

**Name of Country: Philippines** (submitted by the *Freedom from Debt Coalition*)

## **1. Status of Water Delivery in the Philippines**

### **History**

The water supply systems in the Philippines were mostly operated by local authorities immediately after the declaration of independence in 1946. In 1955, the National Waterworks and Sewerage Authority (NWSA) was created through Republic Act 1383. The creation of the NWSA was the first attempt at consolidating and centralizing all waterworks, sewerage and drainage systems in the Philippines under one control, direction and general supervision.

In 1964, the involvement of International Financial Institutions in the Philippine water sector began with a \$20.2 million fund provided by the International Bank for Reconstruction and Development (IBRD), now known as the World Bank. The said fund was funneled to a program for the improvement of the Metro Manila Water System which was substantially completed in 1970.

The Marcos Administration (1965-1986) brought forth further involvement of International Financial Institutions in the Philippine water sector. In the same period of the Marcos rule, several legislative developments also took place. A year after the completion of the IBRD-funded project, Republic Act 6234 was passed which dissolved NWSA and separated the control and supervision of Metro Manila water services under a new government corporation known as the Metropolitan Waterworks and Sewerage Services (MWSS). Another administrative body in the form of the National Water Regulatory Council (now known as the NWRB) was also formed in 1974 with the task of coordinating and integrating water resources development. The supervision of local water utilities in areas outside of Metro Manila, on the other hand, was turned over to the newly-created Local Water Utilities Administration (LWUA).

The Provincial Water Utilities Act of 1973 creating the LWUA declared a national policy favoring local operation and control of water systems. The same law expressly declared the formulation and operation of independent, **locally controlled public water district** as being the most feasible and favored institutional structure. This was consistent with the operative framework in the water sector during the earlier decades wherein the local operation of water services was clearly established to be imbued with public interest and was perceived as a responsibility of local authorities.

The decentralization of water services continued beyond the Marcos administration into the Aquino and Ramos periods with the passing of new laws that in some instances conflicted with other laws and sometimes resulted in overlapping functions among different agencies. At its current state, there are 30 different government agencies that are involved in the Philippine water sector, with separate sectoral concerns ranging from water supply, irrigation, hydropower, flood control, to water management.<sup>7</sup> It was also in the post-Marcos administrations that government

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<sup>7</sup> National Water Resources Board (2003) NWRB Strategic Planning and Management of Integrated Water Resources Management in the Philippines

efforts to dispose of and privatize a large number of government-owned corporations took off and gathered steam through the years.

During the Ramos administration (1992-1998), a radical transformation in the management and operation of water services was witnessed with the administration's thrust towards the infusion of private capital into the water sector. The privatization of the MWSS, dubbed as the biggest water privatization project in Asia, became the administration's centerpiece specimen for its privatization efforts. With the privatization of the MWSS in 1997, water distribution, billing and sewerage services were consequently passed on by MWSS to two private concessionaires, Maynilad and Manila Water.

## **Statistics**

### ***(a) Availability of potable water***

Continuity and availability of potable water services still evades many Filipino households. Many communities and households that have actual connections to water services still experience service interruptions that last for hours in a day. In some areas, water flow is available only at particular hours in the night, translating into a heavy burden for women upon whom the task of collecting water for the next day's usage requirements is often relegated. In the case of Metro Manila, the persistent failure of the two private concessionaires to raise water pressure to desired levels through necessary infrastructure and pipe work has resulted in the need to purposely shut off services in certain areas at certain hours so as to service another area. Service disconnections resulting from non-payment also continue unabated across the archipelago, exacerbated by high water rates, thereby allowing for constant violations against the right to water.

### ***(b) Quality of Potable Water***

Although there has been an improvement in the safety levels of water provided for public consumption since the 1990s, morbidity and mortality rates deriving from water-related diseases still leave much room for improvement. Between 1994 and 2000, 31% of illnesses in the Philippines were traced to water-related diseases. In the year 2000 alone, the Philippines' Department of Health (DOH) reported more than 500,000 morbidity and 4,000 mortality cases attributed to water-related diseases. In the same year, a total of 303 cholera cases were reported with the most cases in the NCR (131 cases) followed by Western Mindanao (80 cases). More recently, in 2003, a cholera outbreak in several communities in Tondo, Manila and Malabon victimized more than 800 individuals, eight of whom succumbed to the disease<sup>8</sup>.

