant on Economic, Social and Cultural Rights (ICESR), adopted on 1966 Dec 16, ratified by the Philippines on 1974 May 17; Entry into Force: 1976 Jan 03 (Articles 1(2), 2, 11 and 12)
Convention on the Rights of Persons with Disabilities (CPD), adopted on 2006 Dec 13, ratified by the Philippines on 2008 Apr 15; Entry into Force: 2008 May 03 (Article 28(2)(a))	International Convention on the Elimination of All Forms of Racial Discrimination (CERD), adopted on 1965 Dec 21, ratified by the Philippines on 1967 Aug 15; Entry into Force: 1969 Jan 04 (Articles 2 and 5)
Mar Del Plata Declaration, United Nations Water Conference, 1977 (Preamble)	Declaration on the Right to Development (Declaration on RTD), adopted on 1986 Dec 4 (Articles 1, 2, 3, 6, 8, 9 and 10)
Programme of Action of the International Conference on Population and Development, Cairo, 1994 (Principle 2)	Universal Declaration of Human Rights (UDHR), adopted on 1948 Dec 10 (Articles 2, 3, 7, 25 and 28)
Agenda 21, UN Conference on Environment and Development, 1992 (Chapter 18.47)	Stockholm Declaration, UN Conference on the Human Environment, 1972 (Principles 1 and 2) Alma-Ata Declaration, International Conference o Primary Health Care, 1978 (Paragraphs I and II) United Nations General Assembly Resolution 35/1980 (Paragraph 1) United Nations Principles for Older Persons, 1991 (Independence) Rio Declarations on Environment and Development, UN Conference on Environment and Development, 1992 (Principal 1 and 10) Habitat Agenda, UN Habitat II Conference, Istanbul, 1996 (Paragraphs 129 and 136) Rome Declaration on World Food Security, 1996 (Paragraphs 19, 20 and 21) Johannesburg Plan of Implementation of the World Summit on Sustainable Development, 2002 (Paragraph 24, 25, 26, 27, 28 and 29)

CHAPTER
TWO THE HUMAN RIGHTS BASED LOCAL WATSAN GOVERNANCE FRAMEWORK

Introduction

The United Nations Development Programme (UNDP) takes a broader view of governance that goes beyond management issues and defines it as "as the exercise of political, economic and administrative authority to manage a nation's affairs."

Governance "is the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, exercise their rights and obligations and mediate their differences."

It "embraces all of the methods – good and bad- that societies use to distribute power and manage public resources and problems. Sound governance is therefore a subset of governance, wherein public resources and problems are managed effectively, efficiently and in response to critical needs of society."

An analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision.

Governance in this context includes not only the state but also civil society organizations and the private sector, because all three are involved in most activities promoting sustainable human development that focus on poverty reduction, job creation and sustainable livelihoods, environmental protection and regeneration, and advancement of women.

KNOW MORE

Four Types of Governance:

- **Economic** – includes processes of decision-making that directly or indirectly affect a country's economic activities or relationships with other economies that have a major influence on societal issues, such as equity, poverty and quality of life.
- **Political** – refers to decision-making and policy implementation of a legitimate and authoritative state or representative government.
- **Administrative** – system of policy implementation carried out through an efficient, independent, accountable and open public sector.
- **Systematic** – encompasses the structures and processes of society that guide political and socio-economic relationships to protect cultural and religious beliefs and values, and to create and maintain an environment of health, freedom and security.

What is Water and Sanitation Governance?

Water governance, as defined, addresses among other things:

1. Principles such as equity and efficiency in water resource and services allocation and distribution, water administration based on catchments, the need for integrated water management approaches and the need to balance water use between socio-economic activities and ecosystems.

2. The formulation, establishment and implementation of water and sanitation policies, legislation and institutions.

3. Clarification of the roles of government, civil society and the private sector and their responsibilities regarding ownership, management and administration of water resources and services, for example:

- inter-sectoral dialogue and coordination
- stakeholder participation and conflict resolution
- water rights and permits
- the role of women in water management
- water quantity and quality standards
- bureaucratic obstacles and corruption
- price regulation and subsidies
- tax incentives and credits

It is from a deeper understanding of this definition that the human rights based approach is used as a governance framework (UNDP Water Governance Programme).

A. HUMAN RIGHTS BASED LOCAL WATER AND SANITATION GOVERNANCE FRAMEWORK

The HR based local WatSan governance framework is a framework based on human rights standards that seeks to guarantee SAFE, ACCESSIBLE, AFFORDABLE AND ACCEPTABLE water and sanitation for the most vulnerable. The framework aims to guide the Duty Bearer, (the LGU) in realizing the right to water given the context of water and sanitation in the Philippines.

Table 1.2 Guiding Premises, Principles and Practices:

Water sustains human life with dignity	The human rights based approach to local WatSan governance recognizes that water sustains human life with dignity: water is an essential ingredient in the food people eat; water allows people to enjoy leisure and recreational activities; water brings hydroelectric power to people's homes; water facilitates opportunities for people to earn a living or engage in decent work in agriculture, industry and tourism; water is linked to a people's identity and is a key element in the observance of people's cultural and religious practices, values, beliefs and traditions; and water maintains biodiversity and contributes to a sustainable natural environment. Water is a crucial building block of people's health and wellbeing; it permeates all aspects of human life.
Power lies at the heart of local water governance	On the other hand, it also is mindful that "power" lies at the heart of local water governance. This means local water governance determines who benefits from-- and who is deprived of-- water and sanitation; it decides how water and sanitation services and facilities are to be allocated, to whom water and sanitation services and facilities are to be delivered, when water and sanitation services and facilities are distributed, and how much and how water and sanitation services and facilities are allotted.
Principles	Filipino women, men and children, all water users, are the principal actors and drivers of local water and sanitation governance and owners of its fruits. Water and sanitation is a human right, not only an economic good nor merely a basic human need. Local water governance rules, systems and social arrangements are consistent with human rights

HELPFUL HINTS

- As human beings, Filipino men, women and children "are born free in dignity and rights and [are] entitled to all the rights and freedoms… without distinction of any kind; "
- Filipino women, men and children are the central subjects, main participants and beneficiaries of local water governance; they are entitled to the human rights principles of *full respect for the integrity of the human person;*
- Filipino women, men and children have the right to water and sanitation, which should be *exercised responsibly*;and
- Filipino women, men and children also have the right to *participation*, which requires their active inclusion and involvement in local water governance, with full respect for their capacity to think and act freely for themselves or for others to create solutions to address water and sanitation related problems, issues and concerns (*empowerment*).

Human rights based local water governance is best illustrated here as conceptualized to show the premises, principles and the ensuing practices in the diagram below:

Figure 1.1:

Human Rights Based Approach to Local Water Governance

Illustrations by Gibet Torres, 1983 and 2003

PREMISES	PRINCIPLES	PRACTICE
Water sustains human life with dignity	Filipino women, men and children are the principal actors and drivers of local water governance, and owners of its fruits	Local water governance centers on Filipino women, men and children and engages with multiple actors
Power lies at the heart of local water governance	Water and sanitation is a human right	Local water governance guarantees the right to water and sanitation
	Local water governance rules, systems, processes and social arrangements are consistent with human rights	Local water governance confronts critical issues from the perspective of human rights
		Local water governance adopts and implements policies, plans, programs, measures, processes and mechanisms that accord with human rights

The human rights based approach to local water governance is a FRAMEWORK based on human rights standards that seeks to guarantee SAFE, ACCESSIBLE, AFFORDABLE and ACCEPTABLE WATER and SANITATION for those most vulnerable

Figure 1: HR-Based Approach to Local Water Governance

TAKE NOTE!

The Local WatSan Governance framework is keenly attuned to the principles of the right to development that promotes "human-centered development" by recognizing each person's inherent dignity and worth without discrimination and promoting equal opportunities and choices. Effective human rights-based approaches, especially governance and development, "also give preference to strategies for empowerment of local actors."

B. HUMAN RIGHTS BASED LOCAL WATSAN GOVERNANCE AND INTEGRATED WATER RESOURCES MANAGEMENT (IWRM)

The Human Rights Based Local WatSan Governance framework is founded on the IWRM principle. Specifically, the framework seeks to enable the coordinated and integrated management of water and sanitation provision in the LGU where there could be multiple WSPs and in some instances conflicting interest on water. With the framework, the LGU shall ensure that all policies related to water and sanitation provision shall support and promote IWRM principles as enumerated below:

The LGU (as duty bearer) and the community in their planning for the water sector shall consider the following goals under an integrated approach to water resources management. These goals and objectives shall form the bases of the local water and sanitation plan.

- **Effective Protection and Regulation for water security and Ecosystem Health by:**
  - (i) Ensuring Rational, Efficient and Ecologically Sustainable Allocation of Water;
  - (ii) Enhancing Effectiveness in Groundwater Management and Aquifer Protection;
  - (iii) Achieving Clean and Healthy Water; and
  - (iv) Managing and Mitigating Risks from Water Related Disasters and Climate Change.

- **Sustainable Water Resources and Responsive Services for Present and Future Needs by:**
  - (i) Promoting Water Conservation/Stewardship and improving Water Use Efficiency; and
  - (ii) Expanding Access and Ensuring Availability of Affordable and Responsive Water Supply and Sanitation Services.

- **Improved Effectiveness, Accountability, and Synergy among Water Related Institutions and Stakeholders by:**
  - (i) Promoting Participatory Water Governance and Supportive Enabling Environment; and
  - (ii) Strengthening Knowledge Management and Building Capacity for IWRM.

- **Adaptive and Proactive Response to Emerging /Future Challenges by:**
  - (i) Exploring Innovative Pathways: Water Sensitive Design and Water Rights Trading.

Purpose and Application of the Human Rights Based Local WatSan and Sanitation Governance Framework

The framework is intended to guide the LGU in complying with the obligations to fulfill, protect and respect the right to water. For the Claimholder, the framework shall inform them on how they should claim their right to water and understand their corresponding responsibilities.

The framework is directed primarily at the LGU, as Duty Bearer to take the lead in the realization of the right to water in the whole cycle of local WatSan governance - from planning, development to operation and management and up to adopting ways to achieve water sustainability. The framework first seeks to fulfill the right to water (and its normative content) and secondly enable the delivery of

water and sanitation services in a manner guided by the human rights principles for good governance - Participatory, Accountability, Non-Discrimination, Transparency, Human Dignity, Empowerment, and Rule of Law (PANTHER) principles.

Specifically, the human rights based local WatSan governance framework shall:

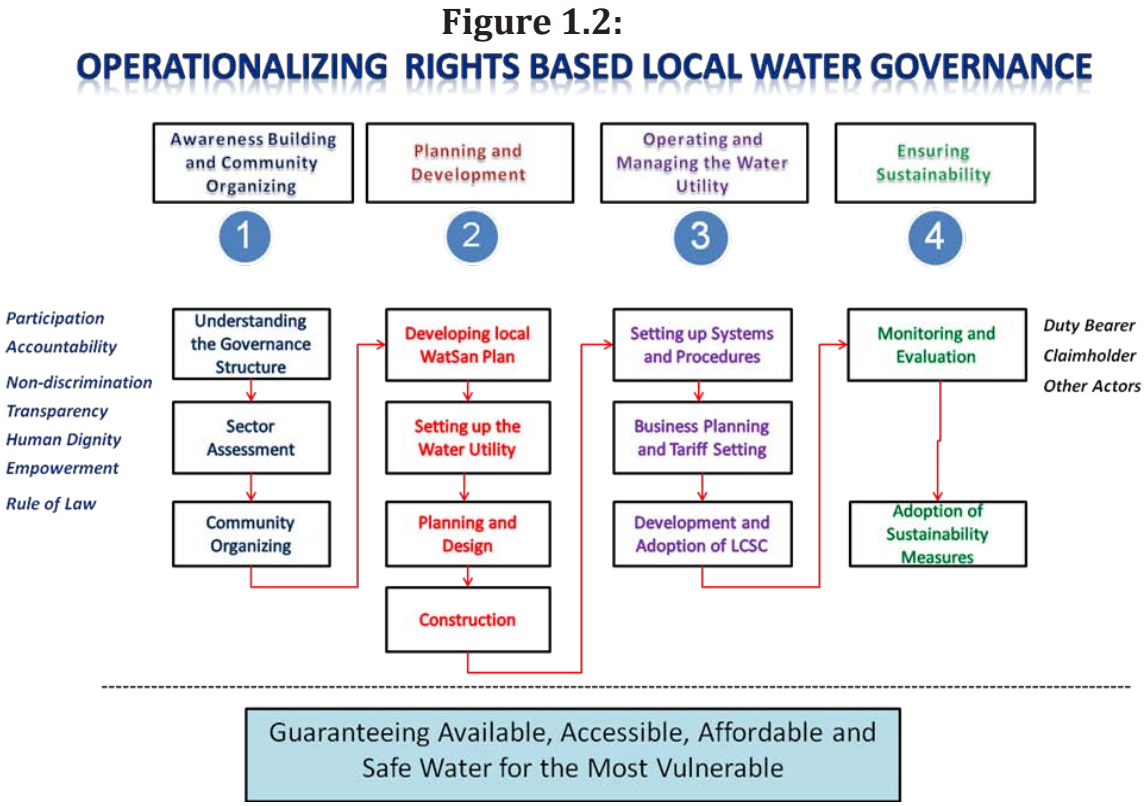
1. Guide the LGU on the steps to be undertaken in fulfilling the obligations relating to the right to water.

2. Guide the LGU on how to undertake a coordinated approach in the management of water and sanitation provision in the area/municipality where there could be a multitude of WSPs. This also follows the principle of integrated water resources management.

C. OPERATIONALIZING THE HUMAN RIGHTS BASED LOCAL WATSAN GOVERNANCE FRAMEWORK

To operationalize human rights-based local WatSan governance, the LGU shall be guided by an operational framework as in the following figure:

Figure 1.2:



Operationalizing the framework is the entire process from recognizing the need for water and taking steps to fulfill the right to water. For the LGU, It takes more than being introduced to the principles and concepts but will instead involve embracing a new way of water and sanitation provision, adopting the framework in the form of Local Water and Sanitation Code by way of a municipal or city ordinance and implementing the detailed steps in the four phases:

1. Recognize the Need
2. Planning and Development
3. Operations and Management
4. Ensuring Sustainability

Operationalizing the framework is not focused on setting up a water utility in the city/municipality but in ensuring that water and sanitation provision in the entire LGU is human rights based and follows the principles of good governance. It shall build on the principle of integrated water resources management whereby the realization of the right to water shall not result in the depletion of water resources. **The four phases are discussed seperately in Volume 2 of the Handbook and are referred to as WatSan Parts 1 to 4.**

Recognize the Need

Human Rights Guiding Principles

General Obligations of the LGUs

- *The LGUs have immediate obligations in relation to the right to water, such as the guarantee that the right will be exercised without discrimination of any kind and the obligation to take deliberate, concrete and targeted steps towards the full realization of the right to water.*

Part 1 which deals with awareness building and community organizing is the stage where the human rights based local water governance framework is introduced to the LGU and the community. The LGU recognizes that it has the mandate as Duty Bearer to comply with the obligation to realize the right to water and the community (Claimholder) is empowered and demands that its right to water be fulfilled.

Aside from understanding the obligations and rights human rights based local water governance, PART 1 includes the different steps that shall be undertaken by the LGU to build awareness in the community and understand better the water and sanitation condition in the area.

PART
ONE

- T*he LGUs have a constant and continuing duty to move as expeditiously and effectively as possible towards the full realization of the right to water in the most feasible and practicable manner.*

Specific legal obligations

The right to water imposes three types of obligations on the LGUs and the more relevant obligation in Part 1 is the obligation to fulfill.

- *Obligations to fulfill - The obligation to fulfill is further disaggregated into the obligations to facilitate, promote and provide.*

- *The obligation to facilitate requires the LGU to take positive measures to assist individuals and communities to enjoy the right.*

- *The obligation to promote obliges the LGU to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.*

- *The LGUs are also obliged to fulfill (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.*

1. Understanding the governance structure - this involves knowing and understanding the institutional arrangements - who are the water service providers, the regulator and the policy makers and other actors involved in the water and sanitation sector

2. **Conducting a Water and Sanitation Sector Assessment** - this urges the LGU to conduct a water and sanitation sector assessment to obtain a better appreciation of the existing situation. A more common way to do this is through the conduct of a baseline survey.

3. Community Organizing - This discusses human rights-based community organizing as an important tool to bring together the different actors in the realization of the right to water.

Roles and Responsibilities:

- **LGU as Duty Bearer** - The LGU being the Duty Bearer takes (as represented by the WatSan Council if already in place) on the lead role in assessing the water and sanitation situation in the municipality. It shall initiate activities to inform and enable the community to participate in working together to improve water and sanitation in the municipality.

- **Community** - Claimholder as represented by existing Civil Society Organizations in the municipality or through newly formed Water Users' Associations and/ or Claimholders' groups shall actively participate in initiatives to define the goals and vision for the sector that will lead to realizing the right to water.

Target Outputs and Outcome

At the end of Part 1, the following outcomes and outputs are expected:

- Awareness and understanding of the LGU (Mayor, WatSan Council and other key officers of the LGU) and the community on the human rights based local WatSan governance framework;

Human Rights Principles that Promote Good Governance

The PANTHER principles shall guide the undertaking in Part 1. The LGU as duty bearer shall ensure the full participation of the community and shall be transparent in all its plans for the sector. At the end of Part 1, it is targeted that there is an empowered community participating fully and taking ownership for the activities to enable the realization of the right to water.

- Recognition of the roles and responsibilities by both Duty Bearer and Claimholder in the realization of the right to water;
- Assessment of the current situation of the water and sanitation condition in the area; and
- The LGU (through the WatSan Council) has mobilized and organized the community. Community groups on water or water users' associations have been established or at the very least representatives to the WatSan Councils have been named or appointed.

Get Together

Planning and Development

Human Rights Guiding Principles

Following are the human rights principles and guidelines that are to be considered during the planning and development phase. It should be noted that other human rights principles continue to apply; but issues on the attributes of the water service that will be provided and affordability of water services are the ones highlighted in Part 2

Normative Content of the Right to Water

- *Provide at least*
  - *(i) 20 liters of water per person per day for Level 1 service*

In Part 2, the Claimholder and the Duty Bearer (LGU) come together to concretize the right to water. This is when the LGU and the community articulate their goals and vision for an improved water supply and sanitation condition through the preparation of a local water and sanitation plan, and other relevant activities that will lead to the eventual enjoyment of the right to water particularly by the most vulnerable. There is continuing learning on the human rights based local water governance framework as these are built into the various processes that the LGU and the Claimholder will go through. The steps in Part 2 include:

1. Developing the Local Water and Sanitation Plan - The LGU shall undertake an LGU-wide planning for water and sanitation with the community. It shall use the methodology for developing a local water and sanitation plan called the Municipal Water Supply, Sewerage and

PART
TWO

(ii) 40 liters of water per person per day for Level 2 service

(ii) 80 liters of water per person per day for Level 3 service

- *Comply with the Phil. National Standards for Drinking Water and other water quality standards contained in relevant laws and policies;*
- *Observe the minimum standards on appropriate water and sanitation technology contained in relevant laws and policies;*
- *Obey the standards relating to domestic plumbing, household water treatment and storage contained in relevant laws and policies;*
- *Develop, adopt and implement high quality service delivery standards.*
- *Set necessary minimal charges or water tariffs, which are fair and affordable:*
- *Ensure that the price of water and sanitation does not reduce a person's ability to buy other essential goods implicit in human rights.*
- *When setting water tariffs, integrate an individual's/household's ability to pay as well as direct and indirect costs of water and sanitation.*
- *Price water to discourage wasteful consumption.*
- *Consider other forms of payment (e.g. payment in kind, in labor or skills provision, phasing in of connection charges over time) and flexible payment terms.*
- *Refrain from profiteering and price-fixing.*

Sanitation Sector Plan (MW4SP) which ensures a participatory approach and incorporates the fulfillment of the normative content of the right to water.

2. Setting Up the Water Utility - The LGU together with the community studies and evaluates the various types of WSPs; selects the most appropriate model and sets up the water utility based on the selected model.

3. **Planning and Design** - The WSP with the participation of the community develops a proposed project and conducts a feasibility study to evaluate the reasonableness of the selected option.

4. **Construction** - The WSP undertakes the construction in accordance with human rights principles and ensures that in the end the normative content of the right to water is achieved.

Roles and Responsibilities

- **LGU as Duty Bearer** - this applies whether the LGU is the WSP or not, and in both cases the LGU as represented by the WatSan Council has the primary responsibility to take the planning and development phase forward. The LGU leads the activity in the development of the local water and sanitation plan and enabling the participation of the community. This role continues until construction if the LGU is also the WSP. If the LGU is not the WSP, it shall take on a more coordinating and informal role of regulator to ensure that a human rights based approach in local water governance is being adopted by the other actors - WSPs.
- **Community** - Claimholders as represented by existing Civil Society Organizations (CSO) in the municipality or through newly formed Water Users' Associations and/or Claimholders' groups or as representatives in the WatSan Council shall actively participate in the planning and development activities. The community will

Human Rights Principles that Promote Good Governance

The PANTHER principles shall guide the undertaking in Part 2. The LGU as duty bearer shall endeavor to enable the full participation of the community especially in the decision making relating to the level of water service and in the selection of the WSP model.

As the quest for water progresses to Part 2, more and more critical issues arise that challenge good governance such as the issue of corruption and control. Ways on how to address these critical issues are also discussed in the chapter.

provide the critical feedback on the performance of the Duty Bearer and other actors (WSPs) and exercise vigilance particularly during the construction phase to avoid the threats of corruption.

- Other Actors - WSPs - Shall lead the planning and development of the water supply system with the participation of the community and undertake the implementation of the proposed project.

Target Outputs and Outcome

At the end of Part 2, the following outcomes and outputs are expected:

- Local Water and Sanitation Plan developed by the LGU together with the community that seeks to address the most vulnerable in the community;
- A WSP model selected and decided with the community and set-up with initial assistance from the LGU (WatSan);
- Participatory planning and design for specific projects that were selected for implementation;
- Constructed water facilities in accordance with human rights principles for good governance; and
- There is increased participation of the claimholder, which will manifest starting with the selection of the WSP model.

PART
THREE

Work Together

Operating and Managing the Water Utility

Human Rights Principles that Promote Good Governance

In the operation and management of the water utility, the Duty Bearer (the LGU as either WSP or regulator) shall see to it that the human rights principles for water governance (PANTHER) are fully integrated.

Correspondingly, it is expected that the Claimholder carries out its human rights responsibilities in water such as paying for the cost of water services and participating in ways that promote water sustainability.

The following shall guide the operation and management of the water utility:

1. The water utility operates in a transparent and accountable way, where there are clearly defined systems and procedures covering all aspects of operations including the accountabilities of each officer and staff. There shall be management reports on the performance of the water utility and these reports shall be made public. (transparency and accountability).

2. The WSP shall conduct its

Part 3, which is also called the **"WORK TOGETHER"** phase is when the provision of water supply is realized and the right to water is fulfilled. During this phase, the WSP takes the lead in water service delivery and undertakes the following steps:

1. Review the organization and personnel requirements; recruit and undertake training of personnel.

2. Implement and install appropriate systems and procedures. This step involves installation of systems and procedures will cover the technical, customer, financial and management aspects of the operations.

3. Prepare a business plan and set tariffs. - The WSP shall develop a Business Plan with the community and determine the appropriate level of tariffs.

4. Adopt a Localized Customer Service Code - The WSP and the community shall develop and agree on a Localized Customer Service Code that defines the obligations of the WSP and the responsibilities of the claimholder.

Roles and Responsibilities

- **LGU as Duty Bearer** - The LGU being the Duty Bearer (as represented by the WatSan Council) shall act as regulator and monitor the performance of the WSP. It shall ensure that a human rights based framework governs water and sanitation service delivery.
- **Community** - Claimholder as represented by existing Civil Society Organizations in the municipality or through newly formed Water Users' Associations and/or Claimholders' groups shall actively participate in initiatives to define the goals and vision for the sector that will lead to realizing the right to water.
- **Other Actors** - as WSP, it shall carry out the operation and management of the water utility in accordance with the agreed parameters set out in the LCSC and in full compliance with the human rights principles for good governance.

operations in accordance with agreed parameters of service delivery that were previously discussed and agreed by the WSP with the claimholder and are contained in a Localized Customer Service Code (participation, rule of law and empowerment).

3. The Claimholder as consumer participates actively in the operation of the water utility by providing timely feedback on the utility performance, and supporting its programs and activities (participation, empowerment, non-discrimination).

4. The WSP is held accountable by the Duty Bearer (the LGU) by complying with the service obligations through a system of regular monitoring and review (accountability, rule of law).

5. It is the goal of the WSP to provide sustainable water service in the most efficient and economical way while at the same time ensuring that the normative content of the right to water is being met.

To ensure sustainable operations and that the right to water is continuously protected, the water utility shall be managed as an economic enterprise without prejudice to the human right principle that water is also a social good.

It is necessary for the water utility to be financially viable so that it will have enough funds to maintain the water system and expand coverage to serve more people. (efficiency and non-discrimination.

Target Outputs and Outcome

It is targeted in Part 3 that there is progressive realization of the right to water as made manifest in the following:

- The Claimholder, the Duty Bearer and the other actors (WSP) are working together to realize the right to water , with each party carrying out their duties, obligations, and responsibilities;
- The institutional arrangement for water and sanitation is defined; with operational WSP/ WSPs that bring access to water to more than 50 percent of the population; Claimholders organized into water users' groups taking active part in policy making or regulation as representatives in the WatSan Council and an independent regulatory body set up within the LGU; and
- There is continuing capacity building on human rights based local WatSan governance.

PART
FOUR

Move Forward
Ensure Sustainability

Human Rights Guiding Principles:

The LGU at this stage in operationalizing the Human Rights Based Local WatSan Governance Framework shall focus on complying with the following obligations. Other core obligations shall continue to be relevant, except that in Part 4, the activities that shall be undertaken shall give more weight to realizing the obligations enumerated below.

Progressive realization:

- *Adopt and implement an integrated water resource management program and water efficiency plan.*
- *Eliminate depletion of water resources due to unsustainable extraction, diversion and damming.*
- *Conserve and rehabilitate natural resources.*
- *Conserve and rehabilitate natural resources.*

Respect:

- *Provide effective remedies for violations of right to water.*
- *Refrain from unlawfully diminishing or polluting water resources (waste*

In Part 4 "**MOVE FORWARD - ENSURE SUSTAINABILITY,**" the WSP and the LGU are constantly challenged by cross-cutting issues such as climate change and conflict in water use, financing (cost), lack of capacities, political control and other related issues. The presence and/or the lack of these factors affect sustainability and when they are not addressed immediately will jeopardize the continuity of water and sanitation service provision.

Sustainability shall take into account the various sectors affecting water use, including political, economic, social, technological and environmental considerations.

The LGU (Duty Bearer) and the Claimholder shall continue to be guided by the PANTHER principles in Part 4. The Duty Bearer shall ensure the full participation of the community and work with the community as partner in achieving water sustainability.
The LGU, WSP and the community in realizing the above obligations shall undertake the following:

1. Monitoring and Evaluation - the LGU (in its role as regulator) shall monitor the performance of the WSP and provide the community with the results.

2. Adoption of Sustainability Measures - The LGU shall ensure that the activities of the WSP are aligned with the LGU plans for sustainable water resources management. The LGU shall also support programs at the provincial and national level for integrated water resources management. The WSP for its part shall undertake projects that are consistent with local water and sanitation plans for sustained water supply.

disposal from state run enterprises).

- *Not destroy or limit access to water services and infrastructure.*

***Protect**:*

- *Adopt appropriate water pricing policies including flexible payment schemes and cross subsidies.*
- *Set and enforce water quality standards based on WHO guidelines.*
- *Control pollution of water resources (surveillance, disincentives or pollution penalties).*
- *Keep water prices affordable for all.*

The current understanding of sustainable water management which is based upon the principles devised in Dublin during the International Conference on Water and the Environment (ICWE) in 1992, are:

1. Freshwater is a finite and valuable resource that is essential to sustain life, the environment and development.

2. The development and management of our water resources should be based on a participatory approach, involving users, planners and policy makers at all levels.

3. Women play a central role in the provision, management and safeguarding of water resources.

4. *Water has an economic value and should therefore be seen as an economic good.*

These principles reflect the importance of water in our daily lives and the need for proper communication, gender equity, and economic and policy incentives to manage the resource properly.

Roles and Responsibilities

- **LGU as Duty Bearer** - The LGU as the Duty Bearer shall take (as represented by the WatSan Council if already in place) on a regulatory role to be more effective in complying with the obligation to protect. In instances, where the LGU is the WSP (in the city or municipality), there should be a separate and independent body that could come from the provincial government. (At present, there are no existing legislations yet that require the creation of regulatory bodies nor define clearly the roles of policy making, regulation and water service provision in the water sector at the local level)
- **Community** - Claimholder as represented by existing Civil Society Organizations in the municipality or through newly formed Water Users' Associations and/or Claimholders' groups shall actively participate and work with the LGU and the WSP in their initiatives to promote water sustainability. The respon-sibilities of the Claimholder relating to water conservation and supporting the water utility with the timely payment of water bills gain more impetus during Part 4.

