

FOR-PROFIT VERSUS NOT-FOR-PROFIT

cases from THE PHILIPPINES

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New Rules, New Roles: Does PSP benefit the poor?



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Acronyms

APL	Adaptable Program Loan
BWSI	Bayan Water Services Incorporated
CDA	Cooperative Development Authority
DBP	Development Bank of the Philippines
DILG	Department of Interior and Local Government
DWSDC	Darangan Water Service Development Cooperative
GOCC	Government Owned and Controlled Corporation
ISW	International Secretariat for Water
LWUA	Local Water Utilities Administration
MNLF	Moro National Liberation Front
MWSS	Metropolitan Waterworks and Sewerage System
NATCCO	National Confederation of Cooperatives
NGO	Non Governmental Organisation
NPA	New People's Army
NAWASA	National Water and Sewerage Administration
NWRB	National Water Resources Board
O&M	Operation and Maintenance
OIC	Organisation of the Islamic Conference
PACD	Presidential Arm on Community Development
PCAB	Philippine Contractor's Accreditation Board
PCWS-ITNF	Philippine Center for Water and Sanitation – International Training Network Foundation
PD	Presidential Decree (a law enacted by Marcos when he had dictatorial powers)
PHP	Philippine Peso
RCBF	Rizal Co-Operative Business Federation
RCDC	Rodman Construction and Development Corporation
SCFA	Small Coconut Farmers' Association
SEC	Securities and Exchange Commission
SPCPD	Southern Philippines Council for Peace and Development
SSF	SZOPAD Social Fund
SZOPAD	Special Zone of Peace and Development
TAG-CODEC	Tagalog Co-Operative Development Center

I. Executive Summary of the Synthesis Report

Governments, both northern and southern, have rightly placed themselves under much pressure to achieve better water and sanitation coverage. The Millennium Development Goals aim to halve the proportion of people without access to water and sanitation services by 2015. Millions die every year from lack of access to safe water and adequate sanitation. On one hand there is an undeniable urgency about these issues that makes prolonged discussion frustrating and a questionable use of resources. But on the other, the risk of the blanket promotion of one debatable method of reform is an unnecessary waste of scarce resources.

Most southern governments have consistently failed to deliver affordable and sustainable water and sanitation to the poor. It is difficult to summarise the causes for this failure as each situation is different and complex. However, some broad problems cut across many public utilities and municipal services: bad financial management, low funding priority, lack of staff experience and qualifications, absent or weak customer service orientation, political interference, little or no independent regulation and an absence of civil society consultation. Many of these problems have been described as attributable to weak government capacity – equally acute in urban and rural contexts.

Our research shows that the policy of private sector participation (PSP) does not comprehensively tackle the underlying causes of water utilities' failure to serve the poor. In four key areas capacity building, community participation, finance and institutional reform, major problems persist, making it unlikely that the multinational private sector is going to play any significant role in achieving the Millennium Development Goals.

Currently the pursuit of a policy of PSP generally undermines local and national government capacity. For one, it limits the ability of the public sector to take services back should PSP fail or when contracts end. Private sector contracting must not result in irreversible dependence on private companies, and there must be clauses in contracts to prevent this dependence.

Without adequate government capacity, no reform processes can be successful. The private sector cannot be contracted without tackling failing government. The government's role to facilitate, monitor and regulate is as much an essential element in PSP as in public and user-managed utilities. Yet, it seems that this requirement is being practically ignored in the rush to establish PSP. It is essential that donors refocus efforts to building government capacity at local and central levels.

The involvement of local communities is often lacking in PSP reform programmes. Where PSP has failed to deliver the promised gains, the case often is that the poor are seen mainly as recipients, rather than contributors to development. Whether projects involve large or small-scale PSP, the focus is on giving contracts or concessions to the private sector. Social mobilisation and community participation, proven time and again as prerequisites for sustainable development, are seen as burdens and non-essential components of the task. Failure to consult communities means that the interests of the poor are often not being represented. It results in a lack of ownership over projects and an absence of accountability between users and service providers. It seems that the lack of community involvement that led to previous failures is continuing, raising serious doubts over the sustainability of PSP projects.

Cost recovery and capital cost contributions are in most cases necessary for water services to be sustainable. However, there are problems in the application of these principles, which often results in denying the poor access to services. Expensive technology choices and a failure to consider the non-cash contribution of the poor are widespread in PSP contracting. Donors are guilty of promoting an approach that is narrow and mechanistic, allowing for little flexibility and absence of perspectives incorporating community action and considering the complexities of poverty.

Changing the role of government, by effectively reducing its capacity through reductions at central level, but not increasing personnel at local government levels, erases benefits that could be gained from decentralisation per se (such as responsiveness to people's needs, greater accountability etc.). Weak decentralised agencies cannot be expected to quickly learn about tenders or forms of contracting and keep track, monitor and supervise the activities of contractors fanning beyond provincial capitals.

In the rural areas that were studied, reduced government roles had a detrimental impact as work was often sub-standard leaving the communities with a costly and unreliable service. The rural case studies also show that there are, so far, no improvements in accountability. In some respects, accountability was compromised in the dilution of responsibilities that accompanied the change in roles. Because projects are between governments and contractors (communities are typically not a party in the contract), the supposed beneficiaries are in no position to seek redress for sub-standard work. Accountability is lost in the commercial/ contractual, quick-fix arrangements of private sector involvement.

Political interference has been seen as contributing to the failure of many public utilities to deliver to the poor. In established democracies there is 'interference' in the running of utilities but this is seen as government exercising its duty to keep institutions to account. There is a fine line between 'interference' and the need for accountability, the difference seems to be the depth and strength of democratic institutions in individual countries.

Civil society working to strengthen the hand of government through, for example, commenting on tender documents prepared by external advisors, increases the likelihood that reforms will further the concerns of the poor. It is in the interests of government to involve a broad constituency, especially one that represents the interests of the poor and poor people themselves in the shaping of privatised basic services. Pro-active openness and transparency by government in reform processes lessens the possibility of civil strife.

With these findings, we are opposed to donors pressuring developing countries to accept PSP in

water services as a condition of aid, trade or debt relief. To promote a policy regardless of specific contexts increases the likelihood of failure especially when the likelihood of success of that policy is intensely contested. Furthermore, the enforcement of PSP as the central policy reform limits the options for governments and civil society to improvise and innovate using the best possible arrangements. We believe rather that policies should be used to ensure that in any reform process the poor will be protected, their access to services increased, and the process itself actively seeks the opinion of civil society.

This does not mean that we are rejecting private sector involvement. The private sector has a role that should not be denied. But, where there is corruption and/or political resistance to serve the poor, the private sector can do very little and can, in fact, compound the problem. Where there is lack of information, participation and democratic processes, the situation is thrown wide open to opportunistic behaviour from the private sector. However, given a situation with stable rules, enough political commitment to address the underlying causes, good governance and an informed and active citizenry, the private sector can be a responsible partner in development and an important player in reforming and improving water services.

In order to move forward on this contentious issue, a multi-stakeholder review should be undertaken. We believe that it is only through such a review (similar to the World Commission on Dams) that the final, authoritative word can be made on whether PSP benefits the poor. We also believe in the necessity of building the capacity of civil society actors to influence privatisation processes and to hold governments and the private sector to account. This needs to start with improving their knowledge and understanding of the issues surrounding failing water services, and enabling civil society groups around the world to learn from each other's experiences of intervention in privatisation processes.

II. Case Summary

Free market economics builds the case that private sector participation is a more efficient alternative to the often failing public provision of water and sanitation services. Often not asked is whether private but not-for-profit bodies can offer a comparable alternative. In fact, not-for-profit provision may be more desirable, especially in the context of institutional economics, which provides a better understanding of how poor communities cope with poverty, or how household investments, social capital, and social organisation can be mobilised for basic water and sanitation provision. Comparing three cases – two involving a social privatisation model and one where a private company has taken over – reveals that with proper government support and proper community involvement, water services provision which is owned by its users can be as efficient and effective as the private sector alternative.

Because water markets typically don't exist in poor, underdeveloped areas, the problems of water provision is better analysed in the context of the absence or abundance of collective action, or in terms of how common pool resources can be managed efficiently by durable cooperative institutions organised and governed by the resource users themselves.

This paper explores how not-for-profit private organisations took over and eventually ran the water supply services in two localities in the Philippines, Darangan and New Bulatukan. This is then compared and contrasted with a privatised water system in a small town, Magdalena. Darangan and New Bulatukan provide an alternative approach in a context where laws decree that water supply is a responsibility of the state, but where water supply remains insufficient. New Bulatukan shows that social privatisation is especially useful in hinterland areas, where government cannot respond or has neglected its role. Both demonstrate the merits of user-owned systems as compared to a centralised public or private water utility susceptible to political interference or coercion.

New Bulatukan is a village of around 1,350 indigenous people and 220 households around 1,500 km south of Manila. Land ownership has

been a common problem across the whole region for decades, and between the early 1970s and early 1990s led to violent conflict. When Fidel Ramos took over as President in 1992, he started national peace talks which brought the first real promise of bringing an end to the fighting. In October 1997 the President established the Special Zone of Peace and Development (SZOPAD) Social Fund, which aimed to improve the lives of the victims of internal armed conflicts. In late 1998, a series of community meetings took place in New Bulatukan, and the people decided to set up the New Bulatukan Water Association to apply for a government grant to improve their water supply. They believed that the development of a water system would allow the community more time to engage in other productive activities.

The Association was awarded PHP 985,632 (US\$20,000) for the construction of a water facility. The community chose a local contractor, and the people of New Bulatukan provided some of the labour, food, lodging and other requirements as construction progressed. The Association was involved in the planning and design of the system, local village resolutions were passed mandating the location of tap stands, and not less than five percent of the project's total cost was contributed by the people. Once the system was in place, the Water Association registered with the Securities and Exchange Commission to establish its legal status. It then gained permits from the National Water Resources Board to have exclusive control over the water source. The communal water supply system that was built included a spring box, about 1,300 m of transmission pipes, a ground level reservoir and eight communal tap stands, which were later expanded to 10. The system has been in operation for three years.

The system serves the 140 households that are members of the Water Association. Many non-member households are likely to become members when the system is expanded close to them. The members pay a token fee for

upkeep, and the Association hosts fundraising activities to pay for operation and maintenance. Caretakers are assigned to maintain the system, and ensure equitable supply. The residents say their communal water system has good quality water and is used for all domestic purposes, and no treatment is necessary. The Water Association is now moving towards becoming a community enterprise from which people can derive income. The only costs of the system are upkeep and maintenance, so it has tended to be run in a non-economical way. The key issues in the New Bulatukan experience were:

- The Water Association emerged and became organised from the community itself, a collective water utility which is governed by the users themselves.
- The formal registration of the Association, and its legal permit to control water, was vital in a region where land and ownership was an important.
- The Social Fund initiative, and the community's response, brought the government closer to the community, and enabled the Association to engage better with outside agencies, such as NGOs.

Despite some limitations, New Bulatukan is an example of community effort for a water supply system that can be developed for greater sustainability and economic impact.

