

# Regulating Public and Private Partnerships for the Poor



## REGULATING PRIVATE PROVIDERS: Metro Manila

In 1997, Metropolitan Waterworks and Sewerage System entered into concession agreements with Manila Water Company and Maynilad Water Services, who were allocated the East and Western service areas respectively after a selective bidding process. Each company had to have at least 65% national ownership. The winning bidder for the Eastern concession surprised everyone by bidding for a very significant reduction in price. MWSS remained as asset holding authority. By virtue of the contracts, a Regulatory Office (MWSS-RO) was established to monitor the implementation of the concession agreements.

The initial contracts required the concessionaires to undertake phased extension of service areas to ensure service coverage to the poor. Learning from each other, as well as from the electricity providers, Manila Water and Maynilad developed innovative approaches to service delivery in the slums and shanties.

*'We have 70 territorial managers – now they are challenging us to find the money to invest – they know the need to serve the poor; we realise that we have to do something – it is our task as Filipinos'*  
Manila Water

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## Case Study: PHILIPPINES

### KEY FACTS

Population  
78.6 million

Urban population  
60.2%

GDP per capita 2002  
US\$ 4,170

HDI rank  
83/177

Population living < \$2 / day  
46.4%

Exchange rate  
\$1 = 55 Philippines Pesos

Urban household water connections  
60%

Urban improved sanitation  
81%

Water Poverty Index  
60.5

### Study city

Metro Manila

Population  
11,000,000

Regulator  
MWSS-RO

Service Provider  
Manila Water  
Maynilad

## Research Partners



Urmila Brighu, Malaviya National Institute of Technology, Jaipur, India



**JAKARTA WATER SUPPLY REGULATORY BODY** Alizar Anwar, Technical Manager, Indonesia



Ziad Al-Ghazawi, Jordan University of Science and Technology, Jordan



Philippine Center for Water and Sanitation  
The ITN Foundation

Lyn Capistrano  
PCWS-ITNF  
Philippines



Sam Kayaga; Kevin Sansom, WEDC  
Loughborough University, UK



Kwabena Nyarko, WSESP,  
Kwame Nkrumah University of Science and Technology, Ghana

Case study authors: Lyn Capistrano & Esther Gerlach

Photo credits: PCWS, Gerlach & Franceys

Research co-ordinator: Dr Richard Franceys;

Centre for Water Science

Cranfield University,

Bedfordshire MK43 0AL, UK

Telephone: +44 (0) 1234 750111

email [r.w.a.franceys@cranfield.ac.uk](mailto:r.w.a.franceys@cranfield.ac.uk)

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### Research Summaries

- |                            |                                 |
|----------------------------|---------------------------------|
| 1. Regulating for the Poor | 11. Zambia                      |
| 2. Economic Regulation     | 12. Indonesia                   |
| 3. Literature Review       | 13. India                       |
| 4. England & Wales         | 14. Uganda                      |
| 5. Chile                   | 15. eConference                 |
| 6. Argentina               | 16. Alternative Providers       |
| 7. Ghana                   | 17. Customer Involvement        |
| 8. Philippines             | 18. Technical & Financial Tools |
| 9. Bolivia                 | 19. Legal Tools                 |
| 10. Jordan                 | 20. Pro-Poor Guidelines         |

## Research Summary

Incentive based, economic regulation of monopoly water and sanitation providers is a powerful tool for improving services. Regulators determine the maximum water price ('price cap') to finance a desired level of outputs. Prices in high-income countries have tended to increase faster than inflation as society demands higher standards. The total revenue requirement (from which the price cap is derived) is determined by adding anticipated operating expenditure to planned capital expenditure (for capital maintenance as well as for improvements in quality, security of supply, service standards and service extensions), plus an acceptable cost of capital. Both opex and capex plans include efficiency targets derived from comparisons between a number of providers. Water companies are allowed to retain any further efficiency savings achieved within the price cap for a period (five years for example), an incentive to achieve even higher efficiency, before the benefits are shared with customers in reduced prices for the future.

This model has been adapted around the world with varying degrees of success, usually in the context of a Public Private Partnership, but until recently it has tended to be reactive rather than proactive regarding early service to the poor. There is now a recognised need for adequate economic regulation of public providers, as well as private companies, in lower-income countries, to deliver similar mechanisms for financeability and efficiency and as a prerequisite for developing effective pro-poor urban services.