Target Outputs and Outcome:

At the end of Part 1, the following outcomes and outputs are expected:

- The LGU (Duty Bearer), WSP/s and the Claimholder are working as partners in attaining water sustainability that is characterized by the following:

  (i) It is functioning and being used;

  (ii) It is able to deliver an appropriate level of benefits (related to quality, quantity, convinience, comfort, continuity, affordability, efficiency, equity, reliability, health);

3. Women play a central role in the provision, management and safeguarding of water resources.

4. *Water has an economic value and should therefore be seen as an economic good.*

These principles reflect the importance of water in our daily lives and the need for proper communication, gender equity, and economic and policy incentives to manage the resource properly.

(iii) It continues over a prolonged period of time (which goes beyond the life cycle of the equipment).

(iv) Its management is institutionalized (goes beyond the key people involved now and will continue once those people are not involved).

(v) Its operation, maintenance, administrative and replacement costs are covered at local level (through user fees for example).

(vi) It can be operated and maintained at the local level with limited but feasible external support (for technical assistance, training and monitoring).

(vii) It does not affect the environment negatively.

- The WSPs, the LGU (Duty Bearer) and the Community/Claimholder work to achieve water sustainability as defined above and following the human rights based local WatSan governance framework.

KNOWING THE LOCAL WATSAN GOVERNANCE ACTORS

CHAPTER
THREE

Human rights based local WatSan governance promotes **Claimholders**' right to water and sanitation. It places Filipino women, men and children, the Claimholders, at the center of all its efforts actively involving them in every aspect and instance and places primary consideration on their rights, interests and wellbeing.

Human rights based local WatSan governance engages with **Duty Bearers** in the respect, promotion and fulfillment of the right to water and sanitation. These are the local government units (LGU), the water and sanitation (WatSan) teams and councils, water districts and LGU-run water utilities, community-based water systems that have been turned over to LGUs, other government-private operated systems vested with obligations related to—and arising from—the right to water and sanitation.

Human rights based local WatSan governance also engages with **other actors or players**-- cooperative water service providers and private company water service providers-- bestowed with duties and corporate responsibilities related to the right to water and sanitation.

The Claimholders

Claimholders refer to the population in a particular local government unit who possess the right to water and sanitation since "the right to water and sanitation belongs to everyone, everywhere."[1] These Claimholders consist of those with access to potable water and improved sanitation facilities, those who are deprived, and those who are most vulnerable to degradation especially persons living in poverty, women, children, indigenous peoples, persons with disabilities, older persons, refugees and displaced persons.

The human rights based approach to local WatSan governance gives emphasis on the delivery of water and sanitation services with focus on the most vulnerable groups.

MUST KNOW

Most Vulnerable Groups

- Women
- Children
- Indigenous Peoples
- Persons with Disabilities
- Older persons
- Persons living with HIV
- Refugees and Internally Displaced Persons
- Persons living in poverty

1 Diokno, Maria Socorro I.," The Human Rights Based Approach to Local Water Governance."

Why the most vulnerable must be served

- Women and children do most of the water collecting if drinking water is not available in the premises. Collecting and carrying water takes time, and is a heavy burden on them. It is not rare for women to spend up to four hours a day walking, queuing and carrying water – time that could be put to other activities.
- Safe drinking water and sanitation are fundamental for children's health.
- Diarrhea remains a leading cause of morbidity, mortality and infant mortality throughout the country. Other water diseases plaguing the Philippines include malaria, dengue fever, intestinal amoebiasis, scabies, viral hepatitis, conjunctivitis and schistosomiasis. (World Health Organization, "Mortality Fact Sheet, 2006; Terms of Reference of Joint Programme: Enhancing Access to an Provision of Water Services with the Active Participation of the Poor.)
- Over 90 percent of child mortality is related to contaminated water and inadequate sanitation.
- Girl's right to education also suffers.
- A major reason why parents do not send their daughters to school in many countries is that there are no separate sanitation facilities for girls.
- Water plays an important role in indigenous peoples' day-to-day existence, as it is a central part of their traditions, culture and institutions. It is also a key element of their livelihood strategies.
- Access to safe drinking water by indigenous peoples, such as lakes or rivers, may no longer be accessible because of land expropriation or encroachment.
- Access may also be threatened by unlawful pollution or over-extraction of natural resources. Furthermore, indigenous peoples' water resources might be diverted to provide safe drinking water to urban areas or population centers.
- Consequently, securing indigenous peoples' right to water might often require action to secure their right to ancestral lands, customary arrangements for managing water, as well as protection of their natural resources.
- The accessibility of water and sanitation is also a key issue for persons with disabilities, those who have historically suffered from marginalization and discrimination as a result of the inaccessible design of buildings, services and infrastructure, among other things.
- In an emergency, displaced persons face particular challenges to access safe drinking water and sanitation, which can have life-threatening consequences.
- Displaced persons are also particularly vulnerable to discrimination, racism, xenophobia, which can further interfere with their ability to secure safe drinking water or sanitation.

- Refugee and Internally Displaced People (IDP) camps around the world, particularly when displacement is protracted, are often characterized by dilapidated and overcrowded conditions, in which there is inadequate provision of basic services such as safe drinking water and sanitation.

  An assessment of old and new evacuation centers, relocation sites and home-based settings in Maguindanao and North Cotabato revealed that almost 42,000 persons had to share 61 water points and 165 latrines - one water point for 685 persons and one latrine for 252 persons. The same assessment showed that one out of four latrines were out of use, resulting in displaced persons forced to defecate in the open. At the Notre Dulawan evacuation center in Datu Piang, some 300 families or 1,500 persons shared just two latrines and a handful of water points for water and bathing. (Philippines: Water and Sanitation Situation in Mindanao, "Critical," 6 October 2009, IRIN.)

- When women and children have to fetch water at some distance from the camps, they are at risk of harassment, threats and sexual violence. Women and children might also be asked to provide sexual favors in exchange for safe drinking water.

- Persons living in poverty who do not have access to water are denied the opportunity to improve the quality of their life based on nutritional, shelter, education, water supply and sanitation standards.

The right to water and sanitation requires responsible exercise. In practice, this means that Claimholders should use water and sanitation facilities responsibly by:

- Paying, in cash or in kind, for water and sanitation services subject to equitable and affordable rates and charges;
- Conserving water;
- Not contaminating water resources;
- Assisting individuals and families living in poverty to secure water and sanitation;
- Monitoring the supply and provision of water and sanitation services;
- Constructing household toilets that comply with health and sanitation standards;
- Involving selves in the management and operation of water and sanitation services; and
- Using public water and toilet facilities responsibly and hygienically.

KNOW MORE

The Local Governance Claimholder Checklist

The Checklist was especially designed as an integral part of the Human Rights Based Local WatSan Governance Framework and will enable you to illustrate a portrait of Claimholders in waterless municipalities. If you are a local chief executive, planner, or Water Service Provider, the Checklist will help you determine the kind of water and sanitation system to develop from a rights perspective.

The Claimholder Checklist can be accessed through the Tubig Yaman website or through the Department of the Interior and Local Government (DILG), Water Supply and Sanitation Unit (WSSU) or the UNDP office

Specific legal obligations of the State under General Comment No. 15 of the UN ICESR

The right to water imposes three types of obligations on States parties: obligations to *respect*, obligations to *protect* and obligations to *fulfill*.

Obligations to respect

1. The obligation to *respect* requires that State parties refrain from interfering directly or indirectly with the enjoyment of the right to water.

2. The obligation to respect also requires the State parties during armed conflicts, emergency situations and natural disasters, to protect objects indispensable for survival of the civilian population, including drinking water installations and supplies and irrigation works; to protect the natural environment against widespread, long-term and severe damage and to ensure that civilians, internees and prisoners have access to adequate water.

In order to promote Claimholders' human rights and place primary consideration on their interests, local governance must be fully cognizant of who the Claimholders are, beyond numbers and statistics.

The Duty Bearers

Human rights identify certain obligations and responsibilities of States towards their citizens. A human rights based approach to development defines States - governments, national and local authorities, public officials and service providers- as D**uty Bearers** and citizens as **Rights Holders** or Claimholders.

The Duty Bearers are broadly classified as states parties and non-state parties. The states parties are part of the public administration and directly linked to it (regional, national and local authorities) as well as parliaments who are the legitimate representatives of societies.

Basis of Obligations of the Local Government

The 1991 Local Government Code (Section 16, Book I, Title II, Chapter 2) emphasizes the promotion of people's general welfare as the key function of all local government units and they are vested with several functions to be able to do this:

- Preservation and enrichment of culture
- Promotion of health and safety
- Enhancement of the right to balanced ecology
- Support for the development of appropriate and self-reliant scientific and technological capabilities
- Improvement of public morals
- Enhancement of economic prosperity and social justice
- Promotion of full employment
- Maintenance of peace and order
- Preservation of the comfort and convenience of their constituents

Obligation to protect

3. The obligation to *protect* requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority.

4. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water.

Obligation to fulfill

5. The obligation to facilitate requires the State to take positive measures to assist individuals and communities to enjoy the right. The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage. States parties are also obliged to fulfill (provide) the right when individuals or a group are unable, for reasons beyond their control, to realize that right themselves by the means at their disposal.

6. The State parties shall adopt necessary measures directed towards the full realization of the right to water.

7. State parties must adopt measures to ensure that water is affordable.

The Local Government Code also assigns to the barangay the functions of providing services and facilities related to general hygiene and sanitation, beautification and solid waste collection, and the maintenance of barangay water supply systems.

The Code likewise vests in the municipality the functions of providing a solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation, as well as communal irrigation, small water impounding projects and other similar projects, artesian wells, spring development, rain water harvesting and water supply systems, drainage, sewerage and flood control. A province, on the other hand, provides inter-municipal waterworks, drainage and sewerage, flood control and irrigation systems.

KNOW MORE

Republic Act No. 7160 The Local Government Code 0f 1991

The Local Government Code (LGC) of 1991 and its Implementing Rules and Regulations provides the basis of the power of the LGUs to allow or permit the establishment and operation of waterworks or water supply systems within their area of jurisdiction as well as to provide for their regulation.

- In Barangays where there are waterworks, the LGC empowers the Sangguniang Barangay to regulate said waterworks and to charge reasonable fees for the use thereof.
- In the LGC "subject to existing laws" or "subject to applicable laws" has been interpreted to mean that laws pertaining to local water districts (PD 198) or the regulatory jurisdiction of the National Water Resources Board (Public Service Act) will still have to be applied and respected.

The Local Government Unit as Water Service Provider

The LGU can take on the role of water service provider directly or indirectly through the following models:

- **The LGU can be a direct water service provider when it operates and manages the water utility in the municipality.** The water utility is usually a unit under the Municipal Engineer's Office, while the collection of service charges is done by the Treasurer's Office. Later on, the LGU-run water systems can include **community-based water systems that are turned over to LGUs** —systems that were not sustained and are transferred to municipal or barangay LGUs. Mostly these systems are comprised of Level I and II water systems formerly managed by rural and barangay waterworks and sanitation associations and cooperatives.

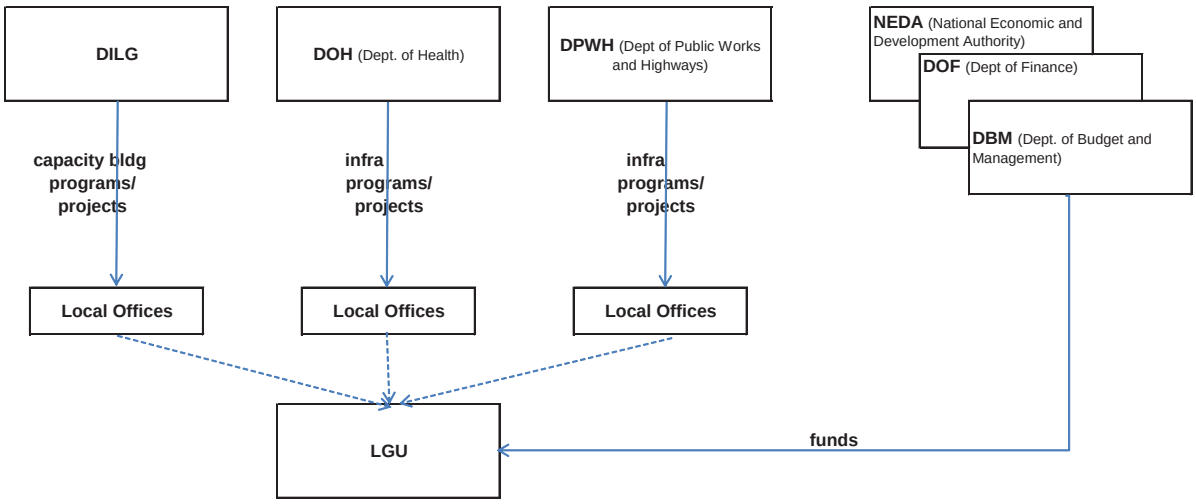
- **The LGU can be an indirect water service provider when it assigns this function through the establishment of a water district in the municipality.** A water district is a local corporate entity established on local option basis to operate a water supply system. The Philippine Supreme Court has declared water districts as government owned or controlled corporations (GOCCs); development is supervised, regulated and generally financed by the Local Water Utilities Administration or LWUA.

When the LGU directly operates and manages the water systems, there are other players/ actors forming the institutional setup as shown in Figure 1.3 below.

Figure 1.3:

Institutional Set Up of the Philippine Water and Sanitation Sector

Simplified institutional arrangements for LGU



KNOW MORE

In the Philippines, local government units perform three interlocking roles:

- They set water policy direction
- They regulate the provision and supply of water
- They own or operate water facilities

Other Actors as Water Service Providers

Other Actors refer to a broad range of non-governmental development actors covering the private sector, economic and social partners including unions and civil society in all of its forms, according to the national characteristics.

The state parties are primarily responsible for ensuring the enjoyment of human rights, there is often an unclear relationship with non-state actors.

This is specifically prominent in water and sanitation provision, as private companies are often contracted to provide these services and take on the role of duty bearer.

For purposes of discussing local water governance in this Handbook, the Duty Bearers being referred to are the local government units and its instrumentalities who take on various roles as policy maker, water service provider and/or regulator.

Other actors are mostly (i) small private businesses or more commonly known as small scale water service providers or informal service providers—individually owned and provide water to nearby households; (ii) community-based organizations (barangay waterworks and sanitation associations, rural waterworks and sanitation associations, cooperatives, small group of farmers and/or fisherfolks) e.g. cooperatives, rural improvement clubs, women's groups, faith-based organizations, and senior-citizens' organizations; and, (iii) private corporations under joint venture agreements or other forms of private sector participation.

Cooperatives and private companies engaged in the provision and supply of water and sanitation services must comply with the provisions of the 1987 Constitution and their duties arising from the right to water. Private sector participation in the provision and supply of water and sanitation must also be consistent with the policy enunciated in the Constitution: the protection and enhancement of the right of all people to human dignity. Other actors cannot take any step or engage in any practice that will or may harm the well-being, interests and rights of the people.

KNOW MORE

What Does Section 19, Article XII of the Constitution Say?

"The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands."

It further provides that *"The State shall regulate or prohibit monopolies when the public interest so requires. No combination in restraint of trade or unfair competition shall be allowed."*

Human Rights Duties of Water Service Providers

When water is supplied and provided as an economic or business enterprise, water does not lose its human right status; on the contrary, water remains a human right owned by all Claimholders. And more importantly, as a human right, water imposes human rights duties on those who supply and provide water as an economic good.

These human rights duties, articulated by John Ruggie, formerly Special Representative of the United Nations Secretary General on the issue of human rights and transnational corporations and other business enterprises, are anchored on three complementary and supportive principles: the corporate responsibility to **respect** human rights, Duty Bearer obligations to **protect** human rights, and the need for more **effective access to remedies** (respect, protect and remedy.)

The duty of water service providers to respect human rights is a priority duty that exists independently of Duty Bearer's obligations. Examples of the duty to respect human rights, especially the right to water, include, among others: the duty of water service providers to abstain from taking any action that would deprive anyone of access to water or would bar anyone from enjoying the right to water; the duty of water service providers to conduct human rights based due diligence, which includes adopting a human rights policy and conducting human rights impact assessments especially when considering tariff rates and adjustments; the duty of water service providers to periodically and scientifically monitor water quality and the status of pipes and related infrastructure to ensure against corrosion, pollution, or contamination by coliform, other human waste, or harmful bacteria and microorganisms; and the duty of water service providers to avoid complicity with duty bearers or indirectly involving themselves in any violation or abuse of the right to water.

The obligation to protect human rights requires Duty Bearers, among others; to foster a corporate culture where respect for human rights is an integral part of water service delivery; to strictly implement measures that prevent abuse by water service providers; and to hold water service providers criminally accountable for failing to respect the right to water. The obligation to protect also requires Duty Bearers to align all water policies to comply with human rights obligations and duties and to develop a better mechanism to balance investment in water with the dictates of the right to water.

The duty to provide better access to remedies requires water service providers to establish effective grievance mechanisms for deteriorating services, unmet performance standards, unjustified tariff increases, or any other legitimate grievance associated with the delivery of water and water services. Grievance mechanisms should promote Claimholders' **right of reparation,** or the right to seek redress for any violation or abuse of the right to water. They should focus on direct or mediated dialogue, as opposed to litigation or open conflict, and should be designed and overseen jointly with Claimholders. They should be readily accessible (for example, displayed prominently within the premises of the water service facility) and widely publicized in the language known to and used by Claimholders. They may also include a multi-actor water industry-wide mechanism that acts as a single venue for recourse to multiple water service providers.

KNOW MORE

An assessment of functional capacities in local WatSan governance of cooperative water service providers and private company WSPs revealed that cooperative WSPs level of capacities is low while private company WSPs generally exhibit medium levels of capacity "to assess a situation, create a vision and mandate as a financially viable enterprise" but have "low ratings" in the areas of financial sourcing, monitoring and evaluation. *(Duhaylungsod, Noel; DILG-UNDP, Capacity Assessment of Local WatSan Governance)*

WatSan Governance Structure: Roles and Responsibilities

In the local water sector, there are different governance models where the LGU assumes varying roles such as the WSP, regulator and/or policy maker. It is important that the LGU understands the set-up so that a more responsive approach is taken in operationalizing the local WatSan governance framework.

Shown below is a matrix on current segregation of roles and responsibilities depending on who the lead water service provider is in the municipality. Regardless of who the WSP is, the LGU continues to have the obligation to fulfill the right to water following the principles of good governance.

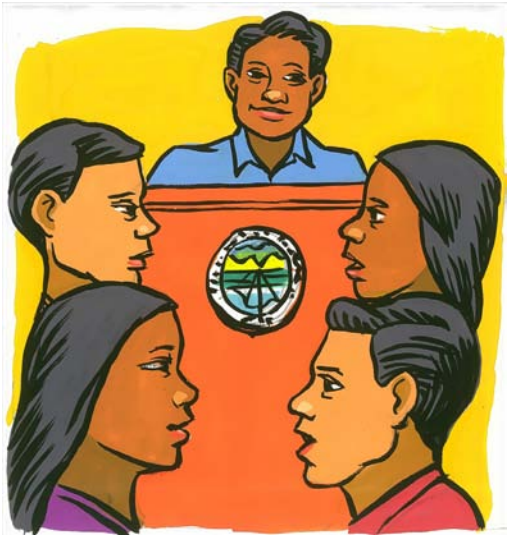


Table 1.3 : Governance Structure 1: If LGU led - LGU is also the WSP:

Community/ Claimholder	LGU as Policy Maker and Regulator	Other Government Agencies (Other State Parties)	LGU as Water Service Provider
• Be represented in the WatSan Council; • Organize a water users' group from where the representative(s) to the WatSan Council will come from; and • Provide timely back on the performance of WSP and suggestions to improve operations.	• Policy making through the WatSan Council • As regulator - Monitoring and regulation through the WatSan Council and other units such as the Health Office • Engage CSOs to sit in the WatSan Council.	• Commission of Audit – monitoring and control • Department of Environment and Natural Resources (DENR)-National Water Resources Board (NWRB) – compliance with government regulations such as water permitting, etc. • Department of Finance (DOF) – prescribes policies on financial management of local economic enterprises • Department of Health (DOH)–regulates water quality and sanitation standards • Department of Interior and Local Government (DILG) – provides capacity building activities	• Operates and maintain the water utility and provides for funds for repairs, improvement and expansion

Under Governance Structure 1 where the LGU is both the policy maker and the Water Service Provider, the community as Claimholder has a bigger role of ensuring that their rights and interests as consumers are protected. In a set-up where the role of policy making and water service provision is shared by the same entity, there is a higher risk that the right to water and consumer interests are overlooked when the balance is shifted to water service provision and the LGU overlooks its policy making and regulatory role.

This is a situation where there is a need for stronger and more active community participation. Hence the right to participate for the community becomes more critical and the LGU as Duty Bearer shall enable the organization of a Consumers' Group or Water Users' Association and/or the appointment of community leaders to the WatSan Council to represent the interest of the community.

Table 1.4: Governance Structure 2: If self-governing – WSPs other than the LGU:

Community	LGU	Other Government Agencies	Water Service Provider
• As Consumer - pays for water services and supports and comply with water utility rules and regulations • Monitors and checks performance of WSP indirectly thru participation in performance audits and surveys. • More active participation through a "Consumers' Group" that will be required in all municipalities	• As Policy Maker – communicates the national and local policies program on water and sanitation; and leads the development of policies for the sector • Monitors and checks performance of WSP • Creation of a Consumers' Group with representative to sit in the WatSan Council.	• Commission on Audit – monitoring and control. • DENR (NWRB) – compliance with govt. regulations such as water permitting, issuance of franchise (CPC) and review and approval of tariff. • Commission on Audit – monitoring and control Local Water Utilities Administration (LWUA) – review and approval of tariff. • Department of Budget and Management (DBM) – regulates personnel appointment and salary structure.	• Barangay Waterworks and Sanitation Association (BWSA) and other Community Based Organizations: Operate and maintain the water utility. **Other non Service Provider** • Water Districts: Operate and maintain the water utility.

MUST KNOW

Regardless of who the WSP is, the LGU is mandated to fulfill its obligation related to right to water. This can be ensured only when there is a unit within the LGU that looks after water and sanitation. A WatSan Council and a WatSan Team are important players in the governance structure in the local water sector. They can take the role of initiator, leader and facilitator to achieve the goal of providing access to water for all".

NORMATIVE ELEMENTS OF THE RIGHT TO WATER

CHAPTER
FOUR

The right to water is the right to sufficient, safe, acceptable, physically accessible and affordable water, water facilities and services for personal and domestic use.

Five normative elements have been identified that should serve as the standards by which the efforts of government, i.e. local government units, and development agencies must be measured and assessed in the provision and access to water and sanitation:

a) *Water and sanitation* ***availability***. Quantity has to be sufficient and on a continuous supply basis to meet basic human needs. There should be sufficient number of sanitation facilities and associated services within or in the immediate vicinity and increased access to "improved sanitation."

b) Water and sanitation facilities ***quality***. Water must be safe and of acceptable color, odor and taste and free from microorganisms, chemical and radiological hazards that threaten a person's health. Sanitation facilities must be properly constructed and hygienically safe to use.

c) Water and sanitation facilities ***accessibility***. Water and sanitation facilities and services must be within safe physical reach (within or in the immediate vicinity of the household, educational institution, public institution, health institution or workplace), sensitive to the needs of women, persons with disabilities, children and older persons.

Water and sanitation information accessibility. Information on water and sanitation issues should be provided to everyone in easily understandable forms and media.

d) Water and sanitation service ***affordability***. Water and sanitation services must be affordable for all and should not create adverse impact on households' ability to pay for other basic needs.

e) Acceptability *of sanitation facilities and services*. Sanitation facilities and services must be culturally appropriate.

Normative Elements of the Right to Water and Related Governance Issues

Table 1.5 : Normative Elements of the Right to Water and Related Governance Issues

Normative Elements of the Right to Water	Standards to be achieved by the State	Related Local WatSan Governance Issues
Availability	• Sufficient and continuous water supply for each person for personal and domestic use • Sufficient number of sanitation facilities and associated services	• Financial sustainability of water and sanitation services; cost recovery; incentives for water service providers • Provision of water in times of drought • Conservation of water resources; incentives for claimholders • Health status and demography: population, age structure, health status • Environmental protection; protection of watersheds and forests • Reduction in wastewater; wastewater treatment • Solid waste management • Construction, management, maintenance, upgrading and operation of sewerage system • On-site sanitation • Climate change

Normative Elements of the Right to Water	Standards to be achieved by the State	Related Local WatSan Governance Issues
Physical Accessibility	• Water and sanitation facilities and services within safe physical reach, in immediate vicinity of homes, schools, workplaces and health centers, located where physical security is guaranteed • Reliable water and sanitation facilities and associated services within or in immediate vicinity of every home, health center, school, public places and workplaces, accessible at all times of day and night, with minimal risks to physical safety, including risks of attack by animals or persons; entrance size, interior space, handrails or other support mechanisms, position of defecation, etc., of sanitation facilities to address special requirements of children, parents accompanying children, pregnant women, persons with disabilities, the older persons, those chronically ill and those accompanying them.	• Universal access to water and sanitation • Basic water services and sanitation facilities in homes, health centers, schools, jails, workplaces and all public places • Disaster preparedness and relief operations • Climate change • Electrification • Design, construction, maintenance of sanitation facilities

Normative Elements of the Right to Water	Standards to be achieved by the State	Related Local WatSan Governance Issues
Economic Accessibility	• Affordable water, water services and facilities • Affordable sanitation facilities and associated services (e.g., construction, treatment, disposal of fecal matter, disposal of wastewater, etc.) • Costs and charges that do not threaten or compromise the realization of other human rights	• Pricing policy; water disconnection; illegal connections; direct water and sanitation use charges; subsidy schemes and flexible pricing; payment in cash or on kind • Differential pricing for kind of sanitation facilities • Subsidies for construction, emptying of receptacles for human waste and associated maintenance • Low cost technology • Social insurance and other assistance packages for hygienic and sanitary products • Financial sustainability of water and sanitation services; cost recovery; incentives for water service providers; minimum return on investment • Restrictions on water and sanitation disconnections due to inability to pay
Information Accessibility	• Information on water and sanitation issues and concerns open to everyone in relevant and easily understandable forms and media	• Hygienic promotion and education • Dissemination of appropriate water conservation techniques • Public education on the right to water, and sanitation

Normative Elements of the Right to Water	Standards to be achieved by the State	Related Local WatSan Governance Issues
Quality	• Safe, uncontaminated water, of acceptable color, odor and taste; water free from microorganisms, chemical and radiological hazards that threaten a person's health • Hygienically safe sanitation facilities, regularly cleaned and maintained, where pits and other places that collect human excreta are regularly emptied, with stable super-structure, floor designed to reduce risk of accidents (slippage), with sufficient lighting	• Pollution of surface and ground water • Water treatment technology • Quality of raw water • Water quality standards • "Polluter pays" principle • Testing and monitoring • Consumer protection • Environmental regulation • Performance standards for water availability, water quality, regularity of supply, safety of sanitation facilities, acceptability and affordability of water and sanitation services • Regulation of water service providers; licensing
Acceptability	• Culturally acceptable sanitation facilities and associated services; cultural sensitivity attached to personal sanitation reflected in design, positioning, conditions for use, privacy requirements, separation by sex, special requirements for women's toilets to accommodate menstruation needs	• Culturally acceptable hygienic practices • Socio-cultural beliefs and practices associated with personal hygiene

CHAPTER
FIVE

FULFILLING OUR OBLIGATIONS

In every human right, there is a trinity of legal state obligations. This means the State has the obligation to respect, protect and fulfill all human rights.

MUST KNOW

Trinity of State Obligations

Obligation for States to Respect

This requires the State to abstain from interfering with the enjoyment of the rights. State must abstain from doing anything that violates the integrity of the individual or infringes on the individual's freedom. It also means that the State is forbidden to act in any way that directly encroaches upon recognized rights and freedoms. In essence, this obligation is a prohibition against State interference. Obligation to respect demands that the State accepts the corresponding duty to create and facilitate an economic, social and political environment conducive to the enjoyment, exercise and realization of human rights.

Obligation for States to Protect

This requires the prevention of violations of rights by other persons or third parties. The State is compelled to take steps to prohibit others from violating recognized rights and freedoms and is bound from taking any measures that would erode the legal and practical status of human rights. The obligation imposes upon the State the duty to act to preclude further deprivation. It also places sufficient legal and policy emphasis on the full realization of human rights through a series of active measures, including the guarantee of access to legal remedies for any infringement caused by a third party.

Obligation for States to Fulfill

The Obligation requires States to take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of rights. The obligation has two dimensions: the obligation to fulfill—facilitate and promote, and the obligation to fulfill—provide. It should be noted that the obligation is not one that merely provides but one that fulfills, so much so that the State is called upon as the ultimate provider of productive resources and, if necessary, goods and services.

The obligation to fulfill human rights requires the State to take necessary measures to ensure that each individual has the opportunity to obtain the entitlements of human rights that cannot be secured by personal or individual efforts alone.

The 1987 Constitution highlights the important role of government, particularly as custodian of the country's natural resources; Section 2, Article XII mandates: "The exploration, development and utilization of natural resources shall be under the full control and supervision of the States."

