



Public participation in environmental governance in the Philippines: The challenge of consolidation in engaging the state



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ABSTRACT

This paper provides an overview of the extent of institutionalization of public participation in environmental governance in the Philippines using the three-pillar framework of the Aarhus Convention and Principle 10 Guidelines: access to information, public participation in decision-making and access to justice in environmental matters. It analyzes the shifting demarcations of public engagement and how these are defined by the interplay of institutional-legal structures with the country's political economy constraints. It argues that while the country appears to have a strong institutional design for public participation, there is a decisively low level of institutionalization of actual participatory processes that could not achieve substantive autonomy from power structures. A critical factor to this is the weakness in public deliberations and interactions among civil society groups in the country that constrain legitimacy of representation, coherence and necessary consolidation in engagements with government institutions. While pluralism is a key tenet of public participation, the situation in the Philippines shows the limitations of its application, particularly amid a patrimonial political context. Such weakness amid complexities in aggregating public interest allows particular interests to predominate in reconfigurations of the boundaries of involvement in environmental matters, displacing otherwise legitimate groups in the margins of collaborative governance.

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Introduction

The situation in the Philippines constitutes a critical case study in East Asia in terms of public participation in environmental matters. The country was an important part of the democratic wave in the 1970s/80s that paved the way for participatory governance. The 1987 Constitution laid down the framework for a democratic space that facilitated the emergence of an extensive civil society in the country constituting over 15,000 non-government and community-based organizations (NGOs/CBOs) (Velasco, 1999). Legal provisions have also expanded government relations toward a broad accommodation of non-state actors and ordinary citizens in determining policies directly affecting them. As a result, protest politics and hardline confrontational stance gave way to critical engagement and collaboration characterized by “dialog, negotiation, compromise, and partnership with the government for a win-win resolution of conflicts” (Etemadi, 2012, pp. 166–167).

The decades-long tradition of partnership and public participation in governance permeates through environmental matters

particularly amid the growing vulnerability of the country to disaster threats. The country's state of environment is noted to be acutely at risk. The World Risk Report 2012 published by the United Nations University ranked the Philippines as the third most disaster-prone country in the world (Mucke, 2012, p. 9). It increasingly suffers from the devastation of worsening climate-induced storms and cyclones ranging from 11 to 32 total per year, intense rainfall, rising sea levels, floods and landslides. Lying along the Pacific Ring of Fire, the country is also prone to earthquakes. Moreover, the Philippines is replete with documented cases of man-made contributions to hazards such as illegal and corporate logging, watershed degradation, large scale open-pit mining, expansion of coal-fired power plants, solid waste mismanagement, widespread land use conversion for commercial purposes and overall resource extraction (IBON, 2006; Boongaling, 2012; Center for Environmental Concerns-Philippines, 2012a,b).

It is this context of increasing vulnerability that demands a rethinking of the ongoing collaborations between government and civil society in environmental governance. As participatory frameworks continue to gain relevance in development discussions, there is a need to assess gaps and better understand how pluralist processes are constrained and take new dimensions. Amid the conceptual ideals of diversity intrinsic in public participation, it

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is important to recognize the complexities of its practice. These include perceivable reconstitution of civil society that involves transforming webs of relationships and dependencies, negotiations as well as confrontations, affecting the boundaries of public participation. It has triggered a growing cynicism about the systemic limits of civil society in the Philippines (Rood, 1998, 2005; Holmes, 2011; Rivera, 2011). This pessimism against emerging patterns of public engagement vis-à-vis power structures demands a new inquiry, as we calibrate a framework of public participation in increasingly urgent environmental matters.

This paper examines the extent of institutionalization of public participation in environmental governance in the Philippines using the three-pillar framework of the Aarhus Convention and Principle 10 Guidelines: access to information; public participation in decision-making; and access to justice in environmental matters. Along each pillar, it analyzes the shifting demarcations of participatory processes and how these are defined by the interplay of institutional-legal structures with the country's political economy constraints. Essentially, it argues that the country's institutional framework for public participation is decisively undermined by the lack of systematic public deliberation and consolidation among civil society groups. This renders them overwhelmed by patrimonial power structures predominating in decisions over the boundaries of involvement in environmental governance. The succeeding sections discuss in sequence the analytical and conceptual frameworks of public participation in environmental matters, the relevant institutional structure (including legislation) in the Philippines, the interweaving constraints limiting public participation in environmental governance in the country, and ultimately insights to overcoming key challenges.

