



# How transparency and accountability matter in regulating the Taiwan Water Supply Corporation

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## ARTICLE INFO

### Keywords:

Governance mechanism  
Regulation  
Water utility sector

## ABSTRACT

The purpose of this study was to examine the predictive power of each facet of governance mechanisms on regulation in a Taiwan sample. The sample comprised 1198 employees from six branches of the Taiwan Water Supply Corporation (TWSC). The research found that clarity of role was significantly negatively correlated with sound regulation, while transparency and accountability were significantly positively correlated with sound regulation for all six branches. Moreover, transparency was the only governance mechanism (GM) that consistently predicted sound regulation across branches.

## 1. Introduction

The introduction of new public management has arguably resulted in a shift from the positive state towards the regulatory state (Cook and Minogue, 2002; Majone, 1994, 1999; Minogue, 2002; Moran, 2001, 2002). Linking regulatory policy with governance will also cement acceptance of regulatory policy as a permanent feature of government and public administration, becoming central to its overall performance and ability to meet citizens' expectations (OECD, 2002b).

Recent research suggests that, in addition to establishing regulatory agencies with regulatory responsibilities over water utility sectors, a blend of governance mechanisms is necessary for regulators to be successful in building regulatory capacity for regulatory governance (Beecher and Kalmbach, 2013; Byatt, 2013; Wu et al., 2017). Unfortunately, global regulators are controversial with both governments and stakeholders, and conflicts and litigation are common (Marques and Pinto, 2018). Although many scholars have started to question the need for regulation, it is significant to demonstrate that governance mechanisms (GMs) should matter more than process in the design of the regulatory agency (Cheng, 2013a; National Economic Research Associates, 1998; Stern and Holder, 1999). It is imperative that GMs be designed and developed to improve regulatory governance, over and

above what is offered by methods such as case studies (Gutierrez, 2003; Stern, 2003) and quantitative methods (Berg, 2000; Correa et al., 2008; Gulen et al., 2007; Gutierrez and Berg, 2000). Based on recent research, multiple studies have examined how the GMs relate to sound regulation. The main features of a regulatory agency should be independence, accountability, clarity of roles and objectives, transparency, and participation. The goal is for the governance to move towards more effective regulatory policy.

The regulatory governance of water utility sectors has dramatically changed in developing countries, although this is not the case in Taiwan. The government-owned designation helped introduce stronger governmental regulatory frameworks for the Taiwan Water Supply Corporation (TWSC). Unfortunately, many countries do not pay much attention to GMs and effective regulation and may even overlook the issues of regulatory governance (Amann, 2007; Levi-Faur, 2011; Minogue and Carino, 2006). Moreover, no study has examined Taiwan's water utility sector sample. This article contributes to the development of GMs and regulation in public utilities. Public policy scholars have long recognised the importance of GMs (Baldwin and Cave, 1999; Berg, 2000; Gutierrez, 2003; Gutierrez and Berg, 2000; Stern and Holder, 1999) and have defined regulation to include various regulatory capacities, such as regulatory governance for government-owned

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enterprises (Cheng and Heberton, 2008; Correa et al., 2008; Gulen et al., 2007). Still, empirical research on GMs in the water utility sector setting has not attracted sufficient attention, and scholars have called for more studies that link GMs to major regulatory practices and constructs (Baldwin et al., 2010; Levi-Faur, 2011; Stern and Holder, 1999). Thus, the objective of this study is to investigate which governance mechanisms predict sound regulation among the six branches of TWSC.

## 2. Literature review

Kettl (1991) challenged the idea that the primary long-term legacy of new public management (including privatisation) will diminish the capacity of government to implement policy or create so-called hollow states. Moreover, Behn (1998) pointed out that advocates of the new management of public enterprises have the burden of providing a correlative concept of “democratic accountability” (Newcomer, 1998). Therefore, the new paradigm envisions a public sector that will be less involved in direct service provision; concentrate more on providing a flexible framework within which each economic activity can take place; regulate better, with more complete information about likely impacts; continually evaluate policy effectiveness; develop planning and leadership functions to respond to future economic and social challenges; and take a more participative approach to governance (OECD, 1995, p.10).

In response to the influence of climate change, there is a need to improve water supply and water demand. According to the science of climate change, water governance will be affected by changes in temperatures as well as in the quantity, quality, and frequency of precipitations (Cayan et al., 2008; Grey and Sadoff, 2007; Wolf et al., 2003). However, policy objectives are likely to be different for different actors affected by water utility sectors in Taiwan. Generally speaking, government-owned enterprises are obliged to fulfil multiple public objectives, some of which are explicitly social, although it is possible to vary the objectives of the programme from one country to another (Kirkpatrick, 2003). The interactions amongst the different policy actors in water utility sectors have resulted in a very substantial political component being assigned to functions and tasks of water utility sectors—namely, to provide value for money and to balance a number of policy objectives, including affordability and efficient tariff setting, quality of service, public service obligations, and environmental sustainability. However, water utility sectors' poor economic performance has been treated as the main reason for the fiscal crisis (Reynaud and Thomas, 2013) facing Taiwan's government. Governments have no alternative but to subsidise the loss-making enterprises, and regulation is still a more common instrument in water utility sector policy than charge or trading systems.