From the Constitution, relevant Philippine laws, and legally and customarily binding instruments, arise a set of obligations, which government cannot abrogate. Government's obligations are generally two-fold: obligations to behave in a way that does not injure anyone or impair or limit anyone's right to water (*obligations of conduct*) and obligations to create an environment that enables everyone to responsibly exercise and enjoy the full range of their human rights, including the right to water (*obligations of result*).

Obligations of conduct and of result in local WatSan governance are better understood through the obligations to respect, protect and fulfill (facilitate, promote and provide) the right to water:

A. DUTY BEARER'S OBLIGATIONS

1. The Obligation to **Respect** the right to water is the obligation to abstain from doing anything that violates the integrity of the individual or infringes on the individual's right to water. Some examples of the obligation to respect the right to water include:

    (i) refrain from interfering directly or indirectly with enjoyment of right to water;

    (ii) refrain from engaging in any practice or activity that denies or limits equal access to adequate water;

    (ii) refrain from arbitrarily interfering with customary or traditional arrangements for water allocation;

    (iv) refrain from unlawfully diminishing or polluting water (for example through waste from State-owned facilities or through use and testing of weapons);

    (v) refrain from limiting access to, or destroying, water services and infrastructure as a punitive measure (i.e. during armed conflicts).

2. The Obligation to **Protect** the right to water is the obligation to prohibit others from violating the right to water. Some examples of the obligation to protect the right to water include:

    (i) prevent third parties from interfering in any way with enjoyment of right to water;

    (ii) adopt necessary and effective legislative and other measures to restrain third parties from denying equal access to adequate water, polluting and inequitably extracting from water resources; including natural sources, wells and other water distribution systems;

(iii) where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, prevent third parties from compromising equal, affordable, and physical access to sufficient, safe and acceptable water; and

(iv) establish effective regulatory system including independent monitoring with genuine public participation and impose penalties for non-compliance.

3a The Obligation to **Fulfill (facilitate)** the right to water is the obligation to actively create conditions to achieve the full realization of the right to water. Some examples of the obligation to fulfill (facilitate) the right to water include:

(i) Take positive measures to assist individuals and communities enjoy right to water;

(ii) Adopt necessary measures to fully realize right to water;

(iii) Accord sufficient recognition of right to water within national political and legal systems, preferably by legislative implementation;

(iv) Ensure water is affordable for everyone (e.g., use range of appropriate low-cost techniques and technologies, adopt appropriate pricing policies such as free or low-cost water, provide income supplements and base payment for water services on principle of equity, which demands that households living in poverty not be disproportionately burdened with water expenses as compared to richer households);

(v) Facilitate improved and sustainable access to water, particularly in rural and deprived urban areas; and,

(vi) Adopt comprehensive and integrated strategies and programmes to ensure sufficient and safe water for present and future generations.

3b The Obligation to **Fulfill (Promote)** the right to water is the obligation to ensure appropriate education concerning hygiene, hygienic use of water, protection of water sources, methods to minimize water wastage and proper sanitation.

3c The Obligation to **Fulfill (Provide)** the right to water is the obligation to provide water and sanitation whenever individuals or groups are unable to realize their right to water by the means at their disposal for reasons beyond their control.

Obligations of conduct and of result are found in:

- **Core Obligations**, which require states to ensure the satisfaction of the minimum essential levels of the right to water;
- **Principal Obligation of Progressive Realization**, which requires states to take steps, individually and through international cooperation and assistance, to the maximum of its available resources, to progressively achieve the full realization of the right to water by all appropriate means; and
- **Obligation of equality**, which requires states to ensure both *de jure* and *de facto* equality in the exercise, enjoyment and realization of the right to water and the **Obligation to guarantee non-discrimination**.

RESPONSIBILITIES OF THE CLAIMHOLDER

While the State has the primary obligation as the Duty Bearer, equally the Claimholders while claiming for their rights have corresponding responsibilities. As mentioned in the foregoing section on the Actors, the Claimholders are responsible for doing their share in realizing human rights based local WatSan governance. They are expected to do the following:

- Pay, in cash or in kind, for water and sanitation services subject to equitable and affordable rates and charges;
- Conserve water;
- Not contaminate water resources;
- Assist individuals and families living in poverty to secure water and sanitation;
- Monitor the supply and provision of water and sanitation services;
- Construct household toilets that comply with health and sanitation standards; and
- Use public water and toilet facilities responsibly and hygienically.

A critical concern that has been at the forefront of many water utilities challenges in operations is the refusal of many consumers to support the required tariffs and inability to pay on time. While the responsibility to pay on the part of the Claimholder is being stressed, it should be noted that the Duty Bearer has to ensure that tariff is affordable and shall have flexible payment terms. When the Claimholders support the water utility by paying the appropriate tariff and conserving water, the Duty Bearer will be able to fully comply with its obligations to fulfil the right to water.

MUST KNOW

Individual Duties Under International Human Rights Law

("Towards Mainstreaming Human rights in the Development and Governance Processes," UP NCPAG, CHRP, UNDP - Philippines)

Individuals vested with authority have the duty to respect, protect and promote human rights.

Individuals also have the duties to act responsibly so as not to exceed the limits of right. As it is, some rights are qualified. For example, free speech does not allow a person to slander or libel someone else. The right to equality cannot be pursued to the point when someone else suffers inequality. The legitimate claim of indigenous groups, for example, to special protection must be balanced against requirements of society.

General duties of individuals towards others and community are independent of any particular human rights claim. Duties are to community and include:

a) Exercise of rights responsibly;

b) Strive for promotion and observance of rights;

c) Promote and protect appropriate political, social and economic order for development;

d) Contribute as appropriate, to social and international order in which rights and freedoms can be fully realized;

e) Duties of parents in the upbringing and development of the child:
   - Duties of parents to provide for the child
   - Duties of parents to help child in the exercise of his/her rights.

ABIDING BY THE PRINCIPLES OF GOOD GOVERNANCE

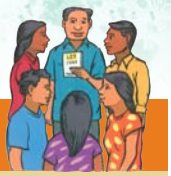
CHAPTER
SIX

The Human Rights Based Local WatSan Governance framework also highlights at least 10 critical local governance issues. These include:

1. Guaranteeing transparent, accountable and participatory water decision-making;
2. Addressing power asymmetries in water supply, provision and access;
3. Reaching those most vulnerable;
4. Ensuring affordable water;
5. Avoiding discrimination in water supply, provision and access (gender, culture, beliefs, indigenous peoples);
6. Ensuring quality water services;
7. Ensuring regulatory, enforcement, monitoring and follow-up capacity;
8. Establishing effective recourse mechanisms (conflict management and resolution);
9. Addressing corruption; and
10. Addressing climate change (including disaster risk reduction).

The framework also underscores the integration of a guidance note on the human rights obligations of the Duty Bearers including general duties that individuals must carry out in the full exercise of their rights, more specifically their right to water.

Good governance ensures that the participation of persons living in poverty and the most vulnerable are ensured in the decision-making over the allocation of development resources, and that political, social and economic priorities are based on broad consensus among the three stakeholders: the duty bearer, the community and the other actors or players from the private sector. All three stakeholders are critical for sustaining human development: the state creates an enabling political and conducive legal environment; the private sector generates jobs and income, and the community provides social and political interaction.



MUST KNOW

The Human Rights Principles that Promote
Good Governance (PANTHER Principles)

Under the human rights based local water governance framework, the PANTHER principles: Participation, Accountability, Non-discrimination, Transparency, Human Dignity, Empowerment, and Rule of Law are highlighted as principles that promote good governance.

PANTHER PRINCIPLES

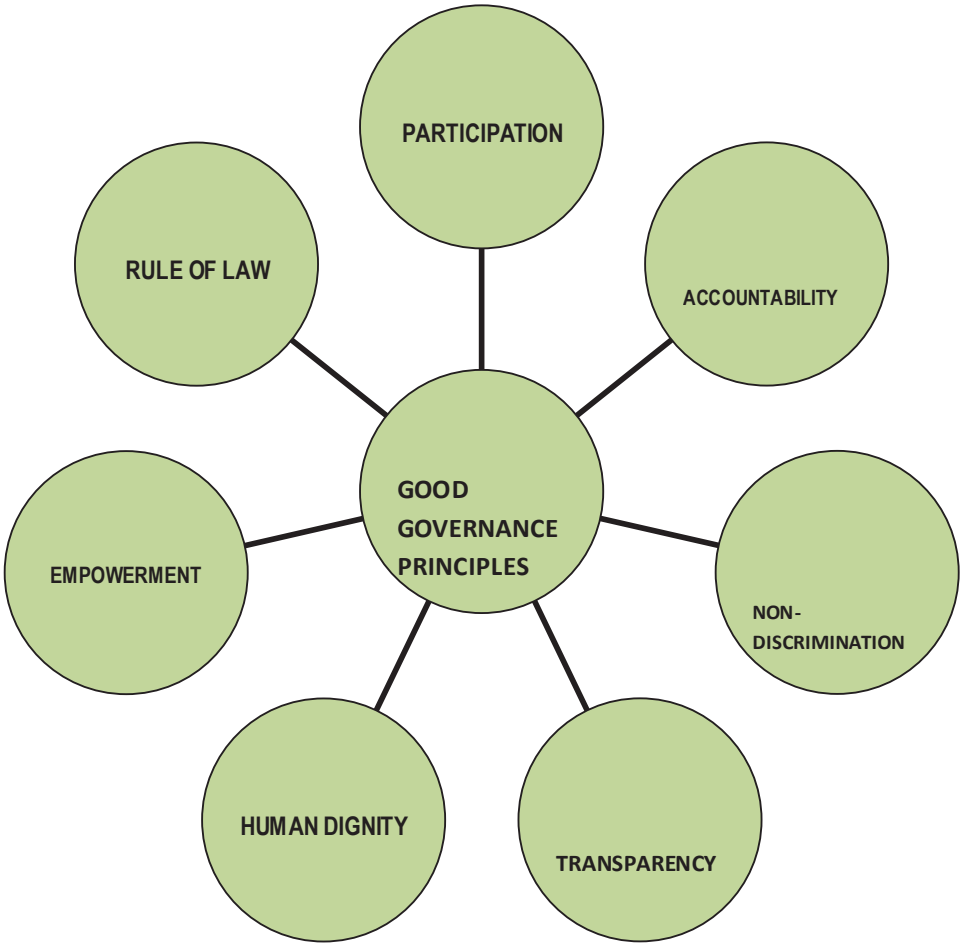


Figure 1.4: PANTHER Principles

- **Participation**. Rights based approaches require a high degree of **participation** from members of communities, especially from the vulnerable and marginalized groups of women and children, indigenous peoples, older persons, people with disabilities. According to the UN Declaration on the Right to Development, such participation must be "active, free and meaningful" so that mere formal or "ceremonial" contacts with "beneficiaries" are not sufficient.

  Human rights based local WatSan governance includes mechanisms, strategies, processes and procedures that will provide the venue and opportunities for participation of these groups in addressing issues of accessibility, acceptability, affordability and quality of water.

- **Accountability.** Rights based approaches focus on raising levels of **accountability** in the development process by identifying Claimholders and their entitlements and corresponding Duty Bearers and their positive obligations to respect, promote and protect, provide and fulfill. They take into account the duties of the full range of relevant actors and players in local water governance, including individuals, States, local organizations and authorities, private companies, donors and international institutions.

  The approaches also provide for the development of adequate laws, policies, institutions, administrative procedures and practices, and mechanisms of redress and accountability that can deliver on entitlements, respond to denial and violations, and ensure accountability. States are required to take immediate steps for the progressive realization of the rights, so that failure to take necessary steps, or any retrogressions, will flag a breach of the State's obligations.

- **Non-discrimination**. Particular attention is given to **non-discrimination**, equality, equity and vulnerable groups. To be able to answer the questions of who is vulnerable in every given context, development data need to be disaggregated, as far as possible, by race, religion, ethnicity, language, sex, and other categories of human rights concern. Human rights-based local water governance ensures non-discrimination, equity and inclusiveness-- for all members of the community to feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires all groups, particularly the most vulnerable to have opportunities to improve or maintain their well-being.

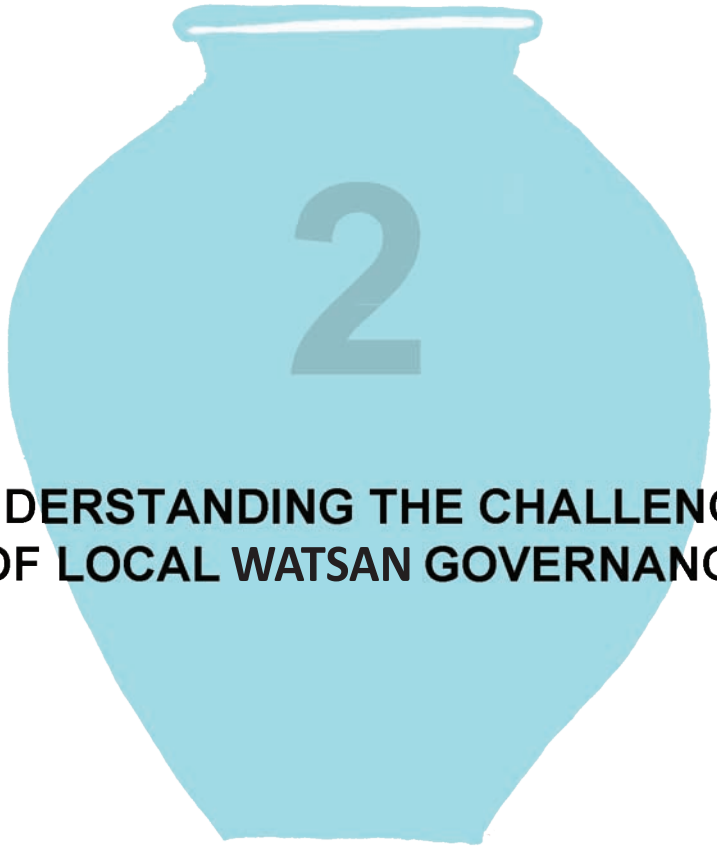
- **Transparency** means that decisions taken and enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided in a timely manner and that it is provided in easily understandable forms and media.

- **Empowerment**. Rights-based approaches give preference to strategies for **empowerment** over 'charitable' responses. The focus is on beneficiaries as the owners of the rights and the directors of development, and emphasize the human person as the center of the development process. The goal is to give people capacities, capabilities and access needed to change

their lives, improve their own communities and influence their own destinies.

- **Rule of Law.** Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of indigenous peoples. Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force. The human rights-based approach to local water governance underscores that the government as the Duty Bearer is responsible and answerable for the realization of rights to water and sanitation.

SECTION



2

UNDERSTANDING THE CHALLENGES OF LOCAL WATSAN GOVERNANCE

SECTION 2

UNDERSTANDING THE CHALLENGES OF LOCAL WATSAN GOVERNANCE

The Local WatSan Governance framework discussed in Section 1 highlighted several critical local governance issues such as:

1. Guaranteeing transparent, accountable and participatory water decision-making;
2. Addressing power asymmetries in water supply, provision and access;
3. Reaching those most vulnerable;
4. Ensuring affordable water;
5. Avoiding discrimination in water supply, provision and access(gender, culture, beliefs, indigenous peoples);
6. Ensuring quality water services;
7. Ensuring regulatory, enforcement, monitoring and follow-up capacity;
8. Establishing effective recourse mechanisms (conflict management and resolution);
9. Addressing corruption; and
10. Addressing climate change (including disaster risk reduction).

This section takes you through seven chapters explaining the different challenges in local water governance you may encounter along the way. Being thus armed and forewarned you may be able to turn these obstacles into opportunities.

Chapter 1: Enhancing Integrity in Water
Chapter 2: Capacity Challenges in Water
Chapter 3: Knowing Climate Change and Disaster Risk Impacts
Chapter 4: Understanding Conflict in Water
Chapter 5: Water Issues in Culture and Indigenous Practices
Chapter 6: Gender, Water and Sanitation
Chapter 7: Water and Sanitation Financing

ENHANCING INTEGRITY IN WATER

CHAPTER
ONE

With water being a scarce natural resource, its judicious and transparent allocation is needed to sustain the livability and harmony of developing human communities. Deficiencies in water levels bring about incalculable losses – economic, political, social, cultural and environmental – that create conflicts among its manifold users. As a public commodity or good of real economic value, however, it is not insulated from political influence, or from issues of governance affecting accountability and integrity. It is even more vulnerable to **corruption**.

Corruption multiplies the costs of poor management by distorting the normal procedures in all aspects of water. According to the World Bank, it literally and figuratively drains the water sector. It reduces the usefulness of water development programs by undermining the fullest extent of financial, institutional and technical aid directed towards bridging the structural weaknesses that beset the most vulnerable or persons living in poverty. Whether the practice is perpetrated through petty favors at the level of consumers, or grand abuses at the level of big government, corruption retards economic growth, discourages business, and violates human dignities everywhere. When committed in the water sector, it prevents access to critical upgrades in water and sanitation, while unfairly extending concessions and other gains or benefits across to significant players in the sector.

What complicates corruption in the water sector is its discreet nature, which diminishes efforts at meaningful address. Due to the fact that many perpetrators in government and business go to great lengths to conceal their questionable transactions, the steps taken to strengthen anti-corruption measures (such as whistle-blowing, monitoring policies and instruments, countervailing directives and other punitive measures) have not been able to curb alleged irregularities and illegalities with any real and permanent effect.

Concepts and Principles

Corruption is both *a cause and effect* of weak governance. As corrupt practices are tolerated and coddled by parties with vested interests, the incentives for distortionary or undesirable behavior[1] among agents are amplified. Covert schemes are used by public and private sector elements to gain advantages and favorable trade-offs in the outcomes of their respective party-to-party transactions. Likewise, the non-enforcement of anti-corruption policies propagates the culture of impunity wherein high officials in both national and local government would engage in high-risk activities without fear of disclosure and reproach. In such cases, persons living in poverty become the victims, since their economic immobility and lack of service options impels them to patronize or even depend on the dubious magnanimities of their public officials.

1 *Accessing insider information, kickbacks on supply contracts, cream-skimming consumers, etc.*

Even where government regulations are more stringent and costly, the character of corruption evolves vis-à-vis these stopgaps. Hence, the need for effective, consistent measures for monitoring and policing areas of water operations where targeted consumers are particularly tolerant.

Alleged proclivities in corrupt behavior in the water sector include fraud, embezzlement, bribery, collusion, nepotism, and expropriation. These acts fall into three categories:

- ***Between public officials and other public officials*** – typically concerns the reallocation or misallocation of public funds for self-gains, and the extraction of bribes or favors among WSS-affiliated government managers.

- ***Between public officials and private parties*** – typically includes collusive behavior, bribery and fraud that take place during licensing, procurement and construction of WSS facilities, and bidding and awarding of contracts.

- ***Between public officials and users/citizens/consumers*** – typically delves into administrative corruption that exploits rent from less privileged beneficiaries in the community.

MUST KNOW

Case in point, the **Global Corruption Report (2008)** discloses that steep connection costs – equivalent to 2-9 months of income among the poorest 20% – in surveyed, emerging cities of Southeast Asia and Africa compel families living in poverty to tap the services of informal water service providers (WSPs) who charge much more on a per unit basis. These informal WSPs tend to operate from beneath – or over – the coverage of regulators, hence are able to set arbitrary payment terms, extort from unaware customers, and terminate services without due notice.

As a finite good, the vulnerability of water implies that the way forward in the sector is to reestablish accountable and culpable systems of governance that mitigate corrupt behavior and penalize it when committed. From a global perspective, the impact of a corruption-free sector is significant: a well-governed water regime can potentially save anywhere between 20-70%[1] of water resources that can be allocated for more pivotal priorities elsewhere[2].

These resources freed up can dramatically augment levels of water service across to waterless communities in impoverished regions, to reconstruct water supply infrastructure, and to improve internal, O&M systems in areas where competing demand over limited potable water need proper attention. Alternately, savings recovered from corruption losses can also be used to pump-prime agricultural productivity, which,

1 Kochuran, Mathew, Suma, Zachariah, and Roy Joseph. Preventing Corruption, Encouraging Transparency and Accountability in the Water and Sanitation Sector: A Case Study from Kerala, India. Socio-Economic Unit Foundation, WATERAID
2 This can be harnessed to accomplish the sublime Millennium Development Goals (MDG) for sustainable water and sanitation services that marginalized societies can better access

in turn, promotes inclusive local economic development in underdeveloped areas.[3]Last but not least, lower incidences of corruption in water generate multiple gains in public trust, business perception, and consumer welfare.

SOMETHING TO PONDER

The impacts of a corruption-free sector is significant … can potentially save anywhere between 20 % to 70% of water resources that can be allocated for more vital priorities elsewhere."

Determining Risks

In a report prepared by the ADB, (Guidance Note on the Urban Water Supply Risk Assessment) the following have been listed as generic sector risks that can be identified at various stages, and prioritized in terms of likelihood and seriousness.

Table 2.1: Urban Water Supply Sector – Examples of Generic Sector Risks

1. Institutional Risks

Dimensions	Risk
1.1 Policy	• Vested political and business interests influence the focus of policy and investment priorities by pushing for sector investments that provide high levels of return for themselves and/or their cronies. These can undermine sector responsiveness to actual needs. • Policy makers have little regard for improvements in sector governance capacity and in the governance framework, which can impair sustainability of sector investments. • Policy decisions to source water from surface water and groundwater can create opportunities for corruption from the construction of treatment plants and procurement of chemicals. • Policies that fail to study connection fees and tariffs for low income households can hamper the poor's access to piped water supply.

1.2 Legal framework	• The absence of a legal framework for managing contracts, along with ill-defined responsibilities and risk-sharing arrangements, can pose corruption risks.
1.3 Regulation	• Lack of capacity to balance the needs of customers and the industry can weaken the sector's viability. • The lack of financial and management autonomy of the regulator can undermine independent sector regulation. • Utilities secure waivers to regulations and licensing in return for unofficial payments to bypass established standards or procedures. These can compromise efforts to provide a fair playing field. • Repetitive procedures for obtaining clearances have no time limit for the final decision. These can work against efficiency and provide opportunities for staff to ask for bribes. • Lack of capacity for implementing public information and outreach systems can create regulatory distrust.

2. Organizational Risks

Dimensions	Risks
2.1 Planning	• Absent or inefficient water delivery arising from inadequate planning can result in the purchase of expensive water from water providers. • Limited capacity for informed participation by customer groups, industry and professional associations, and other civil society organizations in sector planning processes can weaken responsiveness of sector plans.
2.2 Financial Management	• Inadequate financial management capacity (computerized planning, executing, monitoring, and reporting) in sector agencies and utility companies can impair sector performance and optimal resource uses. • Unpredictable budget execution can lead to unplanned reallocations and reduce resources available for priority expenditures. • Inadequate revenue streams to cover operations and maintenance costs, including depreciation, as well as to provide a return on invested capital can lead to poor service quality and undermine new investments. • Weak enforcement of internal controls on revenue and expenditure management can lead to misuse of funds and fraud.

Dimensions	Risks
	• Weak accounting systems and record-keeping practices can hamper provision of timely and adequate information on revenue streams, expenditure flows, liquidity, and debt levels/arrears. • Incomplete recording of transactions due to technical weaknesses and/or disregard for comprehensiveness and accuracy can obscure fraudulent activity, impede auditing, and restrict management control. • The lack of relevant external audits of sector agencies and utility companies can weaken accountability.
2.3 Procurement	(i) Procurement Planning • The absence of procurement professionals and competent engineers can lead to loose contracts, legal disputes, and non-delivery of services. • Technical specifications suit favored contractors, which can preclude competitive procurement. • Large capital projects present opportunities for large-scale procurement, which can create vulnerability to leakages when transparent procurement processes are not used. (ii) Advertising • Limiting the dissemination of information on procurement opportunities to well-connected private companies can compromise procurement based on best-value or expertise. (iii) Prequalification and Bid Submission • Unexplained delays in the procurement process can allow secret late bids or enable decision makers to canvass bidders in an attempt to extract bribes. • Potential investors who offer to conduct a feasibility study at no cost and submit unsolicited bids can create inequitable opportunities to gain an inside track on contract rights. (iv) Bid Evaluation • Disqualification of bidders and/or selection of high-priced bidders without sufficient justification can pose corruption risks. (v) Award of Contract • Officials who work in the sector use their influence to direct contract awards to selected companies. Inflated prices (e.g., capital works, supply of chemicals, vehicles, and equipment) fund kickbacks to officials, which can compromise quality of works and/or services.

	• In the case of construction contracts, selection and award of contract to the lowest bidder, followed by change orders increasing the price, or changing the specifications, or reducing the quality or volume of goods and services can pose corruption risks. Renegotiations, if non-transparent, present opportunities for making illegal gains. • In the case of public–private partnerships, bribes from the private water provider can lead to the issuance of contracts that grant favorable terms in relation to exclusivity, contract duration, and coverage of revenue-rich service areas. (vi) Contract Management • Officials accept or excuse substandard work and materials, and then want to re-hire the same contractor due to kickbacks from the contractor. Substandard services subvert sound resource uses. • Falsification of inspection certificates and quality tests can pose risks from corruption. • Large contracts with utilities in an environment characterized by weak watchdog institutions can provide opportunities to decision makers for making illegal gains. • Lack of public capacity to manage complex contracts can lead to a high cost of services, unacceptability of services to customers, and unjustified gains for the private sector. 2.4 Human Resources • Conflict of interest with regard to staff appointments, especially senior level appointments with decision-making authority for the sector, can interfere in the performance of staff duties and lead to actions that favor certain contractors and political patrons. • Nepotism and corruption allow promotion of unqualified personnel, which can compromise responsive service delivery, and create an environment in which staff members have limited incentives to perform well.

3. Sector Operations

3.1Water harvesting and storage	• Poor water reservoir management that leads to inefficient and unreliable water supply can provide opportunities for corruption.

3.2 Water treatment	• Kickbacks from the construction of water treatment plants can pose risks from noncompliance with specifications and substandard quality of capital works. • Lack of compliance with water quality standards and ill-maintained water treatment facilities can provide opportunities for water utilities and wastewater companies to bribe law enforcers in return for ignoring such violations. • Diversion of inputs such as chemicals for water treatment for resale or other unauthorized uses can provide illegal income for utilities personnel.
3.3 Distribution	• In return for side payments, pumps or tanks are located where they benefit the elite and other favored groups. Preferential treatment by water utilities leads to inequitable access to water supply. • Private vendors and cartels collude with public officials to prevent network extension and preserve their monopoly over provision of water supply to specific neighbourhoods. This forces customers to rely on overpriced and potentially unsafe water from vendors and cartels.
3.4 Customer Interface	• Water connection: Undue connection delays can provide opportunities for utility staff to ask for bribes to install water connections. Utility staff may also ignore or conceal illegal connections in exchange for side payments from customers. • Non-network water supply: Water utility staff members use utility tankers to provide illicit water supply to customers in exchange for unofficial payments. • Meter reading: Meter tampering and broken meter seals can pose risks from inaccurate billing of used water supply and provide opportunities for corruption. • Payment and correction of bills: A high incidence of billing disputes or bill corrections can create opportunities for bill collectors to extract side payments. • Repair service: Poor maintenance of complaints records and undue delay in attending to complaints can push customers to pay unofficial fees to hasten resolution of complaints.

Dimensions	Risks
	• Meter installation and replacement: Delays in installing water meters and replacing defective meters can provide avenues for consumers to offer side payments to utilities personnel in return for a flat water consumption rate for a prolonged period. • Disconnection: A high level of receivables and defaults in bill payments can contribute to corruption risks. Utility staff sent to disconnect a customer may accept payment for leaving the customer connected, while reporting to the utility that the disconnection has been done. • Reconnection: Delays even after rectification of cause for disconnection can provide opportunities to extract bribes from customers in return for preferential treatment in the restoration of water supply.

Sources:
(i) ADB Urban Water Supply Sector Guidance Note Preparation Team.

(ii) Halpern, Jonathan, Charles Kenny, Eric Dickson, David Ehrhardt, and Chloe Oliver. 2008. Deterring Corruption and Improving Governance in the Urban Water Supply and Sanitation Sector: A Sourcebook. Water Working Note No. 18. Washington, DC: World Bank. http://go.worldbank.org/HC582BJRE0

(iii) Plummer, Janelle and Peter Cross. 2007. Tackling Corruption in the Water and Sanitation Sector in Africa. In J. Edgardo Campos and Sanjay Pradhan, eds. The Many Faces of Corruption. Washington, DC: World Bank.

National and Local Situation

From a Philippine perspective, corruption in the national/local water and sanitation sector stems from the politicking of water as an economic resource and from inconsistencies in the design and lack of transparency in the implementation of institutional policies. In addition, the notion of rather slow and inefficient public service encourages rent-seeking behavior in both the Community (as customer) and the Duty Bearer (government) when the community wishes to facilitate a transaction with the government and the government takes advantage of the expressed need for facilitation.

Rent-seeking, in this sense, extracts profit by manipulating and exercising undue discretion where economic activities take place. Rent-seeking schemes flourish because both public and private sector agents can gain disproportionate economic rent (bribes) or "lagay". Through their undisclosed arrangements with other public parties, private individuals and firms are then extended "*special economic privileges*" in exchange for the "bribes" or "SOP" in the local parlance. Such privileges may include guaranteed project contracts during tendering, falsified project permits, or turning a blind eye towards unmet standards and regulations. This collusive behavior tends to collapse systems that support the rigorous and transparent evaluation of projects and proposals. Under a regulated regime, principal operators in the water sector may also buy off the regulator for more favorable conditions instead of being compelled to raise performance in order to meet performance and efficiency benchmarks.[4]

Similar rent-seeking arrangements in the Philippine water sector are rampant in big-ticket waterworks

contracts up for bidding and procurement. Private contractors perceived to have previous affiliations with influential members of the implementing government agency have the distinct advantage in winning bidded contracts. The payoff for the government being but a modest percentage of the contract cost. The community, however, suffers a bigger deal from having utilized substandard materials for water supply infrastructure, which possibly leads to unclean water, higher incidences of water loss (NRW), and additional costs for pipe replacement and rehabilitation.