The purpose of this DFID research project is to give water regulators the necessary technical, social, financial, economic and legal tools to require the direct providers to work under a *Universal Service Obligation*, to ensure service to the poorest, even in informal, unplanned and illegal areas, acknowledging the techniques of service and pricing differentiation to meet demand.

Looking to achieve early universal service, the research also considers how the role of small scale, *alternative providers* can be recognised in the regulatory process. *Customer involvement*, at an appropriate level, is seen as the third key aspect. The research investigates mechanisms for poor customers, and most importantly potential poor customers, to achieve a valid input to regulatory decision-making to achieve better watsan services



# The Water Sector and Institutional Framework

According to the law on urban water services, local government units (LGUs) in the Philippines assume responsibilities for water supply and sanitation systems through water districts (WDs). In the case of the twelve cities and five municipalities comprising Metro Manila, this responsibility was delegated to the Metropolitan Waterworks and Sewerage System (MWSS), which as a public corporation was awarded the jurisdiction, supervision and control of waterworks and sewerage systems within the National Capital Region and peripheral territories (Rizal province and part of Cavite province) in 1971. A nationwide water crisis in the mid-1990s prompted urgent calls for effective measures to tackle the situation, and government policy responses incidentally paved the way for private sector participation in water services provision.

With the start of the concessions (see front page), the contract regulator MWSS-RO sees its role as balancing the interest of stakeholders: protecting consumers from high prices and poor services and providing incentives to concessionaires to invest, be efficient and earn a profit. The monitoring functions of MWSS-RO include: compliance with drinking water and wastewater quality standards; water supply, sewerage and sanitation development, programs repair and maintenance of assets; non-revenue water reduction targets; collection efficiency target; customer service standards; and operational cost efficiency; and, of particular relevance to this study projects vis-à-vis required population coverage and the required year to attain targets. However, other than financial auditing, MWSS-RO does not conduct a regular and structured audit of data submitted by Maynilad and Manila Water. When the concessionaires submit a monthly progress report, MWSS-RO sometimes validates the information through random community visits and interviews with people.

**MWSS-RO Mission and Vision Statements:**

Mission: "To ensure that the quality and level of service provided by the Concessionaires meet global standards; and to balance the interests of the stakeholders."

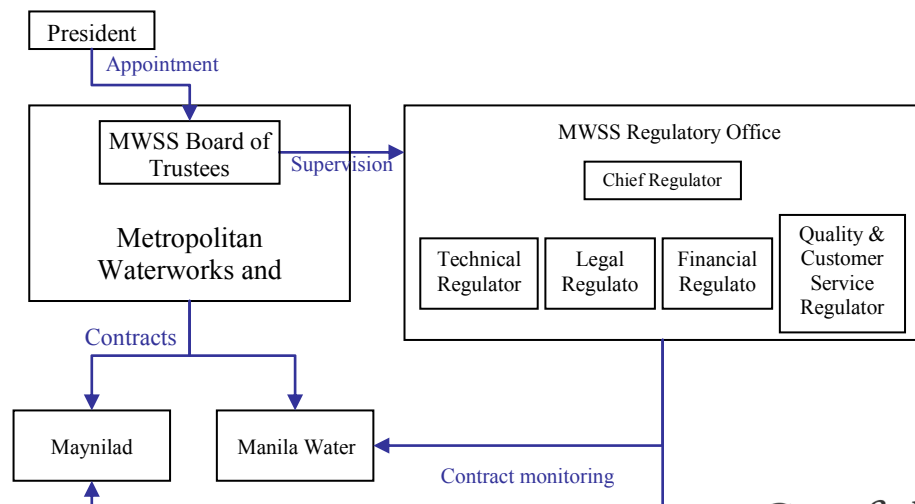
Vision: "Continuous supply of safe, reasonably priced water and environment-friendly sewerage system through effective regulation."

The research confirmed significant overlap between administrative and regulatory functions of the various agencies and public bodies involved in the water sector: National Water Resources Board, Department of Health (DOH), Department of Interior and Local Government, Department of Environment and Natural Resources (DENR), Local Water Utilities Administration, National Economic Development Authority (NEDA), Department of Public Works and Highways, Local Government Units (LGUs), Department of Finance and most importantly Barangay Water and Sanitation Associations/ Rural Water and Sanitation Associations operate and self – regulate community water systems.