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<sup>8</sup> Palattao, Bubut. *Profiting from People's Lives: Metro Manila's Water Privatization Saga*. Joint Publication of Freedom from Debt Coalition, Jubilee South and Asia-Pacific Movement on Debt and Development (APMDD)

Practically the same pattern persists today. Earlier of this year, two villages in the Southern province of Sultan Kudarat suffered from a cholera outbreak that claimed 21 lives.<sup>9</sup> A report submitted by the Philippines' National Statistics Office in August of this year also reiterates the prevalence of water-related diseases, with three of the ten leading causes of morbidity in the years 2004-2006 belonging to the range of water-related diseases<sup>10</sup>, as shown in the table below.

**Table 1. Leading causes of morbidity 2004-2006**

cause	2004	2005	2006
Pneumonia	776562	690566	670231
<b>Diarrheal diseases</b>	<b>577118</b>	<b>603287</b>	<b>572259</b>
Bronchitis	719982	616041	538990
Hypertension	342284	382662	408460
Influenza	379910	406237	339881
Tuberculosis ( <i>all forms</i> )	103214	114360	132729
Diseases of the heart	37092	43898	38482
<b>Malaria</b>	<b>19894</b>	<b>36090</b>	<b>22284</b>
Chickenpox	46779	30063	18326
<b>Dengue fever</b>	<b>15838</b>	<b>20107</b>	<b>15279</b>

Source: National Statistics Office, 2008.

### ***(c) Accessibility of Potable Water***

Recent studies estimate the percentage of Philippine households with access to water services to be at around **80% nationwide<sup>11</sup> in 2006**, thereby indicating no improvement from previous statistics which pegged the percentage of the population with access to potable water also at 80% in 2002<sup>12</sup>. The number is drastically lower for the rural areas with an estimated 22% of the rural population having access to piped household connections.<sup>13</sup> This national rate is significantly 7% less from where it stood in 1990 thereby illustrating a failure to keep up with the country's rapid population growth. Although access to water was provided to an additional

<sup>9</sup> In ABS-CBN News Online (2008) Red Cross: Cholera kills 21 in Sultan Kudarat.

<sup>10</sup> National Statistics Office (2008). The Philippines in Figures 2008.

<sup>11</sup> Moore, D. 2006. Developing Sustainable Financing for Water Supply and Sanitation: Philippine Water Revolving Fund. In: *Local Financing Strategies Workshop, 4th World Water Congress.*

<sup>12</sup> National Water Resources Board, op cit

<sup>13</sup> League of Cities in the Philippines (2006) The Philippines Water Situation Report 2006

23.04 million Filipinos between the years 1990 to 2005, a population increase of 24.5 million over the same period rendered the additional connections insufficient<sup>14</sup>. With an estimated **2.36% annual population growth**<sup>15</sup>, the Philippine population is expected to double to 145.4 million in 2033.

Unless new strategies are employed, the current rate of new service connections will not be able to prevent further declines in the percentage of Philippine households with access to water. Metro Cebu, which has an annual population growth of 2.2%, is estimated to require around 342 m<sup>3</sup>/year by 2025 but at this point only has a water providing capacity of 60 m<sup>3</sup>/year<sup>16</sup>. Another major city, Metro Davao, has an annual population growth pegged at 2.83% and is estimated to have a water demand more than twice its present water capacity by 2025.<sup>17</sup> The table below, taken from a report presented by the National Water Resources Board in 2003, shows the projected water demand of nine key cities in the Philippines that have been identified as water-critical urbanized areas.

**Table 2. Water-Critical Urbanized Areas**

Cities	Water Demand		Groundwater Availability	Surplus/(Deficit) (per cent)	
	1995	2025		1995	2025
Metro Manila	1068	2883	191	(82)	(93)
Metro Cebu	59	342	60	2	(82)
Metro Davao	50	153	84	69	(45)
Baguio City	12	87	15	21	(83)
Angeles City	11	31	137	1148	343
Bacolod City	37	111	103	179	(7)
Iloilo City	9	47	80	788	70
Cagayan de Oro City	29	98	34	18	(65)
Zamboanga City	28	203	54	92	(73)

Source: NWRB, 2003

<sup>14</sup> League of Cities in the Philippines, op cit.

<sup>15</sup> Ibid.

<sup>16</sup> National Water Resources Board (2003), op. cit.

<sup>17</sup> National Economic Development Authority (2006). NEDA DevPulse, March 30, 2006

**Table**  
**3. Waterless Communities**

	212
	12
	29
	7
	51
	28
	64
	41
	22
	72
	39
	26
	50
	51
	95
	77

In a survey released by the National Economic Development Authority in 2006, waterless communities (where less than 50% of the total households have access to piped water) were identified by region. In Metro Manila, where a residential connection is pegged at more than half the minimum wage for one month, only 55% of water consumers have household connections. The table at the right shows the number of waterless communities per region in the Philippines.