In contrast, Darangan is the home of the first water co-operative in the Philippines, the Darangan Water Service Development Co-operative (DWSDC). The village (barangay), of approximately 10,500 people, is about 40 km east of Manila. Since 1945, the growing population had descended on two artesian wells for their domestic water needs, so when a new barangay council was elected in 1968, its assessment of the village's problems revealed water supply as a top priority. In 1969 DWSDC was formed to construct a water supply system that would serve the whole community. Soon after it was registered, the co-operative bought a submersible pump and motor, and with pooled resources of members as well as funds from the provincial government, it built a water tank, put the pipe and motor in place, and opened the first public tap supplying free water. Soon DWSDC could not

afford to pay for the electricity running the motor, so it offered pipe laying to households (using pipes paid for by another government grant), for which they would be charged via metering. This made the water service more efficient, which in turn encouraged more households to join the co-operative. By 1971 the co-operative had grown to 120 households, and with more capital improvements were made. By 1992 an additional pumping station and water-tank had been built, making DWSDC the main water provider in Darangan. Today, more than 1,100 households are members. The co-operative now operates a micro-credit system too, providing financing to the very poorest in the community. One aim is to help the poor to save up so they can join and be co-owners of the co-operative.

Charges are levied for membership of the co-operative and for water use, and households are disconnected if they fail to pay their fees for two months. DWSDC employs a total of 11 multi-function staff, and has an education committee which makes known the water service policies to members and non-members alike. The co-operative is actively involved in community development. The key issues in the Darangan experience were:

- The government played a huge role, as a donor, in the emergence of DWSDC.
- The co-operative has developed its own functions for sound economic management, including dealing with non-payers, raising finance and maintaining the system. Its first concern was not profit-maximising, but providing water that was needed.
- There is an ongoing threat from Manila Water, a private concessionaire running water systems in eastern Manila, but the company has signed a memorandum of understanding saying it will only serve those areas in the region not covered by water co-operatives.

DWSDC is confident it can compete with Manila Water. The co-operative has provided water during difficult weather patterns, where the private firm has failed, and has better response times to service interruptions. Darangan is a

model of common pool resource management that is an alternative to government or private sector provided water supply services. The DWSDC's members are proud they own their water service, and thus will remain its own captive market even if Manila Water takes over the rest of the region.

The study then goes on to look at Magdalena, a rural town 120 km south-east of Metro Manila, the first local government participant in the World Bank-financed Local Government Unit Urban Water Supply and Sanitation Project. The project promotes public-private partnerships in the delivery of services. In Magdalena, this involved gaining a loan to construct, expand and rehabilitate its existing water supply infrastructure and then leasing out the facility to be operated and maintained by a private company on a 15-year contract. The contract was awarded to Bayan Water Services Inc (BWSI). Under the arrangement, BWSI operates and maintains the water system, charges and collects a tariff and pays rent to the Magdalena local government. Magdalena uses this money to pay off its World Bank debt.

Magdalena elected to privatise because its municipal water system, built in 1926 had deteriorated and the water was being polluted. A decision was made to build an entirely new water supply system, and to lease this to the private operator after the old system is completely shut down. But the closure of the old system was resisted, with 40 households refusing to connect to the new system. They claimed a right to exercise choice, and this led to the two water systems being operated at the same time. The new system charged PHP20.54 (US\$0.41) per cubic meter, and promised to be available 24 hours a day. The old system was cheaper at PHP8 for the first 15 cubic meters, but was only available for two hours a day.

BWSI refused to take over the new system until the old one was closed, meaning money was not available to pay off the World Bank loan. Magdalena started paying off the interest to the loan, but by late 2002 needed to start paying off the principal. In February 2002, Municipal engineers said the tariff paid by consumers on the new system was only enough to cover maintenance, and couldn't pay off the loan. The key issues in the Magdalena experience were:

- The resistance of the 40 households led to a legal tangle for Magdalena, who may have a

legal obligation to offer them choice, but also a legal obligation to BWSI to shut down the old system.

- BWSI does not want a cheaper competitor providing water, which could prevent it from raising prices. BWSI argues that it is providing a more reliable service, so it can charge more, but it will be up to the consumer to choose.

There is uncertainty about whether the consumers were consulted properly about the shift to the new water system. There is no collective community action taken in favour of the water utility, and no sense of ownership of the system by its users.

With BWSI not assuming control, the whole financial arrangement is tangled up, with Magdalena having to pay off its loan, but without the rental income to do so. That may mean higher tariffs will have to be charged. It is clear that there were fundamental flaws in the setting up of this World Bank-assisted project.

The case studies offer a number of lessons by which to evaluate public, private and community not-for-profit delivery of services. Collective action resulting in durable co-operative institutions organised and governed by the water users themselves present a viable alternative to public sector provision and to private sector participation. But there needs to be a desire of the users themselves to engage in collective action, and a significant contribution or investment by government in the co-operative enterprise. The key investments are those made by the users themselves, as ownership appears to be a strong motivator in the sustainability of socially owned water utilities. However, the desire for collective action is not enough, as the community enterprise needs to be run efficiently in order that at least operations and maintenance costs can be paid for. Darangan demonstrates how a more economic management of the system can be developed. Also, the applicability of promoting not-for-profit activity may depend largely on the local context, and a key problem is whether co-operative enterprises can be scaled up from small operations to larger ones.

III. Introduction

Privatisation, the transfer of public water utilities and facilities from the public sector to private for-profit entities¹, is promoted on the basis that it brings reforms and efficiencies urgently needed in water and sanitation service delivery, and that it paves the way for financing to be available for projects. Indeed, various empirical studies have demonstrated these benefits from private sector participation.

The question often *not* asked, however, is whether private but *not-for-profit* entities can offer a comparable alternative. Not-for-profit privatisation, sometimes called social privatisation, is an alternative that has received considerably less attention in debates on water supply and sanitation reform. It covers a wide range of activities, ranging from spontaneous household or community self-help activities to more deliberately planned, organised and funded development work that meets needs which have not hitherto been met by either the state or the private sector.

There are a number of issues that can be explored around the for-profit and not-for-profit divide. There are the simple, straightforward questions on whether the not-for-profits are as capable of achieving comparable reform and efficiency gains as the private sector², and if so, in what ways and under what conditions can they successfully do this? Are there financial, technological or sustainability advantages that not-for-profit privatisation could deliver that the private sector could not? On a more theoretical level, the larger question is why free market economics, which emphasises privatisation and private sector roles – dominate policy-making, seemingly at the expense of institutional economics – which emphasises values, beliefs, behavioural patterns and formal and informal rules as starting points for economic and social progress.

This study is an initial attempt to explore and understand the role in water services delivery of not-for-profits more closely and within the frame of institutional economics. It will first look at the concept of not-for-profit takeover of water services, and how this concept has been developed so far by a small number of advocates. It will then relate this to the literature on institutional economics, and draw a tentative framework of what this branch of economics may have to say on water services delivery. The framework will be applied to a comparison of experiences between the privatised small town water system of Magdalena and the self-help local water systems of Darangan and New Bulatukan set up by private not-for-profit organisations. The contribution that this paper wishes to make therefore is twofold:

- Build a case that not-for-profits, given particular conditions, can offer a comparable alternative to the private sector, especially at the village or town level
- Map out how the case for not-for-profits is not just a simple, practical alternative to the private sector, but that it is actually grounded theoretically in institutional economics

This is a preliminary study. It should be noted that we have a rather limited set of material and field work on which to make our case. Also, the cases were selected not out of any design, but only for reasons of accessibility. Our intention here is simply to call attention to the enormous potential in the mobilisation of not-for-profits and provide a starting point for discussion into the wider framework of institutional economics in which they can be seen. Not-for-profits could make significant contributions to the achievement of the Millennium Development Goals, particularly in the area of social preparation of poor communities. And they function not just as a spare tyre for the private sector, but credible and viable alternatives in themselves, especially in the poorest areas where there may be no commercial viability for profit-seeking enterprises.

¹ We use the term "privatisation" not in its technical definition of "full divestiture" but in the sense that for service users, a change in providers from public to private *is* a privatisation process, even when no full divestiture takes place.

² To minimise confusion, we limit the use of the term "private sector" to profit-seeking private entities, and use the term "not-for-profits" to refer to the subject of this paper.

The main material used for this study is the experience of how not-for-profit private organisations took over and eventually ran the water supply service in two localities in the Philippines. This is then compared and contrasted with a privatised small town water system. New Bulatukan is a rural community in the southern island of Mindanao. Darangan is an urbanised community in Binangonan, Rizal lying east of Manila. Their experiences are compared to the privatisation of the water supply system in Magdalena, a small rural town in the foothills of Mount Banahaw in Laguna province, about 120 kilometres southeast of Manila. Data gathering for this study included interview sessions, focused group discussions with key informant groups in the community and with leaders of the water association, review of relevant documents and a walking tour from the water source to the household clusters. Aside from getting the comments of key stakeholders, the study also made use of published documents and other secondary materials. A set of guide questions was used as a tool in the discussions, dialogues and conversations.

Darangan and New Bulatukan provide an alternative approach in a context where laws decree that water supply provision is a responsibility of the state but where water service remains insufficient, hence affected communities have to fend for themselves. New Bulatukan shows that social privatisation is especially useful in hinterland areas where government cannot respond or has neglected its role. The Darangan and New Bulatukan cases also demonstrate the merits of user-owned systems as compared to a centralised public or a private water utility susceptible to political interference and even coercion.

By and large, this case study thus argues that not-for-profit privatisation deserves more than just a passing glance in the water privatisation debates. It is feasible and ought to be considered; its only problem lies in the difficulties of scaling up. As such, it provides an alternative approach to the conventional solutions of centralised government or privatised provision of water services.

Not-for-profit organisations in the literature

The literature on the role of not-for-profit organisations in the provision of services is considerably sparser and less accessible than literature on for-profit entities. This does not mean however that there is necessarily less not-for-profit activity taking place. It appears that not-for-profit involvement is inadequately covered by research, simply because most of it is in the domain of the informal economy. In this domain, "there is a severe shortage of systematic evidence and lessons at the level of the service-providing unit, such as the clinic or the school, whether the provider is public, private non-profit, or private for-profit" ([World Bank, 2002](#)).

But even without systematic research, it can be argued that in the case of water there is considerable not-for-profit activity taking place. It may in fact be wider in scope and coverage than for-profit activity. For example, families routinely invest substantial effort and other resources to develop reliable water sources independently. As reported by the Switzerland-based Handpump Technology Network, in most traditional rural areas in developing countries, water sources including shallow wells and springs have been owned and managed along family and kinship lines. Household-based initiatives often deliver a high degree of innovation (e.g. rainwater harvesting, family wells, unprotected wells) and these technologies have been found to have higher rates of sustainability ([HTN, 1997](#)). Household investments and independent construction and operation of water sources can be considered as the basic unit of private not-for-profit activity.

Another indicator is the growing importance of not-for-profit, mostly northern-based non governmental organisations (NGOs) that link up with community-based organisations in the south. A key example is WaterAid itself, a British NGO running programmes in 15 countries in Africa and South Asia, 12 of which are classified as highly-indebted poor countries. WaterAid links up with local partners, mostly in poor rural communities, to set up not-for-profit but cost-recovering local water and sanitation systems. WaterAid, a medium-sized NGO, reports having

connected at least seven million poor people to a permanent and safe water source from 1981 to 2001 ([WaterAid Annual Report, 2000](#)).

Contrary to received wisdom, household- and community-based initiatives can be scaled up to take on more complicated tasks. A key example is the Orangi Pilot Project (OPP) in Karachi, Pakistan, which grew to become "a remarkably self-funded, self-administered and self-maintained grassroots movement relying on nothing more than the resources and skills of its urban poor constituents using local materials and labour in building hundreds of kilometres of extremely low-cost underground sewers." By April 2001, the OPP reported serving 92,184 families living in 6,134 lanes, served by 409 collector sewers built with pooled household investments amounting to no more than US\$1.446 million. A project of similar scope proposed by the Asian Development Bank amounting to US\$70 million was rejected by the residents of Orangi as being too expensive ([WaterAid, June 2001](#)).