Maynilad, the concessionaire for the Western region, has been attempting to renegotiate its concession agreement with MWSS due to foreign exchange devaluation which was a particular burden having had to take on 90% of MWSS’s debt. Currency exchange protection had not been a feature of the original contract and government was reluctant to be seen to be relaxing the contracts in any way. Maynilad has also found it extremely difficult to make any significant impact on the approximately 65% non revenue water levels that it inherited. MWSS is in the process of seeking alternatives to manage the western area. Manila Water, the Eastern concessionaire, has volunteered to take over and Ondeo, the minority partner in Maynilad has also expressed an interest in continuing its involvement.



MWSS Offices



## Service to the Poor and USO

Universal water service coverage is not a stated target of the concession agreements, though a very significant increase in coverage over the lifetime of the concession, including a representative cover of different areas in the metropolis, was a requirement. Official coverage statistics claim a connection rate of greater than 80% (2002 figures), but evidence collected for this research suggests that 35% of the population still relies on ground water and alternative small-scale independent providers, including homeowners associations and water vendors. The use of statistics also obscures the real service coverage. For instance, according to Manila Water figures, each connection covers 9.2 users, whereas the average household in Metro Manila counts 5 members. The concession agreement states that one standpost for 475 people in low-income areas counts as full coverage.

An estimated 35% of Metro Manila's residents live in informal slum settlements, with more than 20% surviving close to or under the poverty line. In response to the scale of the need, especially amongst urban poor communities, both concessionaires have implemented targeted programmes to extend services to the urban poor: Bayan Tubig (Maynilad) and Tubig Para sa Barangay (Manila Water). Maynilad's Bayan Tubig programme works with urban poor neighbourhood associations in bill collection and maintenance. Since drinking water is piped straight into urban poor households, water costs have dropped by a third. Water consumption has risen significantly, in some cases to the average domestic consumption levels, but public health has only improved relatively.

Manila Water's Tubig para sa Barangay programme offers three options to urban poor communities:

- scheme 1 – individual household connection;
- scheme 2 – meter/connection per 4-5 households;
- scheme 3 – the community has one mother meter.

Maynilad introduced TEMFACIL (temporary facility), also known as the 3-R: recover, re-allocate and reuse. The pilot project is in Tondo, Manila, where non-revenue



Regulating Public & Private Partnerships for the Poor

Suggestions were gathered from urban poor survey respondents, being offered increasing access to mains water services:

- ⇒ Easy payment schemes for connecting. Water utilities can best help the poor by setting easy instalment payment plans for low-income households to get connected.
- ⇒ Lower tariff rates or slightly reduced tariff structure for the poor.
- ⇒ Recognition of water vendors. When things go wrong with big utilities, water vendors can serve as fallbacks and alternatives.
- ⇒ Local governments must increase investments in sanitation, drainage and solid waste management in urban poor areas.
- ⇒ Water utilities must invest in extending the piped network to squatter areas. In terms of numbers, squatter families are greater than landowners. This is also good business for the utilities.

water is high due to illegal connections. For this project, pipes are laid at ground level, embedded in cement and integrated in curbs and sidewalks. The project aims to minimize illegal connections and recover non-revenue water. People are forced to get new connections as old pipes, where they were connected illegally, are no longer used.

The research placed emphasis on uncovering residents' perceptions regarding the services currently provided to urban poor communities. Data gathered in surveys in focus groups revealed the following:

- *Urban poor communities tend to be neglected in government development priorities.*
- *Unaffordable connection fees as the "passport to water services" act as a deterrent.*
- *Water is not available 24 hours a day. Households also experienced low water pressure. Although there were few complaints regarding water quality, consumers tend to buy purified water for drinking. The prohibitive cost of medical care and hospitalization justifies this extra expenditure.*
- *The disconnection policy of the metropolitan water companies leaves the urban poor with no option but to pay the monthly water bill even if the water service is not efficient.*
- *Utilities do not provide the appropriate pipelines with respect to the number of households, and are perceived as reluctant to share water quality information with consumers.*
- *With respect to water prices, common complaints included abrupt changes in monthly water bills, and water utilities policy of charging the same tariff and other add-on charges to rich and poor households.*
- *Community initiatives to organise and manage self-supply and participate in the regulatory process are discouraged by the proliferation of regulatory functions spread across many agencies and the threat of political interference.*

# USO and Legal Issues

A review of the laws, policies and guidelines pertaining to water supply systems revealed that there is no specific mention of the poor, nor are there any references to pro-poor regulation. Specific documents or guidelines that directly address the needs of the poor seem unavailable. Clear lines of accountability cannot be discerned from the legislation, which may explain why the various agencies charged with regulatory functions are observed to be weak in enforcing existing regulations. Unclear responsibilities and overlapping functions are a cause of confusion and frustration to the public and discourage individual to take action if he/she does not receive his/her entitlement to water supply as a basic human right.