Source: NEDA. 2006

**2. Form of Public Management**

Various agencies are responsible for the management and regulation of water resources in the Philippines, and specific functions and powers are assumed by these separate agencies. While some agencies may have regulatory and management functions, the **National Water Resources Board** is the chief government agency that is responsible for the management of water resources. It was mandated through Presidential Decree 424 to regulate and control the utilization, exploitation, development, conservation and protection of water resources. It is also mandated to formulate policies and guidelines on water resources related to development and management.

Most potable water supply systems are operated by local water districts. They are monitored and supported by the **Local Water Utilities Administration** which also serves as a specialized lending institution for these local water districts. LWUA is mandated to:

- (1) *prescribe minimum standards and regulations in order to assure acceptable standards of construction materials and supplies, maintenance, operation, personnel training, accounting and fiscal practices for local water utilities*
- (2) *furnish technical assistance and personnel training programs for local water utilities*
- (3) *monitor and evaluate local water standards; and*
- (4) *Effect systems integration, joint investment and operations, district annexation and deannexation whenever economically warranted.*

The Metropolitan Waterworks and Sewerage System in Metro Manila, on the other hand, due to its separate charter and privatized framework, have a separate regulatory body called the **MWSS-Regulatory Office**. The said office was created by virtue of the concession contracts between MWSS and its two private concessionaires. It is tasked to monitor customer complaints against the private concessionaires, water and wastewater quality, and the capital expenditure

projects of the two private concessionaires. Apart from monitoring the above, the MWSS-RO is also responsible for the conduct of public consultations and rate-rebasing exercises.

Public management of the water sector in the Philippines, as it now stands, is severely decentralized. The three mentioned regulatory offices (MWSS-RO, LWUA and NWRB), for one, are attached to separate departments. The MWSS-RO, along with MWSS, falls under the authority of the Department of Public Works and Highways. LWUA, meanwhile, was recently placed under the authority of the Department of Health. And NWRB is considered as a separate agency attached to the Office of the President.

Public management in the national and local levels are also decentralized with various agencies undertaking various functions. The Department of Health (DOH) provides the regulation of drinking water quality and the supervision of general sanitation activities while the Department of Public Works and Highways-Project Management Office for Major Flood Control Project (DPWH-PMO-MFCP) is responsible for flood control mitigation. In brief, the following agencies provide differing degrees of regulation and monitoring of the water sector:

*National Level*

- a. Department of Environment and Natural Resources
- b. Department of Public Works and Highways
- c. Department of Health
- d. Department of Interior and Local Government
- e. GOCCs such as the National Power Corporation and the National Irrigation Administration

*Local Level*

- a. Local Water Utilities Administration
- b. Local Government Units
- c. MWSS – RO
- d. Laguna Lake Development Authority

In 2004, the Philippines Clear Water Act was passed with the goal of improving water quality and preventing water pollution through comprehensive and integrated water management. The said law has been hailed as a first step towards the reintegration of water management in the Philippines<sup>18</sup>.

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<sup>18</sup> NWRB, op cit

### 3. Policies relating to Financial and Tariffing Issues.

Since 2002, the NWRB has been tasked with the economic or financial regulation of water utilities. Its implementation of this task, however, has been marred by the lack of financial support for NWRB itself whose budget is derived entirely from minimal fees collected for the issuance of licenses for water extraction. As such, despite the broad and heavy mandate being pursued by the NWRB, it ironically does not have any regional offices apart from the main office in Metro Manila.

In the case of Metro Manila, proposed tariff increases are submitted by the two concessionaires to the MWSS-RO for approval prior to being implemented. The framework of **full cost recovery** shapes the setting of tariffs. Capital and Operating Expenditures incurred by the concessionaires in their development and expansion projects provide a principal basis for their tariffs, along with an approved rate of return and the projected number of billed customers.

The Public Service Act also dictates upon the **rate of return** allowable for water utilities. Public utilities in the Philippines are restricted from exceeding a 12% revenue rate, as reflected in MWSS' own charter which expressly limits its rate of return at 12%. The application of this restriction on MWSS' private concessionaires, however, has been strongly contested by the private concessionaires themselves.