Recently, some groups have used the term social privatisation to refer to what is essentially not-for-profit activity. The International Secretariat for Water (ISW) emphasises that the use of the word *social* implies that there is capacity within grassroots movements to organise themselves in order to participate in the management of water and sanitation. ISW has been a main advocate of the citizen-based approach to water management which involves pushing for greater citizen participation. They support the organisation of associative, community or collective structures that can be enabled to take over control and operation of water services. ISW also emphasises that social privatisation remains a contractual arrangement, but one wherein local community involvement acts as a further guarantee of equity and efficiency, since for-profit privatisation tends *not* to take equity issues into consideration.

The roles of not-for-profit organisations in development is summarised by John Clark of the World Bank ([Clark, 1999](#)) as follows:

- To provide goods and services, especially meeting needs which have not hitherto been

met by either the state or the private (for-profit) sector

- To assist the government in achieving its development objectives, in particular through contributing skills in which not-for-profits have comparative advantage, such as public information, education, and communications campaigns, or providing information about the situations and needs of particularly vulnerable groups
- To help citizens voice their aspirations, concerns and alternatives for consideration by policy makers, thereby giving substance to government policies regarding freedom of association and speech
- To help enhance the accountability and transparency of government, local government programmes and officials

According to Clark, the not-for-profit sector has mushroomed over the past two decades and has now become a key actor in development assistance (*ibid*). It has also grown to occupy a significant proportion of the landscape in industrialised countries ([Salamon and Anheier, 1998, quoted in Clark, 1999](#)). As a result, the World Bank has expanded its work with the non-profit sector to strengthen operational collaboration, to improve dialogue on development policy, and to improve the effectiveness of non-profit organisations in developing countries (*ibid*).

However, the policy environment that enables not-for-profit community-based organisations to play a more active role in development appears to have been lost in the water sector. For example, a central component of water sector reform that has repeatedly appeared and been enforced in the poorest countries is privatisation and private sector participation. The emphasis is on setting up short-term contractual arrangements that work best with profit-seeking contractors competing for projects, even in situations where longer-term solidarity arrangements involving painstaking community organisation and social infrastructure building is indispensable. The orthodoxy that has become entrenched is free market economics, in situations where the case for institutional economics is actually much stronger.

The lost role of institutional economics

Free market economics is based on the notion that the pursuit of self-interest results in the greatest good for the greatest number, and the basic unit of analysis is the individual making rational choices. In contrast, in institutional economics the focus is on the role of institutions, and the basic unit of analysis is the transaction. The term "institution" is understood in many different ways. But John R. Commons, the pioneer of institutional economics, defined it as "collective action in control, liberation and expansion of individual action." An institution may be a state or a corporation, a cartel or a co-operative association, a trade union or an employers' association. It can also be a joint trade agreement between two associations, or a stock exchange. The key, says Commons, is that all these institutions are collective acts that "establish relations of rights, duties, no rights and no duties" (Commons, 1931).

Thus, to an institutional economist, economic transactions are not seen as the simple exchange of commodities, but rather, "the alienation and acquisition, between individuals, of the rights of property and liberty created by society, which must therefore be negotiated between the parties concerned before labour can produce, or consumers can consume, or commodities be physically exchanged." Commons described transactions as having three types – the bargaining, managerial and rationing transaction. From the bargaining transaction emerge four issues – competition, discrimination, economic power and working rules. The assumption in bargaining transactions is that there is equality between willing buyers and willing sellers, by which the ownership of wealth is transferred by operation of law. Managerial transactions on the other hand assume a transaction between superior and inferior, where the universal principle is efficiency. Rationing transactions differ from managerial transactions in that the superior is a collective superior while the inferiors are individuals (*ibid*).

We contend that because water is not a 'normal' commodity that can be freely exchanged in an

open market, it is best analysed under the frame of institutional rather than free market economics. Firstly, water markets typically don't exist or else are highly imperfect (Briscoe, 1996). This raises the question whether real markets can be realised in the water sector. H.M. Trebing observes that to be effective, markets must satisfy the following conditions (Trebing, Aug. 2000):

- Every relevant market must be vulnerable to rapid/free entry by competitors (i.e. no public or private barriers to entry exist, no niche markets with captive customers exist, nor corporate dominance and no tight oligopoly)
- There is effective competition with at least five or six firms of approximately equal size acting as price takers
- Information costs and transaction costs are minimal
- Market prices must reflect both private and societal costs
- Access to the network must negate management's incentives to foreclose part of the network

It is quite clear that rapid or free entry by competitors to the water sector is not possible, except during bidding processes. In the global privatised water market, two French companies – Vivendi and Ondeo – are in control of nearly 75 per cent of the market, followed by the German-British company RWE/Thames (Hall, 2002). Because of the nature of the water sector, transaction costs – those which are spent to reach and enforce agreements – are typically very high. Information is also largely inaccessible and limited to a circle of experts. For example, the Manila water concession agreements took two and a half years from when President Fidel Ramos first considered the option until a contract was awarded to Maynilad (co-owned by Ondeo) and Manila Water (co-owned by United Utilities). This deal needed larger institutional players to come into the picture – a bill had to be passed by Congress and signed into law, and the services of expensive consultants from the International Finance Corporation of the World Bank had to be hired (for US\$6.2 million) (Dumol, 2000). As

Trebing concludes, public utilities are characterised by three factors that impede free market performance – the inherent propensity toward concentration, behavioural strategies associated with high concentration; and the fallibility of primary and secondary markets (Trebing, 2000).

An important approach that has been proposed to go beyond the inherent limitations of the free market approach is the so-called management of common pool resources. Common pool resources according to Elinor Ostrom, are simply the natural resources used by many individuals in common, such as fisheries, groundwater basins, and irrigation systems. Common pool resources have long been subject to overexploitation and misuse by the rational profit-maximising individual. The conventional solution is either to impose centralised government or state regulation, or privatise the ownership and provision of the resource. Ostrom advocates a third approach – the design of durable co-operative institutions that are organised and governed by the resource users themselves. The central question she says is how a group of actors "who are in an interdependent situation can organise and govern themselves to obtain continuing joint benefits when all face temptations to free-ride, shirk or otherwise act opportunistically" (Ostrom, 1990). The challenge is how to foster contingent self-commitment among the members. Also, she points out that the three generalised theories of collective action (tragedy of the commons, the prisoners' dilemma

and the logic of collective action) apply only when the many, independently acting individuals involved have high discount rates and little mutual trust, no capacity to communicate or enter into binding agreements and no arrangements for monitoring and enforcing mechanisms to avoid overinvestment and overuse (Scott review).

More recently, Ostrom introduced the term "co-production" – a process by which goods and services are produced with the assistance of individuals who are not formally a part of the producing organisation. The dichotomy between the market and the state, or government and civil society, according to Ostrom, constricts possibilities for synergies that can be gained through utilising the strengths of both government and citizens in a joint process of public goods production. One of the case studies she looked at is the provision of sanitation services in Brazil that combined the efforts of government and local neighbourhood associations (Ostrom, 1996).

Institutional economics thus offers a coherent frame within which the activities of not-for-profits in the water sector can be argued and promoted. This frame analyses the collective acts, or the implicit and explicit agreements that establish the relations of rights and no rights, duties and no duties in water provision. It also looks at what goes into common pool resource management, as well as co-production.

IV. The case studies

Using the frame of institutional economics, the following questions were developed for which the case experiences will attempt to provide answers:

- What were the collective acts of the communities? How were the community members who were in an interdependent situation organised and governed to obtain continuing joint benefits when all face temptations to free-ride, shirk or otherwise act opportunistically? What are the levels and quality of civic involvement, sense of ownership, and community participation in decision-making in the three cases?
- What were the implicit and explicit agreements that establish the relations of rights and no rights? In what ways are rights to water established in Darangan and New Bulatukan, as compared to Magdalena? How are these rights enforced and respected?
- Which institutions were given duties and no duties in water provision? What are the levels and quality of state and donor involvement in the three cases? How are the partnerships or collaborations between the different stakeholders structured?
- What was the resulting common pool resource management, and were there examples of over exploitation? How is regulation improved and capacity built?
- What examples are there of individuals who are not part of the producing organisation engaging in co-production?
- What are the economic implications of each case – were there significant transaction and information costs, and do the resulting charges include private and societal costs? How is water priced in the three cases? How are vulnerable groups considered? How are efficiencies achieved in the three cases?

Case 1: New Bulatukan

New Bulatukan is a village of indigenous peoples and poor Christian settlers in Makilala, a component municipality of North Cotabato province on Mindanao Island in Southern Philippines. It is about 1,500 kilometres south of Manila. The community lies on the northeast foothills of Mount Apo, the highest mountain peak in the Philippines, and enjoys abundant but undeveloped water resources. The people of New Bulatukan are mostly poor farmers who grow coconuts, rice, corn, coffee, vegetables, banana and rubber. Others work as hired workers during planting and harvesting seasons. The village itself has 220 households and a population of about 1,350 people. Many are multilingual speakers who can converse in Tagalog, Ilonggo, Cebuano and some English. Land ownership in these areas of North Cotabato is typically contested. Until the 1970s, Cotabato had been a frontier region not fully penetrated by central government institutions. The original indigenous inhabitants only have traditional or customary land rights, not formal legal documents declaring proprietorship. The poor settlers who came in from other regions in the Philippines, on the other hand, often had documents, especially if they came under government-organised migration programmes. Some settlers who came negotiated with indigenous inhabitants to buy rights over pieces of land. A common problem was differences in concepts of land ownership between indigenous inhabitants and settlers. There were many cases of land "sold" by indigenous inhabitants (who had no concept of absolute private property ownership) to settlers who expected to take full possession of the property. Compounding the problem is that the government had no reliable census of the indigenous inhabitants. There were no records of customary lands. Over the years, corruption in transactions, the emergence of faked land ownership papers and outright land-grabbing led to the growth of social discord. Pockets of fighting emerged, which by the 1970s erupted into full-blown war (Rodil, 1994; Gutierrez, 2000).

This conflict took on a Muslim-versus-Christian character, since most of the indigenous inhabitants were Muslims and most of the settlers – including poor families, wealthy families from central Philippines as well as staff and employees of multinational plantation corporations like Dole and Del Monte – were mostly Christian. At the turn of the 20th century, Cotabato was a majority Muslim region, having been the seat of a land-based sultanate. Over the decades, with much of Cotabato's land taken over, Muslims became minoritised along with other non-Muslim indigenous communities (Rodil, 1994). Cotabato became the centre of a violent conflict that had ethnic, agrarian, religious and nationalist undertones. By the late 1960s, the Muslim secessionist Moro National Liberation Front (MNLF) emerged and engaged government troops in open war that resulted in over 120,000 deaths over 20 years in Mindanao. In response, migrant settlers organised their own private armies, which in turn led Muslim politicians, companies and landowners to organise their private armed groups as well. Like many isolated villages in the Cotabato region, New Bulatukan was scarred and impoverished by these years of conflict (Gutierrez, 2000).

In 1976, the MNLF signed a peace agreement with the national government and scaled down their demands from secession to autonomy. This brought some respite for New Bulatukan. By the early 1980s, however, a new problem emerged. The communist New People's Army (NPA) became active in the area, and recruited members from the village. In response to this new threat, existing private armed groups around New Bulatukan that were hostile to the NPA were turned by the government into anti-communist paramilitary militias. To gain greater security and to avoid getting caught in the crossfire, most villagers moved downhill closer to the Cotabato-Davao highway and Kidapawan City. Many of them, however, continued to grow various crops on their farms uphill despite moving downhill. Poverty, lack of infrastructure, lack of government presence, and continuous exposure to armed fighting became common fare for New Bulatukan.