In less emergent towns characterized by subpar water supply, distortionary rent-seeking and corrupt behavior are unfortunate byproducts of the short mandates enjoyed by elected local officials. Pressured and swayed on by their local voting public to accelerate the construction of small infrastructure projects, LGU and municipal officials supposedly enter into swift, shady exchanges with suppliers and local agency offices to curry favor with their electorate. In the same manner, suppliers are prone to overpricing goods and materials before knowing local bids-and-awards committees (BACs); reflecting only the true cost of commodities when it conveniences them or when the long arm of the law looms close. This disenfranchises the local community of their inalienable rights to honest public service and accessing water that is safe, reliable and affordable.

Because of their conscription to flawed, compromised systems in government, it is not incumbent on most LGU-operated WSPs to correct their operating inefficiencies, or to improve their fiscal autonomy. Even the benchmarking program launched by the Department of Interior and Local Government (DILG), which is supposed to encourage and elicit reforms in WSP sector performance, has lacked an adequate budget and logistical engine to penetrate other targeted provinces.

In many barangay and municipal-operated WSPs, tariffs are not set to market-based rates, but on untenable, self-serving political calculation. Unlike water districts (WDs) and private operators, LGU-run water utilities tend to dictate upon the movement or non-movement of water rates, thereby failing to reflect the real costs of water service delivery, asset maintenance and replacement. On the one hand, LGU executives say that water rates must be priced in accordance with the socioeconomic limitations of the voting public, majority of whom consists of low-income families in urban fringe and coastal territories. On the other hand, uneven consideration for "sensitized" tariffs prevents the water operator from generating sufficient revenues needed to cover new local investments and other water and sanitation improvements. Since internally-generated funds are not readily available, municipal WSPs resort to government borrowings and subsidies that are coated in political indebtedness and attendant hazards.[1]

Other Contentions

1 And even as the national economic regulator for water, the National Water Resources Board (NWRB) is enjoined to review and approve water rate applications of WSPs nationwide, its power does not obligate LGU-

As water supply is a natural monopoly, opportunities for inefficiency, profit-taking, and poor governance are almost assured. People will pay for water service even if it is known that such costs are inflated by inefficiencies, technical losses, and corruption. At the Local Water Utilities Administration (LWUA), which is the lynchpin of water sector development in urban areas outside Metro Manila, there have been rousing allegations of exploitation and administrative corruption. Water districts (WD) are riling against the LWUA Board for allegedly benefiting from the agency's public coffer originally intended for augmenting Level 3 – or piped water – water supply service and access. LWUA officials have likewise been disparaged by a 20,000-strong national federation of employees' unions and associations comprising WDs and other WSPs, who are protesting against the Board's unscrupulous receipt of monetary benefits amidst a holdout on the customary benefits of LWUA employees.

The privatization of the water sector in highly urban parts of the country has likewise drawn criticism for its negative effects on employment and the community. The Water Systems Employees Response, a national union of water employees, contests that government proposals for the further privatization of water supply service in various provinces will lead to massive job layoffs as a result of systematization and automation of various utility functions. It is also claiming that as private operators are intrinsically profit-driven, there will be a tendency for tariffs to scale up in order to recover O&M expenses. This, in turn, further diminishes the ability of urban households living in poverty to access clean, piped water.

Addressing Corruption in Water

According to the World Bank, an effective anti-corruption strategy needs to address three key elements:

- **Increasing political accountability**

  There is a direct link between corruption and accountability. An accepted notion is that if roles and responsibilities are agreed between the claimholders and the duty bearer, greater accountability can be created, and so corruption can be substantially mitigated. Greater accountability tempers discretion and control, which are often used as leverage to favor one party from the other. Likewise, country surveys on corruption, information and education campaigns, and diagnostic analyses are proven means in which organizations can raise the awareness of policymakers and the general public with respect to good governance.

- **Strengthening civil society participation**

  Reorienting the government and the community in human rights principles of good governance (participation, transparency and accountability) is an effective way of ensuring integrity in water and sanitation provision. The creation of civil society organizations that monitor and report on the

HELPFUL HINTS

The People Network for the Environment asserts that the motives for private profit are clearly depriving the public from the benefits of improved water resource and wastewater management. The NGO exclaims that as a result of precipitous privatization, commitment to public service in areas of drainage and sewerage development has waned, or has at the very least, become but considerations in the bigger context of profit-taking. A study by the group revealed that despite the supposed technical and managerial awareness of private operators, 95 percent of wastewater from households are still directly transported to groundwater, public canals and drainages which flow into important water bodies. This poses a mounting problem in Metro Manila where domestic and industrial waste stockpile; only 15 percent of the urban population are currently connected to a centralized sewer system. The government is instead being asked to step up its efforts of upholding reliable water and sanitation service, crafting laws and implementing programs that will orient the utilization of water resource towards the public good and needs, and not towards mere business gains.

Duty Bearer and the WSP's activities should be encouraged. Ideally, these CSOs should be in the form of a "citizens watch" organization that participates in the development and implementation of programs to promote water integrity and looks into and investigates alleged concerns on corrupt practices and activities. A separate "citizens watch" group may not be necessary in cases where there is a strong regulatory regime at work, and where Claimholders have organized a water users' or consumers' association.

- **Setting up clear systems and procedures**

  In all phases of water and sanitation development and management, a critical factor to ensuring transparency and rule of law (principles that promote integrity) is the adoption and implementation of well defined systems and procedures that are communicated and understood by all the actors (Duty Bearer, Claimholder, WSPs and other actors). From policy development to planning and design of the system and until a water utility is operational, clearly written operating guidelines and systems and procedures minimize the opportunities for exercising discretion and provides a paper/audit trail that will discourage the commission of corrupt and fraudulent practices.

What Skills are Needed

KNOW MORE

The Water Integrity Network (WIN) was formed in 2006 to respond to increasing concerns among water and anti-corruption stakeholders over corruption in the water sector. It combines global advocacy, regional networks and local action, to promote increased transparency and integrity, bringing together partners and members from the public and private sectors, civil society and academia, to drive change that will improve the lives of people who need it most.

WIN's vision is a world with equitable and sustained access to water and a clean environment, which is no longer threatened by corruption, greed, dishonesty and wilful malpractice. In this vision a growing proportion of politicians, decision-makers, operators and water-users will feel compelled to engage in promoting water integrity, and work to preserve water and a clean environment as a common good. Efforts to overcome corruption and its negative impacts will result in a profound change in behaviour towards water. Poverty will be significantly reduced through improved water governance rooted in high levels of transparency, integrity, accountability and participation.

SOMETHING TO PONDER

Good Local Governance Practice

Naga's practice of allowing NGOs to sit at deliberations of special bodies and the city council, and in effect, help run the city, and posting the disposition of its funds and results of its bidding processes on its website is a good practice that promotes intergrity. Other cited practices include:

- Having a simple lifestyle, low-cost expenses in city hall, transparency and accountability;
- Putting more emphasis on those who really work for good governance; and
- Creating a coalition of local government officials who are committed to promoting good governance, transparency and accountability (Robredo, Padaca and Panlilio).

Transparency and Accountability Network

The **Transparency and Accountability Network (TAN)** is a coalition of multi-sectoral organizations (now 25 in number), which seeks to contribute significantly to the reduction of corruption in the Philippines. It is a non-stock, non-profit organization formed primarily for the purpose of exchanging information on developments and initiatives in transparency and accountability issues. It was established in 2009 within the context of heightened concern over the lack of transparency and accountability in governance, which ultimately led to People Power II.

TAN is also a venue for organizations to come together and embark on initiatives of common interest, whether involving the entire network or a group of like-minded organisations within the network.

TAN envisions a Philippines characterized by transparent, accountable, efficient and effective public institutions and an informed, empowered and involved citizenry intolerant of corruption. Specifically, TAN aims to:

- Serve as a mechanism for coordinating transparency and accountability initiatives of civil society;
- Engage government, the private sector, and the citizenry in a comprehensive strategy to promote transparency and accountability; and
- Formulate, advocate, and where appropriate, implement strategic reform initiatives.

A member of the TAN, the **Concerned Citizens of Abra for Good Government (CCAGG)** was founded in 1986 – the year the county saw the toppling down of the Marcos dictatorship. During that tumultuous time, CCAGG chose to give meaning to people power through sustained citizen participation in governance. The past 25 years have seen CCAGG at the forefront of empowering the citizens of Abra and other parts of Northern Luzon through various activities and programs and by sharing their experiences and lessons learned to other civil society organizations across the country. This group of former NAMFREL volunteers have also been teaching the citizens of their rights to participate in local governance and providing them with tools and support to meaningfully take part in decision making processes.

Suggested Measures for Addressing Corruption

In addition to the foregoing measures for addressing challenges to integrity and minimizing corruption risks, hereunder are specific ways that may help control or mitigate corruption in various levels of interaction among the actors in the sector:

Table 2.2 Measures for Addressing Corruption

1. POLICY MAKING AND REGULATION

1.1 Public – Public

Threats and Risks	Control and Mitigating Measures
a. Policy and regulatory capture over management of water resources, competition and inter-departmental collusion	• Clear definition of functions and responsibilities between policy making and regulatory bodies to avoid collusion and conspiracy; and • An independent regulatory body that will ensure the rights of the claim-holders and the obligations of the duty bearer. In cases where the LGU is also the WSP, there should be a strong and independent regulatory body. If such is not immediately tenable, then the creation of a water users' group, a "citizens watch" organization shall be undertaken.

1.2 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Bribery for water rights, extortion for permits and processing of permits.	• Clear guidelines on requirements for application that are well communicated will reduce the opportunities for extortion in the processing of permits; and • Tracking of target vs. actual time to process permits can possibly indicate attempts to extort bribes.

1.3 Public - Users/Citizens/Consumers

Threats and Risks	Control and Mitigating Measures
a. Bribery to silence public protest over environmental and social impacts.	• Expeditious EIA waivers only allowed when project proponents want to avoid costly delays in their respective assignments. An improved process for synching of timetables and covenants must be discussed during planning stages.

2. PLANNING AND BUDGETING

2.1 Public – Public

Threats and Risks	Control and Mitigating Measures
a. Distortionary decision making by politicians (location/ type of investment).	• Community participation when making a decision on the location of the investment; and • Basis for decisions should be made public.
b. Diversion of funds to individuals, other projects - inter- -ministerial bribery for fund allocation	• Joint Monitoring committees at the provincial and the local levels to provide oversight; and • A dedicated program management unit with representatives from the community to oversee planning and undertake monitoring.
c. Corruption in local budget management	• Strict conduct of monthly meetings with partners and proponents to monitor physical and budgetary conditions, and financial progress and review documented transfers; and • Report on actual vs. budgeted expenses for water projects.

2.2 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Bribery to influence allocation of funding to higher capital investment projects, grant of water rights, extortion for permits and processing of permits.	• Community participation when making a decision on the location of the investment.; and • Minutes for all important decisions should be made available and intel- ligible to community and be accounted for by LGU management and the project proponents.

MANAGEMENT AND PROGRAM DESIGN

3.1 Public – Public

Threats and Risks	Control and Mitigating Measures
a. Corruption in personnel management	• Clearly defined qualification standards and transparent recruitment procedures; and • Institution of an independent Ombudsman on a retainer basis, who will adjudicate over pressing governance/legal issues concerning management and the WSS organization.
b. Distortionary decision making	• Minutes for all important decisions should be made available and intelligible to the community and be accounted for by LGU management and the project proponents.
c. Corruption in local government department planning and budget management	• Strict conduct of monthly meetings with partners and proponents to monitor physical and financial progress and review documented transfers.

3.2 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Bribery to shift design to increase potential for kickback and fraud	• Disputes/problems concerning project design, scope and scale are worked out with the community representatives and WSPs

3.3 Public – Users/ Citizens /Consumers

Threats and Risks	Control and Mitigating Measures
a. Influence decision making to benefit some users (project level site selection, equipment, construction.	• Only identified vulnerable households are qualified for sanitary/latrine and related subsidies (i.e., lifeline consumers). No money is given, but these households get free-of-charge construction service for these sanitary facilities by trained workers. Allocations of such subsidies or privileges are verified by displaying lists for public review;

Threats and Risks	Control and Mitigating Measures
	• Disputes/problems are worked out with the community; • Awareness campaign at the community level through regular discussions and conventions on planned and on-going projects of the LGU; • Community plays a central role in deciding the type of WS and sanitary system that will be adopted such that a more affordable and viable system can be designed/selected; • Technologies are selected by the community after a thorough discussion on different options; and • Design of community empowerment plan and training to retool community/consumer representatives engaged in the project design and development.

TENDERING AND PROCUREMENT

4.1 Public - Public

Threats and Risks	Control and Mitigating Measures
a. Administrative corruption (fraud, falsification of documents, silence payments)	• Minutes for all important decisions and purchases should be made available and intelligible to community stakeholders or consumer representatives, and be accounted for by LGU management and the project proponents/WSP; • Stricter implementation of "RA 9184 – The Government Procurement Reform Act" through a multi-stakeholder committee that provides a separate, independent evaluation or inspection of the process; • Frequent rotation of members of Bids and Awards Committee (BAC) in order to avoid collusive behavior and discreet relations or deals; and • Having a credible and independent third party observer to sit in BAC evaluation meetings (like representatives from PICPA, academe and other professional groups).
b. Inter-department/ agency collusion over corrupt procurement, fraudulent construction	
c. Cover up and silence payments linked to corrupt procurement	

Threats and Risks	Control and Mitigating Measures
d. Kickbacks in cash or jobs to help politicians secure preferred contractors e. Bribery/kickbacks to influence contract/ bid organization f. Kickbacks to win large scale projects: to secure contracts, to influence negotiations, for information	• Information is given to all concerned on the quality and quantity of materials needed and purchased. While procurement contracts may contain discrepancies in quantity, quality monitoring on the other hand must receive more attention from stakeholders; • Guidelines on construction works, purchase of materials and audits, including formats for each, are given through rapid, on-site training on procedures. This ensures parity among WSP project managers, LGU officials and the community; • Exploration and inspection of local market and companies to secure actual pricing of bulk purchases; and • Materials purchased through quotations approval by a committee after having conducted comparative study.
g. Corruption in supply procurement/ inflated estimates for capital works, supply of chemicals, vehicles or equipment	• Contractors are not engaged for the entire body of work, but instead suppliers are contracted only for specific inputs and activities. There must be direct supervision by trained project community representatives, private or civil society organizations as well as technical committees at the LGU level; and • Purchase of materials must be as stated in the planning proposal and technical specifications report that has been deemed viable and approved by the Program Management Unit (PMU), and by joint stakeholder committees.
h. Corruption in delegating O & M: awarding contracts, overestimating assets, selection type, duration of contract, exclusivity, tariff/subsidy decisions	• In householders' workshops and consumer representative meetings, participants reviewed technology options, costs and cost-sharing arrangements with technicians. Agreements can be signed upon reaching a reasonable consensus; and
i. Corruption in local government department planning and budget management	• Guidelines on construction works, purchase of materials and audits, including formats for each, are given through rapid, on-site training on procedures. This ensures parity among WSP project managers, LGU officials and the community.

4.2 Public - Private

Threats and Risks	Control and Mitigating Measures
a. Bribery to shift design to increase potential for kickback and fraud	• Community representatives and deputized Task Managers (technically trained volunteers) are responsible for overseeing the purchase of materials and to account for all obligations proper to end-user households and WSPs; • Community members should be aware how prevention of malpractices reduces the amount they must pay and improves the quality of the work and therefore, the service; and • Strict monitoring, evaluation, and reporting of accredited suppliers, which includes information on their operating history, previous and ongoing projects, organizational/business profile and legal underpinnings, must be ascertained at procurement and construction stages.

4.3 Public – Users/ Citizens Consumers

Threats and Risks	Control and Mitigating Measures
a. Influence decision making to benefit some users (project level site selection, equipment, construction	• Consumer representatives or committees are informed about and can countercheck the technical details and the quality standards of materials during construction of the WSS facilities. • Community representatives and deputized Task Managers (technically trained volunteers) are responsible for overseeing the purchase of materials and to account for all obligations proper to end-user households and WSPs. • Community members should be aware how prevention of malpractices reduces the amount they must pay and improves the quality of the work and therefore, the service.
b. Bribery to distort water management, canal construction, sequencing to benefit rich or powerful users	

5. CONSTRUCTION

5.1 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Bribery and Fraud in construction – not building to specification, concealing substandard work, unspecified materials, underpayment of workers	• Strict monitoring, evaluation and reporting of accredited suppliers and contractors, which includes information on their operating history, previous and ongoing projects, organizational/business profile and legal underpinnings, must be ascertained at procurement and construction stages; • Quality assurance measures include: using (generally) locally available, DTI or officially-approved materials, publishing rates on a notice board, ensuring quotations for all main purchases, extracting guarantees for pipes and pumps, ensuring well-written agreements and scheduling payment of a maximum of 80% on delivery and 20% after construction. These should all take guidance from RA 9184; • Model sanitary and water supply facilities are constructed as part of a template/ benchmark from which communities can conclude if desired quality of materials and product had been met; and • An exhibition of construction materials is organized such that participating suppliers and BAC members can commend and comment on the quality of selected items.
b. Failure to complete works, delays	• Local community representatives may contribute to labor and work, and to participate in ensuring the quality of materials used and to determine timeliness of work program.
c. Fraudulent invoicing-marked –up pricing, over-billing by suppliers	• Treasurers and project finance staff from the community should have sufficient knowledge of the detailed accounting procedures and price specifications of raw materials; • Raw materials are returned if they do not meet the agreed-upon and prescribed standard. The materials will not be paid for, while the supplier will be barred from bidding in future tenders in the locale; and • Spot checks will be deployed to inspect receipts, storehouses, tenders, household receipts and government records. Program may be put on hold if deliberate fraud or misrepresentation occurred.

5.2 Public – Users/Citizens/Consumers

Threats and Risks	Control and Mitigating Measures
a. Corruption in community based construction (with similar types of practices as public-private interactions)	• Guidelines on construction works, purchase of materials and audits, including formats for each, shall be given through training on procedures. Generally, officials handle these details. The community also know the procedures and handled some of them; • Construction cannot take place without resident project supervisor not having undertaken or met criteria/qualifications – i.e., education seminars, project development and administration briefs, stakeholder meetings, etc; and • Community members tapped in the project are involved as knowledgeable laborers in the project. A trained voluntary task manager from the community will also assist in overseeing construction.

3 OPERATION AND MAINTENANCE

6.1 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Over – billing by suppliers/ theft, diversion of inputs (chemicals)	• Quality assurance measures include: using (generally) locally available, DTI or officially-approved materials, publishing rates on a notice board, ensuring quotations for all main purchases, extracting guarantees for pipes and pumps, ensuring well-written agreements and scheduling payment of a maximum of 80% on delivery and 20% after construction. These should all take guidance from RA 9184; • In consumer representative meetings, participants shall review technology options, costs and cost-sharing arrangements with technicians. Agreements can be signed upon reaching a reasonable consensus; and • Comprehensive registers must be kept, where applicable to avoid fraudulent behavior: a master roll, registration of beneficiaries, stock register, agreement forms, vouchers and receipts, bank pass book, quotation notices and all received quotations and technical verification notes.
b. Avoiding compliance with regulations, specifications, health and safety rules	
c. Falsification of accounts	

6.2 Public – Consumers/Civil Society

Threats and Risks	Control and Mitigating Measures
a. Administrative corruption for water (access to water – installing/ concealing illegal connections, avoiding disconnection, illicit supply, using utility vehicles)	• All claimholders are paying for the capital cost as well as the full O&M costs. Costs have been publicly calculated and signed for in the agreement. Construction starts only after all payments are made; • Only identified vulnerable households are qualified for sanitary/latrine and related subsidies (i.e., lifeline consumers). No money is given, but these households get free-of-charge construction service for these sanitary facilities by trained workers. Allocations of such subsidies or privileges are verified by displaying lists for public review. Socioeconomic criteria must be well-defined for such incentive schemes to work; and • Joint bank accounts are opened by stakeholder and client representatives to improve risk monitoring, on-site monitoring and accountability.
b. Administrative corruption for speed (or preferential treatment) – irrigation canal repairs, new connections	

7 PAYMENT OF SERVICES

7.1 Public – Private

Threats and Risks	Control and Mitigating Measures
a. Bribery for excessive extraction by industry	• Institution of an independent Ombudsman on a retainer basis, who will adjudicate over pressing governance/legal issues concerning management and the WSS organization; • Only a water users' member can exempt households living in extreme poverty from cash payments of construction costs. Other "persons living in poverty" then pay their costs in labor (in-kind) and/or cash. Decisions are documented and accounted for; • Comprehensive registers must be kept, where applicable to avoid fraudulent behavior: a muster roll, registration of beneficiaries, stock register, agreement forms, vouchers and receipts, bank pass book, quotation notices and all received quotations and technical verification notes; and • Record of monthly payments and remittances/transfers must be impeccable and updated regularly.
b. Bribery, collusion in falsified billing in commercial irrigation and industry	

7.2 Public – Consumers/Civil Society

Threats and Risks	Control and Mitigating Measures
a. Administrative corruption: – repayment/billing for WSS and irrigation water	• Bank accounting will be transparent, verified by non-beneficiary groups and audited by external auditors; • Zero tolerance policy for fixers must be enforced; • Only a water user' member can exempt households living in extreme poverty from cash payments to construction cost. Other "persons living in poverty" then pay their costs in labor (in-kind) and/or cash. Decisions are documented and accounted for; • Minutes for all important decisions and purchases should be made available and intelligible to community stakeholders or consumer representatives, and be accounted for b y LGU management and the project proponents/WSP; • External, independent audit of accounts is performed, where negative audit results are referred to LGU staff, NGOs and the community. No money will be released until the situation is rectified; and • Spot checks will be deployed to inspect receipts, storehouses, tenders, household receipts and government records. Program may be put on hold if deliberate fraud or misrepresentation occurred.
b. Fraudulent meter reading, avoidance or partial payment, overcharging	

A SIDE STORY

Water sector corruption called an 'overlooked threat'
June 27, 2008 4:33am

MANILA, Philippines - Corruption, long the bane of growth and development, is also prevalent in the water sector worldwide and is thwarting the global response to climate change and food shortages, watchdog Transparency International (TI) said on Wednesday.

The Philippines is no exception, with limited access, expensive rates, and questionable projects depriving the poor of what TI called "a resource without substitute".

In a 367-page "Global Corruption Report 2008", TI noted that "Corruption in the water sector puts the lives and livelihoods of billions of people at risk. The onset of climate change and the increasing stress on water supply around the world make the fight against corruption in water more urgent than ever."

Muhammad Sohail and Sue Cavill of the United Kingdom-based Loughborough University Water, Engineering and Development Centre said the there was a causal relationship between poverty and the lack of water.

They noted that two-thirds of the roughly 1.2 billion people without access to safe drinking water lived on less than $2 a day. Of the over 2.6 billion who lack basic sanitation, half were below the same poverty line.

"Without economic resources to improve their situation, poor citizens suffer on multiple levels and become trapped in an inescapable cycle. Corruption is a major force driving these problems and the growing global water crisis," they said.

"Income poverty also goes hand in hand with political marginalization, low social status and unequal power relationships."

TI said that even if expanding networks was possible, the private sector may be reluctant to provide services to low-income areas due to vandalism fears. It cited as an example the high cost of securing a water connection in the Philippines.

"Even if all these hurdles are cleared, the costs for directly connecting households to the water network are often prohibitive for poor families. A utility connection in Manila is equal to about three months of income for the poorest 20%, while the equivalent figure is six months in Kenya and more than a year in Uganda," the report said.
The TI added that the lack of access to a connection forces the poor to tap the services of "informal providers" who charge much more. The report said the poor in Jakarta, Lima, Manila and Nairobi pay five to ten times more for water than their wealthy counterparts.

"Residents of Manila without water service rely on kiosks, pushcart vendors and tankers to meet their needs. At a cost of $10-20 per month, it is more than what people living in New York, London and Rome pay for water," it said.

TI said such set-up — lack of access to a formal and legal water connection, limited choice and voice, powerlessness, and a heavy dependence on informal and illicit providers — make the poor "extremely vulnerable to corruption."

Among the practices mentioned were falsifying of meter readings to lower water bills, paying bribes to secure a connection or reconnection, unfair and inaccurate bills, and extorting money from water users to avail of services.

"Fee collection is also vulnerable to corruption when additional middlemen are involved. Local water committee members may steal money that has been collected from residential customers to pay the community's water supply and sanitation bill," TI said.

The study also cited that in other countries like Bangladesh and Ecuador, private vendors, cartels or even water mafias collude with public water officials to prevent network extension or cause system disruptions.

CHAPTER TWO

CAPACITY DEVELOPMENT CHALLENGES

The lack of capacity has always been cited as one of the root causes of poor performance of water utilities, especially in the local water sector. It is in fact one of the major challenges in the water sector that the program on MDGF 1919 aims to address.

According to the study conducted on capacity assessment of WSPs and communities (based on a sample of 18 municipalities of various types of WSPs and with the LGU as policy maker), the highest rated among the WSPs are the water districts with the lowest rating going to the LGU run utilities. The highest score was obtained in the area of budgeting, management and implementation at 3.24 by water districts and the lowest at 1.40 for LGU WSP for visioning and policy formulation.

The study evaluated the capacities of five types of WSPs, the LGU as policy maker and the consumer/ customer of the WSPs along the five functional capacities:[1]

Table 2.3: WSP Capacity Assesment Based on 5 Functional Capacity

Functional Capacity	Water Service Provider						
	LGU -WPM	LGU -WSP	RBWSP	WDWSP	CWSP	PCWSP	Average
Engage Multi stakeholder	2.39	2.01	2.06	2.72	2.00	2.43	2.27
Assess situation and create a vision and mandate	1.67	1.40	1.81	2.66	1.67	3.10	2.05
Formulate policy and strategy	1.86	1.40	1.86	2.91	2.06	2.86	2.16
Budget, manage and implement	2.37	1.94	2.39	3.24	1.42	2.19	2.26
Monitor and evaluate	1.79	1.62	2.31	2.75	1.25	2.29	2.00
Average	2.02	1.67	2.09	2.86	1.68	2.58	2.15

As can be gleaned from the table above, the capacities of the LGU as WSP are considered low in all aspects of the functional capacities across development issues with lowest rating obtained in areas relating to visioning and strategy/policy development. The capacities of the WSPs, (according to the study) in decreasing order, are:

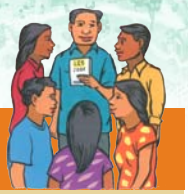
1 Duhaylungsod, Capacity Assessment on Local Water Governance, 2011

Water District > Barangay Administered > LGU and Cooperative

It was also highlighted in the report that there is little regard for capacity development as requirements for sustainable water supplying, nor a strategic perspective in integrating climate change in water management.

Given the scenario where much training for LGU run water utilities is required and where there is a lack of a structured and constant provider of capacity building services, LGU run utilities face a big challenge accessing help for capacity building.

From the findings of the Capacity Assessment Report and other studies that were conducted in the local water sector, it is apparent that there is a lot of work to be undertaken in terms of capacitating the LGU-run water utilities. Numbering about 1,000, and given the low level of skills of LGU to manage water utilities, capacitating them will take a long time plus a dedicated and sufficiently staffed agency to address their capacity building needs. Currently, it is the DILG which provides project-based capacity building to LGU-run water utilities and community-based water organizations.



MUST KNOW

Capacity Development Actions:

a) Policy development and education, and providing the environment for investment on water supply with a political will for climate change –sustainable development water projects;

b) Providing the environment for investment on water supplying capacities on management and technical tools;

c) Providing the environment for investment on water supplying with broadened funding opportunities; and

d) Providing the environment for participation by claimholders/ customers of WSPs in conceptualizing, planning and implementation.

For the complete report on Capacity Assessment on Local Water Governance of N. Duhaylungsod, please refer to the Tubig Yaman Toolbox

MUST KNOW

The DILG through the various programs and projects that it has implemented, conducted training programs and other capacity building activities for various LGUs in the water and sanitation sector. It has developed a good number of training modules and session guides on different aspects of water and sanitation development.

It is conducting training on Ring-Fencing of water utilities. The Ring Fencing Guide is available at the DILG and can also be downloaded from the LWG toolbox.

In Volume 2, Part 1, Recognize the Need (Awareness Building and Community Organizing) and Part 2: Get Together (Planning and Development) of the Handbook, the skills and tools that are highlighted relate more to the way things should be carried out to realize the objective of having access to water. In Part 3, when the water system is already constructed, there are technical capacities or hard skills that are needed by the WSP to operate and manage the water system efficiently.

There are a multitude of activities that happen in the water utility before water gets into the tap and after payment of water bill by the Claimholders. In undertaking these activities, the WSP needs a set of skills and training in each aspect of operation.