The Local Government Code brings to the fore greater autonomy and the need for enhanced skills and competencies of local government executives and staff. As such, businesses and NGOs may be able to work in partnership with LGUs to enhance water provision to the poorest. This Code could potentially provide an enabling environment for communities and civil society organizations to take part in the regulatory process.

Government policies of prescribing water supply services on the basis of a three-level classification and cost recovery strategies have resulted in many of the poor accessing 'Level I' (point source such as wells and hand pumps) and 'Level II' (communal faucets) systems, which place the burden of improving water quality on the household. 'Level III' (household water connections) systems, which often receive the largest government investments and subsidies (in capital and operational costs), serve mostly the non-poor. Thus, the inequality in low access of the poor to Level III services is compounded by the subsidy going to systems serving non-poor clients. While the sector strategy emphasizes full cost recovery for new systems, it is equally important to initiate measures to remedy inequities in existing systems, especially in terms of providing the poor with access to preferred Level III services.

On the other hand, the water service providers studied for this research have internal policies and guidelines to get the poor connected. Maynilad has resorted to easy instalment payment of connection fees. Both Manila Water and Maynilad have enhanced the outreach activities of their customer relations units. They also try to act on complaints and inquiries as promptly as possible. The reconnection process has been made less tedious and not very expensive.

At the time of the research Maynilad was charging customers P19.92/m<sup>3</sup> (US\$0.36) and Manila Water was charging P13.23/m<sup>3</sup> (\$0.24). Customers' water bills reflect the basic charge, currency adjustment and the environment and sewerage charges which were imposed

five years into the contract, as contractually agreed at the start, in advance of most customers receiving any wastewater facilities from the concessionaires.

## Water Entities

**National Water Resources Board**—empowered by the Water Code of the Philippines to control and regulate the utilization, exploitation, development, conservation and protection of water resources. It is the Philippine Government's coordinating and regulating body for all water resources-related development. NWRB's responsibility for tariff regulation was recently expanded to include water districts, water systems managed by the local governments, and private water utility operators except those covered by special concession and joint venture agreements.

**Department of Health** - water quality regulation and setting standards on testing, treatment and surveillance

**Department of Interior and Local Government** – general administration and institution building support to local government units

**Department of Environment and Natural Resources** – pollution control, protection of waters and the environment

**Local Water Utilities Administration** – approves the tariffs set by the water districts as it is providing the loans to them

**National Economic Development Authority** – overall planning, policy coordination and formulation

**Department of Public Works and Highways** – for setting technical standards for engineering surveys, design, operation and maintenance

**Local Government Units** (LGUs) – serve as both regulator and operator for water service; set and approve increases or decreases in water tariffs of piped water connections.

**Barangay Water and Sanitation Associations/ Rural Water and Sanitation Associations** – operate and self-regulate community

water systems

**Department of Finance** – management financial



of  
of

# Alternative Service Providers

The other sources of water services unclassified by government policies are the *small-scale independent providers (SSIPs)*, which can be grouped into (1) *residential system operators* who consist of real estate developers and homeowners' associations, (2) *mobile water truckers/water haulers* and (3) *local entrepreneurs* who are engaged in constructing and operating independent water supply systems in communities (e.g. water refilling stations); *water cooperatives* and also *bottled water manufacturers*.

Using a variety of water sources and delivery modalities, they provide water to needy communities at varying rates. They are driven though by a common enterprising mission to meet existing and potential demand at rates that reflect market forces, customer needs and varying preferences. To those sidelined by the public utility systems, these SSIPs provide an indispensable service and outreach.

There is no single central government agency regulating all the various types of SSIPs. Rather, there are several regulatory offices overseeing certain types of SSIPs as well as responding to some components of regulation.

For example, Inpart Engineering (see box right), with its own boreholes, storage and distribution network, sells water to *aguadors* (water tenders) for P35.00/m<sup>3</sup> (\$0.64), which is equivalent to five drums. *Aguadors* sell one drum of water for P20.00 (\$0.36). A gallon of water (3.8 litres) is sold for P1.50 (\$0.03). In stores, various brands of bottled water are sold for an average of P30.00 per litre (\$0.55).