When Fidel Ramos took over as President in 1992, he immediately started national-level

peace talks with the Muslim and communist rebels. The peace negotiations with the communists remain unfinished. The Moro rebels, with prodding from the Organisation of the Islamic Conference (OIC), signed a new Peace Agreement with the government on 2 September 1996. In the following month, Ramos proclaimed the Special Zone of Peace and Development (SZOPAD) to cover 14 provinces and 10 cities in Southern Philippines (including North Cotabato), and created the Southern Philippines Council for Peace and Development (SPCPD) through Executive Order No. 371. A year later, on 1 October 1997, Ramos signed Executive Order No. 445 which provided for the implementation of the SZOPAD Social Fund. The creation of this fund recognised that victims of internal armed conflicts as well as poor communities in the SZOPAD area are in urgent need of assistance to enable them to access basic social services and opportunities for economic development (Government of the Philippines, 1996 and 1997).

The SZOPAD Social Fund or SSF was designed to finance small-scale social and economic infrastructure projects in conflict-affected and economically disadvantaged communities. It disseminated information materials to MNLF communities and indigenous peoples, encouraging them to apply for infrastructure projects that can hasten progress in their place and at the same time promote peace (SSF 2000). In Makilala town, New Bulatukan immediately qualified as a community entitled to the SSF, especially since the chieftain of the Bagobo tribal residents in the village, Ampeloy Ipal, is also the local chairman of the MNLF. In late 1998 a series of community meetings took place at the house of Ampeloy Ipal. The people decided to apply for a water supply grant from SSF with Ampeloy Ipal as proponent. To institutionalise this initiative, the community decided to set up the New Bulatukan Water Association. They believe that the development of the water system will allow the community more time to engage in other productive activities, as people devote hours fetching drinking water from the unprotected spring sources uphill and from some creeks.

When the SSF Office received and reviewed the application of New Bulatukan for a grant, it sent

an engineer, Bernoule Manibpel, to further discuss the proposal with the community, to examine the spring source, to study the terrain, and to coordinate with local government officials. The SSF engineer appraised the proposed water project with a core group of community leaders, including the proponent. They discussed specific details and arrangements for the proposed project. As a result of these discussions, the engineer and the local people he consulted prepared the costing for the project. The costing and the engineer's appraisal report were both submitted to the executive committee of the SSF.

Box 1 – Relevant institutions

OIC	Organisation of the Islamic Conference of Foreign Ministers. An influential association of Muslim countries that meets every four years.
SZOPAD	Special Zone of Peace and Development. Name given to the 14 provinces and 10 cities in southern Philippines claimed as the Muslim homeland.
SPCPD	Southern Philippines Council for Peace and Development. The body created under the Office of the President to administer the implementation of the 1996 Peace Agreement. It does not have fiscal or political powers of its own, and is totally dependent on the Office of the President.
SSF	SZOPAD Social Fund. A pot of money used to finance peace and rehabilitation projects in the affected areas.

On 16 February 1999 SSF approved the amount of PHP985,632 (approximately US\$20,000) to fund New Bulatukan's proposal for the construction of a spring water supply facility (Manibpel 1999). A notice of approval was sent to the water association. SSF requested the community to choose a contractor that would undertake the construction of the proposed water supply system. The qualifications and track

record of a local contractor, Marcos Construction, was examined by the SSF.

As a matter of policy, SSF requires that the contractor chosen by the proponent community should present the following:

- Licence from the Philippine Contractors' Accreditation Board (PCAB);
- Mayor's business permit issued from the base of operations;
- Certified list of equipment owned;
- Brief description of similar projects previously undertaken;
- Financial statements for the past two years;
- Certification from a bank of the contractor's deposits;
- Certification from the supplier that the contractor will be able to obtain materials on credit; and
- Certification that the combined bank deposit and the credit line from the supplier amounts to at least 15 per cent of the contract cost

The SSF allows the contractor a profit amounting to no more than 10 per cent of the total material and labour costs. This is the legally accepted standard for contractors. In addition, SSF advances an amount equivalent to 15 per cent of the total project cost to a contractor that holds a bank guarantee.

According to Mr Manibpel, the contractor signed a contract with SSF to undertake the construction of the spring development project in New Bulatukan. In contracts like these, SSF usually allows 90 working days for the contractor to finish the task. The SSF reviews the procurement of materials. For the water project in New Bulatukan, the SSF assigned a supervising engineer, Thonging Salahim, to oversee the technical quality of the work of the contractor.

Conversations with the people of New Bulatukan revealed that they provided some of the labour, food, lodging and other requirements as the construction work progressed. Prior to this, the community had already invested time, money and effort to facilitate its application for funding

support from the SSF. Some documents required by the SSF included water system design, plan, survey for spring development, deed of donation from the landowner where structures like reservoirs will be constructed, *barangay* or village resolutions mandating the construction of the waterpoint. In reality, the monetary value of the community's counterpart contribution for the realisation of the project amounted to more than five per cent of the total project cost.

Interviews with Engineer Manibpel revealed that the contractor was paid directly by the SSF. First, the contractor submitted the billing which was promptly evaluated by an external engineer. An external engineer is not an SSF employee but is contracted by SSF to undertake the task. After the billing was evaluated by the external engineer, the SSF supervising engineer reviewed the billing and submitted it to his director, Engineer Raul Olea, who recommended the release of a cheque signed by SSF Director Edward Lim. The community monitored with the SSF engineer the progress of the construction work. Upon completion of the water system, the SSF then turned over the water supply facility to the community.

The SSF-funded communal water supply system in New Bulatukan consisted of a spring box, about 1,300 m of 63 mm transmission pipes, two suspended crossings, a distribution pipe, a ground level reservoir and eight communal tapstands. The spring box is 100 cm high x 330 cm wide x 660 cm long with a poured reinforced concrete box that has an overflow and a valve box. Each of the two suspended crossings are composed of galvanised iron pipes hung with cable risers to the main cable strung from 5 m high pipe posts at each bank of the crossed water course. The reservoir is a 3 x 3 x 3 m poured reinforced concrete box. The overflow is 50 cm below the roof line. There is a tap sticking out of the reservoir wall over a 120 cm x 150 cm curbed splash pad.

There are now 10 tapstands serving a total of 140 households. A communal tap stand can have as many as three taps, but there are variations in number and in design. Originally, there were 8 tapstands built by SSF but the water association built two more for the safety

and convenience of more families. The two additional tapstands are on the other side of the highway and were built last year from the income of the water association. It was out of concern for the other households that the members of the water association approved the building of these extension taps so that there will be no need for them to cross the high-speed highway just to get water.

According to New Bulatukan residents, their communal water system has good quality water and is used for all domestic purposes. SSF engineers confirmed the fact, pointing out that water quality tests revealed good quality water. No treatment is necessary. Members of the water association enjoy access to the water resource, which is available at all times. Nevertheless, they assigned caretakers to manipulate the flow control valves attached to each tapstand so that equitable distribution of water is achieved.

A year after the water system was installed in New Bulatukan, the water association requested the SSF for training on the operation and maintenance (O&M) of their facility. The SSF in turn contracted the PCWS-ITNF to provide the training. The training covered the diagnosis of defects in the water system and their repair. It also tackled ownership, responsibilities, transparency, accountability, acceptance and commitment to agreements, equitable water access and distribution, sanitation, watershed sustainability, environmentally-friendly water use, and forging partnerships with government and NGOs.

As a result of the training, the officers realised the need to have their water association registered with the Securities and Exchange Commission (SEC) and establish its legal status. They also viewed the registration as something that would help sustain their communal water supply system. This would formalise the association, and establish its legitimacy to the other members of the community who have not joined. Membership of the association was quite open, the requirements being only having the desire to join and the readiness to contribute to the association's activities. When the water association obtained its SEC registration in August 2001, it was already planning to apply for

a water permit to the National Water Resources Board (NWRB). A water right or permit from the NWRB allows the water association to have exclusive control of the water (P.D. 1067, 1976). The leaders of the water association realise the importance of obtaining the permit in protecting their right to use the spring source and other water resources in their area. In the context of Cotabato region's history of contested land and resource ownership, having the formal documents and government recognition was important in keeping property rights secure. This would also enhance the legitimacy of the association, and strengthen local agreements on water that the association would conclude.

With the SEC registration, the water association can now negotiate with government and NGOs for community-based support projects responsive to the emerging needs of the community. Meanwhile, the water association is working towards strengthening itself by enhancing mutual trust among its members and clarifying roles and responsibilities of water consumers. The initiative of the community had been based on their collective understanding that having a sustainable water supply will improve the quality of their lives. This paved the way for an increase in communication and engagement between the association and residents of the community.

Of the 220 households in New Bulatukan, some 140 households are members of the water association. Non-member households can have access to the water service. Some of these non-member households are far from the communal taps and they can obtain water from another spring source or a nearby creek. However, with more communal taps closer to where they are, it is likely that they will join the water association. In fact, the water association plans to raise funds for the construction of another reservoir and some more communal taps to extend the water supply service to more households. In some household clusters, the installation of a communal tap may not be possible because they are situated higher than the spring source.

The water association oversees the O&M of the communal water system. Specific people are assigned as caretakers. Record keeping and bookkeeping procedures are also practiced. The

140 member households pay PHP10 (US\$0.20) monthly for the use of the water. Other sources of funds for O&M are fund raising activities like raffles, organisation dues and fines for not attending the meetings. Non-members are encouraged to join the association. At the moment some non-members get water and pay nothing.

As it is relatively new, the water supply system has not broken down except for six tap handles which were promptly repaired. Basic plumbing tools are available in the community. The water association asked the PCWS-ITNF team for a complete list of tools and supplies for the O&M of their water supply system. Soon they were able to acquire the tools and materials through solicitations from the local government unit and from NGOs. Contributions from New Bulatukan residents augmented whatever tools and materials were lacking.

The water system and the association have been in operation for three years now. The association has a work plan for its organisational strengthening and the improvement of the communal water supply system. Rules, regulations and policies are developed and refined, and are typically enforced by social pressure. There are occasional contests with prizes for the most clean and presentable tapstand. The addition of more communal taps near some household clusters is included in the plan. The community also plans to build another reservoir because the existing one overflows every night.

The New Bulatukan water system, as managed by the water association, is moving towards becoming a community enterprise from which people can derive income. Financial returns serve as strong motivation for the community to properly manage its communal water system. So far, the water project has inspired the setting up of small-scale community enterprises. There is now an organisation in New Bulatukan called Small Coconut Farmers' Association (SCFA), which meets on the last Saturday of each month. SCFA is looking at ways of improving incomes with the use of the water resource that they now have.

According to the officers of the water association, they wanted to learn more about how to do paperwork such as reports and project proposals. They also want more training on bookkeeping and accounting, and some assistance in doing strategic planning. The SEC registration and the NWRB water permit allows New Bulatukan to operate in security, own the assets and control the water sources.

New Bulatukan is also learning from the experiences of the Darangan Water Service Development Cooperative. The leaders are studying some of Darangan's information materials, especially the documentation of recent general assemblies which highlight operational policies and procedures.

In sum, there are two key developments worthy of note in the New Bulatukan experience. First is the emergence and organisation of the water association – the collective act of organising a co-operative institution organised and governed by the resource users themselves. Second is the formal registration of the association and its consequent acquisition of a legal water permit to mark legitimacy and formal property rights.