Capacity requirements

At the minimum, systems and procedures are needed for the following areas of management in the water utility:

1. Financial Management
2. Human Resources Management
3. Operations and Maintenance
4. Commercial Operations (Customer Service, Marketing, Billing and Collection)
5. General Administration

Different water utilities depending on the WSP model have in place a set of tools, systems and procedures, guidelines and practices that help promote the principles of transparency, accountability, integrity and rule of law. These tools provide controls and enable a systematic and efficient environment in which the water utility operates.

What capacities are available among WSPs?

a) Water Districts. Among the water utilities in the local sector, the water districts have by far the most comprehensive set of tools and mechanisms that guide its routine operations, financial planning, organization and management, tariff setting and structuring, policy development and others. These systems and procedures are standard among the over 500 water districts in the country and are installed/implemented by LWUA through its management advisory and institutional development programs. These include but are not limited to the following:

- Installation of the Commercial Practices System (CPS) in newly formed water districts – this is a hands-on training on financial and commercial systems that is undertaken over a period of 1 to 2 weeks depending on the size of the water district. A follow-up training is conducted after some time to assess compliance with the installed system.

- Training on Operation and Maintenance System - The LWUA also conducts training on a standard O & M system for water districts during its initial years.

- Management Advisory Services – it is a continuing development assistance where a management advisor is assigned to a water district to regularly monitor and assess its development and coordinate/facilitate training on other areas where they need assistance.

- Tariff Design and Structuring – The Water District is also assisted by the LWUA in the design of its tariff. When it submits an application for a tariff adjustment, the water district is guided by a dedicated LWUA personnel in the preparation of the tariff proposal including the calculation of the tariff (using the cash requirement method)

fb) LGU Run Water Utilities. This type of WSP follows the local government accounting system, and has adopted some of the systems and procedures of water districts. Some do not have a clear set of procedures, and are particularly weak on data management. In particular, the financial system of LGU-run water utilities are centralized in the entire LGU. Hence it is difficult to account and report separately the results of operations of the water utility.

Apart from trainings provided by the DILG during the implementation of a project, most LGU-

KNOW MORE

A positive development among LGU run water utilities is the adoption of a ring-fencing system that allows for the separate accounting and reporting of financial operating results of the water utility from the entire LGU.

run water utilities do not receive continuing capacity development that are necessary for them to effectively carry out their task of water service provision.

c) Cooperatives and Small Scale Water Service Providers. These WSPs or water utilities except for some cooperatives have their own prescribed systems and procedures on operation and maintenance and financial management. They do, however, have some reporting requirements from the NWRB if they are CPC holders and thus have to follow some minimal systems prescribed by the NWRB.

What tools and mechanisms are available?

Below is a summary of suggested systems and procedures, mechanisms, guidelines and practices that are already in use among water utilities, especially by the water districts. These are useful tools that are necessary for the efficient operation and management of the water utility and at the same time are enabling instruments for good governance. These tools may be adopted and tailor fit to suit the needs of a water utility, and will be particularly useful for an LGU run water utility.

HELPFUL HINTS

Under the MDGF 1919, the Tubig Yaman Toolbox was developed to provide a set of tools and instruments to develop capacities in the local water sector. The Toolbox includes, aside from the Handbook, a compilation of guidelines and procedures that can be used in operationalizing the Human Rights Based Local WatSan Governance Framework. Most of the materials are available in hard and soft copies or can be obtained from the originating government agency.

Table 2.4: Summary of Suggested Systems and Procedures, Mechanisms, Guidelines and Practices Used by Water Utilities

Mechanism	Description
• Commercial Practices System	The CPS is a standard financial and commercial system that was developed for water districts. This includes a system on financial reporting covering general accounting and financial reporting, budgeting, fixed assets, inventory and procurement, etc. and guidelines in undertaking activities that relate directly to WSP and customer transactions such as billing and collection, customer service and maintenance of customer records.

What agencies provide capacity development assistance?

The discussion below presents the different agencies that provide capacity building assistance to the different types of WSPs:

- **The Department of the Interior and Local Government (Water Supply and Sanitation Unit).** The Department of the Interior and Local Government, specifically the Water Supply and Sanitation Unit (WSSU) of the Office of Project Development Services (OPDS) has been at the forefront of capacity development of LGU-run water supply systems and other water systems (non-water districts). DILG is regarded in the sector as the dedicated agency in the capacity building of LGU-run water systems, and has been involved in most rural water supply projects. Although there is no clear mandate for the DILG over the institutional development of LGU-run water systems, it has evolved as the lead agency catering mostly to these systems.

- **Local Water Utilities Administration (LWUA).** The Local Water Utilities Administration caters mainly to the local water districts which as of 2011 number about 851 and is mandated to take care of their institutional development. For water districts, capacity building is an institutionalized activity that is carried out by LWUA in a structured manner from the time a water district is established. It takes on different forms that are provided at various stages of water district development such as:

  (i) Provision of management advisory services;

  (ii) Technical assistance in the areas of planning, design, construction supervision and operations and maintenance;

  (iii) Installation of financial and commercial practices systems;

(iv) Trainings conducted by a dedicated training department; and

(v) Conduct of operations audit to monitor and evaluate WD performance.

The LWUA has also evolved a set of standard tools and mechanisms that have been proven to be effective instruments for water districts in the efficient delivery of water services. Said instruments have also been adopted by other WSPs in the sector, which were either simplified and/or enhanced to suit individual needs of WSPs.

Aside from having an institutionalized approach to capacity building and long-term experience in developing water districts, LWUA has adequate and trained staff to carry out capacity building activities in all aspects of water utility operations – from planning and development to operation and maintenance.

- **National Water Resources Board (NWRB)**. The NWRB is an agency under the Department of Environment and Natural Resources that is responsible for ensuring the optimum exploitation, utilization, development, conservation, and protection of the country's water resource, consistent with the principles of Integrated Water Resources Management (IWRM). The functions and responsibilities of the agency include:

  (i) Formulation and coordination of policies, programs, and standards relating to the Philippine Water Sector;

  (ii) Management and regulation of all water-related activities; and

  (iii) Regulation and monitoring of water utilities.

- **National Economic and Development Authority (NEDA).** The National Economic Development Authority is the Philippines' highest social and economic development planning and policy coordinating body. NEDA is primarily responsible for synchronizing the implementation of national plans into a cohesive implementable whole. The Infrastructure Staff (Infracom) under the National Development Office is responsible for the formulation of the physical plans for transportation, communication, water, power and energy and social infrastructure sectors. The NEDA does not provide regular training and capacity building programs and activities that are designed to a particular sector. However, it provides trainings on the areas of project development and evaluation, value analysis, BOT law and PPP, and procurement law on a per need basis.

- **Department of Environment and Natural Resources (DENR).** The DENR is tasked to formulate and implement policies and guidelines pertaining to environmental management and pollution and prevention control. Its programs are anchored on poverty reduction, hunger mitigation, social-economic development, conservation of natural resources, climate change mitigation and

environmental education and enforcement.

- **Department of Health (DOH).** The goal of the Department of Health (DOH) is to efficiently reach the highest possible health standards that can be shared by all Filipinos, given the limited resources available for health. This is in line with the administration's thrust to prioritize delivery of services and improve the quality of life of all Filipinos, especially persons living in poverty.. The agency's mission is to guarantee equitable, sustainable and quality health for all Filipinos, especially the persons living in poverty, and to lead the quest for excellence in health. In the project MDGF 1919, providing access to safe and clean water also suggests improved access to sanitation. This is where DOH is responsible. DOH covers the sanitation sector. A regular capacity building program by DOH includes the National Sanitaria Training Course (NSTC) which aims to strengthen the technical capability of the Sanitation Inspectors in the country to better improve their performance as a good trainer, supervisor, community organizer, and leader in the field of environmental health.

- **Local Government Academy (LGA).** The Academy is the country's leading agency for providing capacity building services to local governments. It is tasked to coordinate, synchronize, rationalize, and deliver training programs for local government units and to the DILG personnel. Capacity building services include program design, training implementation, and other forms of technical assistance for all LGUs nationwide. LGA partners with other local and international organizations, which aim to improve local governance in the country, to provide not only the regular programs for LGUs and DILG, but also continuing and upcoming special projects. Programs of the LGA aim to provide services geared towards poverty reduction and anti-corruption at the national and local levels. The LGA as the premier capacity-building service provider for the DILG and LGUs has modified its operations and services with the department's priority programs which include anti-corruption and poverty reduction programs.

What other options are available?

Most of the trainings provided by the agencies discussed in the foregoing except for LWUA are project driven, hence can only be availed when it is tied to a project. Since there is not one mandated agency to take care of the capacity building needs of LGU-run utilities, it becomes imperative for the LGU to actively seek ways to develop the capacities of its water utility and allocate funds for the activity.

The challenge to increase the capacities of LGU-run water utilities and other non-water districts has to be met with a strategic approach as it requires substantial resources. A project-based approach to capacity building that is currently being done by the DILG and other agencies may not be sustainable if compared to an institutionalized approach that is currently provided by LWUA. When capacity building is undertaken as part of a project, it does not always include monitoring and *evaluation if an increase in capacities has been achieved nor a follow-through activity to strengthen* further the areas that are found to still be weak.

What can be done to tap capacity building assistance

- Engage accredited training service providers by the NWRB
- Seek help from nearby water districts in the area
- Request assistance from the WSSU of the DILG
- Access the LWG toolbox – internet and physical toolbox

The Tubig Yaman Toolbox is a good source of capacity building materials. It is available online and/or certain documents can be requested from specific government agencies

KNOWING CLIMATE CHANGE AND DISASTER RISK IMPACTS ON WATER

CHAPTER
THREE

The Road to Resilience

"The origin of all matter is water."
– Greek philosopher Thales

Climate change is the most serious and the most pervasive threat the world faces today. It is a phenomenon which reflects abnormal changes of climate patterns brought about by rising surface temperature caused by greenhouse gas emissions mostly coming from large scale use of fuels in vehicles and factories that rise into the atmosphere and trap the sun's energy, keeping the heat from escaping and thereby altering the composition of the global atmosphere.

The wide range of impacts of climate change is not limited only to the realm of climate science but also to the systems that govern the sectors of environment and natural resources, fishery, agriculture, energy, health, water resources and infrastructure. One of its most noticeable manifestations is the occurrence of extreme weather events such as unusually heavy rains and prolonged droughts that wreak havoc on people's lives, properties, means of living and the whole economy itself.

And actual devastating impacts of climate change operate through and on water resources.

Successive and erratic climatic events that have recently devastated local communities and urban areas in the Philippines severely affected water supply and sanitation service as had been experienced by Cagayan de Oro City in Mindanao in December 2011. Projections by disaster experts suggest that this will continue to happen over time.

It is increasingly becoming clear that much needs to be done to make communities more resilient in the face of natural disasters and to be able to develop and evolve adaptive mechanisms and practices. This will have huge implications for water resources management since its core business is about coping with variability. Conventional water resources management says that excess water from wet periods should be stored so that it can be used during dry seasons and that low-lying areas should be

A SIDE STORY

Climate Change-Proofing Water Resources in Bais City

In Bais City, Negros Orieental, environmental degradation and water contamination threaten the quality of life of its citizens. The deterioration of water quality in the South and North Bays of the city is partly attributed to uncontrolled burning and disposal of solid waste, as well as the discharge of various liquid waste matter.

Consequently, the local government proposed to enhance the municipal waste management system and to promote waste avoidance strategies without creating environmental hazards. A suitable site for the establishment of a central Waste Management and Recycling Center (WMRC) was identified in 1999.

The LGU tapped official German development support and implemented the project in April 2003. The central WMRC integrates a composting plant, a materials recovery facility, a waste water treatment facility and a low-cost landfill with a Bentonite enhanced clay liner, the first of its kind constructed in the Philippines.

Since then, Bais City has been operating the WMRC successfully, increasing waste collection and segregation gradually. The city now collects around 4,000 tons of municipal solid waste per year which are forwarded to the WMRC. Meantime, the recovery of organic waste, which is processed at the municipal composting facility, could increase to more than 30% of collected waste side by side with the reduction of leachate and green house gases (GHG) emissions.

protected from floods and that there should be a balance between downstream and upstream areas.

Climate change and disaster risk adds a new dimension: that the "characteristics of water resources management are much more dynamic, imposing major challenges in terms of more rapid, and more intense and randomly frequent changes. These changes further increase the risks to the quality of life of the poorest…" [1]

The 2006 UNDP Human Development Report says that not responding to the challenges of climate change and disaster risk will have tremendous human costs. It says that the losses will be greatest in some of the poorest countries. It is equally important to note that water governance adaptation to climate change is critical in preserving progress made in the areas of:

- Poverty reduction
- Health
- Economic growth
- Food security
- Preservation of nature and culture

From a WatSan governance point of view, these are critical areas that need to be considered when planning for, and developing water supply and sanitation services.

Although the effects of the new waste management project on disaster management and climate change adaptation were not considered initially, the new

1 UNDP Water Governance Facility

KNOW MORE

Interested in replicating this model? You can get in touch with the Bais City LGU at baiscity.gov.ph or with Oxfam at 4/F 150 Corporate Center, 150 Panay Avenue, Quezon City or http://www.oxfamblogs.org/philippines.

WMRC is credited for providing local expertise,an organizational system, a central waste management facility using appropriate technologies and infrastructure,including and environmental and monitoring and early warning system. The setting up of a new environmental office has contributed to the strengthening of environmental management practices within the LGU and community.

Another milestone was the city's formulation of a new local waste management ordinance in 2008 which provides guidelines and standards for good governance and fair treatment of waste generators based on adequate waste users fees. In turn, the municipal compost production, which supplies a soil enhancer called "Bais Friendly Soil," supports the LGU's reforestation program designed mainly for upland farmers. As a result, local farmers are reducing chemical fertilizer application.[1]

According to the Intergovernmental Panel on Climate Change (IPCC), there are four main factors that impact on WatSan governance:

- Rapid population growth that saw the world's population tripling in the last century and which is projected to rise to 8.9 billion in 2050 and water use has been growing twice the rate of population increases.
- Increased urbanization will focus on the demand for water
- Domestic consumption levels per person are expected to rise significantly
- Climate change will shrink freshwater resources

Given these challenges, local government units and communities would do well to draw from the experiences of other areas in managing water resources in the context of climate change and disaster risk impacts.

In Ecuador, for example, the local government unit of one municipality has learned to engage key stakeholders at various levels (ministries, water agencies, NGOs, other municipal governments) early in the process of planning for and developing a water system taking into consideration climate change effects.

In San Miguel Island, Tabaco City, Albay, a participatory, community-based risk and vulnerability assessment and planning exercise involving five villages provided critical inputs in the local development planning process. A multi-stakeholder workshop was held to validate the community resource assessment and planning and to develop strategies to increase resilience of the coastal communities to climate change related events especially on water systems and sanitary toilet facilities. [2]

1 Rising to the Call: Good Practices in Disaster Risk Reduction and Climate Change Adaptation in the Philippines; Oxfam and the Australian Aid Program

2 Oxfam

KNOW MORE

Find out about the steps, processes, stories, models and experiences relating to CBDRRM by getting in touch with the Center for Disaster Preparedness at www.cdp.org.ph or visit their office at Ground Floor, College of Social Work and Community Development (CSWCD), University of the Philippines.

It is also worth noting that some best practices in adaptation measures for climate change were already implemented by water service providers in the Philippines.

For example, Manila Water's Olandes Sewage Treatment Plant (STP) won an Honor Award (Small Projects Category, Asia Pacific Regional Project Innovations Award, IWA) for an innovative facility amidst a community park that helps reduce pollution in the Marikina River and withstand floods that may occur in the area.

(Source: Manila Water Sustainability Report, 2010, p. 9)

Maynilad Water has also done the same in its water supply plant from Laguna Lake in Muntinlupa. Maynilad's Putatan treatment plant is the first water treatment facility that taps into Laguna Lake, the largest lake in the country and the third largest freshwater lake in Southeast Asia, as an alternative water source to Angat Dam. It is the largest membrane-based water treatment plant in the Philippines, and is also the first of its kind in the country to use large-scale microfiltration and reverse osmosis. The state-of-the-art treatment plant uses a multi-stage process of Dissolved Air Flotation (DAF), Microfiltration, Reverse Osmosis and Chlorination to ensure that the water from Laguna Lake passes the Department of Health (DOH)-issued Philippine National Standards for Drinking Water (PNSDW). (Source: http://www.mayniladwater.com.ph/services-03.php)

HELPFUL HINTS

The newly enacted National Disaster Risk Reduction Management Act of 2010 mandates local government units to establish Disaster Risk Reduction Management Councils (DRRMC) down to the barangay level to ensure community preparedness.

Water and sanitation should be integrated within the DRRM structure and process to ensure that the community's adaptive capacities are developed or strengthened

Increase public awareness through an IEC campaign

Applying the principles and processes of Community-Based Disaster Risk Reduction Management (CBDRRM) can also help you in disaster-proofing your water and sanitation system through a bottoms-up approach.

The national water situation should also inform your decision making. In a discussion organized in January 2012 by the National Academy of Science and Technology (NAST), it was pointed out that the present situation shows a need to improve the current management of water resources.

To improve WatSan governance, the forum suggested:

- Establishing science-based decision support systems including climate change impact models in the conduct of water resources assessment towards improved policies and decision making;
- Conducting research on water efficiency, alternative water management technologies and water accounting especially for irrigation use and promote its implementation;
- Reviewing the Water Code of the Philippines for possible amendment for it to be more responsive to current issues and challenges;
- Implementing policies on the issuance of Water Permit in critical areas;
- Partnering with government agencies, local government units to monitor compliance with the Water Code;
- Deputizing the Department of Environment and Natural Resources (DENR) regional officers to bring the National Water Resources Board (NWRB) nearer to the people; and,
- Advocating a more holistic and integrated multi-stakeholders approach in water resource management through Integrated Water Resource Management (IWRM)

The term "climate change" is defined by the Inter-governmental Panel for Climate Change (IPCC) as "Any significant change in measures of climate (such as temperature or precipitation) lasting for an extended period of time (typically decades)." The United Nations Forum Convention on Climate Change defined it further as a "change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere."

In order to understand why climate change is occurring, it is essential to understand the greenhouse effect. The Earth receives most of its energy from the sun in the form of short wave radiation. Much of this incoming solar radiation passes through the atmosphere to reach the Earth's surface. The Earth absorbs some of this energy and radiates some back into the atmosphere in the form of infrared radiation. Outgoing infrared radiation has a longer wavelength than incoming solar radiation and can therefore be absorbed by certain gases in the atmosphere. The main gases that absorb infrared radiation are carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O) and haloflourocarbons (HFCs). These gases trap some of the infrared radiation and re-radiate it back

to the Earth's surface, causing a warming effect known as the "greenhouse effect". The greenhouse effect is necessary to life on Earth as we know it; without it, the Earth's surface would be about 35^{0}C (95^{0}F) cooler on average.

Over the past 200 years, however, the burning of fossil fuels and the destruction of forests caused the concentrations of heat-trapping greenhouse gases to increase significantly in our atmosphere. With more of these gases in the atmosphere, more radiation is absorbed and re-radiated back to Earth as heat. Thus, as the concentrations of these gases continue to increase in the atmosphere, the Earth's temperature also continues to increase. In the 20th Century, global temperatures have increased by 0.7^{0}C (1.3^{0}F).[1] If concentrations of greenhouse gases in the atmosphere continue to increase, the average temperature at the Earth's surface could increase from 1.8 to 4^{0}C (3 to 7^{0}F) above 2000 levels by the end of this century.[2]

Unequivocal scientific evidence shows that the cause of the high rate at which climate change is occurring is the increased concentrations of greenhouse gases, particularly carbon dioxide and methane, in the atmosphere.[3]

Carbon dioxide concentrations are now at their highest level in the atmosphere in over 650,000 years, outweighing all other factors that contribute to climate change.[4]

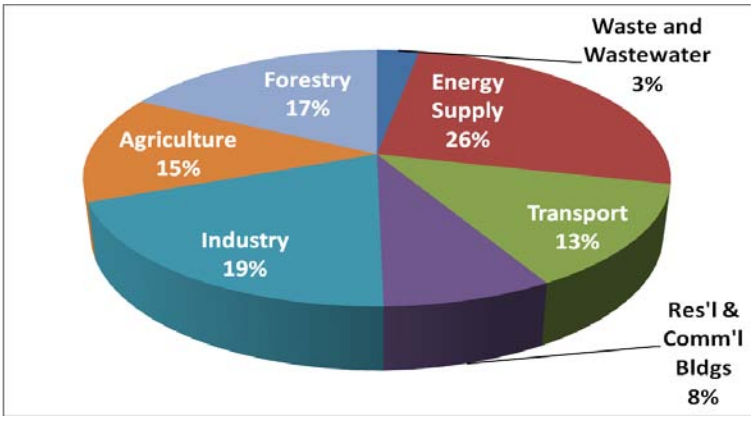
It is clear that human activities are driving the current rate of climatic change. When people burn fossil fuels to heat their homes or fuel their cars, and when land is converted from forests to other uses, greenhouse gases are emitted to the atmosphere. Figure 2.5 illustrates the main sources of greenhouse gas emissions from human activities while Table 2.5 provides information on which human activities result in emissions of which GHGs.

1 Intergovernmental Panel on Climate Change (IPCC) 4th Assessment Synthesis Report (2007), p.1.1, p. 30.
2 IPCC 4th Assessment Synthesis Report (2007), 3.2 p. 35.
3 IPCC, 2007, 4th Assessment Synthesis Report, p.36.
4 Ibid, p.37.

Table 2.5 : Human Activities that Emit GHGs

Greenhouse Gas	Industrial Sources	Land Use Sources
Carbon dioxide (CO2)	Fossil fuel combustion and cement manufacturing	Deforestation and burning of forests
Methane (CH4)	Landfills, coal mining, natural gas production	Conversion of wetlands Rice paddies Livestock production
Nitrous oxide (N2O)	Fossil fuel combustion Nitric acid production	Fertilizer use Burning of biomass
Hydrofluorocarbons (HFCs)	Industrial processes Manufacturing	---
Perfluorocarbons (PFCs)	Industrial processes Manufacturing	---
Sulphur hexafluoride (SF6)	Electrical transmission and distribution systems	----

Figure 2.1: Global Sources of Greenhouse Gas Emissions



Source: IPCC, 2007, 4th Assessment Synthesis Report Summary for Policymakers, p. 5.

Water and Climate Change

Water scarcity is expected to become an ever-increasing problem in the future, for various reasons. First, the distribution of precipitation in space and time is very uneven, leading to tremendous temporal variability in water resources worldwide (Oki et al, 2006). For example, the Atacama Desert in Chile, the driest place on earth, receives imperceptible annual quantities of rainfall each year. On the other hand, Mawsynram, Assam, India receives over 450 inches annually. If all the freshwater on the planet were divided equally among the global population, there would be 5,000 to 6,000 m3 of water available for everyone, every year (Vorosmarty 2000).

Second, the rate of evaporation varies a great deal, depending on temperature and relative humidity, which impacts the amount of water available to replenish groundwater supplies. The combination of shorter duration but more intense rainfall (meaning more runoff and less infiltration) combined with increased evapotranspiration (the sum of evaporation and plant transpiration from the earth's land surface to atmosphere) and increased irrigation is expected to lead to groundwater depletion (Konikow and Kendy 2005).

Key changes to the hydrological cycle (associated with an increased concentration of greenhouse gases in the atmosphere and the resulting changes in climate) include:

- Changes in the seasonal distribution and amount of precipitation.
- An increase in precipitation intensity under most situations.
- Changes in the balance between snow and rain.
- Increased evapotranspiration and a reduction in soil moisture.
- Changes in vegetation cover resulting from changes in temperature and precipitation.
- Consequent changes in management of land resources.
- Accelerated melting glacial ice.
- Increases in fire risk in many areas.
- Increased coastal inundation and wetland loss from sea level rise.
- Effects of CO2 on plant physiology, leading to reduced transpiration and increased water use efficiency (Goudie 2006).

Projections of changes in total annual precipitation indicate that increases are likely in the tropics and at high latitudes, while decreases are likely in the sub-tropics, especially along its poleward edge. Thus, latitudinal variation is likely to affect the distribution of water resources. In general, there has been a decrease in precipitation between 10°S and 30°N since the 1980s (IPCC 2007). With the population of these sub-tropical regions increasing, water resources are likely to become more stressed in these areas, especially as climate change intensifies.

While some areas will likely experience a decrease in precipitation, others (such as the tropics and high latitudes) are expected to see increasing amounts of precipitation. More precipitation will increase a region's susceptibility to a variety of factors, including:

- Flooding
- Rate of soil erosion
- Mass movement of land
- Soil moisture availability

These phenomena have been observed in Cagayan de Oro and Iligan Cities during the onslaught of Typhoon Sendong and in Metro Manila and nearby provinces during Typhoon Ondoy.

SOMETHING TO PONDER

From: http://www.aksyonklima.com/news/phl-eyes-climate-funding-green-growth/

At the United Nations final session that the Philippines is pushing for "more decisive action" to increase the level of ambition in setting the needed mitigation goal, including the binding agreements to reduce $100billion a year fund by 2020 to developing countries, including the Philippines, to tackle adaptation and mitigation measures to combat climate change. Philippines was ranked under extreme risk by several studies, highlighting the country's weak adaptive capacity characterized by high-level priority on poverty, dense populations, exposure to climate-related events, and the country's reliance on flood and drought-prone agricultural land. According to data from Global Climate Risk Index, Philippines was ranked as the 10th most affected country with regard to impacts of extreme weather events during the last 20 years.

Typhoon Ondoy

Recorded as the most devastating typhoon in 2009, Ondoy struck Philippines in late September, causing the death of about 464 people and an incured $1.09 billion worth of damage in both agriculture and infrastructure. Areas which suffered flooding included the provinces of Camarines Norte, Bulacan, Batangas, Laguna, and Rizal while very heavy flooding occured in the provinces of Zambales, Pampanga, Bataan, Cavite, and Quezon. Marikina City was the most devastated region in the Philippines after the entire city area was submerged in water up to ten feet deep and with a recorded number of 78 deaths.

CHAPTER
FOUR

UNDERSTANDING CONFLICT IN WATER

From Control of Power to Development Disputes

Conflict is an unavoidable aspect of human social systems. Indeed, many argue that conflict is a necessary fact of life, for it is only through struggle that lasting and meaningful change can be brought about. The NOSR[1] (2007) defines conflict in the following way:

Conflict is a process that begins when an individual or group perceives differences and opposition between oneself and another individual or group about interests and

resources, beliefs, values or practices that matter to them. This process view can be applied to all kinds of parties – nations, organizations, groups, or individuals – and to all kinds of conflict – from latent tensions to manifest violence.

Another definition of conflict (Wallensteen, 2002) [2]: is "conflict is a social situation in which a minimum of two actors (parties) strive to acquire at the same moment in time an available set of scarce resources".

Conflict is present when two or more parties perceive that their interests are incompatible, express hostile attitudes or pursue their interests through actions that damage the other parties.

Interests can differ over the following:

- Access to and distribution of resources (e.g. territory, money, energy sources, food);
- Control of power and participation in political decision-making;
- Identity (cultural, social and political communities); and
- Status, particularly those embodied in systems of government, religion, or ideology (Schmid, 1998); *Source: WWDR*

1 Netherlands Organization for Social Research (NOSR, 2007)
2 Local Conflict and Water: Addressing Conflicts in Water Projects, Swedish Water House, 2005

Conflict is not inherently bad

It is important to underline that conflict, at least when it is not violent, is not inherently negative. Change often leads to conflict and the main difference between how conflict evolves is based on the availability of institutions or mechanisms that are accepted by the parties and that can address the conflict. Inversely conflict brings change, when a conflict is resolved or managed this often creates a new situation which hopefully lessens the incompatibilities and grievances of the parties in conflict. We will not discuss the concept of "governance", but the availability of institutions lies at heart in the issue of how to mitigate and resolve conflict.[1]

What is Water Conflict?

Categories of bases of conflict over water

Peter Gleik of the Pacific Institute categorizes the bases of conflict over water as follows:

- **Control of Water Resources** (state and non-state actors): where water supplies or access to water is at the root of tensions.
- **Military Tool** (state actors): where water resources, or water systems themselves, are used by a nation or state as a weapon during a military action.
- **Political Tool** (state and non-state actors): where water resources, or water systems themselves, are used by a nation, state, or non-state actor for a political goal.
- **Terrorism** (non-state actors): where water resources, or water systems, are either targets or tools of violence or coercion by non-state actors. This is a new definition and will be further clarified for the next version of the chronology in a new project on "Environmental Terrorism" at the Pacific Institute.
- **Military Target** (state actors): where water resource systems are targets of military actions by nations or states.
- **Development Disputes** (state and non-state actors): where water resources or water systems are a major source of contention and dispute in the context of economic and social development.

1 *Local Conflict and Water: Addressing Conflicts in Water Projects, Swedish Water House, 2005*

Water conflicts can also be classified according to the following criteria:

- *Parties Involved*: conflicts can be between individual users or user groups, between users and institutions, and between institutions
- *Stakeholders/ sectors involved*: conflicts can be within the same sector or between different sectors (e.g. domestic, agriculture, industrial)
- *Level*: Conflicts can occur at the local, regional and national levels

Water Conflict in the Local Water Sector

Water conflict in the local water sector has largely to do with control over water resources resulting from competing uses of water.

