

To the Last Drop: The Political Economy of Philippine Water Laws

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The Philippine Water-scape

- * water as a policy area features institutions and rules that are multi-layered, complex and fragmented
- * 30 agencies (national and LGU based) managing water resource + communal and private entities
- * mandates cover water supply, irrigation, hydropower, water quality and quantity, watershed management, health and sanitation, flood management, cloud seeding
- * high transaction cost; localized and politically-contingent



Goals

- * map terrain of state/local, formal/informal authority over water
- * caveat: only demand side management; have data on seasonality, physical scarcity and quality from water managers' survey
- * describe results of local water managers' survey to surface their grounding on water laws and conflict experiences
- * compare 5 cases of local water conflict to illustrate gaps/disconnects between water law and practice

Water Contestation: Contexts

- * formalization and pre-existing traditional/customary norms; significant informal water economy (self-provisioning)
- * strong legal basis but weak state presence
- * decentralization
- * urbanization and competing water uses



Locating the state, market and local players in water laws

- * wide array of legislations pertaining to water; creating new institutions or mandates to existing institutions; addition but no discarding of old ones
- * from decentralized, municipal based waterworks to centralized models (NWRB, NIA, LWUA); prominent economic role for government
- * property rights to water- by franchise or permits; state versus commons versus private; state-biased tenure status of water resources

Locating the state, market and local players in water laws

- * decentralization again -municipal & barangay LGU manage their own water supply systems; delegated responsibility; accountability
- * linking water with forest, pollution, flooding, health safety
- * from state involvement to market-oriented reforms (including privatization, performance benchmarks for water districts, allowing more competitor water service providers)

Potential Flashpoints

- * competing property rights to water
- * transboundary issues
- * differentiated effects of water market reforms on various groups (socio-economic marginalization, inequality)

What water managers think...

- * weak grounding on water laws; largely unaware of legal link between water laws and laws pertaining to land use and forests
- * local ordinances do not provide for private water rights but collective in form
- * correctly identified domestic and irrigation as priority sectors for users; equity as topmost consideration for allocation

What water managers think...

- * internal conflicts and LGU resolution mechanisms; reliance on non-legal processes (negotiation and settlement) to end conflict
- * customary/ traditional practices has little resonance
- * no legally specified mechanism for resolving trans-boundary conflicts

Water conflict in five settings

- * contested property rights assignment to water between a local water district and LGU (Bukidnon)
- * contested land rights to a watershed between the city government and indigenous families (Cordilleras);
- * LGU leveraging authority to issue permit (excavation) to exact side payment from water district for maintenance of springs located within LGU territory (Iloilo)
- * conflict between community and local government over long-term bulk water distribution contract given to a private concessionaire (Laguna)
- * conflict between NIA and local mining board over impact of small scale sand mining activities close to irrigation dam (Laguna)

Insights

- * at the local level, the language of "rights" not useful in contestation--not well-defined; state agents exclusively claiming state rights; trumped by legitimacy card (community interest)
- * conflict expansion- state regulator-ally fighting for their client sectors; water district elevating concerns to OGCC but LGUs do not recognise ruling (resort to alternate means of contestation)
- * water reform/shifts in policy focus through negotiation

Conclusion

- * new mandates and more agencies dealing with water and its connection to land use and forest but non-existent or weak inter-government agency linkages
- * locate responsibilities to local bodies but no corresponding rights-transfer
- * water managers prefer informal venues and negotiations to address conflict rather than going to NWRB or OGCC for "rights" assertion