Different **local water districts** charge different rates for the provision of potable water. Under the Local Water District Law, rates and charges for water are computed in such a way as to provide sufficient revenue that will:

- (a) Provide for reimbursement from all new water customers for the cost of installation of new services and meters;*
- (b) Provide for revenue from all water deliveries and services performed by the district;*
- (c) Pay the operating expenses of the district;*
- (d) Provide for the maintenance and repairs of the works;*
- (e) Provide a reasonable surplus for replacement, extension and improvements; and*
- (f) Pay the interest and principal and provide a sinking fund for the payment of debts of the district as they become due and establish a fund for reasonable reserves.*

In cases wherein a rate dispute emerges, the NWRB, in its quasi-judicial capacity, is provided with the mandate to resolve and decide such disputes.

Currently there are pending bills in both the House of Representatives and the Senate proposing the creation of a Water Regulatory Commission for the financial regulation of water utilities.

#### **4. Law relating to water as part of the Commons.**

The Philippines does not have an express provision or law recognizing access to water as a fundamental human right. It is, however, a signatory to the International Covenant on Economic, Cultural and Social Rights which it ratified in 1976. The Philippine Constitution of 1987 also contains a relevant provision in its declaration of national policies:

*Sec 11, Art II. The State values the dignity of every human person and guarantees full respect for human rights.*

With its ratification of the ICECSR and its express guarantee for the respect of human rights, it may be argued that the Philippine State has virtually provided a guarantee as well for the human right to water.

Groundwater extraction is effectively controlled and regulated by the National Water Regulatory Board in tandem with the Department of Natural Resources. The extraction of ground water may be carried out only after acquiring a license or permit from the NWRB. The extraction of surface water from different water sources, on the other hand, is controlled by the DENR which is responsible for the issuance of water rights.

Water is expressly provided as a common resource owned and maintained by the state through Presidential Decree No.1067, also known as the Water Code of 1976. The underlying principles of the said code are as follows:

*a. All waters belong to the State.*

*b. All waters that belong to the state can not be the subject to acquisitive prescription.*

*c. The State may allow the use or development of waters by administration concession.*

*d. The utilization, exploitation, development, conservation and protection*

*of water resources shall be subject to the control and regulation of the government through the National Water Resources Council, hereinafter referred to as the Council. (now known as the NWRB)*

*e. Preference in the use and development of waters shall consider current usages and be responsive to the changing needs of the country.*

Included among the waters subject to the said law are those found above the ground, under the ground, in the atmosphere, and, waters of the sea within the territory of the Philippines.

The private ownership of lands where water sources may be found is also considered not to be a bar to the state's ownership of the waters found within the said private land.

## **5. History of water conflicts**

### **a. Privatization of water utilities**

The privatization of water utilities in the Philippines has been a focal point of conflict in the water sector. This is particularly true with respect to the MWSS privatization which produced several conflicts not only in regards to consumer rights and the state's fundamental responsibility in the provision of water as a human right, but extends also to labor conflicts resulting from the retrenchment of a large number of public employees upon privatization.

The privatization of the MWSS has been largely attacked by formations such as the Freedom from Debt Coalition for its susceptibility to generate debts and the government's acquiescence to conditionalities favoring privatization that were imposed by International Financial Institutions. Tariffs have been increasing in phenomenal fashion despite apparent failures on the part of the private concessionaires to meet their service targets. The manipulation of IFIs in the regulation of private sector involvement has also been pointed out. Recently, one of the private concessionaires (Maynilad Water Services Inc.) was bailed out by the Philippine government after it declared tremendous financial losses stemming from excessive debt servicing fees funneled for the payment of old MWSS loans. After a debt-to-equity deal was brokered between the state and the majority shareholder (Benpres Holdings), the government gained majority ownership of the water utility only to pass it back again to the private sector by assigning its interests to another private consortium.

Currently FDC has been campaigning for a thorough assessment of the MWSS privatization in light of numerous issues arising from the said privatization and current developments in the Philippine legislative bodies pointing towards the privatization of other key urban water districts in the Philippines.

### **b. Competing water usage**

The absence of a concrete and integrated regulatory mechanism has also given rise to conflicts in the use of the existing water supply. Davao City, for example, is currently witnessing a conflict between two essential services: power and water. The Davao City Water District that services the locality is currently competing for the use of a watershed that the DCWD is eyeing as a major supply source that will be required to meet the growing water supply needs of the Davao population.

The Angat Dam where MWSS sources the majority of its water supply is also used for irrigation and power-generation. Although having been built primarily to service irrigation needs, water for domestic use is given highest priority in the allocation of water

supply during times of drought thereby presenting a conflict with the farmers dependent on the dam for the irrigation of their crop lands.

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