An interesting definition of water conflict is proposed by Peter H. Gleick in his Water Conflict Chronology. (Gleick, 2004) One of the categories he uses to define water conflicts is "Development dispute" and a few of the root causes that are most frequently cited include:

- Conflicts over a limited resource
- Conflicts over the control of the distribution
- Conflicts over the quality of the resource
- Conflicts in large infrastructure projects

Water as a "limited" resource does not have to mean that the resource is scarce, only that there is competition or an "incompatibility" over the use or access to the resource. This does not mean of course that scarcity is unimportant; most, but not all conflicts related to water do erupt in situations where water is not abundant.

Most common types of conflict:

a) Limited resources

- **Rural.** The most cited and researched local water conflicts are rural conflicts. Water supply is closely connected to livelihoods. Common conflicts are between pastoralists and agriculturalists, between different communities of pastoralists etc. Some of these conflicts are often referred to as "inter-ethnic" conflict. There is a large spectrum of such conflicts involving different sectors of society.

- **Rural - Urban.** Typical rural - urban conflicts occur when cities are growing and start consuming more of the water in the surroundings. The people living in the town develop their water supply by drilling wells, resulting in a falling water table. Sources around the town are developed either for piped supply or are used for loading tankers. These are often similar to the livelihood conflicts that generate serious violence in rural areas. Water that has been used for irrigation is transferred to urban use and rural populations often seem to have less political clout in such situations.

b) Local conflict and water projects

- **Inter-Catchment.** Water from one catchment is transferred to another. In the case of growing cities this can be seen in many cases. Some such cases, e.g. the Lesotho Highlands project, are clearly trans-boundary, that is, affecting actors in more than one country. The inhabitants in the catchment where water is extracted are typically not compensated for the loss of their resource which leads to grievances and conflicts. Such projects often involve major infrastructure schemes such as dams and water diversions.

- **Economic Sector.** In many cases several economic sectors are competing for the same resource. The commercial and large-scale agricultural sectors often compete for water with the industrial sector or commercial forestry. There are rural conflicts between large-scale agriculture and smaller farmers. The phenomenon of urban agriculture is a possible source of conflict. Research indicates (Mwalukasa, 2000) that around 90 percent of leafy vegetables sold in the markets of Dar es Salaam are grown in the city often using already scarce piped drinking water for irrigation.

c) Distribution and control

The discussion on service delivery and privatisation of water has spread far outside the water community and has become one of the emblematical discussions in the globalisation debate. Many of the issues discussed are not specifically geared to water and touch large quandaries on the relations between both first and third world and the internal conditions of each country.

- **Unequal distribution.** Municipalities sometimes use the public water system to generate a continuous cash flow and at times do not make necessary investments or maintenance. Large parts of the population are not served by the water companies (public or private) and they will have to get water through other means. There can be a large market in the non-piped areas where the right to sell water can be either distributed through corrupted or criminal practices, or "spontaneously" filled by individual water entrepreneurs.

Shortages, often with large seasonal variations, generate a complex market creating opportunities for water vendors. Different social classes in an urban area usually have different types of access to water and sanitation. This may sometimes lead to open threats or conflict.

- **Privatization.** Among the most publicized conflicts of any kind in urban areas have been the privatization conflicts. These conflicts have the same basic ingredients all over the world. Private companies are contracted to manage and deliver water in predominately urban areas. Companies not only operate and sometimes improve the water system, but also formalize the water market. In many cases this leads to the exclusion of persons living in poverty. These groups might not have been served by the former water utilities but still often had access to water by "informal" connections.

d) Quality conflicts

Conflict can arise due to pollution. Most of these cases concern industrial use and sanitation rather than water supply. The disposal of wastewater generates substantial problems world-wide; not only in developing countries. Water supply tends to generate more conflicts in poor countries, while conflicts over pollution and water quality are more common in richer and more environmentally conscious countries.

One common problem resulting in quality issues for drinking water is the salinisation of estuaries and water tables which affects poor and rich countries alike, but the issue does not result in conflicts if it does not concretely affect access to water.

e) Large infrastructure projects

Among the most commonly cited conflicts in relation to water is the civil strife afflicting large infrastructure projects, particularly dams. Dams have, together with the privatization conflicts, captured a large part of the public discussion on water conflicts. The construction of large dams tend to involve several of the categories above in addition to maybe the most contentious issue in dam construction at the moment; the situation of populations displaced by the dam construction. Dam construction is probably the intra-state water issue that attracts most political attention and has been extensively dealt with on the international level with the work of the World Commission on Dams, NGOs etc. *(WCD, 2000; WWF, 2002) The debate and polemics on dams and to a certain extent the* privatization projects have arguably taken dimensions that have put such large projects on another level than most water interventions. As suggested above it may be questioned whether these projects are still part of the water sector.

Definition of Conflict Management

In a more technical sense, conflict management refers to a broad array of tools used to ***anticipate, prevent and react*** to conflicts. A conflict management strategy will involve a combination of these types of tools. These tools are used to induce the parties to open up, identify the real issues behind the publicly pronounced positions and find "win-win" solutions that leave both the parties better off with the outcome. However, it is not possible to come up with "win-win" outcomes all the time. In order for this to succeed, trade off and compromise may be necessary. Even then, in some cases, if a party is convinced that the collaborative efforts will not yield anything better than what it can gain through unilateral action, it will not go for any collaborative action.

Preventing Conflict before Conflict Begins: Consensus Building /Participatory Approach

It is generally recognized among water experts that stakeholder participation is key to sustainable resource use and management. Conflict resolution techniques are generally employed once a dispute has already arisen. However, anticipating the forms of future conflict is an important element of conflict resolution itself. In the context of a river basin, where disputes arise from time to time, it is useful to give a home to these issues through the creation of a setting where stakeholders can regularly meet and communicate with each other regarding interests, needs and positions. While there are no uniform methodologies for undertaking the process, the important thing is to create an enabling environment whereby the stakeholders are able to actively participate in the policy dialogues and subsequent planning and design process.

Among others, these may include the following steps:

a) Defining the problem rather than proposing solutions;

b) Focusing on interests;

c) Identifying various alternatives;

d) Separating the generation of alternatives from their evaluation;

e) Agreeing on principles or criteria to evaluate alternatives;

f) Documenting agreements to reduce the risk of later misunderstanding;

g) Agreeing on the process by which agreements can be revised and the process by which other types of disagreements might be solved;

h) Using the process to create agreement; and

i) Creating a commitment to implementation by granting the stakeholders specific roles in the execution of the agreed action/program.

Methods of Conflict Resolution

While conflict may be difficult, it is by no means a destructive process. As has already been pointed out, conflict has a positive role to play if only we have the necessary skills to create the synergy for the well being of all the contending parties. There are no particular tailored techniques, both formal and informal, to manage conflicts although the techniques are based on intuition, logic and communication arts. The following are the most commonly known methods of conflict resolution. The comparisons between different methods of conflict resolution techniques are presented in the table below.

a) Litigation

Short of coercion and physical violence, the ultimate formal mechanism for conflict resolution is taking recourse to the legal system of the country. In a legal proceeding, the parties to a dispute are heard by a court of law that decides upon the case on the basis of existing laws in force in the country. In many instances, this is the only way to resolve a conflict but in many other cases, it may not be so. This is particularly true in the context of IWRM where:

- Many conflicts involve the use of common resource over which no party has a clearly superior legal claim;
- Legal rules prevent parties from bringing an action to court if they do not have some right that has been directly infringed;
- Legal rules may also prevent a party with a grievance from having access to the courts even to have its case heard; and
- Narrow procedural and legal issues get precedence over policy issues, thereby failing to resolve the real differences between the contending parties.

b) Alternative Dispute Resolution (ADR)

To overcome the limitations of litigation, alternative dispute resolution (ADR) techniques have been developed in the West in the past century and are frequently applied in many jurisdictions successfully. ADR techniques, with their emphasis on consensus seeking outcomes, resonate with many traditional societies.

Following are the specific techniques on ADR:

- **Negotiation.** Negotiation is a process where the parties to the dispute meet to reach a mutually acceptable solution. There is no facilitation or mediation by a third party: each party represents its own interest. Large disputes over public policy are increasingly being settled using processes based on mediation and negotiation, commonly referred to as negotiated rule making or regulatory negotiation. Representatives of interested parties are invited to participate in negotiations to agree on new rules governing issues such as industrial safety standards and environmental pollution from waste sites.

- **Facilitation**. Facilitation is a process in which an impartial individual participates in the design and conduct of problem-solving meetings to help the parties jointly diagnose, create and implement jointly owned solutions. This process is often used in situations involving multiple parties, issues and stakeholders, and where issues are unclear. Facilitators create the conditions where everybody is able to speak freely but they are not expected to volunteer their own ideas or participate actively in moving the parties towards agreement. Facilitation may be the first step in identifying a dispute resolution process.

- **Mediation.** Mediation is a process of settling conflict in which an outside party oversees the negotiation between the two disputing parties. The parties choose an acceptable mediator to guide them in designing a process and reaching an agreement on mutually acceptable solutions. The mediator tries to create a safe environment for parties to share information, address underlying problems and vent emotions. It is more formal than facilitation and parties often share the costs of mediation. It is useful when the parties have reached an impasse.

- **Arbitration.** Arbitration is usually used as a less formal alternative to litigation. It is a process in which a neutral outside party or a panel meets with the parties in a dispute, hears presentations from each side and makes an award. Such a decision may be binding or not according to agreements

KNOW MORE

"Wilson and Rasmussen (2201) stress the need to ensure that alternative dispute resolution does not reinforce existing inequalities and power imbalances: Some caution must be observed in considering alternative dispute resolution as a panacea for persons living in poverty. There is some risk that those who are disadvantaged and marginalized in the dominant and formal legal system will even be more so in an alternative system where no human rights framework is applied. There is a significant risk that the poor will once again be left with a sense of "second had justice." (Asian Consortium for Human Rights Based Access for Justice, "A Manual on Human Rights Approach to Realizing Equal Access to Justice,"2011)

reached between the parties prior to formal commencement of hearings. The parties choose the arbitrator through consensus and may set the rules that govern the process. Arbitration is often used in the business world and in cases where parties desire a quick solution to their problems.

Requirements for Successful Conflict Resolution

- ***Willingness to Participate.*** The participants must be free to decide when to participate and when to withdraw from a conflict resolution process should that be necessary. They should set the agenda and decide on the method to be followed in the process. It is, however, impossible even to agree to discuss a problem if either of the parties holds deeply entrenched positions or a system of values.

- ***Opportunity for Mutual Gain.*** Linked to the above is the requirement of opportunity of mutual gain. The key to success of conflict resolution is the probability that the contending parties will be better off through cooperative action. If one or both believe that they can achieve a better outcome through unilateral action, they will not be willing to participate in the process.

- ***Opportunity for Participation***. For successful conflict resolution, all interested parties must have the opportunity to participate in the process. Exclusion of an interested party is not only unfair but also risky for the reason that such party may obstruct the implementation of the outcome by legal or extra-legal means.

- ***Identification of Interests.*** It is important, in working towards consensus, to identify interests rather than positions. Conflicting parties often engage in positional bargaining without listening to the interests of the other parties. This creates confrontation and a barrier to consensus.

An important part of a conflict resolution process is the neutral development of possible solutions and options. An impartial third party can be a great asset to the process as it can put forward ideas and suggestions from a neutral perspective. Not only must the issue be capable of resolution through the participatory process but the parties themselves must also be capable of entering into and carrying out an agreement.

SELECTED CASES OF WATER CONFLICT IN THE PHILPPINES

1. GOING BANANAS IN MANUPALI

The case in Manupali, Bukidnon presents outcomes of a struggle emanating from the intertwining concerns of local stakeholders affected by the steady decline in water availability due to several factors – i.e., sedimentation, diversion of flows, changing precipitation patterns, irrigation and deforestation, and commercial-industrial development. Low- and midland families in Manupali especially attribute stream flow variability and the onset of scarcity to the elevated demand for water supply among large-scale banana plantations. Corollary to this, stakeholders linked water shortage to land-use shifts associated with the banana farm expansion and the rapid conversion of forests for agro-industry fields. And although rainwater is harvested and utilized often by banana plantations, the bigger banana planters (i.e., DOLE) still accumulate and store water for round-the-clock irrigation purposes by diverting river flows.

Conflict with the banana plantation erstwhile began when DOLE's application for water rights in Maagnao River was rejected by the NWRB, which cited that another banana operator, MKAVI, had already secured water rights in Maagnao and two other rivers in 1999. But this was challenged further when ManRIS, a local irrigators' association, presented their water rights, which allowed them to extract from the Manupali river and its tributaries way back in 1979. As the Water Code enjoins a "priority date system" – in which the water rights belong to the user in the order in which they apply – and that in times of water shortage, those with senior rights may use the full volume allocated to them, the ManRIS is the putative privileged over the two . But even as both conditions privilege the ManRIS, the reality was that the local group was only provided residual water supply left over from the plantation operations. Attempts by the LGU to intervene and settle the dispute between the MKAVI and ManRIS were stalled by a number of extraneous legal, institutional and technical issues. In the end, it was disclosed that the technical design of diversion canals was not presented to the affected downstream communities. This led to protests from the local community, who had by then raised the issue of "water grabbing" against the plantation company.

Understandably, threats of water shortage due to acute commercial irrigation requirements and consumption raised the likelihood of conflict among various user-groups, where the continued expansion of plantations potentially leads to a net deficit in water supply use. A survey conducted in Manupali (2009) reiterated that uneven water use competition not only led to scarcity, depletion and degradation of underground and surface water, but also aggravated conflict between upstream and downstream residents, and pressured the poorer consumers further downward the economic ladder. A case in point, during the

dry months water scarcity had already been a source of conflict in upper Manupali, when farmers competed for access. Village leaders had reported disputes among farmers accusing each other of either stealing or cutting irrigation pipes, or destroying small impounding reservoirs.

Case lifted from, Pinon, Caroline, et al. Conflict, Cooperation and Collective Action: Land Use, Water Rights and Water Scarcity in Manupali Watershed, Southern Philippines. CGIAR Systemwide Collective Action and Property Rights Working Paper 104. 2012.

2. MONITORING THE EXPLOITATION OF THE VISAYAN SEAS

A specially-commissioned study conducted in 2004 asserted that the Visayan sea is either fully exploited or more likely overexploited when considering the level of extraction of aquatic and maritime resources, among other water resources. In view of the escalating number in users and competition between local fisherfolk, seafaring communities and their brazen commercial counterparts, a strong action-oriented movement was initiated to organize resource-based alliances among LGUs and institutions with the intention of effectively managing economic, political and inter-municipal conflicts in the Visayan sea. Two alliances were borne out of this Visayan Sea Project initiative – the NIACDEV in Northern Iloilo and the NNARMAC in Northern Negros Occidental.

The City of Escalante and 8 other municipalities established the Northern Negros Aquatic Resources Management Advisory Council (NNARMAC) in 2003. Comprised of LGUs in northern Negros, the NNARMAC serves as a coordinating body to manage the area's fisheries and aquatic resources. Moreover, to strengthen resource monitoring and conflict mitigation, Escalante City maintains an organized Bantay Dagat equipped with three patrol boats, each with communication equipment and a Global Positioning System (GPS) to identify location. Between 1998 and 2003, the Bantay Dagat collected more than PhP 1.3 million as penalties for the violation of fishery laws. Seventy percent of the amount is used for the maintenance and operating expenses of the Bantay Dagat. The rest is spent for personnel incentives. The Bantay Dagat of Escalante is considerably one of the "operational" Bantay Dagat in the region, and is actively patrolling the coast against illegal fishing activities.

Central to the Initiative – coastal fisheries and municipal resource management – is the consistent enforcement of the Fisheries Law. RA 8550 or the 1998 Philippine Fisheries Code gives preferential use of municipal waters to municipal fishers. Ordinances have been promulgated by the LGUs to implement the provisions of the Fisheries Code. Inevitably, this has created conflicts. Further, there is the added complication introduced by the DENR's Department AO 17 which imposed a stricter interpretation of the

limits of municipal waters using the farthest offshore island, rather than main coastline, as the point of reckoning for distance. The potential conflicts that arise from this obscuring, zoning regulation include those within municipalities, between municipalities, between municipal and commercial fishing sector and between fishers and local government/implementing agencies.

Case lifted from, Siason, Ida, et al. Philippine Case Study on Conflict over Use of Municipal Water: Synthesis of 3 Case studies in the Visayas Sea. University of the Philippines in the Visayas.. ____.

3. WATERSHED CONFLICT MANAGEMENT IN CEBU

In rapidly urbanizing Cebu, where potable water drawn from coastal aquifers and groundwater mains is a priority concern, water supply and watershed management has accrued all-too crucial economic, social and political dimensions. Whereas the Mananga, Kotkot and Lusaran watersheds had been legally protected and deemed critical amidst scarce regional water supply during the 1990s, contemporaneous urban expansion, estate and commercial development, and numerous road improvements had already begun to reshape the contour of Metro Cebu and influence water supply flows. Overall, these developments were welcomed and encouraged by contiguous LGUs, rural residents and landowners. However, multisector NGOs and cohort parties foreshadowed that accelerated peri-urban growth and urban expansion would degrade the watersheds, endanger both current and future water supplies, and aggravate uneven access to water amongst urban and rural users, prompting conflict and intense disharmony amongst municipal parties.

Localized evidence supporting these fears included visible soil erosion on agricultural fields, landslides, unregulated tree cutting, contamination of groundwater sources, and the continued marginalization of low-income households and households living in poverty from potable, piped water access. Rural households obtained water primarily from undeveloped, seasonal springs that incurred high levels of biological contamination. In urban areas, private wells served commercial and industrial establishments and wealthier residential subdivisions. Urban neighborhoods living in poverty are typically served by a communal water tap or by water vendors. Consequently, households living in poverty pay three to ten times more for water than residential customers using MCWD or private wells.

Against an ever-present backdrop of water crisis and seasonal El Niño droughts, tensions over watershed and water supply-related conflicts in Metro Cebu boiled over in the mid-90s and subsequent years. The media and parts of civil society attacked local officials for complacency in addressing the water situation. Controversies related to the protected watersheds also erupted, such as controversial real estate projects,

inaccurate watershed maps and the dismantling of a semi-official watershed agency.

To filter its response through a proper social channel and address, the NGO network *Kaabag sa Sugbu* (Support of Cebu) was convened in 1994 to address interrelated concerns over water scarcity, development in the watersheds and the displacement of upland residents that surfaced habitually during the decade. *Kaabag sa Sugbu* was especially alarmed by the dismantling of the Watershed Development Authority (MWDA), a multisectoral body established in 1989 to coordinate development in the Mananga watershed. Controversies surrounding watershed governance also prompted participants to create the seminal Cebu Uniting for Sustainable Water (CUSW) as a mechanism cum coalition for establishing a technically sound and socially equitable plan to manage water resources and mitigate conflict arising from dwindling supply. It advocated and institutionalized an integrated resource management and land-use master plan for Metro Cebu, focusing particularly on the inland watersheds and coastal aquifers.

Case lifted from, Hafner, Jim, Liberty Pinili and Mary Schlarb. Community-based Natural Resource Conflict Management: the Case of Watershed Planning in Metro Cebu, Philippines. Cornell International Institute for Food, Agriculture and Development, New York, USA.

4. CONFLICT AT THE MAGAT WATERSHED

An example of conflict over water use transpires between Saint Joseph Rural Water Works and Sanitation Association (SJRSWA) and Belance Farmers Irrigators Association (BFIA), both of which are active stakeholders in the Magat Watershed. The conflict began in 2001 when the National Council for Indigenous People (NCIP) provided a PhP50,000 assistance to the SJRSWA for the construction of the intake boxes at the Upper Belance Creek. The facility supported domestic uses of the several indigenous Bugcalots and migrant-IPs, namely: Kalanguya, Kankana-oy, Ibaloi, Ifugao, other tribes, and non-IPs residing in the community. BFIA, composed of migrants, filed a protest and petition to the NCIP Nueva Vizcaya claiming exclusive right to Belance Creek by virtue of their water permit for irrigation purposes. Thus, the Provincial Officer delayed the implementation. The SJRWSA, however, asserted that it also obtained water permit for domestic purposes and it has been tapping water at Upper Belance Creek since 1998.

To resolve the debate, NCIP in collaboration with the SB Committee on Natural Resources conducted consultations and dialogues with the members and officers of the concerned associations. The NCIP commissioner invoked the use of customary laws as provided by IPRA specifically the *Tung-tung* method, a tradition being used by IPs in settling almost all cases. They appealed to the officers and members of BFIA to share water with the SJRMSA for domestic use since they both had permits. Finally, the meeting ended up with the two parties signing a MoA.

Case lifted from, Elazegui, Dulce and Edwin Combalicer. Realities of the Watershed Management Approach: The Magat Watershed Experience. Philippine Institute for Development Studies. 2004.

CHAPTER FIVE WATER ISSUES IN CULTURE AND INDIGENOUS PRACTICES

The Way of the Tribes

"Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems."
-Jose Martinez-Cobol,

Special Reporter to the United Nations Sub-commission on the Prevention of Discrimination and Protection of Minorities

What other factors -- aside from technological solutions and infrastructure -- should you consider when developing water supply and sanitation services from a local water governance perspective? Sound management systems? Financial viability? Or a more people-centered process of opening up participatory spaces for discourse on water issues? One of these could be the incorporation of culture in water governance at the policy and operational levels.

In your enthusiasm to provide access to safe water you may miss out on a crucial element that could impact on your project: the consideration of culture and its ramifications.

Check out some of these facts:

Those Who Live on the Margins

There are an estimated 14- 17 million Indigenous Peoples (IP) belonging to 110 ethno-linguistic groups in the Philippines mainly concentrated in Northern Luzon (Cordillera Administrative Region (33%) and Mindanao (61%), with some groups in the Visaya area.

The Philippine Constitution recognizes this diversity and mandated state recognition, protection, promotion, and fulfillment of the rights of Indigenous Peoples. This is fully expressed in Republic Act 8371, also known as the "Indigenous Peoples Rights Act" (1997, IPRA), recognizing the right of Indigenous Peoples to manage their ancestral domains. The law is the cornerstone of national policy on Indigenous Peoples.

MUST KNOW

What's the IPRA all about? Visit Tubig Yaman, the Human Rights based Local Water Governance Toolbox at http://mdgf1919-salintubig.org.ph/lwg

Yet, despite these guarantees, according to the United Nations Development Programme "the fact is that wherever IPs live, they remain among the persons living in extreme poverty and most vulnerable peoples. The first-ever Report on the State of the World of Indigenous Peoples, issued by the United Nations Permanent Forum on Indigenous Issues in January 2010, revealed that IPs make up fully one-third of the world's persons living in poverty, suffer disproportionately in areas like health, education, and human rights, and regularly face systemic discrimination and exclusion."

Indigenous Peoples have been subject to historical discrimination and exclusion from political processes and economic benefit. Often they are faced with loss of ancestral lands, displacement, loss of culture and identity, destruction of traditional practices and ways of life. Other pressures such as armed conflict exacerbate their situation. Protection and participation – in economic development, justice, human rights, environmental protection, and good governance -- due Indigenous Peoples have not yet been fully met.

Globally, indigenous peoples continue to be sidelined in the discourse on sustainable development including their right and access to water. At the Second World Water Forum in The Hague in 2000, a UNESCO report on Water and Indigenous Peoples pointed out "… it is clear that indigenous/tribal peoples, their unique systems of values, knowledge and practices have been overlooked in the world water vision process. (…) there is an urgent need to correct the imbalance of mainstream-thinking by actively integrating indigenous women and men in the subsequent phases starting with the framework for action."

HELPFUL HINTS

"For indigenous peoples, there is often no distinction between the land, rivers and sea. This differs significantly from Western notions of water which separate water from the land and allow it to be measured, taxed, traded, and managed at the level of single species and habitats rather than considering the greater social-ecological system. Emerging international legal instruments acknowledge the human right of Indigenous peoples to their territories, including land and waters (ATSIC 2002). Recently, in international fora, a separate human right to water which entitles every human being to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use has been recognized. Despite this international dialogue, rights to water remain poorly defined as compared to land rights." (Durette, Melanie; Indigenous Legal Rights to Freshwater: Australia in the International Context, Working Paper No. 42/2008)

A SIDE STORY

In Upland Villages, Commuvatization' Answer to Water Woes

BAGUIO CITY—Although based in the United States, Andrew Bacdayan, a retired economics professor, had closely monitored the intertribal conflict in the villages of Fidelisan and Dalican in his hometown of Sagada, Mt. Province, in the 1990s.

Since the 1990s, several people had been killed after Dalican residents diverted the stream to their village to the detriment of their neighboring Fidelisan villagers.

The conflict between the villages ended after the tribes, in April 2005, agreed on a truce in which Dalican members recognized that the springs belonged to Fidelisan. The truce guaranteed both villages a share of water supply.

To avoid similar conflicts from erupting again, Bacdayan, who was born in Bangaan, a neighboring village of Fidelisan, proposed the creation of a community-managed cooperative to supply water to households and establishments as an alternative.

He called this approach the act of "commuvatization," which, he said, is a cross between government and private, for-profit organizations.

"The centerpiece of this approach is the water cooperative, which delivers and sells water not only to tribal members but also to members of other tribes," he told participants in the recent 9th International Igorot Conference in Baguio City.

Bacdayan, a former economics professor of Northwestern State University in Louisiana and Lamar University in Texas, said a water

This kind of situation continues to persist despite data demonstrating that indigenous peoples are among the world's most impoverished. The Inter-Agency Support Group on Indigenous Issues said in one of its reports that indigenous peoples "rank at the bottom of the social indicators in virtually every respect" (IASG 2005).

In relation to this, indigenous communities' water sources that sustain their multiple uses and livelihood strategies are often taken away in order to provide drinking water to urban areas and metropolises. Accordingly, there is a real need to involve indigenous peoples directly in development processes, whether at local, national or global levels.

Vicki Tauli-Corpuz, chair of the UN Permanent Forum on Indigenous Issues, argues for a human rights based approach to water. She said that the continuing emphasis at the Second and Third World Water Forums on profit-based water supply and management clashes with the growing international recognition of indigenous peoples and their rights.

Indeed, even the dualistic notion of 'public or private' that shapes so many debates about water access, remains inadequate and simplistic in the face of the diversity of indigenous water management forms. (Nakashima, Douglas and Chiba, Moe; 2006, Introduction: Local and Indigenous Knowledge Systems, UNESCO)

Mainstreaming protections and participation and respecting traditional practices through decision-making institutions and organizations such as local governments, water service providers, water associations needs to be given high priority especially in relation to water governance.

This suggests that when you adopt a water governance approach or arrangement that considers culture and traditions such as tribal rituals it is more likely to contribute to the sustainability of water resources and systems than one that ignores this.

Understand Water Ownership and Use Based on Tradition

Traditionally, the rights to access and use of water are rooted in the concept of land. Indigenous peoples believe that land must be held in stewardship, shared and nurtured because this was entrusted to them by a Creator or Supreme Being. This thinking is fuelled by collectivism as opposed to the concept of private ownership.

Indigenous peoples in the Philippines believe that the land and everything else that is connected or has to do with it were the creation of a Higher Being like Apo Sandawa, Kabunian, Apo Namalyari. Because of its divine origin land cannot be privately owned, sold, leased or purchase and that it should only be used by the community as a whole.

In their work, "Country Study on Customary Laws and Practices-Philippines," James Kho and Eunice Agsaoay-Sano say that to indigenous peoples life is intertwined with land because both come from the Creator. "It has often been said that the right to land includes the right to water. As in most traditional societies, ownership is communal. While use and access to resources are open to all, customary law disapproves of the abuse of these rights. Resources are used by the people based on their needs and they have the corresponding responsibility of regenerating the same."

Modern concepts of natural resource use are based on the principles of private ownership rather than stewardship that present a contrary position when cooperative is better than a government-run water district or a privately-owned water business firm.

Price mechanism

"A cooperative uses a price mechanism to allocate water, generates revenues, recognizes tribes as owners of their water source and ensures that an equal number of shares is distributed to each household," he said.

"A water cooperative has also the potential to transform idle water resources to active capital for human development."

He said cooperative members own shares that earn dividends and these can be used as bank loan collateral.

In contrast, a government-run water district, he said, is "susceptible to political patronage that breeds corruption and inefficiency."
Similarly, a private water firm does not usually sit well with indigenous peoples who feel their water resource is their birthright, he said.

Through privatization, the tribe grants a concession to a business firm, which builds the infrastructure and operates the enterprise purely for profit.

"But indigenous tribes are usually poor so investors almost always come from outside," Bacdayan said. "Since we feel the resource is our birthright, the investors will be regarded as interlopers and are not welcome to the tribe."

And if there is animosity between the tribal users and the providers, business will not be sustainable, he said.

'Commodifying'

Still untested, "commuvatization," however,

involves concepts which, Bacdayan said, are "alien to our culture" and will be difficult for many to accept.

These are "commodifying" or buying and selling water, the need for a regional approach to water development and exporting water to other tribes.

Under the tribal system, access to a common property resource, such as water, is open and its use is free.

But this is where the problem lies, Bacdayan said. "When a resource is free, people waste it because there is no consequence for careless and irresponsible behavior," he said.

As a result, there is no revenue to fund the cost of maintenance and repair.