The non-recognition of small-scale independent water providers excludes them from the regulatory process and even prevents them from accessing loans to enable them to improve their services. In past instances water companies refused to sell bulk water to SSIPs. Local governments and neighbourhood associations can also make it difficult for SSIPs to operate in their jurisdictions.

To an SSIP like Inpart Engineering, Manila Water's Tubig para sa Barangay programme is one of the biggest threats to its existence as a business enterprise. SSIPs also perpetually lack capital to improve their operations. Instead of one, several regulatory offices oversee certain types, but not all SSIPs. Improved policies and regulations can be created to address both the concerns of the poor and the SSIPs. It is the companies' stated objective to take over the areas served by the SSIPs with no compensation for the investment in piped distribution systems which some have made.

The apparent lack of price sensitivity by consumers of SSIPs - some of the neighbourhood association SSIPs also add on a local environmental improvement charge



## Inpart Engineering

A local entrepreneur has invested a considerable amount of her own money in establishing a local distribution system from the family borewell.

Locally recruited plumbers act as agents for installing new connections and for collecting payments, little and often.

This closeness to the customer brings many benefits in ensuring ongoing payments as well as sorting out complaints. For example, none of those interviewed in the focus groups was ever invited by Manila Water, Maynilad, and MoWaD to attend any meeting or customer forum. However, those being served by Inpart Engineering were 'constantly consulted and informed'.

which is paid by poor households - indicates that the regulator could be more generous in setting tariffs for the two main utilities that would provide financing for a faster roll-out of lower-cost service coverage in poor



## Customer Involvement

To promote customer involvement, MWSS-RO conducts public consultations before finalizing any petition for price adjustments. The involvement of the public, cause-oriented groups and consumers has been difficult but encouraging. The regulator is planning to expand the consultation process further, not only during price adjustments but also on matters involving performance of concessionaires on water service delivery. The effectiveness and independence of MWSS-RO has always been an issue for the concessionaires and consumers, considering that it was established under the jurisdiction of the MWSS Board of Trustees – one of the parties to the Concession Agreement. MWSS-RO has initiated reforms to strengthen its capability in monitoring the concessionaires' compliance with service obligation targets. In addition, it is also pushing for an independent regulatory body through legislation. Its proposed regulatory reforms include: adoption of key performance indicators (KIPs) and business efficiency measures (BEMs), conduct of public assessment of water services, capacity building for MWSS-RO, and creation of a water regulatory commission.

This study used focus groups in low-income areas firstly to find out the actual situation of service to the poor under a regulatory system but also to test a focus group methodology to determine its potential as an ongoing tool of regulation, to enable the regulator to make better decisions regarding the balance of future investments, efficiency demands and pricing. Respondents described themselves as being *'often uneducated, afraid of authorities, lacking time and money to "voice" our opinions.'*

Wanting to know more about the technique of public performance assessment based on service quality indicators from utility and user data, an offshoot of the focus group process was designed to look into the system of feedback between Manila Water, Maynilad, the public and MWSS. The researchers took the participants from a community served by Manila Water and another community served by Maynilad to the respective local offices and head offices of both the water utilities to look into the "performance corners" with a plan to have a focus group after assessing the information available. Both groups also visited the MWSS office to look into how the 'performance café' operates. These 'cafés' had been established with the support of the World Bank, managed by MWSS-RO, as places where customers might find out about the service and its costs. However, it was found that the performance cafés as well as the once promoted performance corners in local utility offices were non-existent or no longer operational.

The researchers showed participants from both communities the MWSS website indicating the comparative

### Bantay Tubig: an independent regulator run by volunteers

There is already an existing citizens' coalition for adequate, accessible and affordable water in the Philippines. Bantay Tubig, organized in April 2002 in response to the worsening water crisis in the country, monitors price increases, regulatory processes and the performance of water companies in Metro Manila. It started as a collaborative effort among civil society organizations. Bantay Tubig has organized public information campaigns on pricing and regulatory issues, mobilized against regulatory anomalies and concessionaire abuse, initiated Congressional inquiries on various aspects of water privatization, and pursued legal action against Maynilad. Bantay Tubig has no full-time secretariat. Members work on a voluntary basis, pursuing specific areas of the water issues according to their expertise.

performance of Manila Water and Maynilad in 1997 and from 2001 to the first quarter of 2003. The figures and the implications were explained to them. Afterwards, a focus group was held to get the reactions of the participants to the information they saw. The majority of the participants expressed that they do not find the web-based approach of communicating the service performance of the water utilities useful. The participants explained that they could not afford computers and internet connections, and they are not even literate in information technology. They suggested that the MWSS and the water concessionaires could work with NGOs, the local press and even parish offices to better reach the poor.