Framework

Pillars of public participation in environmental matters

This paper analyzes public participation in environmental governance along three pillars: access to information, public participation in decision-making and access to justice in environmental matters. This framework is based on the principles enshrined in the [United Nations Economic Commission for Europe \(UNECE\) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters](#) or the Aarhus Convention adopted on 25 June 1998. Considered “one of the most significant international environmental agreements” (Mullerova et al., 2013, p. 8), the Aarhus Convention focuses on the interactions between the public and public authorities in environmental matters. Correspondingly, this framework is informed by Principle 10 Guidelines, otherwise known as Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters adopted at the 11th Special Session of [United Nations Environment Programme \(UNEP\) Governing Council/Global Ministerial Environmental Forum](#) in Bali, Indonesia on 26 February 2010.

While public participation is a broad concept and includes the public as a whole, the bounds dealt with in this paper are delimited to direct engagement of the government with major organized groups in civil society, particularly NGOs, CBOs and institutes. This is to confine the focus of the paper on examining the dynamics of environmental governance involving collaboration, accountability and representation by legally organized entities (i.e. duly registered and has legal identity) in civil society. These civil society organizations (CSOs) also often pursue public interest/good, rather than individual or private interests. This paper also distinguishes public participation in decision-making from public participation in implementation and enforcement.

Institutionalization of public participation vis-à-vis political economy constraints and challenges of consolidation

Three key conceptual paradigms also inform the analysis of this paper. First is inclusive governance and how it is defined by the State's predominance over it and by political economy constraints. Second is the imperative of institutionalization of public participatory processes, particularly in engaging/partnering with the State in environmental governance. Third is the gap between the normative framework of pluralism in public participation and the limits of its practical application, which thus requires more room for interactive public deliberation and mutual learning.

With regards the first paradigm, [Pierre and Peters \(2000, p. 12\)](#) argue that in governance “the State is still the center of considerable political power. . . playing a leading role, making priorities and defining objectives.” [Gera \(2011\)](#) reiterates that while the framework of inclusive governance extends beyond the confines of government, it is still predominated by the State. Moreover, a country's political economy and the forces regulating it have the potential to appropriate differentiated preferences and biases that advantage some sectors over others ([Dietz et al., 1989](#); [Forester and Stitzel, 1989](#); [Stirling, 2006, 2008](#) cited in [Dietz and Stern, 2008](#)). It can then be expected that its dynamics would reflect interests, motivations, networks and the political power of the players to influence participatory processes.

This is where the argument for institutionalization of public participation becomes imperative. [Klijn and Kloppenjan \(2006\)](#) note that the institutional design of governance mechanisms have important effects on structuring relationships and networks, as well as on shaping policy outcomes. To operationalize the notion of an institutionalized polity, the main attributes are stability of processes (endurance, regularity, and non-variance) and strong institutions ([Gerring et al., 2005](#)). [North \(1990, p. 3\)](#) defined institutions as the “rules of the game in a society, or more formally, as the humanly devised constraints, that provide a stable structure of human interaction.” Institutionalization of public participation thus requires creation of enduring and non-arbitrary, non-ad hoc systems of collaboration, and establishment of clear standards, parameters, criteria, procedures and mechanisms of engagement and coordination with government involving legitimate and fully accredited CSOs.

Beyond a concrete institutional framework, institutionalization requires that formal institutions (including laws) and informal ones, prevail over power structures – one key aspect of the rule of law. It requires transparent and accountable enforcement of standards that discourages arbitrary, irregular and politically-motivated decisions and power play ([Batalla, 2000](#)). It means that the State has been able to achieve relative independence or insulation from the demanding clamor of special interests ([Nordlinger, 1987](#) in [Leftwich, 2001](#), p. 161) to effectively enforce legislations. It also means that civil society maintains accountability and substantive autonomy from clientelist interests, achieved through clear mandates and strategic consolidation of initiatives in collaborative processes. As synthesized by [Reid \(2008](#) cited by [Holmes, 2011](#)), civil society needs to calibrate a “much clearer criteria. . . for entry into and support for state programs” or risks being “absorbed by and constituted on the basis of clientelist and semi-clientelist relations.”

Third is the challenge of consolidation amid the complexities of pluralist societies. While pluralism as a means to bringing new ideas is inherent in public participation, the limitation of its application becomes apparent in processes of collaboration and partnering with government institutions. CSOs are intrinsically diverse and plural constituting varied policy objectives and approaches, different levels of resources: from grassroots movements to more sophisticated and well-funded organizations,

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