The organisation of the association was a response to the national government initiative to set up the mechanisms of assistance for communities like New Bulatukan, after years of conflict and impoverishment in the region. These assistance mechanisms were part of a package put together for peace-building. Forming the association became imperative to facilitate access to the government's development package, aside from other collective benefits to be gained. While there was significant support for the association, there was nonetheless evidence of free-riding or indifference to this collective effort – only 140 out of 220 families became members. Furthermore, not all of the 140 members were fully active in the activities of the association. What appears as important is the role played by a central figure, Ampeloy Ipal, in both mobilising support for the association as well as in negotiating with public officials. The existence of Ipal as a recognised leader in the community demonstrates sufficient mutual trust as well as communication between the residents. Around Ipal are the circle of residents who can

be called the community activists. These factors facilitated their collective action.

The registration of the association and their acquisition of a water permit are steps which may seem routine but are of critical importance in New Bulatukan. This is an area where property rights are in flux, and in many instances, contested. During the years of war, these property rights could only be enforced by force or through the protection of one of the various contending armed groups in the area, of which the government was but one. Registration enhances legitimacy and the acquisition of the water rights secures claims to the water source. This development would not have happened if the level of fighting in the area remained high. It marked a step towards the consolidation of peace, and evolution of binding agreements in the area.

Though the state was a distant institution to many New Bulatukan residents, the peace initiative and assistance package was a clear effort to reach out that brought government closer to the community. A de facto partnership was thus built – the state reached out, needing peace in the region; the community engaged in collective action, in order to qualify as recipients of assistance. After the project was established, the community went on to organise training programmes with support from outside agencies and an NGO to enhance their capacities and the growth of the association.

Owing to how the water system was built (through a grant from the national government), the only costs to be paid are for operation and maintenance. Sufficiently free from pressures to recover financing or construction costs, and with almost no clear incentives to deliver revenues, the water system is now being managed in a less than economical way. Users are charged PHP10 (US\$0.20) a month, and there is no clear system or mechanisms for enforcement as non-members are able to access the waterpoint for free. The amount is just a token fee, and there appears to be no clear rules on how the collections are to be specifically allocated. At the moment, the association even needs to resort to fund-raising activities in order to meet their O&M costs. Clearly, more association rules and agreements

between community members need to be developed on the economic management of the waterpoint, especially now, as shown by the Small Coconut Farmers' Association, that income-generating enterprises can be developed from the existence of the water supply system. The lack of more developed mechanisms for economic management may, in the medium term, become the main problem for the sustainability of the New Bulatukan water supply system.

Despite some limitations, New Bulatukan can be seen as an example of a community effort for a water supply system that can be developed for greater sustainability and economic impact. There are lessons in collective action and the establishment of formal rights. What needs further development is the management of the system in an economic way.

Case 2: Darangan

Darangan is a *barangay* (village) in the municipality of Binangonan town, a town in Rizal province about 40 kilometres east of Manila. It is along Laguna de Bay, the largest freshwater lake in the Philippines. Darangan is home to some 10,500 people. The traditional livelihood had been fishing and farming but these have greatly diminished with the pollution of the lake and the rapid urbanisation of the town. Small enterprises have emerged in the area. People have also become employees in offices and establishments in nearby towns and in Manila. Darangan is also the home of the first water cooperative in the Philippines, the Darangan Water Service Development Cooperative (DWSDC).

In 1968, Darangan was still a rural community. For its domestic water needs, the growing population depended on two artesian wells constructed in 1945 after World War II. When the newly elected members of the *barangay* council assessed the problems and needs of Darangan, domestic water supply emerged as top priority. The *barangay* council, headed by Porfirio Arabit, started seeking information and consulted various agencies on how Darangan could have a water supply system that would serve the whole community.

The studies and community consultations continued until it was decided to form a water cooperative. The 15 founders did the paperwork required to get the cooperative registered. By 18 July 1969, the DWSDC was registered with the Cooperative Administrative Office. Soon after this, DWSDC took steps to purchase a submersible pump and motor.

The pooled financial resources of DWSDC members amounting to PHP2,000 (US\$286) were used as counterpart funds in a proposal for financial support submitted to the governor of Rizal province, Isidro Rodriguez. After the necessary negotiations, the provincial government provided DWSDC PHP75,000 (US\$10,700) on 27 January 1970³. With this amount, the cooperative built a water tank, put the submersible pump and motor in place, and applied for electrical services from the Manila Electric Company. That same year, the first public tap was opened to the public. Water was given free to consumers.

Soon, DWSDC could no longer afford to pay its huge electric bills. It resorted to metering and charging for the necessary pipe laying for household connections. The cooperative requested funding support from the Presidential Arm on Community Development (PACD) for the needed pipes. After a series of negotiations, 320 pieces of galvanised iron pipes were delivered to Darangan on 22 March 1971. The estimated cost of the pipes at that time was PHP46,000 (US\$6571).

The cooperative's electric bill was reduced by half as household connections took the place of the free public tap. With the meters installed, the household consumers were compelled to pay their water dues. This made the water service more efficient which in turn encouraged more households to join the cooperative. From a mere 15 member-households in 1968, the membership rose to 120 households in 1971. With this increase in membership came increases in capital which facilitated more community improvements, and which in turn required more intensive educational activities for co-op members. By 1992 an additional pumping station

³ Our computations here use exchange rates during the early 1970s, when a dollar was equivalent to PHP7.

and water tank had been built, making DWSDC the main water provider of Darangan. By 1996 DWSDC received the Most Outstanding Service Cooperative Award from the government.

Today, DWSDC provides water service to members and non-members alike. The current DWSDC membership is 1,100 households. Fund sources come mainly from the members' share capital, membership fees, savings and patronage. DWSDC has diversified into a credit and a consumer cooperative as well. It started to provide micro-financing services especially to non-members who are the poorest in Darangan. Loans that can be used to buy wares or products that can be traded, or to buy tools for fishing and other livelihoods, are provided at nearly no cost. One goal is to enable the poorest, in time, to save up so they can later afford to join the cooperative and have access to the water service by paying the share capital and other obligations in affordable instalment rates. Procedures have been made easy for them to apply, obtain loans, repay and join the cooperative.

Two deep wells, each with a submersible 10 horsepower pump provide water service to about 70 per cent of the Darangan population. One well is 106 metres deep while the other is 121. In Darangan, ground water is at a depth of 28 feet during the rainy season and 30 feet during summer. Darangan has two water reservoirs – one with a capacity of 68,200 litres and the other 45,500 liters. The water in Darangan is of good quality and highly potable. The two pumping stations of DWSDC work for a total of 20 hours a day.

Member-households pay PHP70 (US\$1.40) per month for the first 10 cubic metres consumption of water while non-members are charged PHP80 (US\$1.45). Above this consumption the water becomes more expensive, but these charges are variable and approved by the board as the need arises. Again, non-members pay slightly more. As a result, they end up becoming members so that they pay less. These tariffs are cheaper than those which residents of nearby Morong town pay to the Morong Water District.

Consumer households failing to pay their water dues for two consecutive months are disconnected from the service. A reconnection fee of PHP50 (US\$1.00) is required. It used to be that delinquency in payment was less than 10 per cent. With the current economic crisis in the Philippines, the delinquency rate is now 20 per cent.

To become a member of DWSDC today, one has to be a resident of Darangan. Would-be members of DWSDC have to pay a membership fee of PHP100 (US\$2 at 2002 rates) and a share capital of PHP5,000 (US\$100) which is payable in equal monthly instalments for a period of two years. Attendance at a pre-membership seminar is a requirement, followed by a further seminar on ownership. For the pre-membership seminar, the aspirant pays PHP50 (US\$1). The current membership is 1,100 households. An average of 15 new members joins DWSDC each year, most of them women. The sense of ownership of the water service is a strong motivation for the members.

Each applicant for DWSDC water service is offered an option to become a member of the cooperative. Aside from getting a PHP10 discount from the regular water rate and PHP1 less for every additional cubic metre thereafter, a DWSDC member also benefits from interest on share capital, patronage refund, social services and PHP2,000 for the family in case of death of the member. All water service applicants pay the cost of service installation and for the water meter. Billing is on a monthly cycle and collection is undertaken regularly on a house-to-house basis.

In 1992 DWSDC diversified into a credit and consumer cooperative providing the members with access to basic necessities like rice, oil, milk, etc. DWSDC members enjoy low interest loans and long-term repayment schemes, access to a mutual benefit fund, emergency loans, patronage refund, social services, and a usually uninterrupted water service at lower rates compared to non-members. DWSDC also provides banking services where the savings deposit of members earns from 4 to 8 per cent interest, higher than that offered by banks.

DWSDC employs a total of 11 multi-function staff including a general manager, an accountant, a secretary, a bookkeeper, two water tenders, two collectors, a plumber and a security guard. The education committee of DWSDC makes known the water service policies to members and non-members alike. All members of the board of directors have special assignments (DWSDC 2000).

Community involvement is one of the areas where DWSDC is active in Darangan. It actively advocates protection of the environment, especially the Darangan river. It is protesting about the operations of a piggery which is owned by a politician and causes respiratory ailments to children and pollution to the river. DWSDC also helps the *barangay* council in its campaign against drug abuse.

At the moment, the water cooperative depends solely on its own resources.

DWSDC is a member of several federations where it could obtain credit from and gain access to various programmes and services. DWSDC is active in the Federation of Binangonan Cooperatives and the Rizal Cooperative Business Federation (RCBF), a chapter of the Tagalog Cooperative Development Center (TAGCODEC), which is under the National Confederation of Cooperatives (NATCCO). When a new party-list system of representation was implemented in the Philippine Congress, NATCCO registered itself as party and now has a representative in the Lower House. NATCCO and the Cooperative Development Authority (CDA) have jointly endorsed the creation of the Philippine Cooperative for Water and Sanitation, a tertiary-level organisation of water cooperatives nationwide.

The success of Darangan motivated the municipality of Binangonan, Rizal to issue a municipal ordinance encouraging *barangay* level water systems to set up and transfer the management of their operations to a local cooperative. The younger cooperatives are learning from DWSDC which provides some technical assistance when required. The cooperative system has also allowed bigger cooperatives to provide financial assistance to

the smaller ones, through the network of the different cooperative federations (PCWS, 2000).

The three-storey DWSDC building built in 1998 is referred to by the membership as a dream fulfilled. It is a matter of pride for them to have bought a piece of land and built their headquarters there, which has now become a landmark in Darangan. For many years, the DWSDC office used to be in the basement of the house of one of the officers.

Two women members of DWSDC were sent to Bangkok, Thailand in 2000 to take part in the Regional Conference on Gender Impact of Globalization of the Economy: Challenges to Cooperatives in the New Millennium. Knowledge gained from this and similar educational opportunities are shared with the rest of the membership.

DWSDC members take part in the planning and in the annual general assemblies. They are consulted on major decisions to be taken such as merging with two other water systems in Darangan, building a new pumping station in a higher elevation area ready to replace the existing pump when it eventually breaks down, and in other similar concerns. Other ideas which emanate from ordinary members are studied for eventual implementation such as an appliance loan programme, or the establishment of a livelihood project for women and children. The trend over the past years had been towards an increasing number of women members. Membership of DWSDC provides women with better opportunities to learn and to increase their income.

A committee headed by a board director is in charge of O&M of the water system. DWSDC owns the necessary equipment and repair tools. The pump and motor is usually replaced after five years of use. Since DWSDC started its operations, water service interruptions due to repair and maintenance have never lasted for more than a day. In comparison, the huge water concessionaires Manila Water and Maynilad, which operate in Metro Manila, have water service interruptions lasting for five days or more.