"This results in the breakdown of the water system and the water supply disappears altogether. That is the tragedy," he said.

To sell the idea of a community-run water cooperative, Bacdayan has begun consulting tribes of Agawa and Tanulong in Besao, a neighboring town of Sagada, as well as the local government of Sagada to demonstrate the feasibility of this approach.

"The solution to our water supply problem is a regional endeavor that can succeed only when undertaken as a joint project by all parties," he said.

Maurice Malanes, Philippine Daily Inquirer, 22 May 2012

viewed from an indigenous peoples perspective. At first glance this may look problematic for local government units (LGU), especially municipalities, mandated to provide basic social services and facilities including water and sanitation to people within its jurisdiction that may include IP communities.

Consider some of these points:

- A municipal LGU may opt to either operate its own water system or engage the services of a water service provider (WSP), most likely a private entity, to provide those services on a for-profit basis that requires the collection of tariffs or users' fees. How can this work given cultural realities and the duty to provide water especially to persons living in poverty and vulnerable?

- Understanding the culture, practices, norms and traditions of indigenous peoples with regards to the use of their natural resources can help the LGU determine what path it should take.

There are several options:

1. Local government unit directly constructs, operates and manages a water system. The Local Government Code of 1991 authorizes provinces, municipalities, cities and barangays to directly operate water systems.

2. **Water districts** which are government owned and controlled corporations usually set up through loans from the Local Water Utilities Administration (LWUA)

3. Rural water supply associations (RWSA) are non-profit associations of water users wherein

members do not pay equity. Usually set up and funded by the LWUA, RWSAs enable users to own, operate and maintain their own water system and sanitation facilities.

4. Water cooperatives are community-based associations of water users but whose members contribute equity that encourages greater participation and instills a sense of ownership among the members and officers.

5. Private sector include privately owned and managed water systems that are commercial in nature and profit driven. These can be small-scale operations or large scale ones like Manila Water.

Recent studies have shown that community-managed water systems were consistently successful because they allow for greater transparency and accountability. These systems also allow the community to participate more meaningfully in the management of their own affairs thus eliciting a sense of responsibility and ownership. But they also require "more sophistication and expertise than just organizing and running a typical community association. In fact, experience shows that many community-managed water systems are not sustained due to dwindling interest and support of members and partners, inefficiency and lack of capacity."[1]

HELPFUL HINTS

Community-based water systems become more successful when operated like small businesses where water is metered, and there is systematized billing and collection, with sound financial management supported by technical training.

KNOW MORE

Full text of the "Country Study on Customary Water Laws and Practices -- Philippines" by James Kho and Eunice Agsaoay-Sano can be found in the Knowledge Chest of the "Tubig Yaman" Human Rights based Local Water Governance Toolbox website. Just click on http://mdgf1919-salintubig.org.ph/lwg

QUICK QUIZ

Considering the communal nature of land and water ownership among indigenous peoples, which of the options above will most likely prove successful when setting up a water system?

Know Traditional Rights

Among the people of Besao in the Cordillera, "every household is a member of a *dap-ay* of its choice, signifying its unity with the community. The *dap-ay* serves as the cultural, political and social center of the community where men gather to discuss matters affecting the community, where elders perform rituals, and where the *lallakay* settles conflicts and disputes among community members." [2]

1 Peace and Equity Foundation, The ABCs of Potable Water Projects

2 James Kho and Eunice Agsaoay-Sano, Customary Water Laws and Practices in the Philippines

A SIDE STORY

Land and the Manobo

The beliefs and values of the Manobo, also referred to as Manuvu, are rooted in their concept of the world and they consider the land as the source of life. After each harvest they let lie fallow cultivated areas for about three or four years to allow the soil to regenerate.

Most Manobo live along the rivers and inland areas Agusan, Bukidnon, Cotabato, Davao, Misamis Oriental, and Surigao del Sur. They belong to the original stock of proto-Philippine or proto-Austronesian people who came from South China thousands of years ago, earlier than the Ifugao and other terrace-building peoples of northern Luzon (Elkins 1996; Olson 1967). Manobo means people or persons.

In their study, "Socio-Economic and Cultural Dimensions of Critical Resources in Agusan del Sur Focus: Diwata Range," Dr. Nimfa L. Bracamonte and Dr. Ruben F. Amparado of the Mindanao State University-Iligan Institute of Technology probed the practices of 224 indigenous and Cebuano groups residing in the Mt. Diwata range. Their study noted that the Manobo do not cut hard wood because "they believe that if they do, a calamity would devastate them. Moreover, they do not enter areas of the forest where wildlife abounds. Such practice is anchored on their belief that their interactions with nature and the maintenance of a harmonious relationship with the supernatural play a great role in their good health and well-being."

The *lallakay* are community elders vested with authority and leadership because of their wisdom, experience, willingness to serve, and proven integrity. In Upi, Maguindanao, tribal elders called *luke* settle disputes whose decisions are respected and accepted by the community as a whole. These arbitration and negotiation processes are codified, either in written form or orally, in tribal laws.

In Besao, for instance, customary laws can be found in the *inayan* or *lawa* which the violation of norms and the inflicting of harm on someone else. It also is a guide to determine whether someone's action is right or wrong and warns of punishment.

This provides insights into how LGUs, WSPs, and the community can, for example, adopt some principles or aspects of these customary laws when developing their own customer service code.

Find Out More about Competing Points of View in Managing Water Resources

It is important for you to know that managing water resources in indigenous communities has two competing, if not conflicting, approaches that Duty Bearers (LGU, water service provider, water utility) and Claimholders (consumers, community members) alike should clearly understand.

In her study, "Indigenous Management of Water Resources in Bontoc, Mt. Province, Philippines," Antonina M. Manochon of the Mountain Province State Polytechnic College says that the formal system of water management used by the government is based on a western paradigm in which water is considered as a material commodity.

She points out, "Its value orientation is fundamentally economic. These are clearly shown in the way government creates policies and implements management of water resources

since its view of water is only an object that can contribute to local agriculture and economy."

WHAT TO LOOK OUT FOR

When working with the community, it is important to remember the critical role of tribal elders in the affairs of indigenous peoples and how consultations should follow certain protocols and rituals that are part of the community's life.

The formal management of water, she says, does not consider the indigenous community's cultural dimensions and that these "common assumptions of policy and decision makers in water management underlie the erosion of indigenous cultures and knowledge system in the management of water resources."

There are also disparities in the territorial definitions of local governments and the traditionally indigenous-defined and managed areas. With the implementation of the Indigenous Peoples Rights Act (RA 8371) of 1997, these conflicts have become more pronounced. For example, Besao's ownership of the Buasao and the Banao water sources is contested by the neighboring Sagada municipality. In addition, the 2000 Besao Municipal Development Plan has identified tourism, logging, and mining as "alternative development strategies," which would add to the competition for water and other natural resources.[1]

On the other hand, the indigenous peoples' management of water resources combines both the spiritual and physical drawing from the traditional belief that people's relationship with nature, meaning land and water, is the basis of their spiritual, physical and cultural existence.

Manochon says that indigenous peoples view natural resources "as an integral part of their everyday life. In a report by Luithi and Lasimbang, they stated that respect for natural resources, and their importance, is manifested in everyday activities and practice, as well as in myths and rituals. The knowledge for management of these resources is embedded in the social, spiritual, cultural, economic and political milieu of the peoples. Taboos, ceremonies and rituals which express respect and devotion to the spirits that are believed to guard different natural resources not only serve as an important ceremonial role but also ensure that rules for resource use are adhered to by community members."

Other critical issues and challenges to consider:

- Deforestation of mountain watersheds due to unregulated logging
- Lack of water reservoirs or comprehensive distribution system
- Conflicting and overlapping claims to water

*1 Eleanor P. Dictaan-Bang-oa, Traditional Water Management Practices of the Kankanaey_*

- A Constitutional provision on the Regalian Doctrine that effectively excludes access to and management of their ancestral land and resources.

Remember, indigenous peoples look at water as a shared resource that cannot be privatized.

Knowing this will enable you to determine the development track for your planned water system. Considering all these not only will expand participation but will help ensure the success of your water resource development initiative.

SOMETHING TO PONDER

Indigenous peoples believe that water is the source of all life forms and must be guarded and protected. They have beliefs and taboos about disturbing watershed areas or springs because these are considered sacred places. "Thus, management of water resources is innately connected to their religious belief system. Sacred sites are areas of land and water having special significance to the people and community. These sacred sites are evidences of the people's close relationship with nature in a spiritual and meaningful manner," writes Manochon. "If people view water as a sacred part of Mother Earth, consequently, management of water resources becomes a spiritual practice."

Indigenous Peoples' Participation in Water Decision Making

In their study, "Indigenous Participation in Water Planning and Management," Sue Jackson and Cathy Robinson of the CSIRO Sustainable Ecosystems, point out several barriers to meaningful IP participation in Australia that find resonance with realities faced by indigenous communities in the Philippines.

These barriers include:

1. Challenges to enable indigenous governance, including modes of decision-making, representation, communication and accountability, to inform water governance structures and processes;

2. Poor understanding of indigenous cosmology, environmental philosophies and resource management institutions among the dominant settler society;

3. Difficulties facing indigenous representatives wishing to participate in multi-stakeholder resource management groups, such as catchment management authorities, which in some jurisdictions are responsible for water planning. Issues include power imbalances that restrict equitable indigenous

SOMETHING TO PONDER

The Regalian Doctrine asserts that the State owns all lands that are not registered as private lands. When you consider that indigenous peoples traditionally do not register their ancestral lands these are now considered public lands that can be used for development purposes.

participation in many decentralized and democratic decision-making process;

4. The challenges to align scales of indigenous knowledge and governance systems with local, regional and policy-levels and scales of planning and decision-making;

5. Incompatibility between indigenous knowledge and aspirations for holistic management and scientific knowledge and technical forms of rationality;

6. Narrow interpretations of indigenous water property rights and governance in water planning and decision-making. Issues include lack of specification of indigenous water requirements in water resource assessments and water allocation plans;

7. The need to distinguish between the roles of Traditional Owners and other members of the indigenous community;

8. Poor formal recognition of the right of indigenous groups to participate in management of waters;

9. Strong perception among water management authorities that indigenous access to water should be for non-commercial purposes; and

10. Lack of institutional capacity in indigenous communities and water resource agencies to address cross-cultural issues and full range of technical issues underpinning water planning. Key issues to address include the lack of evaluation of performance of catchment

Here's a story from a study undertaken by Eleanor P. Dictaan-Bang-oa that you may learn from:

"Out of the 88 communal irrigation systems (in Besao) listed by the municipal agricultural office, 78 are classified as "private" (privately constructed by the farmer/user). These are the traditional irrigation systems that were used by the parents or grandparents of the present owners.

"Farmer-irrigators using a common water source belong to the *dumapat*, an informal organization particularly concerned about the equitable access to and distribution of water. There is no designated head for each *dumapat*, but leadership is usually attributed to the knowledgeable elders or to the most articulate.

"*Dumapat* membership is based on ownership of traditionally irrigated land along the downflow of the water. Thus, present-day farmer-irrigators trace their families' membership in the *dumapat* back at least four to five generations.

"All irrigation water matters are taken to the *dumapat*, from the establishment and day-to-day maintenance of irrigation canals to conflict resolution. *Dumapats* are particularly mobilized during the dry season when water supply decreases. From January to February, the *dumapat* cleans and rehabilitates irrigation canals and structures installed in the water source area to facilitate easy flow of water to the rice fields in the dry season (March to May).

Each member family of the *dumapat* sends at least one representative to these cleaning up activities. Members who are not able to participate are fined in cash or in kind based on their capacity to pay.

"The depletion of the water supply during the summer prompts the *dumapat* to monitor the equitable distribution of water to the fields. Watering the fields is done through a four-day *banbanes* (taking turns) system, in which each *dumapat* member has a scheduled time for watering."

management authorities in respect of obligations to indigenous peoples.

The study also quoted Jackson and Altman as saying "that there are two significant consequences arising from this inadequate policy framework. Firstly, indigenous groups who are unable to frame and specify their requirements are at a distinct disadvantage when competing with organized groups with clearly articulated claims for water and recognized expectations for continuity of access and use. This positional disadvantage is particularly pronounced in situations of water scarcity and intense competition between users. The omission of indigenous values and uses may result in inefficient and inequitable allocation decisions, and regional development opportunities may be foregone. (S. Jackson, J. Altman, Australian Indigenous Law Review 13(1):27-48 (2009)

"Secondly, if indigenous people are excluded from water planning they will be unable to contribute their hydrological and ecological expertise to water management. Effective water resource management must be grounded in the best available knowledge yet in many parts of Australia the science base is limited. As such, the considerable knowledge base that exists within many Indigenous communities regarding local water systems represents a valuable resource for policy-makers. To exclude indigenous

Water in IP Knowledge and Governance Systems

- Reflects the broader indigenous claims for autonomy to guide and control their own fate
- Is often organized at local scale, i.e. catchments can often contain more than one autonomous indigenous group but engages in technologies and partnerships at larger scales
- Is expressed in land and native title claims to reclaim control of traditional estates and natural resources
- Entails indigenous law and decision-making rules and norms that affect rights and responsibilities to make decisions, access resources, and benefit from their use
- Is underpinned by knowledge encoded in languages, customs and practices. This includes ecological knowledge, values, beliefs, ethics, and practices that govern indigenous environment relationships
- Encompasses holistic elements often captured as "country," a term often used when referring to a physical or metaphysical place of origin for members of an indigenous clan, kin –based group, or loose community. It includes the values, places, resources, myths, stories and cultural obligations associated with a geographical area including land, sea, and freshwater

Indigenous Participation in Water Planning and Management

International Instruments for the Protection of Indigenous Peoples' Right to Water

International Covenant on Economic, Social and Cultural Rights (ICESCR)	• The Right to Water is implicit in the ICESCR, protected through: • The right to an adequate standard of living; • The right to enjoyment of the highest attainable standard of physical and mental health; and • People's right to freely dispose of their own natural resources (wherein there would be no case of a people being deprived of their own means of subsistence).
International Covenant on Civil and Political Rights (ICCPR)	• The right to freely dispose of natural resources; and • The particular rights of ethnic, religious or linguistic minorities to not be denied the right in community with the other members of their group, to enjoy their own culture.
United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)	• Indigenous access, conservation and economic development of water; • A right to maintain and strengthen the distinctive indigenous spiritual relationship with traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas; • The right to conservation and protection of indigenous lands and resources with state assistance; and • The right to development for all indigenous lands and resources including water.

Convention on Biological Diversity	• Objective is to sustain all life on earth, including aquatic ecosystems, with the global goal to reverse and stop the loss of biodiversity • Provides for the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity • Many of the decisions of the COP call for the full and effective participation of indigenous communities in order to achieve the global goal
Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention)	• The conservation and wise use of all wetlands and their resources 'through local, regional and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world • Provides guidelines for establishing and strengthening local communities' and indigenous people's participation in the management of wetlands focusing on the need for indigenous engagement and participation, trust and capacity building, knowledge exchange, flexibility and continuity
Agenda 21	• A comprehensive plan of action to be taken globally, nationally and locally by organizations of the UN, governments, and major groups in every area where there are human impacts on the environment • Provides for the protection and management of freshwater resources recognizing the effects that climate change will have on water and indigenous peoples • Identifies the need to: - Engage indigenous peoples in water management policy making and decision-making - Improve indigenous technologies to fully utilize limited water resources and to safeguard those resources against pollution - Recognize the interconnection between economic development and access and supply of water

Traditional Management of the Magat Watershed by the Ifugao Tribes

The Ifugao watershed model demonstrates the role of indigenous resource management in eliciting community involvement, technology applicability, cultural support for systems of forest conservation and sustainable development. For several generations, the tribe's traditional forest management systems have contributed to significant forest development and conservation. Their traditional forest management basically ties-in with the production of timber and non-timber forest products; and the protection of small watershed of adjacent irrigated rice-paddies. The Ifugaos' role in managing the Magat watershed is seen in two types of management systems: *"muyong"* and the *ala-a.*

In the *Muyong* system or Private Woodlot Management System, ownership is ether private or communal. Where it directly supports privately owned paddy fields, ownership is considered private. However, the forest acts as a sponge layer that retains rainfall and slowly releases the water for irrigation and domestic use. The *muyong* system remains stable and sustainable as a result of the *muyong* owners' efficient silvicultural systems and effective utilization of wood resources. The Ifugaos have learned by experience that *muyong* is vital to long-term production and productivity drawn from the whole watershed unit.

The *Ala-a* or communal forest management system, which is generally located on lands not cultivated as swidden or lands too far to be covered by a private claim, is communally managed for collecting fuel, construction materials, food, medicine and other products that may be used in the household or farm. Unlike the *muyong, ala-a* forests are not systematically maintained to improve the vegetation. While its boundaries are not very clear, its use is guided by a consensus that watershed and forest resources have to be shared. There are two basic rules - no burning, and no gathering beyond what is personally needed. The *ala-a* was not perceived as sources of wood for sale outside the village. However, with the commercialization of woodcarving, people started to harvest trees within the communal areas to generate cash income.

Case excerpted from, E*lazegui, Dulce and Edwin Combalicer. Realities of the Watershed Management Approach: The Magat Watershed Experience. Philippine Institute for Development Studies. 2004.*

CHAPTER SIX

GENDER, WATER AND SANITATION

Women's Central Role in Water Management

In a policy brief of the UN WATER, women are cited for the primary responsibility for management of household water supply, sanitation and health. The role of women thus not only relates to water as necessary for drinking, but also for food production and preparation, care of domestic animals, personal hygiene, care of the sick, cleaning, washing and waste disposal. And because of women's dependence on water resources, most women have accumulated considerable knowledge about water resources, including location, water quality and storage methods. Efforts to improve the management of water resources have neglected this fact and have paid very little attention to the central role of women in water management.

A. WOMEN IN WATER

1. Current Status and Trends

The importance of both men and women in the management of water and sanitation has been recognized at the global level, starting from the 1977 United National Water Conference at Mar del Plat, the International Drinking Water and Sanitation Decade, and the International Conference on Dublin (January 1992) which recognizes the central role of women in the provision, management and safeguarding of water.

2. Women's Issues on Water

The water sector today is user-oriented in terms of their management systems. And it is no doubt that among all, the users can be differentiated in terms of gender. In many societies, women are the primary users, collectors, transporters, and managers of domestic water and promoters of home and community-based sanitation activities (ADB).

Source: Indigenous Legal Rights to Freshwater: Australia in the International Context, CAEPR Working Paper No. 242/2008

Relationship between Gender and Water Millennium Development Goals		
MDG	**Ensure Environmental Sustainability (Goal 7)** Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation (target 10)	
	Contribution of domestic water supply and sanitation	**Contribution of sound water resources management and development**
	• Reduced time, health, and care-giving burdens from improved water services give women more time for productive endeavors, adult education, empowerment activities, leisure • Convenient access to water and sanitation facilities increase privacy and reduce risk to women and girls of sexual harassment/assault while gathering water • Higher rates of child survival are a precursor to the demographic transition to lower fertility rates; having fewer children reduces women's household responsibilities and increases their opportunities for personal development	• Community based organizations for water management can improve social capital of women by giving them leadership and networking opportunities and building solidarity among them.

- **Inequitable Access to Water**

Women are generally responsible for fetching water and using it for preparing food, washing clothes, cleaning the house, promotion of hygiene in washing of hands, caring for the ill when hygiene is poor. Often, they have to travel great distances in search of water, which in turn affects their time for other activities such as growing and preparing food and income generating work.

They carry the gallons of water by their hands or on their heads and transport them by foot since transportation is not available. Because of this, their other activities are compromised. Girls are unable to attend school, and women are unable to engage themselves in income-generating activities.

Adverse Effects on Women's Productivity

The inequitable access to water of women which is characterized by the difficulty in obtaining access and the poor quality of water supply have adverse effects on women's productivity.

- **Lesser time for other productive work**

The high demands of work in water supply and waste disposal reduce the time and energy available for the many other direct and indirect economic tasks. Often this forces women to choose between their productive and reproductive tasks or to involve their children, in particular their daughters. Authors in at least 13 studies have reported that, because of their heavy workload in, among other things, water and firewood collection, women have had to reduce the time spent in food preparation, boiling water, and childcare, including breast-feeding (Wijk, 1985).

In the Philippines though, the situation in education in the above box does not apply as women have reportedly higher enrolment and completion rates than boys.

In Laguna, Philippines, a household survey was carried out in 34 rural communities. Productive work reduced the time devoted to childcare by more than three hours a week. Older siblings substituted for their mothers, so that the total time spent in childcare remained the same, but the nutritional status of the children cared for by siblings was significantly lower (Popkin, 1980). In these villages, water collection took on average three hours and 20 minutes per household per week. Reduction in time spent in water collection would allow these mothers to continue with essential income-generating tasks, and to spend more time in childcare.

B. INEQUITABLE ACCESS TO SANITATION

In a report of UNICEF on WASH (Water, Sanitation and Hygiene) and WOMEN, it disclosed that women and girls pay the heaviest price for sanitation. There are many reasons, beyond the health repercussions of inadequate sanitation, for why it is a priority issues for women and girls:

- Freedom from imprisonment by daylight. In many cultures, the only time available for women and girls to defecate, if they don't have a latrine, is after dark. Apart from the discomfort caused by the long wait, this can cause serious illness. And there is also a risk of harassment and assault during the night-time walk to and from the communal defecation fields.

- School enrolment and attendance. The lack of safe, separate and private sanitation and washing facilities in schools is one of the main factors preventing girls from attending school, particularly when menstruating.

KNOW MORE

Women and Water, UNIFEM AT A GLANCE, April 2004

According to a UNIFEM study on women and water, on the average women and children travel between 10-15 kilometers, spending at least eight hours per day collecting water and carrying up to 20 kilos or 15 liters per trip. It has been calculated that in South Africa alone, women collectively walk the equivalent distance of 16 times to the moon and back per day gathering water for families. In addition, it is women and girls who spend an estimated eight hours a day in collecting water from distant sources. The economic value of this unpaid contribution is enormous. In India it is estimated that women fetching water spend 150 million work days per year, equivalent to a national loss of 10 billion rupees.

- Reduce the burden of caring for the sick. The health and lives of more than half the world's children are constantly threatened by environmental hazards as they get sick through contact with excreta in their environment. Caring for sick children adds to the already heavy workload of women and girls.

- Protect pregnant women from disease. About 44 million people pregnant women have sanitation-related hookworm infections that pose a considerable health burden in developing societies.

C. PARTICIPATION AND EQUITY IN DECISION MAKING

Women are underrepresented in the water world with career and training in water management dominated by men. Water utility management is seen more as a technical job and henceforth is considered for men. Women rarely hold managerial positions and in some countries where there is a strong inequality between men and women, there are very few women in the water workforce. In the Philippines' water districts, there is less than five percent women General Managers and/or women holding top managerial positions.

D. ADDRESSING GENDER CONCERNS IN WATER AND SANITATION

Women should not be considered passive users of water. A change in perspective should be utilized. In countries where women are the primary managers of community water supplies, they are responsible for ensuring that the water sources are potable for drinking, and are able to determine which sources can be used for other sources such as washing, cleaning and bathing.

KNOW MORE

Water's Burden on Women and Children,
Edge Outreach, 2011

In many countries in Africa, some mothers wait until their child's fifth birthday to give them a name. To you, this seems absurd, but to a mother who has lost so many of her children to diseases caused by water; it is reality. Diarrhea, due to unsafe drinking water, is the second leading cause of death among children under the age of five in developing countries. According to UNICEF, a child dies every 15 seconds because of water borne illnesses.

Did you know that over 60 percent of the 113 million children NOT enrolled in school are GIRLS. Of the 113 million children currently not enrolled in school worldwide, 60 percent are girls. This is due largely to the fact that young girls are needed to help collect the family's water supply. Without education, poverty escalates in generations to come. Even children enrolled in school have spotty attendance due to frequent illnesses. A lack of safe water also means that children cannot properly wash or care for common diseases like scabies and eye infections such as trachoma. The effects are blindness and a limited life.

At present, the approaches to management of water resources are considered to be highly segregated wherein specialists focus on providing for technical improvements and institutional reforms and unintentionally miss out on its social aspects and sustainability conditions. For this reason, development interventions have started to progress into multidisciplinary actions. All aspects of development intervention have now started to focus not only on the technical aspects of water provision but making an allowance for the social features as well. This reorientation is recognized by policy documents and governing bodies not only in the Philippines, but globally as well.

One dimension of the social reorientation is the focus on a gender approach to development. It recognizes that gender approach is essential to development of efficient, effective, equitable, systems and strategies.

1. Mainstreaming Gender in Policy Development

Over the years, the plight of women in water and sanitation has gained considerable interest and measures are being adopted to address their needs. For one, the Inter-agency Task Force on Gender and Water (GWTF), a sub-program of both UN Water and the Interagency Network on Women and Gender Equality (IANWGE) developed a policy brief in support of the International Decade for Action, "Water for Life" 2005-2015. It strongly advocates the direct involvement of both women and men at all levels: national governments; regional/local governments; communities and civil society organizations; donors; and international organizations.

Incorporating a gender perspective into the global water and sanitation agenda

National Governments - Governments need to have a clear commitment to both incorporate water and sanitation programs explicitly in their national development strategies, and to ensure that a gender perspective is mainstreamed into this agenda.
Some suggested actions are outlined below:

a) Mobilize resources to improve access to safe water and sanitation

- Facilitate access to grants or credit on concessionary terms for women's groups for installation and maintenance of adequate drinking water supply and sanitation facilities;

- Allocate resources to civil society organizations and small-scale providers of water and sanitation services, particularly those that include women as full partners;
- Provide micro-credit and creative alternative financing mechanisms to gender-sensitive organizations for improving or building community-based water and sanitation services.

Our Thirsty World

By Tina Rosenberg
Photograph by Lynn Johnson

The Burden of Thirst

If the millions of women who haul water long distances had a faucet by their door, whole societies could be transformed. Aylito Binayo's feet know the mountain. Even at four in the morning she can run down the rocks to the river by starlight alone and climb the steep mountain back up to her village with 50 pounds of water on her back. She has made this journey three times a day for nearly all her 25 years. So has every other woman in her village of Foro, in the Konso district of southwestern Ethiopia. Binayo dropped out of school when she was eight years old, in part because she had to help her mother fetch water from the Toiro River. The water is dirty and unsafe to drink; every year that the ongoing drought continues, the once mighty river grows more exhausted. But it is the only water Foro has ever had.

KNOW MORE

In Morocco, the Rural Water Supply and Sanitation Project of the World Bank aimed to reduce the "burden of girls who were traditionally involved in fetching water" in order to improve their school attendance. In the six provinces where the project is based, it was found that the girls' school attendance increased by 20 percent in four years, attributed in part to the fact that girls spent less time fetching water. At the same time convenient access to safe water reduced time spent collection water by women and young girls by 50 to 90 percent.

Source: World Bank, 2003, Report No. 25917.

WHAT TO LOOK OUT FOR

Where water committee members are chosen by their fellow men and women, formal barriers may impede the election of women. Because board members are usually chosen from association members, excellent women candidates who are not heads of household have been excluded. Both water supply and irrigation user associations in the Philippines had almost no women in decision making and managing functions, because only heads of household were permitted to be members of user associations (Cloud, 1994; Philippines, undated). Individual membership of user associations for male and female heads of households gives women a better guarantee of a voice in collective decisions and ensures that both men and women contribute to the service.

b) Strengthen legislation and facilitate access to land and water for productive uses

- Recognize women's important role in agriculture, livestock and fisheries, assist them in gaining access to water for productive uses and accord women equal rights to land tenure;
- Support and promote equitable land and tenure arrangements that enable female producers to become decision-makers and owners; Improve women's productivity in using water for agriculture and small business through training, market linkages and access to information.

c) Promote access to sanitation

- Ensure that the overall national sanitation framework is gender-sensitive;
- Earmark funds for hygiene education in school curricula and separate sanitation facilities for boys and girls;
- Commission research to identify, through gender analysis, where social and economic groups are chronically excluded from access to sanitation.

d) Develop capacity and encourage participation

- Introduce affirmative action programs for training women in technical and managerial careers in the water and sanitation sector;
- Ensure that a minimum percentage of women participate in decision making from the ministerial down to village levels;

- Provide assistance to facilitate research into gender considerations in water resource management;
- Allocate funds to the capacity development of women and girls; and
- Encourage both women and men to participate in businesses involved in water resource management and sanitation schemes.

Regional/Local Governments

- Encourage gender mainstreaming in local government and community levels;
- Promote hygiene education messages through women's groups, schools and health clinics;
- Design and implement capacity building to consider the needs of women and men in the design of water, sanitation and hygiene education programs;
- Remove internal gender biases and discrimination in public sector organizations;
- Encourage gender sensitive budgets so that local governments can assess the economic value of policy commitments on gender equality.

Communities and Civil Society

- Lobby for better services targeted towards women and children;
- Assist in collecting information on men and women's roles, access, needs, priorities and perspective on water and sanitation related issues;
- Support equality for women in the decision-making process at a local level;
- Enable women and girls to acquire access to information, training and resources related to water and sanitation initiatives.

KNOW MORE

How is Gender Considered in the Planning and Development of a Water and Sanitation Project?

Part of the social and poverty assessment is to determine the critical gender issues in a project. The survey will help identify and assess the demographics of women participation and gender issues such as unemployment, violence against women, early pregnancy and marriage and others.