From a total of 40 poor respondents in four separate communities served by four different water utilities, using story telling and pictures as sorts of 'discussion documents' to stimulate communication and to help the respondents articulate their views and recommendations, it was found that overall, the majority of respondents were not aware of any customer forum or water associations existing in their locality. Even if there are, they have no knowledge about them nor will they be able to have access to them, considering the time, cost and social connections required. Reasons cited for the arising issues and concerns are listed overleaf.

### Text message from the poor

*"We cannot afford computers or internet connections... send SMS text messages instead which are cheap, fast, very interactive and popular even among the poor."*

Low-income focus group respondent on better ways for companies to communicate with customers

# Conclusions

[continued from previous page]

- *The economic crisis and the lack of employment opportunities make it difficult for poor families to have water supply.*
- *Political interference.*
- *Illegal connections.*
- *Communities are changing. They are beginning to assert their interests and work on their own issues. That is why there are now a lot of conflicts.*
- *Lack of information.*
- *Government and private sectors do not usually prioritize investments for urban poor communities.*
- *There is a perception that regulators protect water companies, not the consumers.*
- *Absence of a person or group with harmonizing skills to take lead and sustain efforts.*

The householders think that their concerns and problems can be overcome by

- *Working together with everyone and involve each one with regards to community water concerns. Consider the interests of the others.*
- *Developing that spirit of trusting and collaborative relationships with utilities and regulators.*
- *Having several utilities serving urban poor areas, instead of just one or two. It is hoped that private companies and also the government can become keen in investing in urban poor areas.*
- *Penalizing corruption and inefficiency.*
- *Regulators and water utilities disseminating more information, especially those that are useful to the urban poor.*
- *Reducing tariffs for households consuming less water than the prescribed minimum.*
- *Not imposing add-on charges upon poor consumers.*

The research showed that focus group discussions held with experienced facilitators can be a meaningful way of engaging local communities in the regulatory process. The urban poor asserted their interest in participating on a regular basis, provided that representatives from MWSS-RO and water providers take a proactive stance, participants receive adequate briefings and results are made accessible to community members. It was noted that some compensation for loss of earnings may be required to encourage the poorest of the poor who cannot afford the luxury of attending meetings instead of earning their daily living.

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[www.silsoe.cranfield.ac.uk/iwe/projects/regulation](http://www.silsoe.cranfield.ac.uk/iwe/projects/regulation)

## Recommendations

The Philippines has an array of policies and regulations on water supply. However, despite existing regulations, the water sector is beset by issues that revolve around the reliability of the systems, availability and affordability of services, equitable delivery of services, sustainability and acceptable quality of water.

The roles of the many agencies doing regulatory functions remain unclear to the urban poor and are made more confusing by political interference. This discourages them to undertake community initiatives to participate in the regulatory process. Where there are rules and regulations, it is unclear which agencies are accountable, making their enforcement impractical. Most of the urban poor respondents were unaware of the roles and responsibilities of the regulator.

The Local Government Code can potentially create opportunities for businesses and NGOs to work in partnership with local government units to enhance water provision to the poorest. This Code could potentially provide an enabling environment for communities and civil society organizations to take part in the regulatory process.

It is necessary to conduct information campaigns to make people aware that regulators must support consumers and implement public policies on behalf of consumers. In this regard, regulators need access to information on water utilities as well as skills in communicating to the public their policies, plans and programs.

The capacity of both regulators and consumers need support in: legal aspects, public information, participatory monitoring and the collaborative involvement of all parties concerned. Regulators must initiate the process of calling all urban poor community associations in the locality and have a consultation on people's participation in the regulation process. This can then lead to the formation of an accredited consultative body. It would help to provide orientations and skills training on the regulatory process to key members. Urban poor representatives need to develop skills and confidence in communication, public speaking, and writing.

The focus groups indicate that communities are changing. They are beginning to assert their interests and work on their own issues. Regulators and consumers need to work more actively with the media, civil society organizations and lawmakers to promote

pro-poor policies and put pressure on water utilities to perform better and extend