DWSDC continues to inspire other communities. In Binangonan alone, 15 other water cooperatives have followed the Darangan example. Groups as far away as Mindanao come to Darangan to study and learn from its experiences.

Darangan has had its share of internal troubles and conflicts on issues like illegal connections (from disconnected users re-connecting themselves), non-payment of dues, water wastage and destruction of the water system. DWSDC has considered legal action but has so far not resorted to this and is reluctant to, especially if it would mean suing members.

Key points of the Darangan Experience

Like New Bulatukan, the government played a huge role (as a donor) in the emergence of DWSDC. New Bulatukan got a grant from the SZOPAD Social Fund. Darangan was given PHP75,000 (US\$ 1500) by the provincial government to augment the initial PHP2,000 (US\$ 40) raised by the founders. These grants, no doubt, were fund infusions that jumpstarted the activities of both organisations. But whereas the main weakness in New Bulatukan is its weak economic management, this is the strength of Darangan – the co-operative over the years has ably managed water as an economic good.

It can be seen that Darangan had a trial-and-error stage, and that it developed the economic management of its water system in stages. Its first public tap provided water for free, leading the cooperative into huge debts. It thus took the first big step of metering, and building for private connections instead of just public taps. From thereon it ran the water system like a business. It invested in pumps and tanks when needed in order to keep the service efficient. It had a tariff system which was set at a level that would allow the cooperative to run the water system efficiently. It also had mechanisms for dealing with free-riding – charging non-members more, disconnecting households if they did not pay for two months, and charging a reconnection fee. This may appear drastic, but not to members who have the buffer of their share capital should they find themselves unable to pay their water bills. The collective share capital from members

was used in a variety of ways to stretch its value – from a micro-financing scheme and higher interest rates for its savings program, to a credit and consumer co-operative where members can buy basic necessities at lower than market prices. As it became successful, the cooperative branched out into other activities.

This business, however, is atypical in that this was not the usual profit-maximising enterprise. First, the cooperative was sensitive to the issues of affordability. Even though it operated with some profit, water prices were less than the nearby Morong Water District. It also had a rising block tariff scheme – the bigger the consumption the more expensive water becomes, which in many ways is a disincentive to wasteful use. It also provides more affordable rates to low-consumption users. But at the same time, the cooperative was also conscious of the need to provide assistance to the poor in the community, through its micro-financing scheme, as well as subsidising the public taps that the poor used. Furthermore, the cooperative performed other social functions. For members, it provides emergency loans, banking services and sells basic necessities at lower than market prices. For the wider community, it engages in such activities as campaigning against pollution or drug abuse.

Clearly, Darangan is a model of common pool resource management that is an alternative to government or private sector provided water supply services. It is collective action for mutual benefit run under sound economic management.

Competition and DWSDC

The ultimate test, however, of whether the DWSDC is operating at optimum economic efficiency is not its success, but whether it can survive competition from a big company which in theory has better economies of scale. Owing to its proximity to Metro Manila, Binangonan town is now the target of extension of Manila Water, the private concessionaire serving Metro Manila's East Zone. The 16 Binangonan water cooperatives, including DWSDC, see this as a serious threat to their long-term existence. But Manila Water is also careful not to be seen as the corporate giant that is bent on destroying the

cooperatives. The 16 cooperatives and Manila Water thus recently signed a Memorandum of Agreement stating that the company will only serve those areas in Binangonan which are not covered by the water cooperatives (Bagalpo and Matibag, 2002).

DWSDC is confident that it can compete with Manila Water. This confidence is based on how the cooperative continued to provide good quality ground water during the *El Niño* phenomenon when Manila Water could not even meet the demand in its present concession area. DWSDC,

at the moment, also has better response times to water service interruptions. In contrast, Manila Water reels from bad publicity resulting from cases of service interruptions lasting for days. Furthermore, DWSDC currently serves 70 per cent of Darangan's population, the majority of whom are members of the cooperative. These members are proud of the fact that they own the DWSDC water service, and will thus be the captive market that will keep the cooperative working even if Manila Water takes over the rest of Binangonan.



The protected spring source in New Bulatukan. *Photo by Lyn Capistrano*

Box 2 – A comparison of New Bulatukan and Darangan

	New Bulatukan	Darangan
<i>Initial collective action(s) of the community</i>	Formation of water association in order to avail of assistance mechanisms under the government's peace package	Formation of the water co-operative that negotiated with the provincial government and the PACD for assistance
<i>Sense of ownership</i>	140 out of 220 families are members of the water association providing water to the whole community	70% of Darangan is served by the cooperative; majority are members of the cooperative
<i>Community contributions</i>	Contributions in kind during the construction of water system	Members' share capital and membership fees
<i>Mechanisms for self-governance</i>	Election of officers of the water association; open participation for members in key decision-making process	Election of the Board of the cooperative; consultation with the community on key decision-making
<i>Formalisation of water use rights</i>	Registration (with government) of the association, along with acquisition of a water resource permit	Registration with government of the cooperative in compliance with laws for cooperative institutions
<i>State involvement</i>	Provided the initial funding; technical support; process for the selection of contractor that built the water system	Provided initial funding and pipes
<i>Agreements on water use rights in the community</i>	No clear agreements. Everyone including non-members of the association were able to use the public tapstands	Resorted to metering and individual connections as a result of huge debt that piled up
<i>Water tariff</i>	Token PHP10 a month flat fee for members and non-members	Rising block tariff system: water becomes more expensive as consumption grows
<i>Mechanisms against free riding</i>	None	Incentives for membership in the cooperative; individual connections
<i>Mechanisms of enforcing rules and agreements</i>	None	Disconnection if there is non-payment for two months; re-connection charges
<i>Consideration for vulnerable groups</i>	Free access to system for non-members	Maintenance of public tapstands; micro-financing schemes for poor residents; easy payment schemes, lower instalment rates
<i>Capacity-building</i>	Started to implement training and capacity-building programmes with the help of government and an NGO	33 years of experience in cooperative management and economic management of the enterprise

Case 3: Magdalena

Magdalena is a small "fifth-class" rural town in Laguna Province, i.e. it is dependent on the national government for revenues. It lies about 120 kilometres southeast of Metro Manila. Farming, employment in government and in private firms, small-scale business, livestock raising and overseas contract work are the main livelihoods of the people. The current mayor (2001-2004) is Pablo V. Agapay. Magdalena is also the first local government participant in the World Bank-financed Local Government Unit Urban Water Supply and Sanitation Project. This project seeks to demonstrate that, with appropriate design, pricing, and incentives, water supply systems of whatever size can pay for themselves. The test of viability is the willingness of the private sector to participate in the needed investments.

This World Bank project promotes public-private partnerships in the delivery of services. The arrangement involves the local government availing itself of a loan to construct, expand or rehabilitate existing water supply infrastructure, and then leasing out the facility to be operated and maintained by a private company on a 15-year contract. As such, the local government bears the investment risks, but transfers to the private sector, for a fee, the task of running the water system. Magdalena availed of the World Bank's Adaptable Program Loan (APL) instrument, where borrowers can test innovative designs through relatively small operations, monitor and evaluate the lessons, and then scale up to a sufficient size. Each successive loan will be made based on the accomplishment of performance objectives under the previous loan.

Magdalena leased its water system to Bayan Water Services, Inc. (BWSI) for 15 years. The company is a subsidiary of Benpres Holdings, which co-owns (with the French multinational Ondeo) Maynilad, the company running the west zone of the Manila water concession. Under the arrangement, BWSI will operate and maintain the water system and collect the tariff. It then pays rent to the Magdalena local government, which is deposited in an escrow account, which goes to pay off the debt to the World Bank.

There are a number of reasons why Magdalena opted to privatise. First, its municipal water system, built in 1926, has deteriorated. Also, water quality is poor and the quantity is not enough for the growing population. The water is sourced from springs in nearby Liliw town, and passes through and supplies three *barangays* before reaching Magdalena. En route are piggeries above and near where the water passes. Water is available for only 30 minutes to two hours a day. The water is treated with chlorine. Water analysis showed the presence of coliform, caused by contamination from pigties and seepage from septic tanks (Ungco, 2002). Hence, a decision was made to build an entirely new water supply system alongside the old system, pay this off through a World Bank loan, lease the new system to a private operator, collect rent from the operator, and use this rent to pay off the loan.

The project began when the Department of Interior and Local Government (DILG), the national agency through which the World Bank works, invited Magdalena to take advantage of the loan programme to build, operate and transfer a new water supply system. As part of the World Bank package, seminars were conducted for Magdalena town officials on the various options. One such seminar was held on 7 January 1997 at the World Bank Office in Manila. Official approval for the loan programme came on 29 January 1999.

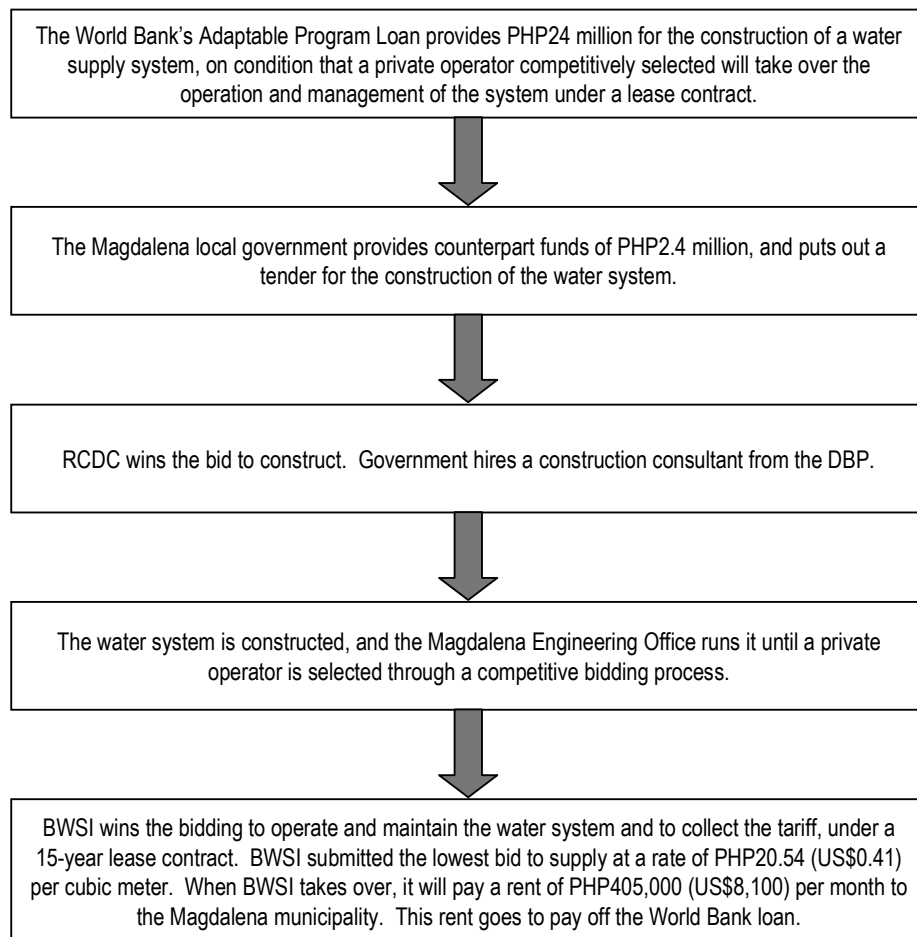
DILG brought in a consultant to do a "willingness to connect" survey. The survey showed that 60 per cent of residents indicated a desire for one of the feasible options, a figure that was one of the World Bank requirements for pushing through with the privatisation process. Rodman Construction and Development Corporation (RCDC), which won the bidding according to Development Bank of the Philippines (DBP) procedures, constructed the new water supply system between September 1999 and 1 June 2001. Actual construction cost was PHP24 million (approx. US\$480,000), with a local counterpart of PHP2.4 million (US\$ 48,000). BWSI won the lease contract through a bidding procedure required by the World Bank by quoting to supply water at the lowest rate of PHP20.54 (US\$0.41) per cubic metre.