If there are gender issues to be addressed, a **Gender and Development Plan** shall be prepared to ensure that women are not excluded in the project and gender bias is minimized or avoided. The plan shall disclose the threats and opportunities and proposal on how the women can participate in the project in planning, implementation and O&M activities (water and sanitation).

D. GENDER EQUALITY AND WOMEN EMPOWERMENT IN THE PHILIPPINES

1. Fast Facts and Figures - (From UNDP Philippines, Fast Facts)

Gender equality is well advanced in the Philippines. The country scores well on international gender equality measures and indices, but more is needed to sustain the achievements and to overcome remaining challenges.

Despite a favorable policy environment – the Philippines is signatory to international human rights instruments and has successfully enacted policies and laws for the protection and promotion of women's rights - the implementation of policies appears uneven and slow.

More than ten million Filipino women still live today in poverty, with rural and indigenous women being the most vulnerable. Maternal mortality and access to reproductive health care services are among the most pressing concerns in the country. Eleven women die every day due to pregnancy and child birth-related causes.

Women's representation in politics, though improving, continues to be low: less than 20 percent of the seats in Congress and 13 percent in the Senate are occupied by women. According to the 2004-2010 Report on the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), one in five Filipino women or 4.6 million have experienced physical violence since age 15.

The International Labor Organization (ILO) reports that less than half (45.9 percent) of working age women are able to access decent and productive employment, compared to three in every four male (72.6 percent) of working age. In the agricultural sector, men receive 20 percent higher wages than women. According to the HIV/AIDS Registry of the Department of Health, 24 percent of the reported 5,233 cases as of June 2010 are women. Gender disparities in education favor girls, with higher enrolment and completion rates than boys, which compromise the development of gender-equal education opportunities.

The gaps in gender equality hinder the achievement of the Millennium Development Goals by 2015 in the Philippines. The Goals for which progress is reported as slow are the ones where the needs and status of women and girls are given low priority.

Targets on maternal health and access to reproductive health are among the least likely to be met.

In the Philippines, there are various initiatives that were undertaken and/or being undertaken to address the concerns of women and mainstream gender in water and sanitation as enumerated below.

- In a scheme in the Philippines, a small diameter pipe system was added to the irrigation network to provide easy access to a limited amount of extra water for domestic use (Yoder, 1981).

- Low-income households can, for example, seldom pay large lump sums, such as are required for water connections, and even monthly tariffs. Allowing users to pay smaller amounts more frequently makes water more affordable for low-income families also. In several Latin American countries, the Philippines and Kerala, India, spreading connection costs over time made private connections more affordable and gave more women the benefit of a tap in the house.

- Evidence of women as arbiters in water management conflicts also comes from other parts of the world. Quoting Illo (1988: 42-43), Cloud (1994: 10) reports that, in an irrigation scheme on the Aslong river in the Philippines membership of the water users association was made in the name of the household, not that of the male head. This enabled women and youth to take part in user assemblies and to take

Cases on Women in Water in the Philippines

a) Water Champion

The story of Elsa Mejia, a small scale water service provider in the Philippines, shows how women have been successful in bringing solutions to water problems and demonstrates that challenges such as water affordability can be addressed in innovative ways.

Elsa D. Mejia is General Manager of the Inpart Waterworks and Development Company (IWADCO), a family enterprise that started as a small construction company specializing in the production of water tanks for small towns and municipalities in and around Metro Manila. In the mid-1990s, when IWADCO was still Inpart Engineering, Elsa became aware of the problems on access to water in the neighboring village where some of their employees live. She decided not only to help their employees get water, but also to work with them in bringing water to the community.

IWADCO (then known as Inpart Engineering) invested US$350,000 over a five-year period in low-income communities. Raising this amount, which enabled IWADCO to deliver water to 125,000 people either through piped connections or hose connections from storage tanks, wasn't easy. Ms. Mejia approached commercial banks for loans but unfortunately failed to convince them that selling water in districts marked by poverty is a bankable enterprise, even if it already had more than 25,000 customers and good commercial indicators.

With very few options available to it, IWADCO borrowed money from relatives and other nonbank lenders, often at usurious rates of five percent to 15 percent interest per month, to raise up to US$100,000 for a small piped water supply system. With its US$100,000 investment (around US$30-40 per household), IWADCO sold 30,000 cubic meters (m3) of water in a month, serving over 3,000 households.

Since then, governments have shown increasing interest in partnering with small enterprises for water supply provision. With its extensive experience, IWADCO stands out as one of the most viable and trustworthy partners in the water sector. Ms. Mejia says that their operations hinge on the partnerships that they forged with communities and local governments. So changes in leadership can be difficult times for them—there is always the risk that the new leaders will affect their original agreements. But because they work directly with, and provide employment for those who live in poverty, they have earned people's trust and support. And this somehow, minimizes the risks involved in changing leaderships.

In August 2007, Elsa became president of the National Water and Sanitation Association of the Philippines (NAWASA), a new organization of SSPWPs in the country.

up a mediating role. Financial obligations were then better settled.

- Given the differences between men and women in work, areas of communication and learning and expected benefits, a gender approach plays an important role in ensuring that water supplies can meet local demands and conditions. Long experience in the management of water means that women have particular knowledge and requirements for new water systems. In the Philippines, women assisted in selecting the best intake site and route for a gravity supply (Glasgow, 1984).

- In a number of projects, community members have been trained to assess their own community needs and resources and to carry out socio-economic surveys for water supply projects, though not always using a gender approach (Karlin, 1984; Mikkelsen et al. 1993; PSWS/IRC, 1981).

  An experiment in five communities in the Philippines found that this considerably reduced costs, while the studies were as reliable as those of agency staff. It also showed that sophisticated studies with many questions and complicated processing of data and insufficient feedback reduce the learning and motivational effect (Cross et al.,1980).

- Health has been an entry point for women to enter technical training for sanitation. When the Visayas project in the Philippines began to train 'Household Unit Representatives' in hygiene and sanitation, 70 percent of the participants were women and 30 percent men. Their socially approved role as primary health care givers enabled these women to pass the demarcation line between what is seen as women's and men's work.

WATER AND SANITATION FINANCING

CHAPTER
SEVEN

A. INTRODUCTION

We need funds to develop water supply and sanitation systems!

One of the bigger challenges in meeting the MDG in water is having sufficient funds for the needed investments. According to a study conducted by Global Water Partnership (GWP), between 2002 and 2025, it is estimated that annual costs of about USD 13.0 billion are needed to finance investments in drinking water alone as shown in the following table:

Table 2.6: Indicative Investment in Water Services for Developing Countries

	Annual Costs (in billions of USD)	
	Today	2002-2025
Drinking Water	3	13
Sanitation and Hygiene	1	17
Municipal Wastewater Treatment	14	70
Industrial Effluent	7	30
Agriculture	32.5	40
Environmental Protection	7.5	10
Total	75	180

Source: GWP, "Towards Water Security: a Framework for Action", and John Briscoe, "The financing of hydropower, irrigation, and water supply infrastructure in developing countries," in Water Resources Development, (Vol. 15, no. 4, 1999. Figures include 15% allowance for O&M.

Note: Investment in hydropower (about $15 billion) is not separately identified. Because larger schemes are usually multipurpose, some of this cost would be included in the Agriculture and Environmental Protection categories, and the remainder would be attributed to the power sector.

There are other studies on the financing and investment in the water sector with varying figures, but overall studies conclude that investments in the sector on a global level are inadequate and huge investments are needed to meet the MDG of halving the population without access to water by 2015.

MUST KNOW

Where water funds come from

Water users, such as households, farmers and businesses. Householders, particularly in rural areas and in urban districts marked by poverty, invest their cash, labor and materials in wells, pipes, basic sanitation and other facilities. Farmers invest large sums in tube wells, pumps and surface irrigation systems, either on their own or as members of associations and user groups. In some regions, farmers with surplus water from their own sources invest in distribution systems to dispose of their surplus to others. Industrial and commercial firms often develop their own water supplies and effluent treatment facilities. Some large firms even supply the general population. Users also cross-subsidise each other through paying different tariffs.

Informal suppliers. In cities where growth has outstripped the public network, local entrepreneurs, often acting outside the law, fill the vacuum by selling water in bulk from tankers—or in containers and bottles.

Public water authorities and utilities, which fund recurrent spending and some new investment from revenues provided by user charges (gross operating cash flow), loans and sometimes public subsidies.

Private companies, either local or foreign, providing funds from sources similar to public utilities, plus equity injection.

Non-governmental organisations and local communities, raising funds from voluntary private contributions or grants from international agencies.

Local banks and other financial institutions, offering short-term or medium-term loans at market rates.

International banks and export credit agencies, providing larger volumes of finance than local sources, against corporate guarantees or project cash flow.

International aid from multilateral and bilateral sources, available as loans on concessional terms or grants.

Multilateral financial institutions: Loans on near-market terms.
Environmental and water funds.

National central and local governments, providing subsidies, guarantees of loans, and proceeds of bond issues.

Constraints that limit water sector finance

A common constraint identified by donors and the private sector is lack of bankable, financially viable projects in the water sector in developing countries. However, communities, NGOs, and would-be project sponsors often say that donors and the private sector do not address practical realities, particularly regarding time, size, technology and disbursement. In addition, donors continue to fund non-viable projects, whether for political or other purposes. This has resulted in an increased debt load, without achieving progress towards development targets.

Research by the EU Water Initiative Finance Working Group (FWG) identified constraints to water sector finance, as perceived by different stakeholders, under the following headings:

- Politics and governance
- Project preparation
- Technical, administrative, and financial capacity
- Cooperation and coordination
- Financial risk

Project preparation and financial risk

The water sector poses significant financial risk for potential investors, including weak cost recovery, governance issues and many others. Many private sector or community-based projects cannot proceed without bridging the period between developing a project and attracting a loan or other form of market-based finance.

Financing facilities aim to reduce the real and perceived risk, using a range of finance mechanisms to attract donor or private sector investment. A financing facility increases the potential for sub-sovereign finance (provincial, district or municipal authority) and non-sovereign finance (such as the World Bank, the EU financing mechanism, the private sector or NGOs), and greatly reduces bureaucratic measures.

However, it will take time to start up new businesses and approaches and to bring successful ventures to scale to address the needs of 1.6 billion people who lack sustainable access to a safe water supply, and 2.6 billion who lack access to basic sanitation.

C. FINANCING AND INVESTMENTS IN THE SECTOR

1. Financing Sources

The financing sources discussed in this section refer to financing of projects of publicly operated water utilities such as the LGU run water utilities, RWSA, and water districts.

Financing of the sector generally comes from different sources including national government (NG) funds as part of the annual budget appropriations, official development assistance (ODA), commercial

loans, government financial institution (GFI) loans, private sector capital and local government unit (LGU) funds. Consistent with the policy of encouraging private sector participation, build operate transfer (BOT) and joint venture (JV) projects have also been implemented.

Financing the local water sector from the national government takes the following forms:

- **Grant Financing.** The provision of grants in government programs such as the Salintubig Program, is in line with the government's goal of having water for all. In effect this supports the idea that every Filipino has a right to water. Grant financing should not be abused and there is a need to ensure that this is provided to the appropriate beneficiaries.

  The first constraint in ensuring proper usage of grant funds is **lack of knowledge.** Claimholders need to be aware of ongoing programs of the national and local governments. They need to be vigilant in the allocation of these funds to beneficiaries for water supply and sanitation projects as there are opportunities for corruption in the process. Grants are usually provided for beneficiaries and communities where the need for water supply and sanitation services is urgent but the residents cannot afford the more expensive forms of financing like loans.

  In the Salintubig Program for example, a criteria for the beneficiaries of the program is that they should be a waterless municipality or less than 50 percent have access to water in that community. The selection of the beneficiary barangays need to be transparent and participative reflecting the main criteria for the program.

- **Loan Financing.** Due to limited grant funds, most of the utilities or WSPs need to borrow to finance their infrastructure development. A major constraint in this area is lack of access to market based financing, an issue which is even more pronounced in small water utilities.

  To be eligible for borrowing, the WSP needs to demonstrate its ability to repay the loan (loan borrowing capacity). Each lending institution has its own policies and procedures to establish a utility's ability to repay its loans. The most basic criteria are:

  (i) Cash Flow Projections showing that the project can generate revenues to meet O&M and debt service

  (ii) Cost recovery from operations and ability of current assets to meet current liabilities

The key factor in making the projects viable for bank financing are the required increases in water tariffs which the communities need to commit to. This poses a serious constraint as many communities **have difficulties in making such commitments to tariff increases. On the other hand, there are cases where the constraint is the low willingness of the LGUs to charge appropriate tariffs in spite of the high willingness** to connect and willingness to pay of the consumers. As a result of these constraints, much needed improvements cannot be undertaken.

- **Equity Financing.** Community members or project beneficiaries are usually expected to finance around 10 percent of project costs. A constraint here is - **consumers who cannot afford** to give their share of the equity requirements or pay the costs of service. The Duty Bearers at both the national and local government need to think of ways to expand grant assistance to social groups, communities or individuals who cannot pay for the full cost of water. This situation is due to their personal circumstances (senior citizens, disability, IPs, persons living in extreme poverty). This is the only way the provision of water becomes non-discriminatory and the water for all objective is attained.

One way for persons living in poverty to contribute to project costs is to allow households which cannot contribute cash as equity, to provide their equity contribution in kind or in the form of labor. For Level 3 systems, households living in poverty may also be allowed to pay the connection fees in installment to make the service affordable.

Financing by Type of WSP

- **LGU-Run Water Systems (as a Local Economic Enterprise).** A water system is considered as one of the many local economic enterprises (LEEs) being financed and managed by the local government units (LGUs). LEEs may include public markets, slaughter houses, hospitals, public cemeteries, parking areas, sport and recreational facilities and other public utilities such as power, telecommunications, garbage disposal, transport and terminal services. The LEEs funds are provided by the LGU.

Where does the LGU get its funds?

The LGU receives funds from the national government in the form of the Internal Revenue Allotment (IRA). This is the major source of revenues of most LGUs. In addition, the LGU has internal sources from local

In 2003, the Camdessus report outlined the following
conclusions about water sector finance:

- That the financial flows to the water sector are inadequate to achieve the MDG target of halving the proportion of people lacking safe water and sanitation;
- That government policies for the water sector should be decentralised to the lowest appropriate level, while decentralised sector institutions require substantial amounts of capacity to improve sector planning and management;
- That sustainable cost recovery principles need to improve, both in terms of increasing service providers' revenue generation, and in terms of institutional blockages to financial transfers (e.g. from governments and donors);
- That NGOs and local private sector operators have a strong role to play in developing the sector;
- That a reformed sector with improved institutional structures and governance will attract additional ODA as well as private capital; and
- That sovereign risk poses a strong disincentive for international investments, given their low returns.

Source: Winpenny, 2003.

MUST KNOW

"Access to loans is a problem mainly because of lack of assets acceptable as collateral especially as required by the private financing institution (PFIs). Some GFIs, though reportedly do not require collaterals as they rely only on the cashflow viability of the operations of the water utility". (Financing Small Water Utilities, World Bank, 2008).

taxes, etc. The LGU can also obtain loans from the Bureau of Local Government Finance (BLGF) or Municipal Development Fund Office (MDFO) based on a borrowing capacity assessment carried out by the BLGF. It can also borrow from government financing institutions (GFIs) and private financing institutions (PFIs). Other sources are congressional initiatives. The LGU allocates these funds to various expenditures including water supply projects. Funds for investments and sometimes even for operations of the LEE on water supply and sanitation are provided from these funds. The LGU can also provide funds to help other WSPs such as BWSAs and RWASAs.

Water Districts - The water district may obtain loans from the Local Water Utilities Administration (LWUA), government financing institutions (GFIs) and private financing institutions (PFIs).

(i) LWUA - Local Water Utilities Administration. The primary source of funds for water district is the LWUA. LWUA has several financing packages that cater to the specific needs of a newly formed water district. Technical assistance such as the preparation of feasibility studies, planning, design and construction, tariff setting, installation of accounting system, organizational structure and personnel training are among the services being provided by LWUA apart from financing.

(ii) **Government Financing Institutions.** Aside from the LWUA, there are government financing institutions that provide funds to the water districts and these include the Development Bank of the Philippine and the Land Bank of the Philippines.

HELPFUL HINTS

Various ODA-funded programs and projects provide **grant** financing for water supply provision, especially in the rural areas. **Loans**, coursed through national government agencies (e.g., Department of Interior and Local Government or DILG, Department of Agrarian Reform or DAR) and GFIs (e.g., LWUA, Development Bank of the Philippines, Land Bank of the Philippines) are also provided. Funds from the NG and ODA programs/projects often require LGU counterpart funds to increase ownership and accountability. NG-LGU cost-sharing arrangements have been formulated based on the income class of LGUs.

(iii) **Commercial Banks/Private Financing Institutions**. Commercial banks are sources of funds for the credit worthy and semi-credit worthy water districts. Some of the banks that have provided funds for financing water supply projects of water districts include the Philippine National Bank, Bank of the Philippine Islands and the Banco de Oro.

Barangay/Rural Waterworks Association - The barangays derive funds for development from the local government units through the internal revenue allotment.

2. Financing Issues and Constraints

General Situation. In a conference on Regulation to Improve Water Service Performance in the Philippines, it was reported that weak financing is a major restraining force in the water supply sector. Investments during the last two decades have fallen short by at least 50 percent of the requirement and were skewed heavily toward Metro Manila. The bulk of public investments were channeled through MWSS and LWUA - both of which are currently facing financial constraints.

Local public utilities, on the other hand, remain underinvested with aggregate LGU investments averaging 400 million a year mostly for recurring expenditures. Investment planning for expansion is weak and is dependent on national government facilitated investments through on-lending to national sector agencies (like LWUA and MWSS) and through government financing institutions (GFIs), small grants for community driven initiatives and through congressional allocations which are generally selective in nature.

The NG spends a small fraction of its budget for water supply. In 2007, for instance, only 0.84 percnt of the PhP 442.3 billion expenditure on infrastructure went to water supply. The President's Priority Program on Water (P3W) allocates PhP500 million a year from 2005-2010 to fund investments in waterless areas, particularly outside Metro Manila. Various ODA-funded programs and projects provide grant financing, especially in the rural areas. Loans, coursed through NG agencies (e.g., Department of Interior and Local Government or DILG, Department of Agrarian Reform or DAR) and GFIs (e.g., LWUA, Development Bank of the Philippines, Land Bank of the Philippines) are also provided.

Funds from the NG and ODA programs/projects often require LGU counterpart funds to increase ownership and accountability. NG-LGU cost-sharing arrangements have been formulated based on the income class of LGUs.

The NG's fiscal position has put more emphasis on the need for the private sector to fill in the investment gap in the sector. However, private sector participation is not as robust as anticipated mainly due to the non-viability of smaller utilities which usually service rural communities.

MUST KNOW

Internal Revenue Allotment (IRA)

The share of local government units in the proceeds of national taxes is called Internal Revenue Allotment or IRA. This is determined on the basis of collections from national internal revenue taxes actually realized. The total annual IRA share due all LGUs is allocated as follows: 23 percent for provinces and cities, 34 percent for municipalities and 20 percent for barangays. The share of each province, city, and municipality is distributed as follows: 50 percent on population; 25 percent each for land area and equal sharing.

Bureau of Local Government Finance (BLGF)

The Bureau of Local Government Finance is an arm of the Department of Finance which facilitates preparation of foreign-assisted projects. The local government units are normally the beneficiaries of these projects which may come in a form of a loan or grant or mixed component.

Municipal Development Fund Office (MDFO)

The Municipal Development Fund Office (MDFO) which is also under the Department of Finance offers loans to support a wide range of LGU projects, and provides grant support, the extent of which will depend on the type of project and the income class of the LGU. There are a number of project loan facilities which can be availed of for project preparation, feasibility studies, detailed engineering and construction supervision, as well as urban development planning. The MDFO matches the loans with free training and capacity building for the participating LGUs. The LGU is required to set aside 20 percent of its IRA (also called 20 percent Development Fund) for local development projects as contained in their local development plans.

Funds from donor agencies channeled through other government agencies through the LGUs may also flow into the BWSA and RWSA for the construction of its water system.

b) Financing for Small Water Utilities or Small Scale Water Service Providers [1]

For small water utilities, financing is an even bigger concern. As discussed in the WB report below, assuming 84 percent coverage and the pledge of the GOP to increase it to 86.5 percent in 2012, at least USD2.6 billion will be required to fund the requirements until 2015.

Key Issues that Impact on Availability of SWU Credit

- Legal and organization issues common to SWU. There are various classifications of SWUs; the three main types being: the Water Districts, Local Government Units or LGU-operated; and the Cooperatives. Each has its own distinct character, arising from the legal and regulatory framework from which each is created.

  These differences extend to the ownership structure, organization, management and regulation of the different types. As such the legal remedies available to lenders for loans extended to each type will be different and unique, according to their respective legal profiles.

  Similarly major criteria used in credit evaluation, such as borrower profiles (legal structure, ownership, organization, credit structure, financial condition, etc.), will be interpreted and evaluated according to the unique characteristics of each type of institution.

1 *Small Water Utilities Financing Project, World Bank, 2008*

- Regulatory Framework of the Water Sector. Of prime importance to a bank in building credit and investment portfolios in any sector would be the efficiency and predictability with which the regulatory framework is working in that sector. This would define the environment and parameters within which they will be able to do business in the sector, and hence determine the "palatability"and "desirability" of doing business there. The current regulatory framework in the water sector can generally be described as follows:

  (i) There is a lack of clarity about the functions, authorities and responsibilities of the various agencies and institutions involved in the water sector.

  (ii) Ambiguity in the definition of "franchise." While many assume that this is synonymous to a permit to operate, granted by the NWRB, this assumption is questionable: firstly, because less than the majority of the sector operates within NWRB's supervision; and secondly, because in certain areas, there are still existing units that operate on the strength of "congressional franchises."

  (iii) Many agencies/institutional/bodies are involved with regulatory matters. The local governments for example, are significantly involved as owners of SWUs; while the Cooperative Development Authority (CDA) has jurisdiction for Cooperatives. In addition, there is the Local Water Utilities Authority (LWUA), whose charter and function has been revised and re-defined, and it still being re-defined to this date. And, of course, there is NWRB. Unfortunately, there is no visible coordination between these agencies.

- Bank Funding/Credit Issues. PFIs are not familiar with the water sector beyond knowing a bit about what the sector does and why it exists. They do not possess sufficient competence, or capability, in performing technical and financial evaluations of projects/deals in this particular sector. This non-familiarity with the water sector is a concern repeatedly expressed within PFIs

HELPFUL HINTS

The WSP needs to be ready at all times to pursue different modes of financing, including loan financing, to improve their service. One basic requirement of all lenders is the submission of updated and audited financial reports (Income Statement, Balance Sheet, and Cash Flow) which report on the water supply and sanitation operations of the WSP.

For LGU-run systems, ring fencing of water supply and sanitation accounts is necessary to allow them to prepare relevant reports for monitoring and evaluation, and to make them ready for credit assessment by banks in the event they need to borrow. The final constraint then is the unavailability of ring fenced, updated and audited financial reports.

The WSPs need to implement systems to ensure that such ring fenced reports are prepared, reviewed/ studied by management and submitted to the regulatory authority.

– a factor that surely impedes lending activity. Other factors of major concern to PFIs include the following:

(i) Institutional Profiles of the SWUs: As previously mentioned, many SWUs are organized as cooperatives or LGUs. These institutional types are not well known to PFIs, and are not particularly sought after, as potential clientele. By its very nature, an LGU is a highly political entity, and the affairs of an LGU are thus, very much subject to political whims and interference. The "political environment" changes from time to time in an LGU, a factor which creates "uncertainty" and therefore the perception of risk when lending to these institutions. Cooperatives on the other hand, are governed by the Law on Cooperatives and the CDA.

Not many of the bank lawyers are familiar with Cooperative Law, and tend to become very defensive in transactions that involve dealings with them. The very structure of cooperatives promotes a diffusion of ownership, responsibility, authority and accountability. This creates considerable uncertainty on the succession and continuity of management and the entity as a whole, since no one is really "in control". The result is an inability or unwillingness to evaluate credit risk.

MUST KNOW

According to the Millennium Development Goals, Government of the Philippines has pledged to connect 86.5 percent of its population to improved water sources by 2015. Based on July 2011 estimated population of 101.8 million and assuming that around 84 percent of the population currently has access to improved water supply, this means that approximately 85.5 million people have access to water. Given this statistic, the shortfall can be defined by the difference between 86.5 percent (the 2015 target) of the population in 2015 and the current coverage of 84 percent of the population as of 2011, the pledge would require investment in piped water supply for roughly 12 million people.

A widely accepted estimate is that it takes about US$200/capita to create a piped water system (excluding sanitation). Assuming water service capacity is barely meeting demand currently, it would appear justifiable to estimate investment needs at about $2.4 billion for new network capacity over the next four years. This is a rough estimate that does not take into account investment in the *existing network* for reinforcement, reduction of NRW, investment in improved energy efficiency or any number of other requirements. It also excludes upgrades in water provision such as improving Level 1 and 2 water supply to Level 3. Hence, the number identified is grossly conservative.

Source: World Bank, Comprehensive Assessment Report Small Water Utilities (SWU) Improvement and Financing Project (SWIF).

(ii) Loan/Credit Criteria. On the demand side, SWU requires longer term funding at reasonable interest rates, preferably fixed. This implies that PFIs would have matching sources of longer-term fund sources, available at reasonable cost, to enable loans at lower or preferred rates to the SWUs. In this respect, PFI is different from GFI. The stakeholder of a GFI is the government, and its existence must obviously be consistent

with, and supportive of, the objectives of its stakeholder. While profit may be one of the objectives, there are also government socio-economic objectives that the GFI must support to justify its existence. Because of this, Overseas Development Assistance (ODA) funds are channeled thru the GFIs to reinforce their capabilities to perform socially desirable functions.

3. Financing Reforms in the Sector

a) E.O. 279 and Small Water Utility Financing. E.O. 279 was issued on 2 February 2, 2004. Foremost among its goals were to (i) institute reforms in the financing policies for the water supply and sewerage (WSS) sector and water service providers (WSPs); and, (ii) rationalize the organization structure and operations of the Local Water Utilities Administration (LWUA) to support the following reform objectives:

(i) Improve of investor confidence in the WSS sector;

(ii) Rationalize the allocation of scarce financial resources in the WSS sector through classification and graduation initiatives;

GOOD PRACTICE

The San Carlos City Water System (Negros Occidental), Tacloban City, Antequera Water System (ring-fencing) are examples of good practices in LGU-run water systems on financing schemes and financial management system modalities.

Factors that Contributed to the Success of the Water System (per case studies on LEEs, examples as culled from Mr. Fabre's book on Fiscal Decentralization in the Philippines):

- Enlightened and Principled Leadership; Transparency, Accountability and Empowerment
- Supportive Sanggunian and Community Support
- Access to technical assistance
- Enabling mechanisms; efficient management systems
- Inter-LGU cooperation and partnership with NGOs and private sector
- Political Will and Stakeholder's Participation
- Fiscal Prudence and Discipline; Selection of Best Financing/Service Delivery Option
- Paradigm Shift on Conservation of Resources

(iii) Provide freedom of choice of WSPs in sourcing financing;

(iv) Increase participation of LGUs, GFIs, and PFIs in the financing of the WSS sector;

(v) Stimulate improved service and creation of financial self-sustainability for water service providers;

(vi) Encourage initiatives aimed at self-sufficiency of water service providers, including, but not limited to, amalgamation, private sector participation, cost-recovery tariffs, and resource pooling;

vii) Grant incentives for the improvement and graduation of water service providers;

(viii) Educate consumers towards the importance of treating water as a scarce economic good; and

(ix) Establish an independent economic regulator for the water supply and sewerage sector.

Graduation Process. Central to EO 279 is the graduation process of water districts, where those districts that have achieved creditworthiness are encouraged to seek finance from private sources. LWUA could then focus on lending to those that have not achieved this status. Following this provision, LWUA has adopted criteria for classifying water districts based on measures of their creditworthiness. These criteria were based on financial and operating indicators.

Between 2004 and 2008, major steps were taken to implement the EO and achieve its objectives. This includes the conduct of subsequent studies to incentivize LWUA and the Water Districts to support the graduation process and proposed legislations such as increasing the capitalization of LWUA to support its refocused role in financing. However, progress in the graduation process has not been significant due to a number of reasons. The rationalization plan for LWUA has not yet been implemented; and water districts, fearing the lack of a regulator and mentor, would still prefer to maintain their loans with LWUA. In addition, water districts prefer borrowing from LWUA because of the institutional and technical assistance support they are able to access from LWUA, which the PFIs or GFIs are not able to provide.

b) Private financing for the sector has become more significant since the late 1990's, after the enactment of the National Water Crisis Act of 1995 that paved the way for the privatization of MWSS. The two concessionaires (MWSI and MWCI) have put in an estimated Php 16.0 billion in capital expenditures since 1997. Nevertheless, these investments are concentrated in Metro Manila. Household private investments, on the other hand, are estimated at Php 235 million per year.

BOT and JV projects have been implemented (e.g., MWSS, Subic). Recently, a Philippine Water Revolving Fund (PWRF) was launched. The PWRF provides a sustainable loan facility that leverages private capital with public funds for water supply. Consistent with EO 279, it is made available to viable water utilities.

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