However, regulation is a complicated concept involving more than one facet (Byrnes, 2013). It can be characterised by a number of important elements. First, it is based on rules formulated and enforced by a public authority. Second, it aims to promote competition, ensure an efficient market, restrain anti-competitive behaviour, and control monopolistic power and abuse. Third, it acts as a mechanism to reconcile the interests of various stakeholders (Cook, 2003). Thus, it is evident that the economics of water utility sectors cannot be analysed in the absence of the economics of competition and regulation (Minogue, 2002; Vickers and Yarrow, 1988). It should be highlighted that regulatory governance mechanisms are just one element in the overall combination of public policies and that regulatory governance is crucial to the exploration of the strengths and weaknesses of water utility regulation.

Earlier research on issues involving regulation and governance have emphasised a number of GMs, such as the agency's autonomy and the clarity of its roles and objectives; decision-making processes, transparency, and predictability; decision tools and personnel; and participation and accountability (Baldwin and Cave, 1999; Baldwin et al., 2010; Levi-Faur, 2011; Lodge, 2004). Other mechanisms to describe

regulatory governance have also been suggested in the literature (Correa et al., 2008; Stern and Cubbin, 2005). According to Gulen et al. (2007), GMs should be independent enforcement powers with authority, transparency and accountability, and competency. Based on their research analysis, transparency and accountability appear to be more desired characteristics. However, some outstanding research (Berg, 2000; Gutierrez, 2003; Gutierrez and Berg, 2000; Stern and Holder, 1999) produced even further regulatory governance mechanisms, such as communication, consultation, consistency, predictability, impartiality, and flexibility, that have been included in transparency and improved accountability for regulatory agencies.

This study has identified some interrelated aspects of the regulatory framework capturing the main governance mode of regulation, and these form the basis of the questionnaire used in the current survey (Cheng and Heberton, 2008). Moreover, as many prior great studies explored in the context of developing countries have pointed out (National Economic Research Associates, 1998; Stern and Holder, 1999), governance mechanisms include clarity of roles (CL), participation (PA), independence (IN), accountability (AC), and transparency (TR) (Cheng, 2013a, p.8). Clarity of roles (CL) generally refers to whether there is a clear definition of functions and duties of the regulatory agencies; whether there is a clear distinction between the agencies and their supervising ministry; whether there are any shared responsibilities between the agencies and other government departments; and the degree to which the functions and duties of the agencies of regulation can be easily redefined by the central government (Stern and Holder, 1999). Participation (PA) is characterised by the degree to which policy stakeholders are permitted to participate in the water utility sector's regulatory process, especially within the context of political economy. PA is present when all relevant stakeholders contribute effectively to the water utility sector's regulatory process, thereby improving the quality of decisions and increasing the likelihood of the agencies receiving both support and co-operation from firms, consumers, and others (Mayer et al., 2005; OECD, 2015b). According to Gilardi (2008), assessing the formal independence of regulatory agencies should guarantee their independence from elected politicians. Thus, independence (IN) refers to the degree to which implementing agencies are insulated from other influences, particularly from political pressures and specific interest groups. IN concerns the degree of independence of implementing agencies from the political and government process (e.g., whether the regulatory body is a decision-making body or supervised by the ministry). Consequently, the critical feature of IN is independence from government intervention (Baldwin et al., 2010; Gilardi and Maggetti, 2011; Thatcher, 2005). Evidence from a number of studies is consistent with the assertion that the growth of regulatory governance poses critical issues for the accountability mechanism (Baldwin and Cave, 1999; Baldwin et al., 2010; Gutierrez, 2003; Levi-Faur, 2011; Stern and Holder, 1999). Accountability (AC) measures whether regulatory agencies have met those given policy objectives, and consequences exist for what they were supposed to do but have not (Lodge and Stirton, 2010; Stiglitz, 2003). In the current study, AC refers to the idea that regulators' decisions can be challenged in an effective way if, for example, certain decisions are thought to be unfair or incompetent; regulators should also be accountable, for example through the legal system, for any failure on their part to fulfil their statutory obligations. Accountability to the legislature can also be important in this context, such as via the submission and discussion of an annual report (Stern and Holder, 1999). Evidence from international organisations such as OECD and World Bank treats transparency as a requirement of good governance in developed and developing countries (OECD, 2015b; World Bank, 1994). Clearly, transparency is closely related to notions of accountability, although the two are not identical (Ball, 2012). Transparency (TR) is dealt with by determining: whether major documents (licenses, codes, etc.) are publicly available; whether major decisions are published; whether access of participation is open and clear; and the extent to which institutional mechanisms of

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