Problems emerge

The project was progressing smoothly until October 2001, when the new water system was scheduled to have been turned over to the BWSI, as agreed in the lease contract. Prior to the turnover of the new system, the agreement was that the old system would be shut down. When the turn-over is effected, BWSI pays PHP405,000 (US\$8100) monthly rent to Magdalena, plus a fixed amount of PHP8,000 (US\$160) for contract administration. Operation and maintenance costs are a separate item, and were to be shouldered by BWSI. The closure of

the old system, however, was resisted by 40 households still connected to it, and who refused connection to the new water system. They asked town officials not to shut them out, as they had a right to exercise choice and they wanted to continue getting water from the old system. As such, in the first few months of 2002, the project remained stalled. The new water system was still being managed by the Magdalena Engineering Office at the second floor of the municipal hall, which also manages the old water supply system. Consumers (both of the new and old water system) pay their bills at the Municipal Treasury (del Valle, 2002).

Figure 1 – The Magdalena PSP process



Thus, what happened was that two parallel water systems – one old and one new – operated at the same time. The new water system drew groundwater from two pumping stations, charged at PHP20.54 (US\$0.41) per cubic metre and promised to be available 24 hours a day. The old system provided water from a spring source at a cheaper rate of PHP8 (US\$0.16) for the first 15 cubic metres and PHP4.50 (US\$0.09) for every cubic metre thereafter, but this is typically available only for two hours a day. The new system also had better pressure – the output from each deep well is 45 litres per second (Ungco, 2002). BWSI demanded the closure of the old water system prior to turnover. Another agreement was forged in February 2002.

The conflict over the closure of the old water system delayed the turnover to the BWSI and brought a number of consequences for the different stakeholders. For example, Magdalena started paying off the interest on the loan. It will need to start paying off the principal by late 2002. In February 2002, the Municipal Engineer's Office said that the tariff paid by consumers is enough to cover the O&M of the water system, but not the World Bank loan repayment. Increases in water tariff were thus needed. Another consequence was that the conflict muddled the agreements on regulation contained in the lease contract. Engineer Ariel Ungco, Jr. is a member of the Local Drinking Water Quality Monitoring Group. According to him, the water service is efficient. The two pumps drawing from 130-metre deep wells ensured sufficient water flow and quantity. But problems and complications were created with the financing arrangements and loan repayments. The biggest threat is that Magdalena may not be able to pay its loan. If this happens, Magdalena may have to resort to mortgaging.

The Magdalena privatisation thus throws up a number of issues. First is the potentially complex legal tangle associated with the challenge put up by the 40 households connected to the old water system. It may be that the municipal government has a contractual or political obligation to continue supplying water to them. But on the other hand, the municipal government also has a contractual obligation to the BWSI to shut the old water system down. It may need a judicial

decision on which obligation has priority over the other. A related issue is whether the consumers of the old water system were consulted about the shift to the new water system beyond the willingness to connect survey.

The next issue is the commercial angle. BWSI does not want to assume control of the new system until the old system is closed down, since it does not want a competitor, and wants to be assured of its monopoly position in running the system. Having a cheaper alternative operating in parallel to the system it operates may limit its ability to raise prices. But it may also be argued that competition between the old and new systems may ultimately be a mechanism providing benefits to the consumer. BWSI can argue that it is charging at a higher price because the new system provides good quality water 24 hours a day, compared to the old system that has a great risk of contamination and supplies water only 2 hours a day. Ultimately, it will be up to the consumers to make their choice. A problem will arise if BWSI bid to supply water at PHP20.54 (US\$0.41) on the assumption that it will have no competitor. What is clear is that there are fundamental flaws in the setting up of this World Bank-assisted project.

With BWSI not assuming control, the whole financial arrangement is tangled up. Magdalena does not receive any payments for rent, and will have to take responsibility for tariff collection to be able to meet loan repayment costs. But this is something it is not in a position to do. To be able to pay for the growing financing costs, it may need to raise rates from the new system, which may end up so high that consumers will just settle for the cheaper water of the old system.

One final issue is about connections to the new system, which is the responsibility of the municipal government. What should be considered is whether the new infrastructure was designed to be as equitable as possible – that is, that poorer areas get some priority in the expansion of the pipe system.

Before moving on to conclusions, we have briefly reviewed overall water provision in the Philippines to provide additional information on the context for our analysis.

Box 3 – Some comparative data on the three cases

	New Bulatukan	Darangan	Magdalena
<i>Years of existence</i>	3 years	33 years	1 year
<i>Management scheme</i>	Water users association	Water cooperative	Concessionaire Bayan Water acquired a 15-year lease contract from the Magdalena local government unit
<i>Financing scheme</i>	Grant from the SZOPAD Social Fund to build the water system infrastructure	Pooled resources of the members: share capital, contributions, membership fees, etc.	Magdalena government obtained a PHP24 million loan from the World Bank, and will pay the interest and loan from the rent it will get from Bayan Water
<i>Ownership</i>	The water association and all its members own the water supply facility	The cooperative and all its members own the water supply facility	The LGU owns the municipal water supply system
<i>Tariff</i>	PHP10 (US\$0.2) a month	PHP70 (US\$1.4) per 10 cubic metres for members and PHP80 (US\$1.6) per 10 cubic metres for non-members	PHP20.54 (US\$0.41) per cubic metre
<i>Community participation</i>	Consultations and participatory decision-making	General assembly, consultations, participatory decision-making, reflection sessions on the collective process they have gone through and the way forward	None
<i>Pro-poor schemes</i>	The water service itself is the effort of a rural poor community. It excludes no one. Affordable water tariff; livelihood opportunities through the SCFA	Public taps. Deliberate efforts to encourage the poor to become DWSDC members through micro-financing, easy instalment payment of share capital, easy procedures for membership application	None

V. Overall water provision in the Philippines

The development of the present structure of water governance in the Philippines came in the early 1970s when the national government under Ferdinand Marcos initiated structural and institutional reforms in the water sector. The first of these reforms involved the abolition of the National Water and Sewerage Administration (NAWASA). In its place was created the institutionally and financially-autonomous Metropolitan Water and Sewerage Systems (MWSS), technically a government-owned and controlled corporation (GOCC), with responsibility for Metro Manila and its peripheral areas. MWSS was accountable to a Board of Trustees, composed of ex-officio public officials and appointees nominated and confirmed by the President. In other urban areas of the country were mini MWSSs, called Water Districts, which were likewise autonomous and were run like private bodies but with public owners. The local government units formed the board to which a Water District was accountable. An intermediate body to support the Water Districts was created – called the Local Water Utilities Administration (LWUA). LWUA provided technical support and functioned like a development bank providing low-cost loans to the Water Districts. A total of 460 Water Districts were organised in the country. For smaller municipalities (like Magdalena) it was typically the engineering office or a designated water and sanitation office of the local government that had responsibility for water provision (Blokland, et. al., 1999).

The reforms that created MWSS and the Water Districts were first and foremost meant to depoliticise water services delivery in the country. By creating autonomous public utilities, key decisions on pricing, appointment of staff, expansion and investment plans would be protected from undue and particularistic political interference. It was typical for instance for water prices to be brought down in certain areas, prior to an election, in order to win more votes. A sense of efficiency-orientation was instilled in the public utilities.

The reforms went exceptionally well. For instance, about 400 Water Districts that provide

water to 480 out of 1,564 municipalities in the Philippines recovered costs and were generally coping with population growth (Blokland et. al., 1999). However, there was a legal challenge to their status. A case filed in Philippine Courts argued that Water Districts violated a Philippine law that prohibited government-owned bodies from being incorporated as limited companies. In 1991, the Supreme Court upheld the challenge and ordered Water Districts to be re-municipalised. A few years later, in line with privatisation policies that received support from Fidel Ramos, a neoliberal President, efforts to keep the Water Districts successful as limited companies were maintained.

The situation for the MWSS was different. Efficiency reforms delivered mixed results. Repair and rehabilitation work was subcontracted to private builders and contractors that generally performed to meet their contractual obligations. But the overall water infrastructure, some of which was over a hundred years old, needed a general and extremely expensive overhaul. Furthermore, MWSS was not able to cope with the increase in population and demand for water in the fastest growing and most overpopulated area of the country. Over the years until 1996, MWSS incurred foreign loans that amounted to a staggering US\$880 million.

Much of these loans went into providing for water supplies. But the bigger problem was distribution. This led to the emergence of private water hauliers, operating in urban poor communities, and water refilling stations. It is estimated that they distributed water to 30 to 40 per cent of Metro Manila's population. The other shortfalls were covered by private deep wells (PCWS-ITNF, 2000).

Small-scale providers may be classified as legitimate or fly-by-night operators. A legitimate operator is registered with the appropriate government agency (such as National Water Resources Board, Securities and Exchange Commission, Cooperative Development Authority, etc.) and is under some form of regulation. Fly-by-night water vendors operate

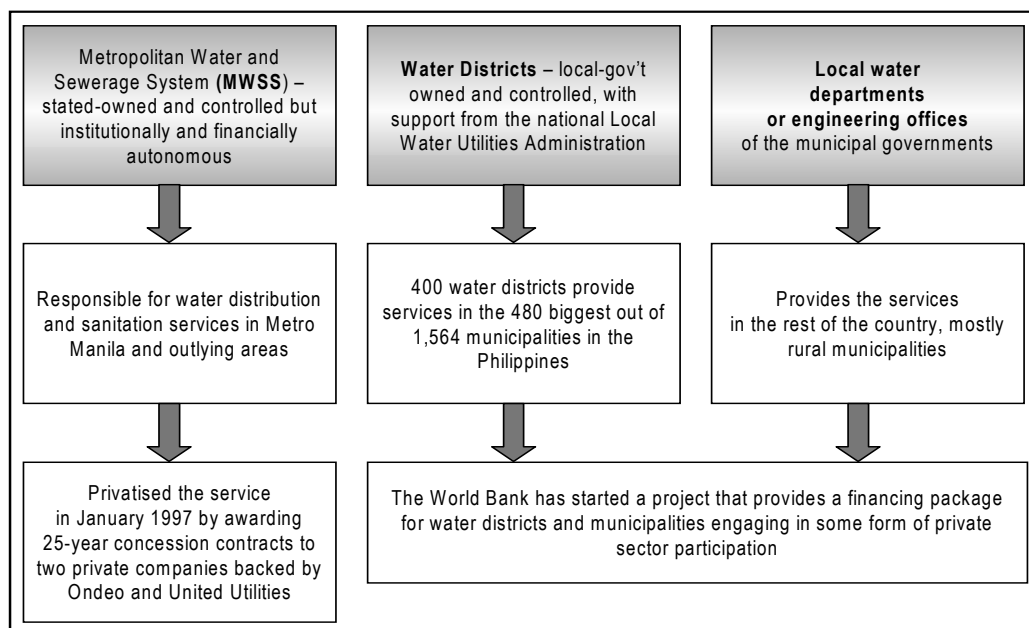
informally, and are sometimes called the "water mafia". Some are undercapitalised opportunists who get the water they sell through illegal means, often in connivance with a corrupt employee of the MWSS. Some fly-by-night operators are more legal in that they have formal and more transparent arrangements with the MWSS (or with the private concessionaires that took over from the MWSS after January 1997). Yet even these supposedly legitimate providers are hardly monitored. Nor are they effectively regulated because of the weaknesses of the government institutions tasked to do the job. Available data on registered small scale providers is incomplete and questionable (PCWS-ITNF, 2000).

There are other public bodies with regulatory roles, but these remain weak and fragmented. The National Water Resources Board (NWRB) for example, which has overall responsibility for water resource management, share this function with MWSS and the Water Districts which have the monopoly franchises to provide water services in their respective service areas. Due to the fragmented regulatory set-up, permits for the establishment of private waterworks and individual groundwater use had been granted liberally, resulting in the overexploitation and sometimes depletion of the groundwater

resources by industrial, commercial and household users (Diaz, 2002). New laws and government policies were enacted to pave the way for extensive private sector participation, and the overall connection and integration of these many policies remains unclear.

In general, institutional reforms in the water sector in the Philippines were implemented as early as the 1970s. The main driver of these reforms was the desire to depoliticise water services, provision, and move decision-making towards more rational criteria. These have had an impact in improving the efficiency in delivering services in most urban areas. Provision in rural areas was generally dependent on the capacity of the local government. In recent years, private sector participation has been adopted and promoted as the main policy reform. Various problems have now emerged, including the fragmented regulatory set-up, and the lack of coherence in the legal institutional frame. The legal tangles accompanying privatisation may have disturbed what has been regarded as an efficiently functioning structure in the urban water districts. In addition, the present structure and environment have not generally supported the emergence and growth of non-profit organisations in water and sanitation delivery.

Figure 2 – Structure and private sector involvement in water services



VI. Conclusion: The need for seriously considering alternatives to public and private sector involvement

The three case studies provide contrasting starting points of analysis that offer a number of lessons by which to evaluate public, private and community not-for-profit delivery of services.

The three cases here present a contrast of sorts. The first – New Bulatukan – is a case of collective action in a community recovering from the impact of war. Collective action was the key to being able to take advantage of assistance mechanisms from government. Its main weakness is the lack of economic management of its water system. But current and future capacity-building programmes may address this weakness.

The second case – Darangan – had similar beginnings, but over time developed its mechanisms for the efficient and economic management of the system with the introduction of metering, individual connections, a tariff system and penalties for non-payment.

In contrast, the third case – Magdalena – took a different route. The municipal government opted for a form of private sector participation, not investment in a collective enterprise like the governments did in the first two cases. The key player in Magdalena's case was a private water company, not a co-operative institution or a community water association. The implication of this move, as far as our questions on collective action and institutional economics are concerned, include the following:

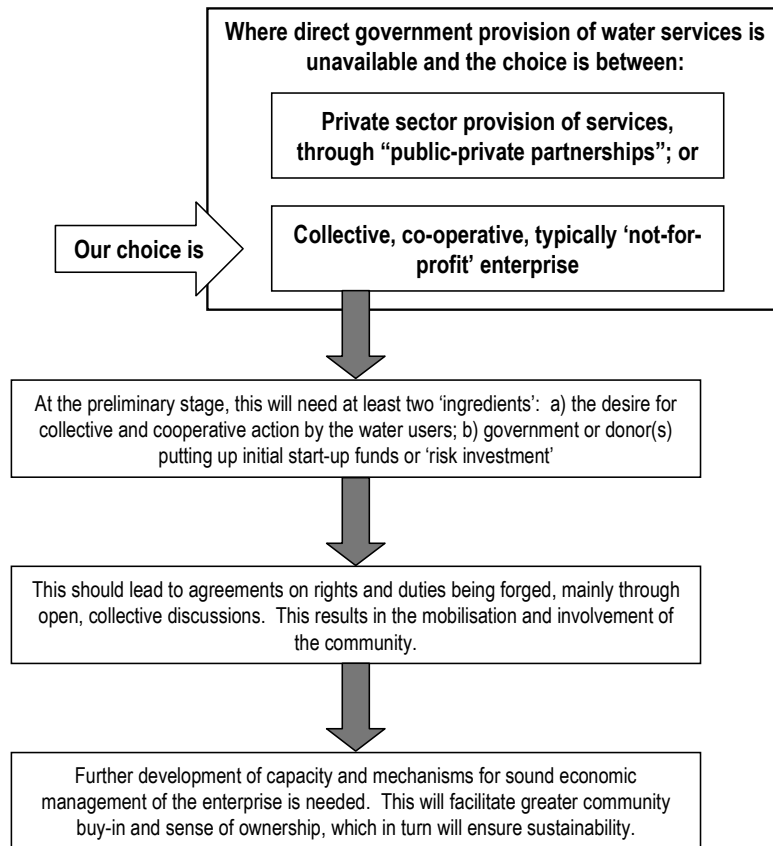
- There was no collective community action for gaining better water services in Magdalena. In fact, the collective action was against the option taken by the municipal government – the resistance of the 40 water users who refused to connect to the new water system
- There is no sense of ownership for the new system in Magdalena. The new water system is not seen as an investment owned by the municipality, but a more expensive

option brought about by private companies and the World Bank

- This lack of a sense of ownership may be attributable to the lack of community contributions in the new system. There was some form of community contributions for the system in New Bulatukan. In contrast, Darangan over time has been sustained and supported by members' contributions and capital share
- There are significantly more mechanisms for community participation in decision-making in New Bulatukan and Darangan. Darangan has a well-developed system for self-governance, although it also has problems of internal conflicts. These mechanisms are responsible for the forging of local agreements on who gets water and how
- Agreement on water use rights in Magdalena – as shown by the case of the 40 residents who are exercising their option to remain with the old system – is not clear. When the new system was introduced, there was no provision for dealing with the disruptions to be caused with the phase out of the old system
- In the first two cases, the government had problems with its capacity, and clearly could not perform the role of direct service provider. So what they did was invest in collective enterprises from the community. In Magdalena, the government decided it could not continue in its role as the direct provider of water services, and instead invested its money as a counterpart for the World Bank loan
- Darangan had an existing but inadequate system when it started in 1968. Magdalena had a system that was inefficient and posed health hazards. Darangan chose the route of cooperative enterprise development with assistance from government. Magdalena chose the route of private sector participation, with government and donor

- assistance. Darangan is successful, Magdalena is not, at least for the moment
- Darangan has efficient economic management of its water system, providing water at comparatively cheaper prices than nearby public and private water providers. Magdalena potentially has efficient economic management, if the private operator can take over under the conditions provided for in the original contract agreement. But this appears to users as a more expensive alternative, especially because of the cost of the loans that have to be paid
 - New Bulatukan does not have efficient economic management of its water system. But Darangan had 33 years of experience, and a different situation (urban, individual household connections) when it started. The key is that capacity-building remains a significant component for the success of water supply systems
 - In Magdalena, the municipal government, BWSI and the World Bank realised the hard way that the full transaction was not completed even when the lease contract were signed. A group of 40 residents refused to connect to the new system, and insisted on their right to get water from the old system
 - Transaction costs in all three cases are high. This shows that water deals are so far from being spot exchanges in the market. New Bulatukan needed various institutions (e.g. SZOPAD, SSF) to be set up in order to access a water supply grant. The services of different engineers were needed – from the preliminary survey and construction up to the monitoring of the project. DWSDC had to negotiate with two different government bodies – the provincial governor's office and the PACD. It had to go through the quite complex and tedious motions of formally setting up and registering a cooperative. Magdalena also had huge transaction costs, e.g. training for local government officials at the World Bank office, the hiring of a construction consultant, and so on
 - There is concrete consideration for the poor and vulnerable groups in New Bulatukan and Darangan. There appears to be none in Magdalena
 - Darangan has mechanisms against free-riding and enforcing agreements and rules. Magdalena has less clear-cut mechanisms. Both have difficulties in enforcing or implementing these mechanisms
- Based on this comparison, our conclusion is that collective action that results in durable co-operative institutions that are organised and governed by the water users themselves presents a viable alternative to government or public sector provision and to private sector participation. The essential inputs at the beginning include: a) the desire of the resource users themselves to engage in collective action, and b) a significant contribution or investment by government (or donors) in the co-operative enterprise of some kind of risk capital that can jumpstart activities.
- This alternative can be more sustainable once it develops the agreements as well as local capacity for the economic management of water. Economic efficiency is essential in the growth of the co-operative enterprise. There needs to be cost recovery, as well the creation of imaginative ways with which to stretch the value of investments. The key incentive for economic management is the eventual contributions and investments made by the users themselves into the water system. What makes a co-operative institution a more desirable economically efficient organisation than a private company is that it will almost always have provisions for protecting those unable pay to access services. Cooperative institutions, in a sense, are closer to communities (therefore have greater accountability) and have a greater sense of social responsibility. They are more prepared to engage communities not just in the business of delivering water, but also in the more long-term process of building development. The private sector, most often, is not prepared to assume these roles that cooperative institutions typically perform.
- The basic model that emerges from our study is the following:

Figure 3 – A model of not-for-profit provision



We have chosen to call the process described in our model "social privatisation". It is essentially not-for-profit activity, but in order to guarantee sustainability and efficiency the enterprise has to observe the principles of sound economic management. Social privatisation therefore, may also involve contractual arrangements and the creation of profits, but what differentiates it from the typical public-private partnership is that there exists a sharing of values among the stakeholders, i.e. solidarity relationships towards shared goals. In private sector participation, a purely profit-seeking enterprise is contracted under commercial terms to undertake a series of tasks. In social privatisation, non government entities are engaged in solidarity partnerships to deliver mutual benefits to the co-operators.

Ownership appears to be a strong motivator in the sustainability of the water system not only in Darangan, but also in New Bulatukan as well. Co-operative and water association members have a built in stake in ensuring that the

cooperative survives. Over the years, the co-op has developed a system of dealing with the free-riding problem, by charging a much higher fee for non-members and providing additional incentives for membership. The water association in New Bulatukan has not yet reached this level of organisation, but has started to realise the importance of this through the capacity-building programme. Capacity-building is thus also built in to the system. In contrast, the commercial system in Magdalena is for the private company to sustain, and a conflict relation exists that threatens the government with having to pay for investment risks. There is in fact a disincentive for the company to build capacity in the public and community systems – as it could provide them with potential competition.

In sum, the three water systems can be evaluated in terms of:

- The extent to which rights to water are established and delivered

- The level and quality of civic involvement and community participation in water and sanitation issues
- The level and quality of state and donor involvement
- The management of water prices and implementation of the principle of cost recovery
- Consideration given to vulnerable groups within a community
- The achievement of efficiency in delivering the services
- The structure of partnerships and collaborations, and how they build into sustainability
- The level and quality of regulation
- Overall capacity-building

In general, this study concludes that not-for-profit or social privatisation can deliver improvements in each of these nine measures, and therefore presents itself as a clear and viable alternative to private and public sector delivery of water and sanitation services. However, there are many limitations and obstacles in delivering these improvements. As such the applicability of promoting not-for-profit activity may depend largely on the local context – on the local configuration of problems, resources and stakeholders.

The key problem that remains is whether cooperative not-for-profit enterprises can be scaled up from village or small town levels into big cities. We have already mentioned that this is a possibility, as demonstrated by the OPP in Karachi, Pakistan. But this is an area that also needs further research. Perhaps if the World Bank can be convinced to consider and provide funding for the up-scaling of cooperative enterprises, more experience can be developed in this regard.

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